

**CALIFORNIA CODE OF
REGULATIONS; TITLE 27,
ENVIRONMENTAL PROTECTION;
DIVISION 1. GENERAL FUNCTIONS AND
RESPONSIBILITIES, AND DIVISION 2.
SOLID WASTE

PARTIAL REGULATIONS REFERENCE
DOCUMENT**

January 1, 2022

Introduction

This publication has been prepared by CalRecycle's Waste Permitting, Compliance, and Mitigation Division and contains California Code of Regulations, Title 27, Natural Resources, Division 1, General Functions and Responsibilities and Division 2, Solid Waste. Please note, this document partially references Title 27 regulations; Divisions 3 and 4 have been omitted as they do not fall under or associate with CalRecycle's regulatory authority. This document contains regulations pertaining to waste disposal on land, which went in effect on January 1, 2022 with the adoption of Senate Bill 1383, unless otherwise stated.

For purposes of meeting the American Disability Act (assisted-reader capabilities), "ghost headers" have been added to document outline and the text "No Value Indicated" have been added to Tables with empty cells. While every effort has been made to ensure accuracy, any errors or omissions do not negate the rights and duties of program participants. In addition, this edition does not correct grammatical or typographical errors that appear in the regulations as adopted. Visit the Office of Administrative Law website (managed by Thomson Reuters/Westlaw) for access to the official online version of all California regulations.

Table of Contents

DIVISION 1. GENERAL FUNCTIONS AND RESPONSIBILITIES	21
Subdivision 0.5 Administration.....	21
Chapter 1. Environmental Protection Agency of California	21
Section 10010. General Provisions Incorporation by Reference of Standard Conflict of Interest Code.....	21
Chapter 2. Environmental Enforcement and Training Grant Program.....	24
Article 1. Description, Procedures, Criteria, Restrictions, and Administration .	24
Section 10011. Scope of Article.	24
Section 10012. Definitions.....	25
Section 10013. General Provisions.	25
Section 10014. Purpose of the Environmental Enforcement and Training Grant Program.....	26
Section 10015. Procedures for Applying for Discretionary Environmental Enforcement and Training Act Grants.	26
Section 10016. Eligibility, Criteria, Review and Selection Process.....	28
Section 10017. Restrictions on Grants.	30
Section 10018. Reporting Requirements for Grant Recipients.	30
Chapter 3. Environmental Justice Small Grants Program	31
Article 1. Procedures and Criteria for Environmental Justice Small Grants Program	31
Section 10050. Purpose and Scope of Article.	31
Section 10051. Definitions.....	31
Section 10052. Grant Award.	32
Section 10053. Restrictions on Environmental Justice Small Grants.	32
Section 10054. Grant Application Procedures.....	32
Section 10055. Eligibility, Process for Awarding Grants, and Criteria.	34
Section 10056. Project Period and Final Reports.....	35
Subdivision 1. Permitting	36
Chapter 1. Definitions.....	36
Section 10100. Consolidated Permit Definitions.....	36
Chapter 2. Consolidated Permits	40
Section 10200. Procedure to Request a Consolidated Permit.....	40

Section 10201. The Consolidated Permit Agency Designation Process.	41
Section 10202. Referral to Council.	42
Section 10203. Consolidated Permit Agency Responsibilities.	43
Section 10204. Meeting Agenda.	45
Section 10205. Participating Permit Agencies.	46
Section 10206. Public Review and Participation.	47
Section 10207. Withdrawal of Permit Application.	48
Section 10208. Fees.	49
Section 10209. Petitions for Review.	50
Section 10210. Amendments and Modifications.	50
Article 1. State Environmental Permit Processing Timelines.	53
Section 10300. Department of Toxic Substances Control.	53
Section 10301. The Department of Pesticide Regulation.	56
Section 10302. The State Water Resources Control Board and the Regional Water Quality Control Boards.	59
Section 10303. California Integrated Waste Management Board.	60
Section 10304. Air Resources Board.	62
Section 10305. Median, Minimum, and Maximum Times for Processing a Permit.	64
Article 2. Appeal Procedures.	66
Section 10310. State Environmental Permit Agencies that Violate Time Limits.	66
Section 10311. Local Environmental Permit Agencies that Violate Consolidated Permit Time Limits.	69
Section 10312. Local Environmental Permit Agencies that Violate Other Permit Time Limits.	70
Section 10313. Completeness Appeals.	71
Chapter 4. Permit Consolidation Zone Pilot Program.	73
Article 1. Scope and Applicability.	73
Section 10400. Purpose.	73
Article 2. Definitions.	74
Section 10401. Definitions.	74
Article 3. Permit Consolidation Zone Application Process.	77
Section 10402. Eligibility for Designation as a Permit Consolidation Zone. ..	77

Section 10403. Procedures for Submittal of a Zone Application.....	77
Section 10404. Informational Requirements for an Application for a Permit Consolidation Zone.	78
Section 10405. Process for Approval of an Application for Designation of a Permit Consolidation Zone.	80
Section 10406. Responsibilities of the Zone Administrator.....	81
Section 10407. Process for Amendment or Termination of a Zone Designation.	82
Section 10408. Termination or Amendment of Permit Consolidation Zones; Process for Conversion of a Facility Compliance Plan to Individual Environmental Permits.	83
Article 4. Facility Compliance Plan.....	83
Section 10409. Contents of the Facility Compliance Plan.	83
Section 10410. Process for Submittal, Review, and Approval of a Facility Compliance Plan.	85
Section 10411. Process to Amend a Facility Compliance Plan.	87
Article 5. Miscellaneous Provisions.....	88
Section 10412. Assessment of Fees.	88
Section 10413. Effective Date of a Facility Compliance Plan.	89
Section 10414. Facility Compliance Plan Format.	89
Section 10415. Facility Compliance Plan; Term.	89
Section 10416. Reimbursement of Fees in the Event a Permit Consolidation Zone is Amended or Terminated or a Facility Compliance Plan is Withdrawn.	90
Section 10417. Enforcement of Facility Compliance Plan.	90
Section 10418. Confidentiality.	90
Article 6. Reporting and Review.....	91
Section 10419. Reports Required to Be Submitted by the Zone Administrator to the Review Panel.	91
Subdivision 4. State Delegation.....	91
Chapter 1. Unified Hazardous Waste and Hazardous Materials Management Regulatory Program.....	92
27 CCR T. 27, Div. 1, Chap. 1, Refs & Annos.....	92
Part I. Definitions, Application, and Certification.....	92
Article 1. Introduction.....	92
Section 15100. Unified Program.....	92

Article 2. Definitions	96
Section 15110. Unified Program Definitions.....	96
Article 3. Application Process.....	99
Section 15120. Certified Unified Program Agency Applicants.....	99
Section 15130. Application Notices.	100
Section 15140. Must proposed participating agencies enter into final agreements with the applicant agency before the application is submitted? [Repealed].....	101
Section 15150. Information Provided in an Application.	101
Article 4. Certification Process and Responsibilities	105
Section 15160. Certification Process.....	105
Section 15170. Criteria the Secretary Will Use to Evaluate Applications. .	108
Part II. Operations.....	111
Article 5. Implementation and Maintenance of the Unified Program	111
Section 15180. Maintenance of Certification and Administration.....	111
Section 15185. Information Collection, Retention, and Management.	113
Section 15186. Unified Program Data Standards.....	114
Section 15186.1. Standard Descriptions for Chemical Inventory Reporting.	115
Section 15187. Local Information Management Systems Electronic Reporting.....	116
Section 15187.1. What are the requirements for use of electronic signatures with electronic submittals of Unified Program information? [Repealed].....	117
Section 15188. Reporting Requirements Business Responsibilities.	117
Section 15189. Digital Signatures. [Repealed]	119
Section 15190. Permitting.	119
Section 15200. Inspection and Enforcement.....	121
Section 15210. Single Fee System.	124
Section 15220. Fee Accountability Program.....	125
Section 15240. State's Surcharge Responsibilities.	126
Section 15241. Establishing the Single Fee for Designated State Agencies.	128
Section 15242. Definitions.....	131
Section 15250. CUPA Surcharge Responsibilities.	132

Section 15260. CUPA Education, Technical Expertise, and Training.....	133
Section 15270. PA Education, Technical Expertise and Training.....	137
Article 6. CUPA Self-Auditing and Reporting	137
Section 15280. Self-Auditing.	137
Section 15290. CUPA-to-State Reporting.	138
Article 7. Changes in the Program	142
Section 15300. Prior Notification and Approval by the Secretary.	142
Section 15310. What are the notification and approval procedures for activities which require prior approval from the Secretary? [Repealed].....	143
Section 15320. Withdrawal of a Certification.	143
Article 8. Performance Evaluations	144
Section 15330. Evaluation of CUPAs and PAs.....	144
Article 9. Unified Program Standardized Forms and Formats [Repealed].....	146
Section 15400. Unified Program Consolidated Form. [Repealed]	146
Section 15400.1. Format of the UPCF and its Required Elements. [Repealed]	146
Section 15400.2. What is the relationship between the UPCF and the forms previously adopted by State departments for the individual program elements? [Repealed]	147
Section 15400.3. Use the UPCF and Alternative Versions. [Repealed]	147
Section 15400.4. CUPA-Required Additional Information. [Repealed]	147
Article 10. Business Reporting to CUPAs	147
Section 15600. Required Business-to-CUPA Submission. [Repealed]	147
Section 15610. Use of UPCF and Business-Generated Facsimiles. [Repealed].....	147
Section 15620. Updated, Amended, Revised, or Resubmitted UPCF. [Repealed].....	147
Appendix A	148
Appendix B	148
Appendix C.....	148
Article 8. Unified Agency Review of Hazardous Materials Release Sites [Repealed].....	148
DIVISION 2. SOLID WASTE	148
SUBDIVISION 1. Consolidated Regulations for Treatment, Storage, Processing or Disposal of Solid Waste.....	148

Chapter 1. General.....	149
Article 1. Purpose, Scope and Applicability of this Subdivision	149
Section 20005. CIWMB Purpose Scope and Applicability of CIWMB Standards. (T14: Section 17601).....	149
Section 20010. Statutory Mandate. (non-regulatory) [Reserved].....	150
Section 20012. SWRCB Reliance Upon CIWMB Requirements. (new)	150
Section 20014. CIWMB Reliance Upon SWRCB Requirements. (new)	150
Section 20020. How to Use Combined Regulations. (non-regulatory) [Reserved].....	151
Section 20030. CIWMB Authority. (T14: Section 17200).....	151
Section 20040. CIWMB Compliance with Laws and Regulations. (T14:Section 17201).....	151
Section 20050. CIWMB Purpose, Intent. (T14:Sections 17202-17203).....	151
Section 20060. CIWMB Applicability of Federal Subtitle D Related Standards to Small Landfills. (T14: portions of Section 17258.1)	152
Section 20070. Combined CIWMB and SWRCB Federal Subtitle D Research, Development, and Demonstration Permits.....	152
Section 20080. SWRCB General Requirements. (C15: Section 2510)	154
Section 20090. SWRCB Exemptions. (C15: Section 2511).....	157
Section 20100. [Reserved by SWRCB.].....	159
Section 20110. [Reserved by SWRCB.].....	159
Section 20120. [Reserved by SWRCB.].....	159
Section 20130. [Reserved by SWRCB.	159
Section 20140. [Reserved by SWRCB.].....	159
Chapter 2. Definitions.....	159
Article 1. Statutory Definitions	159
Section 20150. CIWMB General. (T14:Section 17225, 17258.2)	159
Section 20163. SWRCB Statutory Definitions. (C15: Section 2600)	160
Article 2. Specific Definitions.....	160
Section 20164. Combined CalRecycle & SWRCB Technical Definitions. .	160
Chapter 3. Criteria for All Waste Management Units, Facilities, and Disposal Sites	182
Subchapter 1. General	182
Article 1. CIWMB--General.....	182

Section 20180. CIWMB Owner and Operator. (T14: Section 17602)	182
Section 20182. CIWMB Change of Ownership. (T14: Section 17603)	182
Subchapter 2. Siting and Design	183
Article 1. [Reserved by SWRCB].....	183
Article 2. SWRCB Waste Classification and Management.....	183
Section 20200. SWRCB Applicability and Classification Criteria. (C15: Section 2520)	183
Section 20210. SWRCB Designated Waste. (C15: Section 2522)	184
Section 20220. SWRCB Nonhazardous Solid Waste. (C15: Section 2523)	186
Section 20230. SWRCB Inert Waste. (C15: Section 2524)	187
Article 3. Waste Management Unit, Facility, or Disposal Site Classification and Siting.....	188
Section 20240. SWRCB Classification and Siting Criteria. (C15: Section 2530)	188
Section 20250. SWRCB Class II: Waste Management Units for Designated Waste. (C15: Section 2532)	189
Section 20260. SWRCB Class III: Landfills for Nonhazardous Solid Waste. (C15: Section 2533)	190
Section 20270. CIWMB Location Restrictions: Airport Safety. (T14: Section 17258.10)	193
Article 4. SWRCB Waste Management Unit Construction Standards	194
Section 20310. SWRCB General Construction Criteria. (C15: Section 2540)	194
Section 20320. SWRCB General Criteria for Containment Structures. (C15: Section 2541)	195
Section 20323. SWRCB CQA Plan. (new)	202
Section 20324. SWRCB CQA Requirements. (T14: Section 17774).....	203
Section 20330. SWRCB Liners. (C15: Section 2542).....	208
Section 20340. SWRCB Leachate Collection and Removal Systems (LCRS). [C15: Section 2543 // T14: Section 17781(b)(2) (d)(1)]	209
Section 20360. SWRCB Subsurface Barriers. (C15: Section 2545).....	210
Section 20365. SWRCB Precipitation and Drainage Controls. [C15: Section 2546 // T14: Section 17778(e), (f)(1), (g), & (j)]	212
Section 20370. SWRCB Seismic Design. (C15: Section 2547).....	213

Section 20375. SWRCB Special Requirements for Surface Impoundments. (C15: Section 2548)	214
Section 20377. SWRCB Special Requirements for Land Treatment Units (LTUs). (C15: Section 2549).....	215
Subchapter 3: Water Monitoring	215
Article 1. SWRCB Water Quality Monitoring and Response Programs for Solid Waste Management Units.....	215
Section 20380. SWRCB Applicability	215
Section 20385. Required Programs.	216
Section 20390. SWRCB Water Quality Protection Standard (Water Standard).....	218
Section 20395. SWRCB Constituents of Concern (COCs). (C15: Section 2550.3)	218
Section 20400. SWRCB Concentration Limits. (C15: Section 2550.4)	218
Section 20405. SWRCB Monitoring Points and the Point of Compliance. (C15: Section 2550.5)	221
Section 20410. SWRCB Compliance Period. (C15: Section 2550.6)	222
Section 20415. SWRCB General Water Quality Monitoring and System Requirements. [C15: Section 2550.7 // T15: Section 17783.5(d)]	222
Section 20420. SWRCB Detection Monitoring Program. (C15: Section 2550.8)	234
Section 20425. SWRCB Evaluation Monitoring Program. (C15: Section 2550.9)	239
Section 20430. SWRCB Corrective Action Program. (C15: Section 2550.10)	242
Section 20435. SWRCB Unsaturated Zone Monitoring and Response Provisions for Land Treatment Units (LTUs). (C15: Section 2550.11).....	244
Article 2. [S20480-S20499 Reserved by SWWRCB]	248
Subchapter 4. Criteria for Landfills and Disposal Sites.....	248
Article 1. CIWMB Operating Criteria	248
Section 20510. CIWMB Disposal Site Records. (T14:Section 17258.29, 17636, 17637, 17638, 17639)	248
Section 20515. CIWMB MSWLF Unit Records. (T14:Section 17258.29, Section 18257)	249
Section 20517. CIWMB Documentation of Enforcement Agency (EA) Approvals, Determinations and Requirements. (new)	250
Section 20520. CIWMB Signs. (T14:Section 17656,17657)	250

Section 20530. CIWMB Site Security. (T14:Section 17658).....	251
Section 20540. CIWMB Roads. (T14:Section 17659,17660).....	251
Section 20550. CIWMB Sanitary Facilities. (T14:Section 17666).....	251
Section 20560. CIWMB Drinking Water Supply. (T14:Section 17667)	251
Section 20570. CIWMB Communications Facilities. (T14:Section 17668)	252
Section 20580. CIWMB Lighting. (T14:Section 17669)	252
Section 20590. CIWMB Personnel Health and Safety. (T14:Section 17670)	252
Section 20610. CIWMB Training. (T14:Section 17672).....	252
Section 20615. CIWMB Supervision. (T14:Section 17671, 17673)	252
Section 20620. CIWMB Site Attendant. (T14:Section 17674)	253
Section 20630. CIWMB Confined Unloading. (T14:Section 17676)	253
Section 20640. CIWMB Spreading and Compacting. (T14:Section 17677)	253
Section 20650. CIWMB Grading of Fill Surfaces. (T14:Section 17710)	254
Section 20660. CIWMB Stockpiling. (T14:Section 17680).....	254
Article 2. CIWMB Alternative Daily Cover Material and Beneficial Reuse.....	254
Section 20670. CIWMB Availability of Cover Material. [T14:Section 17681]	254
Section 20680. CIWMB Daily Cover. [T14:Section 17682, 17258.21].....	254
Section 20685. CIWMB Performance Standards. [T14:Section 17683 Authority Cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.....	255
Section 20686. Beneficial Reuse.....	255
Section 20690. CIWMB -Alternative Daily Cover. [T14: §17682, §17258.21(b)].....	256
Section 20695. CIWMB Cover Performance Standards. [T14:Section 17683]	262
Section 20700. CIWMB Intermediate Cover. (T14:Section 17684)	265
Section 20701. CIWMB Slope Stability of Daily and Intermediate Cover. (T14:Section 17678) [Reserved].....	265
Section 20705. SWRCB Standards for Daily and Intermediate (Interim) Cover. (C15: Section 2544)	265
Article 3. CIWMB Handling, Equipment and Maintenance	266
Section 20710. CIWMB Scavenging, Salvaging, and Storage. (T14:Sections 17686, 17687, 17690, 17691)	266

Section 20720. CIWMB Non-Salvageable Items. (T14:Section 17692).....	267
Section 20730. CIWMB Volume Reduction and Energy Recovery. (T14:Sections 17688, 17689)	267
Section 20740. CIWMB Equipment. (T14:Sections 17693, 17694)	267
Section 20750. CIWMB Site Maintenance. (T14:Sections 17695, 17696)	268
Section 20750.1. CalRecycle– Organic Waste Handling.....	268
Article 4. CIWMB Controls	269
Section 20760. CIWMB Nuisance Control. (T14:Section 17701)	269
Section 20770. CIWMB Animal Feeding. (T14:Section 17702)	269
Section 20780. CIWMB Open Burning and Burning Wastes. (T14:Sections 17258.24(b), 17703, 17741)	269
Section 20790. CIWMB Leachate Control. (T14:Sections 17704, 17709) .	269
Section 20800. CIWMB Dust Control. (T14:Section 17706)	270
Section 20810. CIWMB Vector and Bird Control. (T14:Section 17707).....	270
Section 20820. CIWMB Drainage and Erosion Control. (T14:Sections 17708, 17715)	270
Section 20830. CIWMB Litter Control. (T14:Section 17711)	270
Section 20840. CIWMB Noise Control. (T14:Section 17712)	271
Section 20860. CIWMB Traffic Control. (T14:Section 17714)	271
Section 20870. CIWMB Hazardous Wastes. (T14:Section 17742, 17258.20)	271
Section 20880. CIWMB Medical Waste. (new).....	272
Section 20890. CIWMB Dead Animals. (T14:Section 17744).....	272
Section 20900. CIWMB Air Criteria. (T14:Sections 17258.24(a)).....	272
Article 5. CIWMB Fire Control at Active and Closed Disposal Sites.....	273
Section 20905. CIWMB [Reserved].....	273
Section 20915. CIWMB Subsurface Fire Control. [Reserved]	273
Article 6. Gas Monitoring and Control at Active and Closed Disposal Sites..	273
Section 20917. CIWMB Scope and Applicability. [Reserved].....	273
Section 20918. CIWMB Exemptions.	273
Section 20919. CIWMB Gas Control.	273
Section 20919.5 CIWMB Explosive Gases Control. [Repealed].....	274
Section 20920. CIWMB Scope and Applicability for Gas Monitoring and Control Requirements.	274

Section 20921. CIWMB Gas Monitoring and Control.	274
Section 20923. CIWMB Monitoring	277
Section 20925. CIWMB Perimeter Monitoring Network.....	278
Section 20931. CIWMB Structure Monitoring.....	280
Section 20932. CIWMB Monitored Parameters.....	281
Section 20933. CIWMB Monitoring Frequency.....	281
Section 20934. CIWMB Reporting.....	282
Section 20937. CIWMB Reporting and Control of Excessive Gas Concentrations.	282
Section 20939. CIWMB Control of Excessive Gas Concentrations	283
Section 20945. [Reserved by SWRCB]	285
Subchapter 5. Closure and Post-Closure Maintenance.....	285
Article 1. General Standards for All Waste Management Units.....	285
Section 20950. SWRCB General Closure and Post-Closure Maintenance Standards Applicable to Waste Management Units (Units) for Solid Waste. (C15: Section 2580)	285
Section 20960. CIWMB General Standards For Disposal Sites and Landfills. [Reserved]	288
Article 2. Closure and Post-Closure Maintenance Standards for Disposal Sites and Landfills.....	288
Section 21090. SWRCB Closure and Post-Closure Maintenance Requirements for Solid Waste Landfills. (C15: Section 2581 // T14: Section 17777, Section 17779)	288
Section 21099. CIWMB Purpose. (new)	295
Section 21100. CIWMB Scope and Applicability. (T14:Section 17760)	295
Section 21110. CIWMB Time Frames for Closure. (T14:Section 17763, parts of Section 17258.60 and 17258.61)	296
Section 21120. CIWMB Partial Final Closure. (T14:Section 17764).....	299
Section 21125. CIWMB Clean Closure. [Reserved]	299
Section 21130. CIWMB Emergency Response. (T14:Section 17766).....	299
Section 21132. SWRCB Landfill Emergency Response Plan Review. (new)	300
Section 21135. CIWMB Site Security. (T14:Section 17767).....	301
Section 21137. CIWMB Structure Removal. (T14:Section 17771)	302
Section 21140. CIWMB Final Cover. (T14:Section 17773).....	302

Section 21142. CIWMB Final Grading. (T14:Section 17776, Section 17777)	303
Section 21145. CIWMB Slope Stability. (T14:Section 17777)	303
Section 21150. CIWMB Drainage and Erosion Control. (T14:Section 17778 , 17779)	304
Section 21160. CIWMB Landfill Gas Control and Leachate Contact. (T14:Section 17781, 17783)	304
Section 21170. CIWMB Recording. (T14:Section 17787)	305
Section 21180. CIWMB Postclosure Maintenance. (T14:Section 17788)..	305
Section 21190. CIWMB Postclosure Land Use. (T14:Section 17796)	306
Section 21194. [Reserved by SWRCB]	308
Section 21200. CalRecycle Change of Ownership During Closure or Postclosure Maintenance.	308
Article 3. SWRCB Closure Standards for Units Other Than Landfills	309
Section 21400. SWRCB Closure Requirements for Surface Impoundments. (C15: Section 2582)	309
Section 21410. SWRCB Closure Requirements for Waste Piles. (C15: Section 2583)	310
Section 21420. SWRCB Closure Requirements for Land Treatment Units (LTUs). (C15: Section 2584)	311
Article 4. Standards for Composting Facilities [Reserved]	312
21430. CIWMB Compost Facility Closure Requirements. [Reserved]	312
Chapter 4. Documentation and Reporting for Regulatory Tiers, Permits, WDRs, and Plans	312
Subchapter 1. CIWMB—General	312
Section 21440. Purpose. (non-regulatory) [Reserved]	312
Section 21450. CIWMB--Scope/Applicability/Coordination. (T14: Section 18200)	312
Subchapter 2. CIWMB Regulatory Tiers [Section 21460 Section 21560 Reserved by CIWMB]	313
Subchapter 3. Development of Waste Discharge Requirements (WDRs) and Solid Waste Facility Permits	313
Article 1. General	313
Section 21563. CIWMB-Scope. (T14: Section 18200, Section 18200.1)	313
Section 21565. CIWMB-Exemptions from Requirement of a Permit. (T14:Section 18215)	315

Section 21565.5. CIWMB--Filing Requirements for Exemptions from Solid Waste Facility Permit (SWFP). (T14:Section 17616).....	316
Article 2. CalRecycle--Applicant Requirements.....	316
Section 21570. CalRecycle—Filing Requirements.	316
Section 21580. CIWMB-Submittal of an Incomplete Application Package (T14:Section 18203).....	321
Section 21585. SWRCB--Joint Technical Document (JTD). (new).....	321
Section 21590. CalRecycle-Joint Technical Document for Disposal Facilities.	323
Section 21595. Combined CIWMB and SWRCB Joint Technical Document for Federal Subtitle D Research, Development, and Demonstration Permits.	324
Section 21600. CIWMB-Report of Disposal Site Information (RDSI). (T14:Section 17607, 17616, 17626, 17628, 17629 and 18222)	324
Section 21610. CIWMB--Amendments to Application Package. [T14:Section 18202(a)].....	329
Section 21615. CIWMB-Completeness Appeal. [T14: Section 18203(f)]... ..	330
Section 21620. CIWMB-Change in Design or Operation. (new).....	330
Section 21630. CIWMB-Change of Owner, Operator, and/or Address. (T14:Section 18216 & 18217).....	334
Section 21640. CalRecycle--Review of Permits.	335
Article 3. CalRecycle Enforcement Agency (EA) Requirements	336
Section 21650. CIWMB--EA Processing Requirements. (T14:Section 18203)	336
Section 21655. CIWMB-Amendments to Application Package. [T14:Section 18202(b)(c)].....	338
Section 21660. CIWMB-Public Notice and Informational Meeting Requirements	339
Section 21660.1. Notice for RFI Amendment Applications	340
Section 21660.2. Informational Meeting for New and Revised Full Solid Waste Facilities Permit Applications.....	341
Section 21660.3. Notice of New, Revised and Modified Permit Applications and EA-Conducted Informational Meeting.....	342
Section 21660.4. Substitute Meetings in Place of EA-Conducted Informational Meetings.	344
Section 21663. CIWMB--Issuance of Solid Waste Facilities Permit. (T14:Section 18208).....	345

Section 21665. CIWMB--Processing Proposed Changes at Solid Waste Facility. (new)	346
Section 21666. CIWMB-Processing Report of Facility Information (RFI) Amendment(s).....	348
Section 21670. CIWMB--Change of Owner Operator, and/or Address. (T14:Section 18216 and 18217)	349
Section 21675. CIWMB--Review of Solid Waste Facilities Permits. (T14:Section 18213).....	350
Article 3.1. CalRecycle- CalRecycle Requirements	350
Section 21680. CIWMB-Reinstatement of Suspended and Revoked Permits. (T14:Section 18212).....	350
Section 21685. CalRecycle--Proposed Solid Waste Facilities Permit; CalRecycle Processing Requirements.	351
Section 21686. CIWMB-Change in Owner/Operator and/or Address. (new)	355
Article 3.2. CIWMB-Other Requirements	355
Section 21690. CIWMB-Report of Woodwaste Disposal Site Information.	355
Section 21695. CalRecycle-Organic Disposal Reduction Status Impact Report.....	355
Article 4. SWRCB Development of Waste Discharge Requirements (WDRs)	357
Section 21710. SWRCB Report Of Waste Discharge (ROWD) and Other Reporting Requirements. [C15: Section 2590]	357
Section 21720. SWRCB Waste Discharge Requirements (WDRs). (C15: Section 2591)	360
Section 21730. SWRCB Public Participation. (C15: Section 2592)	362
Section 21740. SWRCB Waste Characteristics. (C15: Section 2594).....	363
Section 21750. SWRCB Waste Management Unit (Unit) Characteristics and Attributes to be Described in the ROWD. [C15: Section 2595 & Section 2547(a) // T14: Section 17777, Section 18260, Section 18263 & Section 18264]	363
Section 21760. SWRCB Design Report and Operations Plan. (C15: Section 2596)	371
Section 21769. SWRCB Closure and Post-Closure Maintenance Plan Requirements. [C15: Section 2597 // T14: Section 17776, Section 17778(g), Section 18260, Section 18261.3(a)(2 & 7), Section 18262, Section 18263, Section 18264]	373
Section 21770. CIWMB Scope and Applicability. (T14: Section 18250)....	377

Section 21780. CIWMB Submittal of Closure and Postclosure Maintenance Plans.	378
Section 21785. CIWMB Labor Transition Plan.	379
Section 21790. CIWMB Preliminary Closure Plan Contents.....	380
Section 21800. CIWMB Final Closure Plan Contents.....	381
Section 21805. Combined CIWMB and SWRCB Final Closure Plan Contents for Federal Subtitle D Research, Development, and Demonstration Permits.	382
Section 21810. CIWMB Final Closure Plan Contents for Clean Closure. ...	382
Section 21815. CIWMB General Criteria for Cost Estimates.....	384
Section 21820. CalRecycle--Closure Cost Estimates.....	384
Section 21825. CIWMB Preliminary Postclosure Maintenance Plan Contents.	386
Section 21830. CIWMB Final Postclosure Maintenance Plan Contents. ...	386
Section 21835. Combined CIWMB and SWRCB Final Postclosure Maintenance Plan Contents for Federal Subtitle D Research, Development, and Demonstration Permits.	387
Section 21840. CalRecycle Postclosure Maintenance Cost Estimates.	388
Section 21860. CIWMB Schedules for Review and Approval of Closure and Postclosure Maintenance Plans. (T14: Section 18271).....	389
Section 21865. CalRecycle Amendment of Closure and Postclosure Maintenance Plans.....	391
Section 21870. CIWMB Implementation of Closure Plan. (new)	392
Section 21880. CalRecycle Certification of Closure.	393
Section 21890. CIWMB Revision of Approved Plans For Closure and Postclosure Maintenance. (T14: Section 18276).....	394
Section 21900. CIWMB Release From Postclosure Maintenance. (T14: Section 18277)	394
Section 22100. CalRecycle Scope and Applicability.	394
Section 22101. CalRecycle Corrective Action Estimate Requirements.	395
Section 22102. CalRecycle Corrective Action Plan Requirements.....	396
Section 22103. CalRecycle Updated Corrective Action Cost Estimate.	397
Chapter 5. Enforcement	398
Section 22190. SWRCB Mandatory Closure (Cease and Desist Orders).	398
Chapter 6. Financial Assurances at Solid Waste Facilities and at Waste Management Units for Solid Waste.....	399

Subchapter 1. Definitions for Financial Assurance Demonstrations and Requirements	399
Section 22200. CIWMB Definitions. (T14:Section 18281)	399
Subchapter 2. Financial Assurance Requirements.....	407
Article 1. Financial Assurance for Closure	407
Section 22205. CIWMB Scope and Applicability. (T14:Section 18280)	407
Section 22206. CIWMB Amount of Required Coverage. (T14:Section 18282)	408
Section 22207. SWRCB Closure Funding Requirements. [C15: Sections 2574(f&g) and 2580(f)]	408
Article 2. Financial Assurance for Postclosure Maintenance	409
Section 22210. CIWMB Scope and Applicability. (T14:Section 18280)	409
Section 22211. CalRecycle--Amount of Required Coverage.....	409
Section 22212. SWRCB Post-Closure Funding Requirements. [C15:Sections 2574(f&g) and 2580(f)]	412
Article 3. CIWMB Financial Assurance Requirements for Operating Liability	413
Section 22215. CIWMB Scope and Applicability. (T14:Section 18230)	413
Section 22216. CIWMB Amount of Required Coverage. (T14:Section 18232)	413
Article 4. Financial Assurance Requirements for Corrective Action	414
Section 22220. CalRecycle--Scope and Applicability.	414
Section 22221. CalRecycle Amount of Required Coverage.	415
Section 22222. SWRCB Corrective Action Funding Requirements. [C15: Section 2550.0(b) and Section 2580(f)].....	416
Subchapter 3. Allowable Mechanisms.....	416
Article 1. CalRecycle General Requirements for Mechanisms.....	416
Section 22225. Minimum Closure and/or Postclosure Maintenance and/or Reasonably Foreseeable Corrective Action Fund Balance Calculation. (T14:Section 18282).....	416
Section 22226. CIWMB Minimum Fund Balance Calculation for Known Corrective Action. (T14:Section 17258.74).....	418
Section 22227. CIWMB Substitution of Mechanisms. (T14:Section 18241, 18293)	418
Section 22228. CIWMB Acceptable Mechanisms and Combination of Mechanisms. (T14:Section 17258.74, 18233, 18283)	419

Section 22229. CIWMB Use of Multiple Mechanisms. (T14:Section 17258.74)	421
Section 22230. CIWMB Use of Mechanism(s) for Multiple Facilities. (new)	421
Section 22231. CalRecycle--Cancellation or Nonrenewal by a Provider of Financial Assurance.	421
Section 22232. CIWMB Bankruptcy or Other Incapacity of Operator or Provider of Financial Assurance. (T14:Sections 18243, 18295).....	423
Section 22233. CIWMB Record Keeping and Reporting. (T14:Sections 18244, 18297)	423
Section 22234. CalRecycle Disbursements from Financial Mechanisms. .	426
Section 22235. CIWMB Release of Financial Assurance Requirements. (T14:Sections 18245, 18298)	427
Section 22236. CIWMB Annual Inflation Factor. (T14:Section 18272)	428
Section 22237. CIWMB Depository Trust Fund. (T14:Section 18296)	428
Article 2. CalRecycle Financial Assurance Mechanisms.....	429
Section 22240. CIWMB Trust Fund.....	429
Section 22241. CIWMB Enterprise Fund. (T14:Section 18285)	429
Section 22242. CIWMB Government Securities. (T14:Sections 18235, 18286)	430
Section 22243. CIWMB Letter of Credit.	431
Section 22244. CIWMB Surety Bond.	432
Section 22245. CalRecycle--Pledge of Revenue.....	433
Section 22246. CIWMB Financial Means Test.	434
Section 22247. CIWMB Guarantee.	437
Section 22248. CalRecycle Closure and/or Postclosure Maintenance and/or Reasonably Foreseeable Corrective Action Insurance.....	438
Section 22249. CIWMB Local Government Financial Test.....	440
Section 22249.5. CIWMB Local Government Guarantee.	444
Section 22250. CIWMB Federal Certification. (T14:Section 18292).....	445
Section 22251. CIWMB Liability Insurance.....	447
Section 22252. CIWMB Self-Insurance and Risk Management.	447
Section 22253. CIWMB Insurance and Environmental Fund.....	448
Section 22254. CIWMB State Approved Mechanism. (T14:Section 17258.74)	449

Subchapter 4. Financial Assurances Enforcement Procedures.....	450
Article 1. Solid Waste Facilities	450
Section 22270. Scope and Applicability.....	450
Section 22271. Definitions.....	450
Section 22272. Notice of Violation.....	450
Section 22273. Issuance of Notice and Order and Stipulated Notice and Order.	451
Section 22274. Compliance Options.	451
Section 22275. Penalty Calculations.	452
Section 22276. Processing and Collection of Civil Penalty.....	453
Section 22277. Appeals Process.....	453
Section 22278. Continued or Recurring Violations.	454
Chapter 7. Special Treatment, Storage, and Disposal Units	454
Subchapter 1. Mining Waste Management.....	454
Article 1. SWRCB Mining Waste Management Regulations (C15: Article 7)	454
Section 22470. SWRCB Applicability. (C15: Section 2570).....	454
Section 22480. SWRCB Groups of Mining Waste. (C15: Section 2571) ...	455
Section 22490. SWRCB Mining Unit Siting and Construction Standards. (C15: Section 2572)	457
Section 22500. SWRCB Water Quality Monitoring for Mining Units. (C15: Section 2573)	461
Section 22510. SWRCB Closure and Post Closure Maintenance of Mining Units. (C15: Section 2574)	461
Subchapter 2. Confined Animals	465
Article 1. SWRCB Confined Animal Facilities.....	465
Section 22560. SWRCB Applicability. (Ch-15: S2560).....	465
Section 22561. SWRCB General Standard For Surface Water. (Ch-15: Section 2561)	465
Section 22562. SWRCB Wastewater Management. (Ch-15: Section 2562)	466
Section 22563. SWRCB Use or Disposal Field Management. (Ch-15: Section 2563)	467
Section 22564. SWRCB Management of Manured Areas. (Ch-15: Section 2564)	467
Section 22565. SWRCB Monitoring. (Ch-15: Section 2565).....	467

Subchapter 3. Composting Facilities	467
Subchapter 4. Waste Tire Facilities	467
Subchapter 5. Transfer and Processing Stations	467
Subchapter 6. Solar Evaporators.....	468
Article 1. Solar Evaporator Regulations [Regulations in this Article Were Promulgated by the State Water Resources Control Board (SWRCB), Are Administered by the Appropriate Regional Water Quality Control Board (RWQCB), and Are Applicable to the Owner or Operator of a Solar Evaporator for the Management of Agricultural Drainage Water Discharges from an Integrated on-Farm Drainage Management System (IFDM).].....	468
Section 22900. SWRCB Applicability.	468
Section 22910. SWRCB Definitions.	468
Section 22920. SWRCB Solar Evaporator Design Requirements.	472
Section 22930. SWRCB Solar Evaporator Construction Requirements. ...	473
Section 22940. SWRCB Solar Evaporator Operation Requirements.	474
Section 22950. SWRCB Solar Evaporator Closure Requirements.....	476
Chapter 8. Other Provisions	477
Subchapter 1. Financial Assistance Programs	477
Article 1. Landfill Closure Loan Program.....	477
Section 23001. Purpose of the Landfill Closure Loan Program	477
Section 23002. Definitions.....	477
Section 23003. Use of Loan Proceeds	478
Section 23004. Landfill Eligibility	478
Section 23005. Operator Eligibility Criteria	479
Section 23006. Loan Priorities.....	479
Section 23007. Loan Amount, Length of Term, and Interest Rate.....	480
Section 23008. Application Submittal	480
Section 23009. Application Content	480
Section 23010. Application Review	481
Section 23011. Board Approval.....	481
Section 23012. Loan Agreement	481
Section 23013. Auditing of Expenditure of Loan Proceeds	482
Section 23014. Review of Records and Site Reviews.....	483

Appendix 1--Joint Permit Application Form and Instructions Form,
CalRecycle E-1-77 & Instructions..... 483

Appendix 2--Sample Index for Joint Technical Document..... 483

Appendix 3--Financial Assurances Forms..... 483

Appendix 4 - Landfill Terminology 484

Appendix 5 - Terms Describing Stages of Landfill Life 485

DIVISION 1. GENERAL FUNCTIONS AND RESPONSIBILITIES

Subdivision 0.5 Administration

Chapter 1. Environmental Protection Agency of California

SubChapter Ghost Header for Outline ADA compliance

Article Ghost Header for Outline ADA compliance

Section 10010. General Provisions Incorporation by Reference of Standard Conflict of Interest Code.

The Political Reform Act (Government Code Sections 81000, et seq.) requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regulations, Section 18730) which contains the terms of a standard Conflict of Interest Code which can be incorporated by reference into an agency's code. After public notice, it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of California Code of Regulations, title 2, Section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission, are incorporated herein by reference. This regulation and the attached Appendices designating officials and employees and establishing disclosure categories, shall constitute the Conflict of Interest Code of the Office of the Secretary for the California Environmental Protection Agency (CalEPA).

Designated employees shall file their statements with the agency, which will make the statements available for public inspection and reproduction. (Gov. Code § 81008). Upon receipt of the statement for Agency Secretary, the agency shall make and retain a copy and forward the original of each statement to the Fair Political Practices Commission. Statements for all other designated employees will be retained by CalEPA.

Appendix A

Disclosure Categories
Category 1
Every person in this Category must report: All interests in real property in the State of California, as well as investments, business positions in business entities, and all sources of income, including receipt of loans, gifts, and travel payments.
Category 2
Every person in this Category must report: Investments and business positions in business entities, and all sources of income, including receipt of loans, gifts, and travel payments from, entities that are subject to the regulatory authority of CalEPA and its boards, departments and office; and all sources of income, including receipt of loans, gifts, and travel payments, from nonprofit, trade and professional organizations that appear before or participate in other types of proceedings formally or informally with CalEPA and its boards, departments and office.
Category 3
Every person in this Category must report: Investments, and business positions in business entities, and all sources of income, including receipt of loans, gifts, and travel payments from, sources of the type that provide services, supplies, materials, machinery or equipment of the type utilized by CalEPA and its boards, departments and office.

Appendix B

List of Designated Position	Disclosure Category
Agency Secretary	1
Agency Information Officer	1

List of Designated Position	Disclosure Category
Air Pollution Specialists	1
Air Resources Supervisors	1
Associate Business Management Analysts	3
Associate Governmental Program Analysts	3
(Facility Services)	No Value Indicated
Assistant Secretaries	1
Business Services Officers	4
Career Executive Assignment Positions	1
Counsels	1
Deputy Secretaries	1
Environmental Program Managers	2
Environmental Scientists (All Levels)	2
Exempt Positions (Other)	2
Integrated Waste Management Specialists	3

List of Designated Position	Disclosure Category
Staff Information Systems Analysts	3
Staff Programmer Analysts	3
Staff Services Managers (Facility Services)	3
Undersecretary	1
Consulting/New Posting	*

Authority cited: Sections 87300 and 87306, Government Code. Reference: Sections 87300, 87301, 87302 and 87500, Government Code; and Section 18730 of Title 2, Division 6 of California Code of Regulations.

Chapter 2. Environmental Enforcement and Training Grant Program

SubChapter Ghost Header for Outline ADA compliance

Article 1. Description, Procedures, Criteria, Restrictions, and Administration

Section 10011. Scope of Article.

These regulations apply to applicants seeking Environmental Enforcement and Training Act grants under the Environmental Enforcement and Training Grant Program established by the Secretary of the California Environmental Protection Agency. The regulations in this Article provide the following as required by Penal Code Section 14301:

(a) Describe procedures for applying for Environmental Enforcement and Training Act grants.

(b) Describe criteria to be used in determining which applications will be funded.

(c) Describe the administrative and fiscal requirements governing the receipt and expenditure of Environmental Enforcement and Training Act grant funds.

Authority cited: Section 14301, Penal Code. Reference: Section 14301(b), Penal Code.

Section 10012. Definitions.

(a) The definitions contained in Section 14300(b) of the Penal Code are incorporated herein by reference.

(b) "Cal/EPA" means the California Environmental Protection Agency

Authority cited: Section 14301, Penal Code. Reference: Section 14300(b), Penal Code.

Section 10013. General Provisions.

(a) These regulations implement provisions in the Environmental Enforcement and Training Act of 2002. The Act created a potential funding source for California environmental training, investigation and enforcement activities. The Secretary has established the Environmental Enforcement and Training Grant Program to allocate and award funds, upon appropriation by the Legislature, to public agencies or private nonprofit organizations for purposes of supporting and enhancing statewide environmental enforcement and training programs for peace officers, firefighters, investigators, state and local environmental regulators, and public prosecutors pursuant to Penal Code Section 14301, et seq.

(b) The Environmental Enforcement and Training Grant Program funds are derived from the Environmental Enforcement and Training Account. This Account may provide up to two million dollars (\$2,000,000) annually for distribution by the Secretary, upon appropriation by the Legislature, as follows:

(1) Twenty-five percent or one hundred thousand dollars (\$100,000) whichever is less to the Commission on Peace Officer Standards and Training. The commission may decline all or part of the funds allocated to it pursuant to this subdivision. Any funds so declined shall be reallocated by the Secretary for the training of peace officers as allowed by Penal Code Section 14314.

(2) Twenty-five percent to the Environmental Circuit Prosecutor Project through the California District Attorney's Association.

(3) Twenty-five percent to the California District Attorneys Association for training and assistance as allowed by Penal Code Sections 14306 and 14307.

(4) The balance to the Secretary for discretionary grants as allowed by Penal Code Sections 14306 through 14308 or 14309 based on demonstrated need or in order to sustain the current level of presence and enforcement for those programs.

(c) The Secretary shall consult with the Commission on Peace Officer Standards and Training prior to providing any grant funds for peace officer education and training programs.

Authority cited: Section 14301, Penal Code. Reference: Sections: 14300(c), 14300(d), 14301(a)(3), 14301(c), 14303(a), 14314(a), 14314(b), 14314(c) and 14314(d), Penal Code.

Section 10014. Purpose of the Environmental Enforcement and Training Grant Program.

The Secretary has established the Environmental Enforcement and Training Grant Program in order to provide financial assistance for statewide enforcement and training programs to enhance enforcement of environmental laws. Under this program, the Secretary is authorized to award both mandatory and discretionary training and enforcement grants.

(a) Upon appropriation, grant funds shall be awarded by the Secretary to: 1) the Commission on Peace Officer Standards and Training, if the funds are not declined pursuant to Penal Code Section 14314; 2) the Environmental Circuit Prosecutor Project through the California District Attorney's Association; and 3) the California District Attorneys Association in accordance with the Act and these regulations.

(b) Discretionary grant funds may be awarded by the Secretary to public agencies or private nonprofit organizations and local environmental regulators in accordance with the Act and these regulations.

Authority cited: Section 14301, Penal Code. Reference: Sections 14301(c), 14314(c), 14301(d), 14309(c)(1), 14306(a), 14307(a), 14308(a), 14308(b) and 14314(d)(1), Penal Code.

Section 10015. Procedures for Applying for Discretionary Environmental Enforcement and Training Act Grants.

(a) To apply for an enforcement and training grant under this program, qualified entities must complete an application as specified by the Secretary. The application will require the following information:

(1) The organization's name, physical mailing address and post office box, telephone and fax numbers, and e-mail and web page addresses.

(2) The application must be signed by a person duly authorized by the applicant organization and provide the authorized person's telephone and fax numbers, and e-mail address.

(3) The name of the person with day-to-day responsibility for the project (if different from authorized representative) and that person's telephone and fax numbers, and e-mail address.

(4) A narrative/work plan that describes the applicant's proposed project. The narrative/work plan must contain the following information:

(A) Identify the environmental enforcement and/or training objectives to be addressed by the project.

(B) Identify the enforcement and/or training target audience.

(C) Identify the environmental statutes/acts addressed by the project.

(D) Provide a concise introduction that states the nature of the organization including documentation to support the organizations non-profit status.

(E) Identify how long the organization has been in existence.

(F) Describe how the organization has been successful in the past.

(G) Describe the environmental justice component of the program required by Section 10016(b)(3), or the reason(s) such a component is not included in the project.

(H) Provide project completion plans/time frames, and expected results.

(I) Provide a conclusion discussing how the applicant will evaluate and measure the success of the project, including the anticipated benefits and challenges in implementing the project.

(J) Provide budget figures/projections to support the work-plan narrative.

(K) Provide a succinct explanation of how the project may serve as a model in other settings.

(L) Provide an appendix with resumes of key personnel who will be significantly involved in the project, including the project lead.

(M) Provide letter(s) of commitment if your proposed project includes the significant involvement of other organizations.

Authority cited: Section 14301, Penal Code. Reference: Sections 14301(c), 14314(c), 14301(d), 14309(c)(1), 14306(a), 14307(a), 14308(a), 14308(b) and 14314(d)(1), Penal Code.

Section 10016. Eligibility, Criteria, Review and Selection Process.

(a) Eligibility.

(1) Individuals are not eligible to receive grants.

(2) Any private nonprofit or public entity may submit an application for discretionary grants.

(3) Applicants that have previously received grant funds may be eligible for future grant awards.

(4) Organizations that have not received previous grants under the Environmental Enforcement and Training Grant program may receive preference over organizations currently or previously having been authorized grant awards.

(5) Local environmental regulators may request local assistance grants to assist in the enforcement of environmental laws, based upon a showing of substantial need and a lack of other available funding sources.

(6) The Commission may seek additional grant funding based on need if the environmental law enforcement training is mandated or if there are substantial changes in the law that require it to revise its environmental law courses.

(7) Applications that propose projects that are inconsistent with the Agency's statutory authority are ineligible for funding and will not be evaluated.

(b) Criteria. The narrative/work plan will be used as the primary basis for awarding grants. The Secretary will award grants based upon the following criteria:

(1) The Secretary will consider only one application per applicant for a given project. Applicants may submit more than one application if the applications are for separate and distinct projects or activities.

(2) Every application will be evaluated based on the merit of the proposed project in comparison to other applications. Past performance may be considered during the evaluation process for those applicants who have received previous grants.

(3) California Law requires the Agency to conduct its programs in a manner that ensures the fair treatment of people of all races, cultures, and income levels including minority populations and low-income populations in the State. Receipt of grant awards will be conditioned upon the incorporation of environmental justice objectives as they relate to environmental enforcement into proposed training courses. Training courses should therefore include, as appropriate, one or more of the following components:

(A) Developing an understanding of environmental justice laws and principles.

(B) Developing targeted enforcement projects or plans benefiting communities most burdened by pollution sources or impacts.

(C) Ensuring public participation and information sharing whenever possible.

(4) Applicants may receive grants to develop a new activity or substantially improve the quality of existing programs upon a showing that the project will have a direct impact on environmental enforcement and/or training activities.

(5) The Secretary will review and consider the responsiveness of the work plan to the Agency's environmental enforcement and training objectives, the overall effectiveness of the project design, the clarity of the measures of success and the qualifications of project staff.

(c) Review And Selection Process

The Secretary will review, evaluate, and select grant recipients. Applications will be screened to ensure that they meet all requirements described in this Article.

(1) After all applications are received, the Secretary will mail acknowledgements to applicants.

(2) After the individual projects are reviewed and evaluated the Secretary will compare the applications and make final selections. Additional factors that the Secretary may take into account in the selection process include geographic and socioeconomic balance; diverse nature of the projects, cost, and projects whose benefits can be sustained after the grant is completed.

(3) Once applications have been recommended for funding, the Secretary will notify the finalist(s) in writing by mail and request additional information necessary to complete the award process, such as tax identification numbers. The finalist(s) may be required by existing law to complete additional government forms prior to receiving grant funds.

(4) Limited funding is available and the Secretary may not fund all applications.

(5) The Secretary will notify in writing by mail those applicants whose projects are not selected for funding.

(6) The decision of the Secretary concerning the discretionary grants awarded pursuant to this Section is final and not subject to appeal.

Authority cited: Section 14301, Penal Code. Reference: Section 14301(b), Penal Code; and Sections 71110(a), 71110(b) and 71110(c), Public Resources Code.

Section 10017. Restrictions on Grants.

(a) Grant funds can only be used for the purposes set forth in an approved narrative/workplan, and must be consistent with the statutory authority for the award.

(b) Grant funds cannot be used for lobbying, or intervention in state or federal regulatory proceedings.

(c) Grant funds cannot be used for matching state or federal funding.

(d) State law requires all grantees to certify and assure that they will comply with all applicable state laws, regulations, and requirements before receiving funds.

Authority cited: Section 14301, Penal Code. Reference: Section 14301(b), Penal Code.

Section 10018. Reporting Requirements for Grant Recipients.

(a) Grant funded projects should be completed within the time frames set out in the work plan.

(b) The recipient organization is responsible for the successful completion of the project.

(c) All recipients must submit quarterly and final reports to the Secretary within 30 days of the end of the quarter or end of the project for final reports.

(d) Unused grant funds remaining at the end of the fiscal year may be forfeited.

(e) The Secretary may require an audit or financial accounting from a grant recipient at any time.

(f) The Secretary will collect, review, and disseminate grantees' final reports, as appropriate to serve as model programs and will use the reports to develop information for mandated reports to the Governor and the Legislature.

Authority cited: Section 14301, Penal Code. Reference: Sections 14301(b) and 14315, Penal Code.

Chapter 3. Environmental Justice Small Grants Program

SubChapter Ghost Header for Outline ADA compliance

Article 1. Procedures and Criteria for Environmental Justice Small Grants Program

Section 10050. Purpose and Scope of Article.

The purpose of this grant program is to provide financial assistance to eligible non-profit community groups such as community-based grassroots organizations and federally recognized tribal governments, that are working on or plan to carry out projects to address environmental justice issues in areas adversely affected by environmental pollution and hazards.

(a) The regulations in this Article provide the following as required by Section 71116 of the Public Resources Code:

(1) Describe procedures for applying for the Environmental Justice Small Grant Program.

(2) Describe criteria for determining which applications shall be funded.

(3) Describe the administrative and fiscal requirements governing the receipt and expenditure of Environmental Justice Small Grant funds.

Authority cited: Section 71116, Public Resources Code. Reference: Section 71116(b), Public Resources Code.

Section 10051. Definitions.

For the purposes of this article, the following definitions shall apply:

(a) The definitions contained in Section 71116(c)(2) and Government Code Section 65040.12 are incorporated herein by reference.

(b) "Cal/EPA" means California Environmental Protection Agency.

(c) "Secretary" means the Agency Secretary for the California Environmental Protection Agency or his or her designee(s).

Authority cited: Section 71116, Public Resources Code. Reference: Sections 71116(c)(2) and 71116(j), Public Resources Code.

Section 10052. Grant Award.

The maximum amount of a grant provided pursuant to this Section is fifty thousand dollars (\$50,000).

Authority cited: Section 71116, Public Resources Code. Reference: Section 71116(i), Public Resources Code.

Section 10053. Restrictions on Environmental Justice Small Grants.

(a) The restrictions contained in Section 71116(d)-(g) of the Public Resources Code are incorporated herein by reference.

(b) Grant recipients shall use the grant award to fund only the project described in the recipient's application. Recipients shall not use the grant funding to shift moneys from existing or proposed projects to activities for which grant funding is prohibited or as described in Section 10053(a) above.

Authority cited: Section 71116, Public Resources Code. Reference: Section 71116(d)-(g), Public Resources Code.

Section 10054. Grant Application Procedures.

(a) In order to receive grant funds for activities set forth under Section 71116 of the Public Resources Code, applicants shall complete an application process in accordance with the following requirements:

(1) Applicants shall submit an application and a narrative/work plan:

(A) The narrative/work plan shall describe the applicant's proposed project.

(B) The narrative/work plan shall be used as the primary basis for fund allocation. Work plans shall be submitted to the Secretary in accordance with timelines established by the Secretary.

(C) The narrative/work plan shall contain the following information:

1. Identify the environmental justice issue(s) to be addressed by the project.
2. Identify the environmental justice community/target audience.
3. Identify the program goal that the project shall meet and how it shall meet it.
4. Provide an explanation of how the project may serve as a model in other settings.
5. Provide an introduction that states the nature of the applicant's organization.
6. Identify how long the organization has been in existence.
7. Describe how the organization has been successful in the past.
8. Provide project completion plans/time frames, and expected results.
9. Provide a project description that describes how the applicant is community-based and/or plans to involve the target audience in the project.
10. Provide a conclusion discussing how the applicant shall evaluate and measure the success of the project, including the anticipated benefits and challenges in implementing the project.
11. Include an appendix with resumes of up to three key personnel who shall be significantly involved in the project, including the project lead.
12. If the proposed project includes the significant involvement of other community organizations, applicants must include letter(s) of commitment from these organizations.
13. Provide documentation to support the organization's non-profit status or proof of federal recognition of tribal status.
14. Provide budget figures/projections to justify the requested award amount.

(D) The application shall contain the following required information:

1. The organization's name, physical mailing address and post office box, telephone numbers, e-mail and web page address.

2. The application must be signed by a person duly authorized by the applicant's organization and provide the authorized person's telephone and fax numbers, and e-mail address.

3. The name of the person with day-to-day responsibility for the project (if different from authorized representative) and that person's telephone and fax numbers, and e-mail address.

Authority cited: Section 71116, Public Resources Code. Reference: Section 71116(a)(1), Public Resources Code.

Section 10055. Eligibility, Process for Awarding Grants, and Criteria.

(a) The Secretary shall announce the availability of Environmental Justice grants on the Cal/EPA website and post a deadline of 90 days for the receipt of grant applications. Grant applications must be returned on or before the close of the 90-day application period specified in the notice. The Secretary shall review, evaluate, and select grant recipients. Applications shall be screened to ensure that the application and the projects described therein comply with all of the requirements set forth in Sections 10053-10055 in this Article, including, but not limited to, restrictions, procedures, work plan requirements and criteria, and comply with the requirements set forth in Section 71116 of the Public Resources Code. Applications shall be disqualified if any requirements are not met.

(b) If the application package is complete it shall be reviewed and evaluated by the Secretary based on the criteria outlined below:

(1) Threshold Criteria. Applications that propose projects that are inconsistent with Cal/EPA's statutory authority for this grant program or the goals for the program are ineligible for funding and shall not be evaluated. The Secretary shall notify in writing by mail those applicants whose projects are ineligible for funding.

(2) Evaluation Criteria. Proposals shall be evaluated using the following criteria:

(A) Responsiveness of the work plan to environmental justice issues.

(B) Effectiveness of the project design.

(C) Clarity of the measures of success.

(D) Qualifications of project staff.

(c) The Secretary may consider only one application per applicant for a given project. Applicants may submit more than one application if the applications are for separate

and distinct projects. Applicants that previously received grant funds may submit an application for future grants.

(d) The Secretary may give preference to organizations that have not received previous grants under the Cal/EPA Environmental Justice Small Grants Program.

(e) Every application shall be evaluated based on the merit of the proposed project in comparison to other applications. Past performance may be considered during the evaluation process for those applicants who have received previous grants under the Cal/EPA Environmental Justice Small Grants Program.

(f) The Secretary shall compare all applications eligible for funding and make final selections after the individual projects are reviewed and evaluated. Additional factors that the Secretary may take into account in the selection process include geographic and socioeconomic balance; cost, and projects whose benefits can be sustained after the grant is completed.

(g) After all applications are received, the Secretary shall mail acknowledgments to all applicants. Once applications have been approved for funding, the Secretary shall notify the finalist(s) and request additional information in existing law necessary to complete the award process such as tax identification numbers. The Secretary shall notify in writing by mail those applicants whose projects are not selected for funding.

(h) The decisions of the Secretary concerning grant funding are final and not subject to appeal.

(i) State law requires all grantees to certify and assure that they shall comply with all applicable state laws, regulations, and requirements before receiving funds.

Authority cited: Section 71116, Public Resources Code. Reference: Sections 71116 and 71116(a)(1), Public Resources Code.

Section 10056. Project Period and Final Reports.

(a) Grant funded projects shall be completed and funds spent within the time frame specified in the grant award.

(b) The recipient organization is responsible for the successful completion of the project.

(c) Unless specified in the award, all recipients must submit quarterly reports to the Secretary within 30 days of the end of the quarter.

(d) All grant recipients shall submit final reports to the Secretary for approval within ninety (90) days of the end of the project period. Each final report shall include, at a

minimum: (1) summary of the expenditures of the grant funds; and (2) the results of the project including a description of the benefits achieved by the project as compared to the measures of success that the applicant included in its application.

(e) The Secretary shall collect, review, and disseminate grantee's final reports to serve as model programs.

(f) The Secretary may require an audit or financial accounting from a grant recipient at any time.

(g) Any funds not used during the project period shall be forfeited.

Authority cited: Section 71116, Public Resources Code. Reference: Section 71116(a)(2), Public Resources Code.

Subdivision 1. Permitting

Chapter 1. Definitions

SubChapter Ghost Header for Outline ADA compliance

Article Ghost Header for Outline ADA compliance

Section 10100. Consolidated Permit Definitions.

(a) "Applicant" means a person who applies to an environmental agency for a permit, registration, certification, or permission to take specific action pursuant to the provisions of this division.

(b) "Comprehensive risk assessment" means, for the purpose of Sections 10200 and 10201, a quantitative estimate of risk to human health and the environment that provides for both acute and chronic effects that could occur now and in the future. The assessment is conducted for all chemicals at the facility of potential concern. The assessment is based on a theoretical daily dose a human or non-human receptor would receive by all exposure routes.

(c) "Consolidated permit" means a permit incorporating the environmental permits granted by environmental agencies for a project and issued in a single permit document by the consolidated permit agency.

(d) "Consolidated permit agency" means the environmental agency that has the greatest overall jurisdiction over a project.

(e) "Consolidated permit application form" means a form, as authorized by subsection (e) or (f) of Section 15399.56 of the Government Code, that can be used in lieu of separate application forms for each component environmental permit that would be provided by the consolidated permit agency and the participating permit agencies.

(f) "Consolidated permit notification" is a form used by an applicant to notify the Secretary of the applicant's request to have a consolidated permit issued for the applicant's project.

(g) "Council" means the California Environmental Policy Council. The council consists of the following members or their designees:

(1) The Secretary for Environmental Protection.

(2) The Director of Pesticide Regulation.

(3) The Director of Toxic Substances Control.

(4) The Chairperson of the State Air Resources Board.

(5) The Chairperson of the State Water Resources Control Board.

(6) The Director of the Office of Environmental Health Hazard Assessment.

(7) The Chairperson of the California Integrated Waste Management Board.

(h) "Environmental agency" means any of the following:

(1) The Department of Toxic Substances Control, the Department of Pesticide Regulation, the State Air Resources Board, the State Water Resources Control Board, the California Integrated Waste Management Board, the Office of Environmental Health Hazard Assessment.

(2) A California regional water quality control board.

(3) A district, as defined in Section 39025 of the Health and Safety Code.

(4) An enforcement agency, as defined in Section 40130 of the Public Resources Code.

(5) A county agricultural commissioner with respect to his or her administration of Division 6 (commencing with Section 11401) and 7 (commencing with Section 12501) of the Food and Agricultural Code.

(6) The local agency responsible for administering Chapter 6.7 (commencing with Section 25280) of the Health and Safety Code concerning underground storage tanks and any underground storage tank ordinance adopted by a city or county.

(7) The local agency responsible for the administration of the requirements imposed pursuant to Section 13370.5 of the Water Code.

(8) Any other state, regional, or local permit agency for the project that participates at the request of the permit applicant upon the agency's agreement to be subject to this division.

(i) "Environmental Permit" means any license, certificate, registration, permit, or other forms of authorization, to include remedial action authorizations, required by an environmental agency to engage in a particular activity. "Environmental permit" includes, but is not limited to, activities subject to Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, if the activities are under the jurisdiction of an environmental agency. "Environmental permit" does not include any certification or decision for the purpose of the California Environmental Quality Act pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(j) "Good cause" has the same meaning as defined in Section 15376, subdivision (h), of the Government Code.

(k) "Greater overall jurisdiction" means the environmental agency that has the greatest authority over the project due to statutory requirements, regulatory requirements, or requirements pertaining to the protection of human health and the environment.

(l) "Local environmental agency" means any of the following:

(1) A district, as defined in Section 39025 of the Health and Safety Code.

(2) An enforcement agency, as defined in Section 40130 of the Public Resources Code.

(3) A county agricultural commissioner with respect to his or her administration of Division 6 (commencing with Section 11401) and 7 (commencing with Section 12501) of the Food and Agricultural Code.

(4) The local agency responsible for administering Chapter 6.7 (commencing with Section 25280) of the Health and Safety Code concerning underground storage tanks and any underground storage tank ordinance adopted by a city or county.

(5) The local agency responsible for the administration of the requirements imposed pursuant to Section 13370.5 of the Water Code.

(6) Any other regional or local permit agency for the project that participates at the request of the permit applicant upon the agency's agreement to be subject to this division.

(m) "Participating permit agency" means an environmental agency, other than the consolidated permit agency, that is responsible for the issuance of an environmental permit for a project.

(n) "Petitioner" means any individual, trust, joint stock company, business concern, corporation, including, but not limited to, a government corporation, partnership and association. "Petitioner" also may include any city, county, district, commission, the State or any department, agency, or political subdivision thereof, any interstate body, the Federal Government or any department or agency thereof to the extent permitting by law.

(o) "Project" means an activity, the conduct of which requires an environmental permit from two or more environmental agencies.

(p) "Remedial action" has the same meaning as defined in subdivision (g) of Section 25260 of Division 20 of the Health and Safety Code.

(q) "Secretary" means the Secretary for Environmental Protection.

(r) "State environmental agency" means any of the following:

(1) The Department of Toxic Substances Control, the Department of Pesticide Regulation, the State Air Resources Board, the State Water Resources Control Board, the California Integrated Waste Management Board, the Office of Environmental Health Hazard Assessment.

(2) A California regional water quality control board.

(3) Any other state permit agency for the project that participates at the request of the permit applicant upon the agency's agreement to be subject to this division.

Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Sections 71010, 71011, 71012, 71013, 71014, 71015, 71016 and 71017, Public Resources Code.

Chapter 2. Consolidated Permits

SubChapter Ghost Header for Outline ADA compliance

Article Ghost Header for Outline ADA compliance

Section 10200. Procedure to Request a Consolidated Permit.

The consolidated permit applicant shall complete a consolidated permit notification in order to be considered for a consolidated permit. The notification must include, at a minimum, all of the following:

(a) a description of the project to include:

(1) name of the applicant;

(2) name of the business;

(3) location of the facility;

(4) description of the activities being permitted at the facility; and

(5) applicable SIC codes.

(b) a preliminary list of environmental permits that may be required for the project;

(c) a list of any additional permits pursuant to Section 71011(h) of the Public Resources Code;

(d) the identity of any public agency that has been designated a lead agency for the purpose of the Permit Streamlining Act, Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code;

(e) the identity of any public agency that has been designated a lead agency for the purpose of the California Environmental Quality Act pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code;

(f) the name of the environmental agency that the applicant believes to have the greatest overall jurisdiction for the project;

(g) if applicable, the names of any environmental agencies that the applicant does not want to be the consolidated permit agency;

(h) if applicable, the name of the environmental agency that the applicant wants to be the consolidated permit agency;

(i) the name and telephone number of the permit agencies that administer the permits listed in (b) and (c);

(j) if a Comprehensive Risk Assessment has been completed for the project, the findings are to be included with the notification; and

(k) any additional information deemed necessary by the Secretary to facilitate selection of the consolidated permit agency.

Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Sections 71020 and 71021, Public Resources Code.

Section 10201. The Consolidated Permit Agency Designation Process.

(a) The Secretary will designate the consolidated permit agency within 30 days of the date that the notification is received. The Secretary is then responsible for notifying the environmental agency of the decision on the same day that the environmental agency is designated as the consolidated permit agency. The Secretary will select the consolidated permit agency according to the following priority:

(1) If an agency is designated lead by the CEQA process pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code, that agency will be the consolidated permit agency;

(2) If an agency is designated a lead agency for the purpose of the Permit Streamlining Act, Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, that agency will be designated as the consolidated permit agency;

(3) If the first or second priorities do not apply, the Secretary will select the environmental agency that the Secretary judges to have the greatest overall jurisdiction over the project, to be the consolidated permit agency. The Secretary will consider the following factors:

(A) the types of facilities or activities that make up the project;

(B) the types of public health and safety and environmental concerns that should be considered in issuing environmental permits for the project;

(C) the environmental medium that may be affected by the project, the extent of those potential effects, and the environmental protection measures that may be taken to prevent the occurrence of, or to mitigate, those potential effects;

(D) the regulatory activity that is of greatest importance in preventing or mitigating the effects that the project may have on public health and safety or the environment, such as evaluating comparable risks associated with the project;

(E) a comprehensive risk assessment, if applicable;

(F) the statutory and regulatory requirements that apply to the project;

(G) the geographical location of the project;

(H) the available resources of the environmental agency to carry out the responsibilities of the Consolidated Permit Agency; and

(I) the application submitted pursuant to Health and Safety Code Section 25262(b), if applicable, and the reason, if known, that an Administering Agency was not selected pursuant to Health and Safety Code Section 25262(c).

(b) If the environmental agency that was initially designated as the consolidated permit agency declines the designation, the environmental agency will be relieved of all obligations associated with that designation as of the date of receipt of their refusal by the Secretary. When the Secretary receives the refusal, the Secretary will then refer the project to the Council for the designation of a consolidated permit agency. If the council decides to designate the original agency that declined the designation, that agency shall then again be responsible for all obligations associated with being the consolidated permit agency.

Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Sections 71020 and 71021, Public Resources Code.

Section 10202. Referral to Council.

For any issue that is referred to the council, the council's decision will be by majority vote of those council members present, after consideration of all relevant information relating to the project. The council will have 45 working days upon receiving the referral to evaluate the referral, make a determination, and notify the Secretary of the council's decision. The Secretary will then have 15 working days to inform the environmental agency of its designation as the consolidated permit agency.

Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Section 71020, Public Resources Code.

Section 10203. Consolidated Permit Agency Responsibilities.

The consolidated permit agency shall do the following:

(a) Upon being selected as the consolidated permit agency, the consolidated permit agency will contact, within 5 working days of being designated the consolidated permit agency, the applicant and all environmental permit agencies that have been identified by the applicant as being participating permit agencies, as defined in Section 71016 of the Public Resources Code. The consolidated permit agency will inform the applicant and the participating permit agencies of the time, date, and location of the meeting required by Section 71022 of the Public Resources Code.

(b) ensure that the permit applicant has all of the information needed to apply for all of the permits that will be required for the project, which shall include at a minimum the following:

(1) conduct a preapplication meeting with the applicant and participating agencies;

(2) any guidance documents from participating permit agencies;

(3) permit applications. The consolidated permit agency will inform the applicant at the meeting that the applicant has the choice of using either the permit applications that are supplied by the participating permit agencies or the applicant can use a consolidated permit application form;

(4) schedules for technical review;

(c) coordinate the review of all participating agency permits. The consolidated permit agency shall coordinate review among the participating agencies through:

(1) informal agreements between agencies that specify agency responsibilities as a participating permit agency;

(2) establishment of time lines;

(3) agreed upon action plans;

(d) ensure that permit decisions are made in a timely manner by all of the participating permit agencies. This shall be accomplished by:

(1) ensuring that the participating permit agencies identify and request any additional information needed to complete the application within 30 days of the receipt of the permit application by the participating permit agency;

(2) coordinating the dates of any hearings that may be required. The permitting agency requiring the hearing will be responsible for conducting the hearing. The consolidated permit agency will only participate in the hearing if requested by the permitting agency;

(e) assist in promptly resolving any conflicts or inconsistencies that may arise during the course of the project. This shall be accomplished in any of the following ways:

(1) the participating permit agencies shall formally identify to the consolidated permit agency any conflict or inconsistency among environmental permit requirements and conditions within 30 working days of discovering a problem;

(2) hold and facilitate meetings of all involved parties to resolve conflict or inconsistency within 15 working days of the date that the consolidated permit agency was formally notified of the problem; or

(3) for conflicts or inconsistencies that cannot be resolved by the consolidated permit agency, the directors, or their designees, of the agencies in conflict shall meet and resolve the conflict.

(f) During the consolidated permit process but after the initial meeting, if an additional environmental permit is identified as being required for the project, that environmental agency responsible for issuing that permit shall be contacted by the consolidated permit agency and informed of that environmental agency's designation as a participating permit agency. This newly identified agency shall supply any required applications and guidance documents to the applicant within 10 working days of being contacted by the consolidated permit agency.

(g) The consolidated permit agency shall compile all participating permit agency permits as well as the consolidated permit agency's own permit, into a consolidated permit. The consolidated permit agency shall issue the consolidated permit to the applicant within 30 days of the date the last participating permit agency permit is issued.

(h) The participating permit agency is responsible for the technical review of that agency's permit renewals and/or permit modifications. The applicant will submit any permit renewal requests and/or permit modification requests directly to the participating permit agency responsible for that permit. The participating permit agency will then supply any approved permit modifications and renewals to the consolidated permit agency within 30 days of approval of each permit. The consolidated permit agency is then responsible for incorporating all modifications and renewals of the environmental permits into the consolidated permit. The consolidated permit agency shall then send a copy of the consolidated permit to the applicant.

(i) The consolidated permit agency shall keep the consolidated permit on file at the consolidated permit agency's office. The consolidated permit agency shall handle all review requests for the consolidated permit.

(j) The consolidated permit agency is responsible for tracking statutory and regulatory time limits.

(k) The consolidated permit process shall not be construed to limit or abridge the powers and duties granted to a participating permit agency pursuant to the law that authorizes or requires the agency to issue an environmental permit for the project. Each participating permit agency shall retain its authority to make all decisions on all nonprocedural matters with regard to the respective component environmental permit that is within its scope of its responsibility, including, but not limited to, the determination of environmental permit application completeness, environmental permit approval or approval with conditions, or environmental permit denial. The consolidated permit agency may not substitute its judgement for that of a participating permit agency on any such nonprocedural matters.

Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Sections 71021, 71022 and 71024, Public Resources Code.

Section 10204. Meeting Agenda.

The consolidated permit agency shall convene a meeting within 15 working days of the date of designation as consolidated permit agency. The permit applicant and all participating permit agencies shall participate in the initial meeting. At a minimum, the following matters shall be on the meeting agenda:

(a) Attempt to identify any permits that are required for the project. There will be no penalty to the consolidated permit agency or participating permit agencies if they fail to identify any required additional permits;

(b) Discussion of the application forms and any other requirements of the consolidated permit agency and the participating permit agencies;

(c) The consolidated permit agency and each participating permit agency shall disclose to the applicant the established time limits that the agencies shall meet for issuing their environmental permits.

(d) A determination of time schedules noting, at a minimum, the following dates:

(1) dates that the completeness reviews for each permit application will be complete;

(2) dates that the technical reviews for each permit application will be complete;

(3) dates of final permit decisions for each participating agency;

(4) estimated dates of any public hearings that are required to issue permits for the project;

(5) date the consolidated permit agency will complete and issue the consolidated permit.

(e) a discussion of any relevant fees required by any participating permit agency including an estimate of the fees by the consolidated permit agency to cover the costs of performing the consolidated permit services;

(f) all participating permit agencies and the consolidated permit agency are each responsible for meeting any permit processing time schedule agreed to by that agency at the initial meeting.

(g) The permit agencies shall not adopt accelerated time schedules that would be inconsistent with or in conflict with the requirements of Section 71022(a)(4) of the Public Resources Code.

(h) If the applicant is unable to attend meetings, fails to attend meetings, or fails to supply requested information, all time limits shall be tolled. The time limits will be tolled until such time as the applicant performs the required task. If the applicant fails to supply the required information, the consolidated permit agency may terminate the consolidated permit process.

Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Section 71022, Public Resources Code.

Section 10205. Participating Permit Agencies.

(a) Upon being notified of the meeting required by Section 71022 of the Public Resources Code, the participating permit agency is responsible for participating in the initial meeting

(b) At the meeting, representative of the participating permit agency shall identify to the applicant any required permits that the participating permit agency requires for the project. The participating permit agency representative will then ensure that the required permit applications and guidance documents are supplied to the applicant.

(c) Each participating permit agency shall retain its authority to make all decisions with regard to the determination of the participating permit agency's permit as per Section 71021(d) of the Public Resources Code. This authority includes decisions regarding modifications, renewals, and revocations of permits. Thus, the participating permit agency can issue its permit decision at any time during the consolidated permit process.

(d) Upon making a permit decision for the project, the participating permit agency shall send a copy of the permit decision, including a copy of any environmental permits issued for the project, to the consolidated permit agency for incorporation by the consolidated permit agency into the final consolidated permit document.

(e) A participating permit agency is only removed from the consolidated permit process when either of the following occurs;

(1) The participating permit agency is removed from the consolidated permit process at the request of the applicant pursuant to Section 71023(b) of the Public Resources Code; or

(2) when the participating permit agency has completed both of the following;

A. has responded to any public comments received during the Public Review and Participation Section (c); and,

B. the participating permit agency issues its permit decision.

C. the participating permit agency has provided all written comments received, any responses to those comments, and its permit decision to the consolidated permit agency.

Authority cited: Sections 71001 and 71020, Public Resources Code.

Reference: Sections 71021, 71022, 71023, 71024 and 71025, Public Resources Code.

Section 10206. Public Review and Participation.

A summary of all decisions made pursuant to the consolidated permit for the project shall be made available for public review and comment upon the filing of the consolidated permit application form or the permit applications.

(a) The consolidated permit agency shall make the summary available for public review and comment by the following methods:

(1) Mailing a copy of the summary to the following persons:

A. the applicant;

B. any other agency which has issued or is issuing a permit for the same project or activity; and

C. any other interested parties.

(2) Copies available at the offices of the consolidated permit agency and all participating permit agencies.

(3) Issuing a public notice of the summary. The public notice shall include;

A. Name of the applicant;

B. Location of the project;

C. Brief description of the project;

D. The name and address of the consolidated permit agency;

E. Procedure for the public to get a copy of the summary; and

F. Any additional information deemed necessary by the consolidated permit agency.

(b) The public will have 30 days from the date that the public notice is issued to send comments concerning the summary to the consolidated permit agency.

(c) The consolidated permit agency shall respond to all public comments about the summary within 30 days of receipt.

Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Section 71022, Public Resources Code.

Section 10207. Withdrawal of Permit Application.

(a) The permit applicant may withdraw from the consolidated permit process by submitting to the consolidated permit agency a written request, at any time until the consolidated permit is issued, that the process be terminated.

(1) Within 15 working days of receiving the request to withdraw, the consolidated permit agency shall notify the Secretary and each participating permit agency in writing that a consolidated permit is no longer applicable to the project.

(2) The consolidated permit agency shall notify the applicant within 60 days of any costs incurred on the project while carrying out the services as a consolidated permit agency.

(b) Withdrawal of a participating permit agency at the applicant's request. The permit applicant may submit a written request to the consolidated permit agency that the permit applicant wishes a participating permit agency to withdraw from participation on the basis of a reasonable belief that the issuance of a consolidated permit would be accelerated if the participating permit agency withdraws.

(1) The request to remove a participating permit agency shall consist of the following:

A. Name of the applicant;

B. Location of the project;

C. Name of the participating permit agency to be withdrawn from the consolidated permit process; and

D. The reason that the applicant believes that the removal of the participating permit agency from the consolidated permit process will accelerate the issuance of the consolidated permit.

(2) Upon receiving the request to remove the participating permit agency, the consolidated permit agency shall review the request and do one of the following;

A. If the consolidated permit agency agrees with the applicants request, the consolidated permit agency shall notify the applicant and the participating agency in writing, within 15 working days that the participating permit agency has been removed from the consolidated permit process. The removed participating permit agency's permit will no longer be a part of the consolidated permit.

B. If the consolidated permit agency disagrees with the removal request, the consolidated permit agency shall respond, in writing to the applicant within 15 working days, stating the reasons why the consolidated permit agency will not approve the removal request.

Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Section 71023, Public Resources Code.

Section 10208. Fees.

(a) A consolidated permit agency may charge and collect additional fees pursuant to 71026 of the Public Resources Code.

(b) In the event that the consolidated permit process is terminated prior to the issuance of a consolidated permit, the consolidated permit agency may charge a fee to recover the costs incurred in executing the duties of the consolidated permit agency prior to the termination of the process.

Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Section 71026, Public Resources Code.

Section 10209. Petitions for Review.

The permit applicant may petition for review of an environmental agency action in issuing, denying, or amending an environmental permit, or any portion of a consolidated permit agency permit.

(a) The petition shall be submitted by the permit applicant to the consolidated permit agency or the participating permit agency having jurisdiction over that portion of the consolidated permit and shall be processed in accordance with the procedures of that environmental agency.

(1) if the consolidated permit agency receives a petition for review of another agency's permit decision, the consolidated permit agency shall forward the petition to the participating permit agency that has jurisdiction over that portion of the consolidated permit within 5 working days of receipt of the petition.

(2) the petition shall be processed in accordance with the procedures of the environmental agency that has jurisdiction for that portion of the consolidated permit being appealed.

(b) The environmental agency receiving the petition shall, within 30 days, notify the other environmental agencies participating in the original consolidated permit.

(c) The petition shall include a statement of the reasons supporting that review and any other requirements of that environmental agency.

Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Section 71027, Public Resources Code.

Section 10210. Amendments and Modifications.

10210(a) A permit applicant may petition a participating permit agency for an amendment or modification to that agency's permit application. The participating permit agency will contact the consolidated permit agency within 15 days of receiving the petition and inform the consolidated permit agency of the content of the petition. If an applicant chooses to petition, the petition must be filed with the participating permit agency before any of the permit decisions are made and the permits for the project are granted.

(b) If the consolidated permit agency believes that the requested amendment or modification will cause other agencies participating in the consolidated permit process to modify their actions and permit processing time limits agreed upon at the initial meeting, the consolidated permit agency shall reconvene a meeting of the effected participating permit agencies within 15 days of discovering the problem. The

requirements to amend or modify a permit application shall be in accordance with the procedures of the consolidated permit agency or participating agency that has jurisdiction over the portion of the consolidated permit application or component application being amended or modified.

TABLE 1

SUMMARY OF CHAPTER 3, ARTICLE 1, ENVIRONMENTAL PERMIT TIMELINES

(This table provides general summary information only; see appropriate section of the text for regulatory language and conditions of applicability.)

DEPARTMENT	PERMIT/ AUTHORIZATION	SECTION	TIME TO PROCESS PERMITS
Department of Toxic Substances Control	Hazardous Waste Facility Permit (responsible agency for land disposal facility project)	10300(b)	1 Year
Department of Toxic Substances Control	Hazardous Waste Facility Permit (responsible agency for non-land disposal facility project)	10300(c)	180 Days
Department of Toxic Substances Control	Lead agency for development project requiring EIR	10300(d),(e)	1.5 Years
Department of Toxic Substances Control	Lead agency for development project requiring NEG DEC	10300(f),(g)	195 Days
Department of Toxic Substances Control	Hazardous Waste Hauler Registration	10300(h)	14 Days
Department of Toxic Substances Control	Variances	10300(i),(j)	180 Days
Department of Pesticide Regulation	Qualified Applicator Certificate	10301(a)	100 Days
Department of Pesticide Regulation	Adviser License	10301(b)	100 Days
Department of Pesticide Regulation	Agricultural Pest Control Adviser License Renewal	10301(c)	60 Days
Department of Pesticide Regulation	Qualified Applicator License	10301(d)	90 Days

DEPARTMENT	PERMIT/ AUTHORIZATION	SECTION	TIME TO PROCESS PERMITS
Department of Pesticide Regulation	Designated Agent License	10301(e)	90 Days
Department of Pesticide Regulation	Designated Agent License Renewal	10301(f)	30 Days
Department of Pesticide Regulation	Pest Control Pilots License	10301(g)	30 Days
Department of Pesticide Regulation	Pest Control Pilots License Renewal	10301(h)	30 Days
Department of Pesticide Regulation	Accreditation of Continued Education Instruction	10301(i)	30 Days
Department of Pesticide Regulation	Certificate of Registration for Economic Poisons for New Active Ingredient	10301(j)	150 Days
Department of Pesticide Regulation	Certificate of Registration for Economic Poisons for New Product Ingredient	10301(k)	90 Days
Department of Pesticide Regulation	Certificate of Registration for Economic Poisons for Renewal Ingredient	10301(l)	60 Days
State Water Resources Control Board & Regional Water Quality Control Boards	Waste Discharge Requirements	10302(b)	120 Days
State Water Resources Control Board & Regional Water Quality Control Boards	General Industrial Storm Water Permit	10302(c)	7 Days
State Water Resources Control Board & Regional Water Quality Control Boards	Wastewater Treatment Plant Operators Certificate of Competence	10302(d)	30 Days

DEPARTMENT	PERMIT/ AUTHORIZATION	SECTION	TIME TO PROCESS PERMITS
California Integrated Waste Management Board	Full Solid Waste Facilities Permit	10303(a)	120 Days
California Integrated Waste Management Board	Standardized Solid Waste Facilities Permit	10303(b)	75 Days
California Integrated Waste Management Board	Registration Solid Waste Facilities Permit	10303(c)	30 Days
California Integrated Waste Management Board	Waste Tire Facility Permit	10303(d)	180 Days; 1 Year (If lead agency.)
California Integrated Waste Management Board	Used Oil Collection Center Certifications	10303(e)	45 Days
California Integrated Waste Management Board	Used Oil Recycling Incentive Payment Registrations	10303(f)	45 Days
Air Resources Board	Emergency Variance for Sulfur in Gasoline or Diesel	10304(b)(1)	10 Days
Air Resources Board	Approval of Independent Testers	10304(b)(2)	90 Days
Air Resources Board	All Other Permits	10304(a)	90 Days

Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Section 71028, Public Resources Code, Chapter 3. Environmental Permits

SubChapter Ghost Header for Outline ADA compliance

Article 1. State Environmental Permit Processing Timelines

Section 10300. Department of Toxic Substances Control.

For the Department of Toxic Substances Control (DTSC), Title 22, California Code of Regulations, Sections 66263.11 and 66260.21; Section 25199.6 of the Health and

Safety Code; Section 65950, Government Code establish the following time limits which have been summarized for informational purposes in Table 1:

(a) DTSC shall review for administrative completeness each hazardous waste facility permit application and notify the applicant whether the application is administratively complete within 60 days of receipt. If the application is incomplete, DTSC shall require the applicant to provide information necessary to make the application complete. An application is not deemed to be complete until DTSC notifies the applicant that the application is administratively complete.

(b) If DTSC is acting as a responsible agency under the California Environmental Quality Act and the hazardous waste project is a land disposal facility, DTSC must approve or disapprove the permit:

(1) Within one year from the date on which the lead agency approved or disapproved the project; or

(2) Within one year from the date on which the completed application for the project has been received and accepted as technically complete, whichever is longer.

(c) If DTSC is acting as a responsible agency under the California Environmental Quality Act and the hazardous waste project is not a land disposal facility, DTSC must approve or disapprove the permit:

(1) Within 180 days from the date on which the lead agency approved or disapproved the project; or

(2) Within 180 days from the date on which the completed application for the project has been received and accepted as technically complete, whichever is longer.

(d) If DTSC is acting as a lead agency under the California Environmental Quality Act for a development project that requires an environmental impact report pursuant to Section 21100 or 21151 of the Public Resources Code, DTSC must approve or disapprove the permit within six months of the date the Department certifies that;

(1) the environmental impact report was completed in compliance with the California Environmental Quality Act (CEQA); and

(2) the decision-making body for the lead agency has reviewed the contents of the environmental impact report and found it be complete.

(e) DTSC, acting as lead agency, shall complete and certify an Environmental Impact Report as provided in Section 15090 of the Public Resources Code within one year after the date when DTSC accepted the application as technically complete. DTSC may

extend the one-year time limit once for a period of not more than 90 days upon consent of the applicant.

(f) If DTSC is acting as a lead agency under the California Environmental Quality Act for a development project for which a negative declaration is adopted or for which DTSC determines that the project is exempt from the requirements of Division 13 (commencing with Section 2100) of the Public Resources Code, DTSC must approve or disapprove the permit within three months of the date of adoption of the negative declaration or the determination that the project is exempt unless the project proponent requests an extension of the time. Adoption or approval of the negative declaration involves the following;

(1) prior to approval of the project, the decision making body of DTSC shall consider the negative declaration together with any comments received during the public review process, and Initial Study.

(2) the approval of the negative declaration means that there is absolutely no reasonable possibility of a significant effect resulting from a project.

(g) DTSC, acting as lead, shall complete and have ready for approval a negative declaration for a project within 105 days from the date when the Department accepted the application as technically complete. The negative declaration may be approved at a later time when the permit or other entitlement is approved.

(h) For Hazardous Waste Hauler Registrations:

(1) DTSC shall notify the applicant in writing, within 14 calendar days after receipt of an application that the application is technically complete and accepted for filing or that the application is incomplete and what specific information, documentation or fees, if any, are required to complete the application.

(2) DTSC shall notify the applicant, in writing, of DTSC's decision regarding the completeness of an application. The notification shall be within fourteen calendar days after the date on which DTSC determines the application to be complete and accepted for filing.

(i) For Equivalent Testing or Analytical Methods Variances:

(1) DTSC must notify the applicant within 60 days after receipt of an application that the application is technically complete and accepted for processing or that the application is incomplete and what further information is required.

(2) DTSC shall, within 180 days of receipt of a technically complete application, notify the applicant that the variance is granted or denied.

(j) For all other DTSC Variances:

(1) DTSC must notify the applicant within 60 days after receipt of an application that the application is technically complete and accepted for processing or that the application is incomplete and what further information is required.

(2) DTSC shall, within 60 days of receipt of a technically complete application, notify the applicant that the variance is granted or denied.

(k) These regulations apply only to applications submitted to DTSC on or after the effective date of the regulations.

Authority cited: Sections 71001 and 71020, Public Resources Code; Section 15376, Government Code. Reference: Section 71022, Public Resources Code; Sections 66260.21, 66263.11, 22 CCR; and Section 25199.6, Health and Safety Code.

Section 10301. The Department of Pesticide Regulation.

For the Department of Pesticide Regulation, Title 3, California Code of Regulations, Section 305, establishes the following time limits which have been summarized for informational purposes in Table 1. The time frames for Qualified Applicator Certificate, Agricultural Pest Control Adviser License, Qualified Applicator License, Designated Agent License, and Pest Control Pilots License are based on the applicant taking the first available test.

(a) For a Qualified Applicator Certificate:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 14 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the certificate within 100 days of receiving a completed application.

(b) For a Agricultural Pest Control Adviser License:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 14 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the license within 100 days of receiving a completed application.

(c) For a Agricultural Pest Control Adviser License Renewal:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 14 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the renewal within 60 days of receiving a completed application.

(d) For a Qualified Applicator License:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 14 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the license within 90 days of receiving a completed application.

(e) For a Designated Agent License:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 14 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the license within 90 days of receiving a completed application.

(f) For a Designated Agent License Renewal:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 14 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the renewal within 30 days of receiving a completed application.

(g) For a Pest Control Pilots License:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what

specific information of documentation is required to complete the application within 14 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the license within 30 days of receiving a completed application.

(h) For a Pest Control Pilots License Renewal:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 14 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the renewal within 30 days of receiving a completed application.

(i) For an Accreditation of Continued Education Instruction:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 20 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the accreditation within 30 days of receiving a completed application.

(j) For a Certificate of Registration for Economic Poisons for New Active Ingredient:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 120 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the registration within 150 days of receiving a completed application.

(k) For a Certificate of Registration for Economic Poisons for New Product:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 60 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the registration within 90 days of receiving a completed application.

(l) For a Certificate of Registration for Economic Poisons Renewal:

(1) The Department of Pesticide regulation shall inform the applicant in writing that the application is either complete and accepted for filing, or that it is deficient and what specific information of documentation is required to complete the application within 30 days of receipt of an application.

(2) The Department of Pesticide Regulation shall approve or disapprove the renewal within 60 days of receiving a completed application.

Authority cited: Section 71020, Public Resources Code; Section 15376, Government Code. Reference: Section 71022, Public Resources Code.

Section 10302. The State Water Resources Control Board and the Regional Water Quality Control Boards.

For the State Water Resources Control Board (SWRCB) and Regional Water Quality Control Boards (RWQCB), Water Code, Section 13264, and the Clean Water Act, Title 33 USCA Section 1341 establish the following time limits which have been summarized for informational purposes in Table 1:

(a) The (SWRCB)/(RWQCB) shall approve or disapprove a National Pollutant Discharge Elimination System (NPDES) Permit within 180 days of receiving a completed application.

(b) The (SWRCB)/(RWQCB) shall adopt Waste Discharge Requirements within 120 days of receiving a completed application.

(c) The (SWRCB)/(RWQCB) shall approve or disapprove an application for a General Industrial Storm Water Permit within 7 working days of receiving a completed application.

(d) For Waste Water Treatment Plant Operator's Certificate of Competence:

(1) The (SWRCB)/(RWQCB) shall notify the applicant in writing, within 30 days after receipt of an application that the application is complete and accepted for filing or that the application is incomplete and what specific information is required to complete the application.

(2) The (SWRCB)/(RWQCB) shall, within 30 days of receipt of a complete application, proof of successful completion of exam, and payment of fees, issue the certification.

Authority cited: Section 71020, Public Resources Code; Section 15376, Government Code. Reference: Section 71022, Public Resources Code; and Section 3670, 23 CCR.

Section 10303. California Integrated Waste Management Board.

For the California Integrated Waste Management Board (CIWMB), Title 14, California Code of Regulations, Sections 18104, 18105, 18203, 18650.4, 18653.4, 18423, and 18425, and Sections 44007, 44008, and 44009 of the Public Resources Code, establishes the following time limits which have been summarized for informational purposes in Table 1:

(a) For a Full Solid Waste Facilities Permit:

(1) The enforcement agency shall determine within 30 calendar days of receipt whether or not an application for a Solid Waste Facilities Permit is complete. If the application is not complete the enforcement agency shall notify the applicant within 5 business days of the grounds for rejection. Once an application is accepted as for filing as complete and correct, the enforcement agency must decide whether to issue or not issue the permit within 120 days unless waived by the applicant.

(2) At least 65 days prior to issuing the permit, the enforcement agency must provide the CIWMB with a copy of the application and the proposed permit. The CIWMB shall concur or object to the permit within 60 days of receipt of a proposed permit. If the Board fails to concur or object within 60 days, it shall be deemed to have concurred in the issuance of the proposed permit.

(b) For a Standardized Solid Waste Facilities Permit:

(1) Within 30 days of receipt, the enforcement agency shall review the application to determine whether it meets the requirements of Section 18105.1 of Title 14, California Code of Regulations.

(2) Within fifteen days of acceptance of an application for filing:

(A) The enforcement agency shall evaluate the information provided in the application and the proposed facility to determine whether or not the facility will be able to operate in compliance with the applicable minimum standards and standardized permit terms and conditions.

(B) If the enforcement agency finds that the application and facility meet the requirements set forth in subdivision (c)(2)(A) of this Section then the enforcement agency shall forward the proposed standardized permit, application package, and the results of any analysis to the CIWMB. The enforcement agency shall further provide the applicant with a copy of the proposed standardized permit submitted to the CIWMB. In addition, the enforcement agency shall provide a copy of the proposed standardized permit to any person who has requested it in writing.

(C) If the enforcement agency finds that the application or facility do not meet the requirements set forth in (c)(2)(A) of this Section, the enforcement agency shall reject the application. A copy of the rejected application accompanied by an explanation shall be mailed to the applicant.

(3) Within 30 days of receipt of a proposed standardized permit, the CIWMB shall either concur in or object to the issuance of the proposed standardized permit.

(4) This subsection shall not become operative and only apply to operations specified in the minimum standards to be set forth in Chapters 3 and 3.1 of Division 7 of Title 14 when the minimum standards are filed with the Secretary of State and become effective and operative.

(c) For a Registration Solid Waste Facilities Permit:

(1) Within 30 days of receipt, the enforcement agency shall review the application to determine whether it meets the requirements of Section 18104.1 of Title 14, California Code of Regulations.

(2) If the enforcement agency finds the application is complete and correct pursuant to 18104.1 of Title 14, California Code of Regulations, it shall be accepted for filing and stamped with the date and time of acceptance.

(3) When an application is accepted for filing, the enforcement agency shall issue a registration permit by mailing an executed registration permit form (CIWMB Form 81 (rev 1/95)), incorporated herein by reference, to the applicant with a copy of the accepted application, within five days of filing.

(4) This subsection shall not become operative and only apply to operations specified in the minimum standards to be set forth in Chapters 3 and 3.1 of Division 7 of Title 14 when the minimum standards are filed with the Secretary of State and become effective and operative.

(d) For a Waste Tire Facility Permit:

(1) The CIWMB shall either accept or reject an application as complete within 30 days of its receipt. If an application package is rejected, the Board shall notify the applicant, enumerating the grounds of rejection.

(2) A decision to issue or not issue the permit shall be made by the Board within 180 days of the time the application is accepted as complete, unless the applicant requests an extension of time. However, if the Board is the lead agency for the project for which an environmental impact report (EIR) must be prepared, the Board shall have one year from the date the application is accepted as complete to issue or deny issuance of the permit. Furthermore, if there is an extension of time pursuant to Public Resources Code

Section 21100.2 to complete and certify the EIR, the Board shall issue or deny the issuance of the permit within 90 days after certification of the EIR. This extension of time may be extended once more for an additional period, not to exceed 90 days, upon consent of both the applicant and the Board.

(e) For Used Oil Collection Center Certifications:

(1) The CIWMB shall notify an applicant in writing, within 10 working days of receipt of the application, that it is either complete, correct and accepted for filing, or that it is incomplete and rejected for filing and provide the reasons for the rejection.

(2) A decision to issue or not issue the certification shall be made by the board within 45 calendar days of the time the application is filed.

(f) For Used Oil Recycling Incentive Payment Registrations:

(1) The CIWMB shall notify an applicant in writing, within 10 working days of receipt of the application, that it is either complete, correct and accepted for filing, or that it is incomplete and rejected for filing and provide the reasons for the rejection.

(2) A decision to issue or not issue the registration shall be made by the board within 45 calendar days of the time the application is filed.

Authority cited: Section 71020, Public Resources Code; Section 15376, Government Code. Reference: Section 71022, Public Resources Code.

Section 10304. Air Resources Board.

For the Air Resources Board, Title 17, California Code of Regulations, Section 60030, establishes the following time limits which have been summarized for informational purposes in Table 1:

(a) The procedures and time periods set forth in this subsection shall apply for all permit applications received by the Air Resources Board, except for those permit applications specified in subsection (b).

(1) Within 30 days of receipt of an application for a permit, as defined in Government Code Section 15375(a), the executive officer of the Air Resources Board shall inform the applicant, in writing, either that the application is complete and accepted for filing or that the application is deficient and identify the specific information required to make the application complete.

(2) Within 15 days of receipt of additional information provided in response to a determination by the executive officer of the Air Resources Board that an application is

deficient, the executive officer shall inform the applicant, in writing, either that the new information is sufficient to make the application complete and that the application is accepted for filing, or that the application is deficient and shall identify the specific information required to make the application complete.

(3) Within 90 days after an application is accepted for filing, the executive officer shall approve or disapprove the application.

(b) For the categories listed below, permit applications shall be processed as provided in the procedures specified in subsection (a), in accordance with the following time periods:

(1) For an emergency variance for sulfur in gasoline or diesel pursuant to 13 CCR Section 2252;

(A) The executive officer will inform the applicant within five days of receipt of the application that the application is complete or that additional information is required.

(B) The executive officer will determine within five days after receipt of additional information whether the information submitted makes the application complete.

(C) Within 10 days after an application is accepted for filing, the executive officer shall act on the application.

(2) For approval of independent testers pursuant to 17 CCR Section 91207;

(A) The executive officer will inform the applicant within 15 days of receipt of the application that the application is complete or that additional information is required.

(B) The executive officer will determine within 15 days after receipt of additional information whether the information submitted makes the application complete.

(C) Within 90 days after an application is accepted for filing, the executive officer shall act on the application. This period applies to each test' as specified in 17 CCR Section 91201, for which approval is required.

(c) The executive officer may, in the course of processing the application, request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application.

(d) The time periods in subsections (a) and (b) may be extended by the executive officer for good cause as provided by Government Code Section 15376.

Authority cited: Section 71020, Public Resources Code; Section 15376, Government Code. Reference: Section 71022, Public Resources Code; and Section 60030, 17 CCR.

Section 10305. Median, Minimum, and Maximum Times for Processing a Permit.

Table 2 summarizes the median, minimum, and maximum times for processing a permit for state environmental agencies, as found in Section 60030, Title 17; Sections 66260.21 and 66263.11, Title 22; and Section 3670, Title 23.

TABLE 2 SUMMARY OF CHAPTER 3, ARTICLE 1, MEDIAN, MINIMUM, AND MAXIMUM TIMES FOR PROCESSING A PERMIT (This table provides general summary information only; see appropriate section of the text for regulatory language and conditions of applicability.)

Department Agency	Permit Authorization	Median Days for Reviewing a Permit	Minimum Days for Reviewing a Permit	Maximum Days for Reviewing a Permit
Department of Toxic Substances Control	Hazardous Waste haulers Registration	60	1	180
Department of Toxic Substances Control	Equivalent Testing or Analytical Methods Variances	60	1	1200
Department of Toxic Substances Control	All other Department Variance	60	1	1200
Department of Pesticide Regulation	Qualified Applicator Certificate	50	1	111
Department of Pesticide Regulation	Agricultural Pest Control Adviser License	46	12	129
Department of Pesticide Regulation	Agricultural Pest Control Adviser License Renewal	11	1	74
Department of Pesticide Regulation	Qualified Applicator License	54	5	97
Department of Pesticide Regulation	Designated Agent License	50	21	96

Department Agency	Permit Authorization	Median Days for Reviewing a Permit	Minimum Days for Reviewing a Permit	Maximum Days for Reviewing a Permit
Department of Pesticide Regulation	Designated Agent License Renewal	8	1	39
Department of Pesticide Regulation	Pest Control Pilots License	56	21	1066
Department of Pesticide Regulation	Pest Control Pilots License Renewal	11	1	35
Department of Pesticide Regulation	Accreditation of Continued Education Instruction	N/A	N/A	N/A
Department of Pesticide Regulation	Certificate of Registration for Economic Poisons for New Active Ingredient	106	16	314
Department of Pesticide Regulation	Certificate of Registration New Product	40	4	209
Department of Pesticide Regulation	Certificate of Registration for Economic Poisons for Renewal	28	7	197
State Water Resources Control Board	Wastewater Treatment Plant Operators Certificate of Competence	30	3	112
California Integrated Waste Management Board	Full Solid Waste Facilities Permit	30	3	112

Department Agency	Permit Authorization	Median Days for Reviewing a Permit	Minimum Days for Reviewing a Permit	Maximum Days for Reviewing a Permit
California Integrated Waste Management Board	Standardized Solid Waste Facility Permit	TBD	1	75
California Integrated Waste Management Board	Registration Solid Waste Facility Permit	TBD	1	30
California Integrated Waste Management Board	Waste Tire Facility Permit	TBD	TBD	TBD
California Integrated Waste Management Board	Used Oil Collection Center Certifications	35	25	45
California Integrated Waste Management Board	Used Oil Recycling Incentive Payment Registrations	35	25	45
Air Resources Board	All Permits	30	5	567

Article 2. Appeal Procedures

Section 10310. State Environmental Permit Agencies that Violate Time Limits.

(a) If any state environmental agency, as defined in Section 10100(r), fails to take timely action on the issuance or denial of an environmental permit in accordance with the time limits established for any one of the following; Section 71022 of the Public Resources Code, Section 25199.6 of the Health and Safety Code, or Section 15378 of the Government Code; the applicant and/or petitioner may appeal to the Secretary. The

appeal shall be filed within 30 days of the date that the state environmental agency was to have made a final determination on the environmental permit. The appeal shall use the following procedure;

(1) the applicant and/or petitioner submits an appeal to the Secretary in writing. The appeal shall include, at a minimum, all of the following:

(A) name of the applicant, and if applicable, the name of the petitioner; (B) name of the business;

(C) address of the facility;

(D) name of the state environmental agency that failed to take timely action on the applicant's environmental permit;

(E) the date that the state environmental agency was to have made a final determination on the environmental permit;

(F) the name and/or type of environmental permit that the applicant applied for;

(G) an explanation of why the applicant and/or petitioner is requesting the appeal; and

(H) any additional information deemed necessary by the Secretary.

(2) Upon receiving the appeal, the Secretary will contact the applicant and/or petitioner and the state environmental agency within 30 days to determine the following;

(A) if the state environmental agency violated any of the time limits established for the following;

1. Section 71022 of the Public Resources Code;

2. Section 25199.6 of the Health and Safety Code; and,

3. Chapter 3 (commencing with Section 15374) of the Government Code; and

(B) if the state environmental agency had good cause for violating the time limits;

(3) If the Secretary finds the time limits under appeal have been violated without good cause, the Secretary shall;

(A) establish a date by which the state environmental agency shall act on the permit application, with adequate provision for the requirements of subparagraphs (A) to (C), inclusive, of paragraph (4) of subdivision (a) of the Public Resources Code Section 71022; and

(B) notify the state environmental agency, in writing, to provide for full reimbursement of all filing and permit processing fees paid by the applicant to the environmental agency for the permit application under appeal, pursuant to Section 71030(d) of the Public Resources Code and Section 15378 of the Government Code. The reimbursement shall occur within 60 days of being notified by the Secretary.

(b) the determination of the Secretary shall be based only on procedural violations, including but not limited to, the exceeding of time limits.

(c) if the violation is of the time limits of Section 71022 of the Public Resources Code, the determination of the Secretary to order reimbursement of any application filing fees shall only be applicable to the consolidated permit agency or the participating agencies that are in violation of the time limits without showing good cause.

(d) All state environmental agencies shall attach processing time limits to their permit applications.

(e) The following statement shall be added to all state environmental agency permit applications, "Time limits have been established for the processing of permit applications. These time limits are attached. Persons whose applications have not been processed within the time limits prescribed by statute or regulation may appeal to the Secretary for Environmental Protection. Appeals must be filed within 30 days of the date the time periods were allegedly exceeded. If the Secretary finds that the time limits have not been met, and the environmental agency did not have good cause why the time limits have not been met, the Secretary may direct the environmental agency to process the application by a specified date and so inform the applicant. For permits subject to the Permit Reform Act of 1981 (Government Code Sections 15374, et seq.), the Secretary may also order that the applicant receive a reimbursement of all filing and permit processing fees."

(f) for those state permit agencies that participate at the request of the permit applicant upon the agency's agreement;

(1) An appeal shall be only for violations of the time limits established pursuant to Section 71022 of the Public Resources Code; and

(2) They are excluded from requirements of subsections (d) and (e) of this Section.

Authority cited: Sections 71001, 71020 and 71030, Public Resources Code; Section 15378, Government Code. Reference: Section 71030, Public Resources Code; and Section 15376, Government Code.

Section 10311. Local Environmental Permit Agencies that Violate Consolidated Permit Time Limits.

(a) If a local environmental agency fails to take timely action on the issuance or denial of an environmental permit in accordance with the time limits established for Section 71022 of the Public Resources Code, the applicant and/or petitioner may appeal to the Secretary. The appeal shall be filed within 30 days of the date that the local environmental agency was to have made a final determination on the environmental permit. The appeal shall use the following procedure:

(1) The applicant and/or petitioner submits an appeal to the Secretary in writing. The appeal shall include, at a minimum, all of the following:

(A) Name of the applicant, and if applicable, the name of the petitioner;

(B) Name of the business;

(C) Address of the facility;

(D) Name of the local environmental agency that failed to take timely action on the applicant's environmental permit;

(E) The date that the local environmental agency was to have made a final determination on the environmental permit;

(F) The name and/or type of environmental permit that the applicant applied for;

(G) An explanation of why the applicant and/or petitioner is requesting the appeal; and

(H) Any additional information deemed necessary by the Secretary .

(2) Upon receiving the appeal, the Secretary will contact the applicant and/or petitioner and the local environmental agency within 30 days to determine the following;

(A) If the local environmental agency violated any of the time limits established for Section 71022 of the Public Resources Code; and

(B) If the local environmental agency had good cause for violating the time limits.

(3) If the Secretary finds the time limits under appeal have been violated without good cause, the Secretary shall;

(A) Establish a date by which the local environmental agency shall act on the permit application, with adequate provision for the requirements of subparagraphs (A) to (C),

inclusive, of paragraph (4) of subdivision (a) of the Public Resources Code Section 71022; and

(B) notify the local environmental agency, in writing, to provide for full reimbursement of all filing and permit processing fees paid by the applicant to the local environmental agency for the permit application under appeal, pursuant to Section 71030(d) of the Public Resources Code. The reimbursement shall occur within 60 days of being notified by the Secretary.

(b) the determination of the Secretary shall be based only on procedural violations, including but not limited to, the exceeding of time limits.

(c) the determination of the Secretary to order reimbursement of any application filing fees shall only be applicable to the consolidated permit agency or the participating agencies that are in violation of the time limits without showing good cause.

Authority cited: Sections 71001, 71020 and 71030, Public Resources Code. Reference: Section 71030, Public Resources Code.

Section 10312. Local Environmental Permit Agencies that Violate Other Permit Time Limits.

(a) For the purpose of this Section, "local environmental agency" does not include the agencies described in subdivisions (1) and (6) of Section 10100(l) of Title 27 CCR.

(b) If a local environmental agency fails to take timely action on the issuance or denial of an environmental permit in accordance with the time limits established for that agency, the applicant may appeal.

(c) An applicant may submit an appeal to the governing body of a local environmental agency, or if there is no governing body, to the director of the local environmental agency, for a determination regarding the failure by the local environmental agency to take timely action on the issuance or denial of an environmental permit.

(d) The appeal shall include, at a minimum, the following information;

(1) name of the applicant;

(2) name of the business;

(3) address of the facility;

(4) name of the local environmental agency that failed to take timely action on the applicant's environmental permit if the applicant appeals directly to the Secretary pursuant to subsection (f) of this Section;

(5) the date that the local environmental agency was to have made a final determination on the environmental permit;

(6) the name and/or type of environmental permit that the applicant applied for; and

(7) an explanation of why the applicant is requesting the appeal.

(e) The appeal shall be submitted to the local environmental agency prior to the applicant providing 7 days advance notice to the permitting agency of the intent to provide public notice of the project pursuant to subdivision (b) of Section 65956 of the Government Code.

(f) The applicant may appeal directly to the Secretary whenever any of the following occurs;

(1) If the local environmental agency declines to accept the appeal pursuant to subdivision (a) of Section 65956.5 of the Government Code; or

(2) If the local environmental agency fails to issue a final written determination within 60 days pursuant to subdivision (b) of Section 65956.5 of the Government Code.

(g) The local environmental agency has 60 days after receiving the appeal to issue a final determination regarding the appeal. The determination shall include the following;

(1) an explanation of why the local environmental agency failed to act on the permit application within the established time limits;

(2) the date the local environmental agency shall act on the permit application.

Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Section 65956.5, Government Code.

Section 10313. Completeness Appeals.

(a) An applicant may submit an appeal to the Secretary if the time limits for processing a completeness determination on an environmental permit application and any accompanying submitted materials to a Board, Office, or Department within the California Environmental Protection Agency are exceeded.

(b) The appeal shall include, at a minimum, the following information;

(1) name of the applicant;

(2) name of the business;

- (3) address of the facility;
- (4) name of the board, office, or department that made the determination;
- (5) the name and/or type of permit that the applicant applied for; and
- (6) an explanation of why the applicant is making the appeal.

(c) An applicant may submit an appeal to the Secretary rather than the local environmental agency that is issuing the environmental permit regarding the time limits for processing a completeness determination on an environmental permit application and any accompanying submitted materials to a local environmental agency. The appeal shall be made under either of the following circumstances:

(1) The local environmental agency has not adopted an appeals process pursuant to subdivision (c) of Section 65943 of the Government Code.

(2) The local environmental agency declines to accept an appeal for a decision pursuant to subdivision (c) of Section 65943 of the Government Code.

(d) The appeal shall include, at a minimum, the following information;

- (1) name of the applicant;
- (2) name of the business;
- (3) address of the facility;
- (4) name of the local environmental agency that made the determination;
- (5) the name and/or type of environmental permit that the applicant applied for; and
- (6) an explanation of why the applicant is requesting the appeal.

(e) There shall be a final written determination by the Secretary on the appeal not later than 60 calendar days after the receipt of the applicant's written appeal.

(f) Pursuant to subdivision (c) of Section 65943 of the Government Code, if the final written determination on the appeal is not made within the specified 60-day period, the application with the submitted materials shall be deemed complete.

(g) For the purpose of this Section, "local environmental agency" does not include the agencies described in subdivisions (1) and (6) of Section 10100(j) of Title 27 CCR.

Authority cited: Sections 71001 and 71020, Public Resources Code. Reference: Sections 65943.5 and 65943, Government Code.

Chapter 4. Permit Consolidation Zone Pilot Program

SubChapter Ghost Header for Outline ADA compliance

Article 1. Scope and Applicability

Section 10400. Purpose.

(a) These regulations establish the implementation framework for a pilot program intended to offer a step toward reforming California's environmental permitting system to make it more responsive, efficient, and timely, while preserving California's commitment to a safe and healthful environment.

This pilot program, will allow the creation of up to twenty Permit Consolidation Zones among California's cities and counties. Within these zones, the current system of individually issued environmental permits will be augmented with a voluntary option allowing facilities to substitute a facility compliance plan in lieu of existing environmental permits for new or expanding facilities. The use of facility compliance plans is anticipated to expedite environmental permitting in the designated Permit Consolidation Zones and the pilot will provide an opportunity to test the facility compliance plan concept as a possible new model for environmental regulation.

The facility compliance plan represents a new regulatory approach and should be seen by those using these regulations as a new permit concept separate and distinct from existing environmental permits. The facility compliance plan constitutes a replacement for existing environmental permits. Section 1 of Chapter 5 (commencing with Section 71035) of Division 34 of the Public Resources Code) establishes separate and distinct timeframes for the processing of facility compliance plans. The facility compliance plan must contain all the information required by existing permits and, in addition, represents an opportunity for the compilation of a comprehensive, multimedia statement of environmental operations and management at a facility.

These regulations implement this program. Elements of the regulations include the application and competitive selection process for those communities who wish to join

the pilot, a procedure for facilities to opt into a facility compliance plan, and a process to institute coordinated inspection and enforcement activities for facilities authorized by a facility compliance plan.

Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.1 through 71035.11 inclusive, Public Resources Code.

Article 2. Definitions

Section 10401. Definitions.

(a) The definitions contained in this Section shall apply only to these regulations.

(1) "Complete and adequate" means a determination by a permitting authority that a facility compliance plan contains all the information required by Sections 71035.5(b) and 71035.6(b) of Chapter 5 of Division 34 of the Public Resources Code. A finding that a facility compliance plan is completed and adequate, incorporating all additional conditions as required by the permitting authority, shall result in the approval of the plan for the portion of the plan addressed by the permitting authority.

(2) "CUPA" means a certified unified program agency as designated under Chapter 6.11 of Division 20 of the Health and Safety Code.

(3) "Day" means for the purpose of these regulations, calendar days.

(4) "Environmental permit" means any environmental permit issued by an environmental agency or a certified unified program agency.

(5) "Excluded Facility" means any facility involved in the following operations or activities:

(A) The incineration of wastes. Incineration does not include any combustion process used as part of an air pollution control system.

(B) The storage, treatment, transportation, or disposal of radioactive materials.

(C) Other activities that the Secretary for Environmental Protection determines, prior to approval of an application for a Permit Consolidation Zone, and based on risks to the environment and to the public health and safety, to be appropriately regulated through individual permits.

(D) Other activities excluded as requested by a city or county in its Permit Consolidation Zone application.

(6) “Expanding Facility” means any facility, located within a Permit Consolidation Zone which:

(A) Is physically in existence at the time the facility compliance plan is submitted;

(B) Is in compliance with all applicable regulations prior to the date of submittal of a facility compliance plan to the Permit Consolidation Zone Administrator; and

(C) Requires a new or amended environmental permit to conduct a new or modified activity.

(7) “Facility” means the site presently engaged in or at which an activity is planned that is required to obtain authorization from a permitting authority for that activity.

(8) “Facility Compliance Plan” means a document that incorporates all of the following:

(A) Contains information and data for all emissions and discharges from the facility and the management of solid waste and hazardous waste, including all information relevant to individual environmental permits that would otherwise be required for the facility.

(B) Specifies measures, including, but not limited to, monitoring, reporting, emissions limits, materials handling, and throughputs, to be taken by the project applicant to ensure compliance with all environmental permits that would otherwise be required.

(C) Meets the requirements of all individual environmental permits that would otherwise be required.

(D) Ensures compliance with all applicable environmental laws, regulations, and ordinances.

(9) “New Facility” means any facility, located within a Permit Consolidation Zone, which was not physically in existence prior to the date of submittal of a facility compliance plan to the Permit Consolidation Zone Administrator.

(10) “Permitting Authority” means those governmental entities identified by subdivisions (a) to (g), inclusive of Section 71011 of the Public Resources Code, specifically including:

(A) The Department of Toxic Substances Control

(B) The Department of Pesticide Regulation

(C) The State Air Resources Board

(D) The State Water Resources Control Board

- (E) The California Integrated Waste Management Board
- (F) The Office of Environmental Health Hazard Assessment
- (G) The Regional Water Quality Control Boards
- (H) Air Quality Management Districts and Air Pollution Control Districts as defined in Section 39025 of the Health and Safety Code.
- (I) An enforcement agency, as defined in Section 40130 of the Public Resources Code (Local Enforcement Agencies operating under the authority of the Integrated Waste Management Act).
- (J) A county agricultural commissioner with respect to his or her administration of Divisions 6 (commencing with Section 11401) and 7 (commencing with Section 12501) of the Food and Agricultural Code.
- (K) The local agency responsible for administering Chapter 6.7 (commencing with Section 25280) of the Health and Safety Code concerning underground storage tanks and any underground storage tank ordinance adopted by a city or county.
- (L) The local agency responsible for the administration of the requirements imposed pursuant to Section 13370.5 of the Water Code (pretreatment to Publicly Owned Treatment Work (POTW) programs).
- (M) Certified Unified Program Agencies (CUPAs).
- (N) Any other environmental or related permitting authority that elects to become a participating agency within the Permit Consolidation Zone.
- (11) "Permit Consolidation Zone" means a geographical area, contiguous or non-contiguous, designated by and within the jurisdiction of a city or cities or a county or counties or both, and approved by the Review Panel, within which a facility compliance plan may be substituted for all environmental permits otherwise required. A Permit Consolidation Zone specifies the types of facilities that are eligible to operate under the authority of a facility compliance plan.
- (12) "Plan Applicant," means the facility owner and/or operator responsible for the preparation of a facility compliance plan.
- (13) "Review Panel," means the panel composed of the Secretary for Environmental Protection and the Secretary for Trade and Commerce. The Review Panel is empowered to review applicants for and designate Permit Consolidation Zones.

(14) "Zone Administrator," means the individual or agency designated by the Zone Applicant to be responsible for the administration of the zone. The zone applicant may designate any person within any organization it deems appropriate to perform these duties, including but not limited to a Cal/EPA Permit Assistance Center or a Certified Unified Program Agency.

(15) "Zone Applicant" means a California city or county, individually or together, seeking to be designated as a Permit Consolidation Zone.

(16) "Zone Applicant Governing Authority" means the duly constituted governing board for a city or county within the State of California usually a city council in the case of a city or the board of supervisors in the case of a county.

Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3, 71035.4, 71035.5, 71035.6, 71035.8 and 71305.10, Public Resources Code.

Article 3. Permit Consolidation Zone Application Process

Section 10402. Eligibility for Designation as a Permit Consolidation Zone.

(a) Cities or counties with a population greater than 5,000, based upon the 1990 census, are eligible to apply for a Permit Consolidation Zone which may constitute all or part of their jurisdiction.

(b) Cities and counties, individually or together, may apply for a Permit Consolidation Zone.

(c) Not more than 20 Permit Consolidation Zones may be designated. Applications approved shall represent a diverse range of urban and rural counties and small and large cities.

Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Section 71035.3, Public Resources Code.

Section 10403. Procedures for Submittal of a Zone Application.

(a) Any qualifying city and/or county may submit an application for a Permit Consolidation Zone after the effective date of these regulations.

(b) An application for a Permit Consolidation Zone shall be submitted to the Review Panel not later than December 31, 1997. The Secretary for Environmental Project, may at his discretion, extend the period of time to apply to be a zone.

(c) The city and/or county preparing the application for a Permit Consolidation Zone is responsible for obtaining all the necessary agreements required in Section 10404(a)(14) with participating permitting authorities.

(d) A Zone Applicant is required to provide notice to the public and all interested parties of its submittal of an application for designation of a Permit Consolidation Zone by conducting a public hearing 30 days prior to submittal of the application.

Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Section 71035.3, Public Resources Code.

Section 10404. Informational Requirements for an Application for a Permit Consolidation Zone.

(a) The zone application shall:

(1) Identify an individual or agency who shall perform the duties of the Zone Administrator.

(2) Designate one primary point of contact for each participating permitting authority within a zone including title, address, phone number, and, if available, the facsimile number and e-mail address of the contact.

(3) Identify the area which is being designated as a Permit Consolidation Zone. This shall include a description of the area and a listing of the types of facilities specifically included within the zone, a map showing the zone boundaries, the boundaries of the applicant's jurisdiction, and the boundaries of adjacent jurisdictions.

(4) Identify the population of the city or county based on the 1990 census.

(5) Identify the environmental permits to be substituted by the facility compliance plan.

(6) Identify the types of facilities which the Zone Applicant will prohibit from inclusion within the Permit Consolidation Zone.

(7) Include a copy of the resolution adopted by the Zone Applicant's governing authority that approves the creation of a Permit Consolidation Zone.

(8) Identify any efforts to reform or expedite permit procedures or requirements that constitute permit streamlining that have been implemented by the Zone Applicant's jurisdiction(s) or the environmental agencies participating in the proposed Permit Consolidation Zone.

(9) Identify if there is a single CUPA within the boundaries of the proposed Permit Consolidation Zone.

(10) Identify the public notice requirements that currently exist for the individual environmental permits that will be substituted by a facility compliance plan.

(11) Identify the public notice, hearing, comment, participation, administrative appeal, and judicial review provisions that apply to a Plan Applicant within the proposed Permit Consolidation Zone.

(12) Identify the steps taken, in addition to the public notice requirement in Section 10402(d), to inform the public and businesses located within a proposed zone of the zone applicant's intent to apply for a Permit Consolidation Zone.

(13) Identify the permitting authorities which have agreed to participate in the Permit Consolidation Zone.

(14) Identify the agreements or agreements in process, between the zone applicant and other local, state, federal, and regional permitting agencies with jurisdiction within the boundaries of the proposed Permit Consolidation Zone. These agreements shall represent and describe the commitment of the permitting authority to participate in a Permit Consolidation Zone. The Zone Applicant shall submit all approved agreements with the application package. The approved agreements must:

(A) Be binding on the parties executing the agreement;

(B) Clearly identify the permits to be substituted by a facility compliance plan; and

(C) Identify the appeal process to be used in the event a facility wishes to appeal a determination of incompleteness and/or inadequacy.

(15) Identify any and all military bases or military reservations being converted to private use within the boundaries of the proposed Permit Consolidation Zone.

(16) Identify how permitting authorities will cooperate on facility compliance inspections, consolidation of permit fees, and review and submittal of environmental monitoring reports.

(17) Identify the process for conversion of a facility compliance plan to individual environmental permits, in the event of termination of the Permit Consolidation Zone, withdrawal of a permitting authority from a Zone, or upon the request of a facility who has received a facility compliance plan.

(18) Identify how the California Environmental Quality Act (CEQA) will be complied with and implemented within the proposed Permit Consolidation Zone and who will be responsible.

(19) Provide information that shows the proposed Permit Consolidation Zone is in conformance with all planning and zoning restrictions applicable to the permits to be substituted by a facility compliance plan within the zone.

(20) Identify all economic incentive zones that exist within the Permit Consolidation Zone.

(21) Identify the fees assessed for each individual permit application that may be incorporated within the consolidated fee statement for a facility compliance plan application.

(22) Identify steps zone applicant will use to encourage businesses within a zone to practice pollution prevention.

Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3, 71035.4, 71035.5, 71035.6 and 71035.8, Public Resources Code.

Section 10405. Process for Approval of an Application for Designation of a Permit Consolidation Zone.

(a) The Review Panel shall evaluate the adequacy of an application for designation of a Permit Consolidation Zone. In conducting this review the Review Panel may rely upon staff from either agency to evaluate the application materials.

(1) The Review Panel shall, within 60 days of receipt of the application, either (a) convey a letter of deficiency to the zone applicant identifying and requesting submittal of information that will allow the Review Panel to make a determination on the zone designation, or (b) advise the zone applicant that the zone application contains the information necessary to make a designation.

(2) In the event a letter of deficiency is sent to the zone applicant, the zone applicant shall submit information correcting the deficiency, at the earliest opportunity, but in no event after June 30, 1998. The Review Panel shall have 60 days to conduct its review of the submitted information to determine if the application is complete.

(3) Zone applications shall be acted upon by the Review Panel within 30 days of their being found to contain all the necessary elements to allow a zone determination to be made.

(4) The zone applicant shall be notified of the Review Panel's determination in writing.

(5) A Permit Consolidation Zone shall become effective following its designation by the Review Panel. A Zone Applicant may determine a specific date following approval by the Review Panel for the Zone to become operational.

(6) An application for a Permit Consolidation Zone that remains deficient after June 30, 1998 shall be denied.

(b) When evaluating a zone application, the Review Panel shall consider the following factors:

(1) The extent to which the zone applicant has implemented permit streamlining for permits under its own authority.

(2) Whether there is a single CUPA within the boundaries of the area proposed as a zone.

(3) The provisions made to ensure adequate public participation in the final permit decisions on facilities subject to a facility compliance plan.

(4) The contents of existing or proposed agreements between the applicant and other local, state, and regional permitting agencies with jurisdiction within the proposed Permit Consolidation Zone.

(c) The Review Panel shall make its determination of approval of a zone application only on the basis of and after finding that the application fulfills the requirements of Sections 10402, 10404, and 10405(b).

(d) The Review Panel shall make its zone designations based upon the applications that are pending before it at the time a decision is made.

Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3, 71035.4, 71035.5, 71035.6 and 71035.8, Public Resources Code.

Section 10406. Responsibilities of the Zone Administrator.

(a) The Zone Administrator shall have the following responsibilities:

(1) Ensure that the Review Panel has all the necessary information it may request to allow it to render a decision on the zone application.

(2) Monitor the coordination and cooperation of all participating and related permitting authorities.

(3) Monitor the review of facility compliance plans by permitting authorities and facilitate the greatest possible coordination between the permitting authorities to expedite their review.

(4) Submit to the Plan Applicant a consolidated fee statement that specifies the individual fees payable to each permitting authority making a determination of completeness and adequacy for a portion of the facility compliance plan.

(5) Monitor activities performed by permitting authorities to conform to CEQA.

(6) Ensure the transmittal of the facility compliance plan, following the receipt of all determinations of completeness and adequacy, to the Secretary for Environmental Protection.

(7) Immediately notify the Plan Applicant when a complete and adequate facility compliance plan has been transmitted to the Secretary for Environmental Protection.

Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3, 71035.4, 71035.5, 71035.6 and 71305.10, Public Resources Code.

Section 10407. Process for Amendment or Termination of a Zone Designation.

(a) A designated Permit Consolidation Zone may be amended by submittal of a request from the Zone Administrator to the Review Panel.

(1) The amendment request shall contain the information necessary to augment the information provided in the application materials required by Section 10405 to make those materials consistent with the requested amendment.

(2) Public notice of an intent to amend a zone designation shall become effective 90 days prior to the Zone's governing board's action directing the submittal of a "request to amend" to the Review Panel.

(3) The request for amendment, unless denied by the Review Panel, shall become effective 90 days after the date of receipt by the Review Panel.

(b) A designated Permit Consolidation Zone may be terminated by submittal of a notice of intent to terminate to the Review Panel.

(1) A transmittal letter and concurring resolution adopted by the Zone's governing authority shall constitute a notice of intent to terminate a Permit Consolidation Zone.

(2) Notice of the intention of the Zone to terminate its designation shall be provided by the Zone's governing board 30 days prior to formal consideration of the termination to each participating permitting authority and all facilities within the Zone who have applied for or who have received approved facility compliance plans.

(3) Public notice of an intent to terminate a zone designation shall be provided fourteen days prior to the Zone's governing board's action directing the submittal of a "notice of intent to terminate" to the Review Panel.

(4) The Permit Consolidation Zone shall be terminated 180 days following the submittal of the notice of intent to the Review Panel.

(c) A permitting authority participating in a Permit Consolidation Zone may withdraw from the Zone by following the procedures set forth in subpart (b) above.

Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3 and 71035.4, Public Resources Code.

Section 10408. Termination or Amendment of Permit Consolidation Zones; Process for Conversion of a Facility Compliance Plan to Individual Environmental Permits.

(a) A facility compliance plan shall be converted into individual environmental permits when a zone is terminated or if a zone amendment results in the facility no longer being included within the zone.

(b) The process of conversion shall be the process identified in the application for designation of the Permit Consolidation Zone.

(c) A facility compliance plan shall remain in effect, unless otherwise prohibited by law, until such time individual environmental permits are issued or denied by the permitting authorities. A facility operating under a facility compliance plan shall not be denied an individual operating permit for the operations conducted pursuant to a complete and adequate facility compliance plan except in the case such operation would be in conflict with a law or regulation or ordinance applicable at the time the facility compliance plan would be converted to an individual permit.

Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3, 71035.4, 71035.5 and 71035.6, Public Resources Code.

Article 4. Facility Compliance Plan

Section 10409. Contents of the Facility Compliance Plan.

(a) The Plan Applicant shall prepare and submit a proposed facility compliance plan for review by the individual permitting authorities.

(1) The proposed facility compliance plan shall demonstrate compliance with all applicable environmental laws, rules, regulations, and ordinances specified by the permitting authorities for the activity to be authorized by the facility compliance plan.

(2) The proposed facility compliance plan shall contain the information required by Section 10401(a)(8).

(b) The proposed facility compliance plan may incorporate the following optional elements, provided they are not otherwise required by a permitting authority, with the understanding that they shall not constitute a substitute for any existing regulatory compliance requirements:

(1) Identification of relevant environmental impacts associated with the operation of a facility;

(2) Identification of operational standards for environmental performance which meet or exceed all permit and other legal requirements;

(3) A description of an internal environmental management procedures which enable the facility to meet its legal requirements;

(4) A monitoring and reporting system which identifies operational performance and identifies any excursion from established goals;

(5) Appropriate training, awareness, and communication systems for the organization;

(6) Appropriate documentation and document control;

(7) Consolidated plans for appropriate emergency preparedness and response;

(8) Procedures establishing internal audits; and

(9) Procedures for appropriate supervisory review of performance in meeting established environmental goals.

(c) A facility compliance plan shall contain the conditions deemed necessary by a permitting authority to render a plan complete and adequate. The conditions imposed by a permitting authority shall be consistent with its authority to impose conditions on individual environmental permits for which the facility compliance plan is a substitute.

Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.4, 71035.5, 71035.6 and 71035.8, Public Resources Code.

Section 10410. Process for Submittal, Review, and Approval of a Facility Compliance Plan.

(a) Notification

(1) A Plan Applicant shall provide written notice to the Zone Administrator and each participating permitting authority within the Zone of its intent to substitute a facility compliance plan for individual environmental permits. The notice shall provide a description of the activities to be conducted under the terms of a facility compliance plan.

(2) The Zone Administrator shall develop a form or checklist to be used by the Plan Applicant to augment the information provided in the notice. The contents of the form or checklist shall be used to allow the participating permitting authorities to review the nature of the proposed facility operation to determine if the activity falls under their jurisdiction.

(3) A notice of intent to submit a proposed facility compliance plan shall be provided to the Zone Administrator and each participating permitting authority not less than 60 days prior to submittal of the plan.

(4)(A) The Zone Administrator shall, during the public notice period preceding submittal of a proposed facility compliance plan for consideration, facilitate discussions with the Plan Applicant and the individual permitting authorities to clarify the technical information required in a complete and adequate facility compliance plan.

(B) At any time subsequent to the sixty-day notification period, a Plan Applicant may submit a proposed facility compliance plan to the Zone Administrator.

(b) Where feasible and practicable, and at the request of the Zone Administrator, California Environmental Protection Agency Permit Assistance Centers may participate in the review of a proposed Facility Compliance Plan.

(c) The Plan Applicant shall submit a copy of a proposed facility compliance plan concurrently to the Zone Administrator and to each permitting authority participating in the zone from whom a determination of completeness and adequacy is required.

(d)(1) The permitting authorities reviewing the proposed facility compliance plan shall transmit their determination whether the proposed plan is complete and adequate to the Plan Applicant and Zone Administrator within 45 days of receipt of the plan.

(2) The Zone Administrator shall, within five (5) days of receiving all required determinations of completeness and adequacy from the appropriate permitting

authorities, transmit the consolidated determination to the Secretary for Environmental Protection.

(e) If the proposed facility compliance plan is determined not to be complete and adequate, the permitting authority shall, not later than 45 calendar days after receipt of a proposed facility compliance plan, specify in writing to the applicant and Zone Administrator those parts of the plan that are deficient and shall list and provide a thorough description of the information that must be provided to allow a determination of completeness and adequacy to be made.

(f) The Plan Applicant shall resubmit the proposed facility compliance plan incorporating the information required by the permitting authorities to render the plan complete and adequate. The permitting authorities shall, within 30 days of receipt of the resubmitted plan, determine in writing whether the proposed plan is complete and adequate. The permitting authorities shall transmit their determination to the Zone Administrator and the Plan Applicant. If the determination of completeness and adequacy from any individual permitting authority is not provided within the 30-day period, the portion of the proposed facility compliance plan applicable to the permitting authority that did not meet that determination deadline, shall be deemed to be complete and adequate.

(g) Each permitting authority shall identify, in the application for designation of a Permit Consolidation Zone, a process for the Plan Applicant to appeal a determination of incompleteness or inadequacy. This process shall be the permitting authority's existing appeal process, or, in the event the existing process is not in conformance with the time frames provided by these regulations, a separate process adopted by the permitting authority's governing body.

(h) The permitting authority shall make a final determination of an appeal by a Plan Applicant within 60 calendar days after receipt of the Plan Applicant's written appeal. If the decision on appeal is not made within the 60-day period that portion of the facility compliance plan subject to the appeal, shall be deemed to be complete and adequate.

(i) All applicable individual environmental permits for the project shall be deemed to have been issued upon the filing of a complete and adequate facility compliance plan with the Secretary for Environmental Protection.

(j) The Plan Applicant and any permitting authority may mutually agree to waive the timeframes provided in this Section or establish a mutually agreed upon substitute timeframe.

Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.4, 71035.6 and 71035.8, Public Resources Code.

Section 10411. Process to Amend a Facility Compliance Plan.

(a) A facility compliance plan shall be drafted in such a manner as to reflect a range of operating parameters that will anticipate future operations and which provide flexibility to the Plan Applicant.

(b)(1) In the event a facility seeks a modification of operational terms beyond that contemplated and authorized by the facility compliance plan, the facility shall submit an amended facility compliance plan for consideration. The amended plan shall be reviewed pursuant to the provisions identified in Section 10410 for a new facility compliance plan.

(2) Only the portion of the plan which is being amended will be subject to review by the permitting authorities.

(3) No additional requirements shall be imposed within an amended facility compliance plan except as they are specifically applicable to the subject of the activity for which the amendment is sought.

(4)(A) A facility compliance plan shall be subject to any provision of law or regulation adopted subsequent to the approval of the plan. At the request of a permitting authority, a facility operating under a facility compliance plan may be required to incorporate language within the plan to reflect compliance with laws and regulations adopted subsequent to the initial determination of completeness and adequacy.

(B) A facility shall submit an amended facility compliance plan to a permitting authority whenever submission of an amended application for an environmental permit, for which the facility compliance plan is a substitute, would otherwise be required by law.

(5) If a provision of a facility compliance plan is found by a permitting authority to cause or threatens to cause a threat to public health or safety, or harm to the environment, the plan shall be subject to immediate modification to remove that threat or harm.

(c) To the extent not otherwise authorized by law or regulation, amendment of a facility compliance plan is not required for any of the following:

(1) Any physical change, process change, change in method of operation, addition to or any change in hours of operation, or change in the production rate, provided the change does not result in an increase in or change, in the nature of emissions or discharges from the facility beyond that contemplated in the facility compliance plan;

(2) A change in ownership, or operator;

(3) Routine maintenance and repair;

(4) Equivalent replacement of an existing facility structure, building, apparatus, or equipment, provided the replacement will not result in an increase in the nature or amount of emissions or adds a new emission parameter inconsistent with the overall emission limits set by the facility compliance plan, and/or

(5) Replacement of equipment resulting in an increase or decrease in emissions or discharges released to the environment, provided the increase is consistent with the terms of the facility compliance plan setting overall emission limits.

Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.4, 71035.6 and 71035.8, Public Resources Code.

Article 5. Miscellaneous Provisions

Section 10412. Assessment of Fees.

(a)(1) Permit application fees, payable upon submittal of a facility compliance plan, shall be determined by each permitting authority and conveyed to the Plan Applicant in a single consolidated statement prepared by the Zone Administrator. The fees assessed for the facility compliance plan shall not exceed those fees applicable to the permits for which the facility compliance plan is a substitute. All costs currently recovered by a permitting authority for any aspect of the review of a permit application shall be recoverable through the fee assessed for a facility compliance plan. Any fee associated with the operation of a facility is not affected by these regulations and is payable to the permitting authority through their existing procedures.

(2) The fees submitted with the facility compliance plan shall be through separate checks payable to each permitting authority for that portion of the plan subject to their review.

(3) Where fees are allowed to be determined on an actual cost basis, the consolidated fee statement shall indicate that the fee is so based. Permitting authorities shall take adequate measures to account for fees not expended in the event a fee reimbursement becomes necessary.

(4) In the event a facility compliance plan is amended, or a participating permitting authority withdraws from a Zone, or a Zone is terminated, a facility shall pay to the appropriate permitting authority the actual cost to incorporate the amendment, or convert the facility compliance plan to an individual environmental permit.

(5) Until such time as the requisite fees for a facility compliance plan application or amendment are paid, the 45-day review period identified in Section 10410(d)(1) shall be tolled.

(6) A facility compliance plan shall be subject to all annual operating fees otherwise required for an individual environmental permit. Non-payment of any annual operating fee shall subject the portion of the facility compliance plan to termination upon 60 day notice to the facility.

Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.5, 71035.6 and 71035.8, Public Resources Code.

Section 10413. Effective Date of a Facility Compliance Plan.

(a) A facility compliance plan becomes effective upon the date all elements of a complete and adequate plan are received by the Secretary for Environmental Protection.

(b) A facility shall not construct or expand until notified, in writing, that the facility compliance plan for such construction or expansion has been determined to be complete and adequate by all appropriate permitting authorities, except as otherwise authorized by law.

Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.5, 71035.6 and 71035.8, Public Resources Code.

Section 10414. Facility Compliance Plan Format.

(a) No format is specifically identified in these regulations for the submittal of an application for either a Permit Consolidation Zone or a facility compliance plan. A designated Permit Consolidation Zone may prescribe the format to be used for a facility compliance plan in the application submitted for its designation as a zone.

Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3, 71035.5 and 71035.6, Public Resources Code.

Section 10415. Facility Compliance Plan; Term.

(a) Unless otherwise restricted by law, a facility compliance plan is effective throughout the term of the pilot program and until converted into individual environmental permits as provided in Section 10408.

Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.5, 71035.6 and 71035.7, Public Resources Code.

Section 10416. Reimbursement of Fees in the Event a Permit Consolidation Zone is Amended or Terminated or a Facility Compliance Plan is Withdrawn.

(a) Fees submitted by a Plan Applicant for review of a facility compliance plan shall, in the event of amendment or termination of a Zone removing a facility from inclusion within a Zone, or upon the withdrawal of the plan by the facility owner/operator, be reimbursed on a pro-rata basis reflecting the costs incurred by the permitting authorities for review of the facility compliance plan, except in those cases where the application fee for the individual environmental permit being replaced by the facility compliance plan offers no opportunity for reimbursement.

(b) In the event of amendment or termination of a Zone removing a facility from inclusion within a Zone and the Plan Applicant wishes to obtain approval for the facility, the portion of the fee that would otherwise be reimbursed to the Plan Applicant may be applied to the review of individual permits.

Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.5 and 71035.6, Public Resources Code.

Section 10417. Enforcement of Facility Compliance Plan.

(a) A facility compliance plan shall, in all respects, be subject to enforcement by a participating permitting authority the same as if it were an individual permit issued by the permitting authority.

Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.3, 71035.5 and 71035.6, Public Resources Code.

Section 10418. Confidentiality.

(a) These regulations do not modify any ability of a Plan Applicant or permitting authority to preserve the confidentiality of portions of the facility compliance plan that qualify for such designation under existing authority.

(b) The Zone Administrator and any participating permitting authority shall maintain the confidentiality of any portion of the facility compliance plan requested by the Plan Applicant in conformance with existing procedures for the protection of confidential documents submitted as part of a permit application.

Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Sections 71035.5 and 71035.6, Public Resources Code.

Article 6. Reporting and Review

Section 10419. Reports Required to Be Submitted by the Zone Administrator to the Review Panel.

(a) By December 31 of each year, the Zone Administrator shall submit a report to the Review Panel that states the progress of implementation of the program within the pilot Permit Consolidation Zone. The reports, shall at a minimum, contain:

(1) The number of facilities that have submitted a facility compliance plan and the status of that plan in the review/approval process;

(2) Whether any Plan Applicant used the facility compliance plan appeal process and the outcome of that appeal;

(3) Any written comments received from any party regarding the implementation of the pilot program;

(4) Any recommendation the Zone Administrator wishes to convey regarding the implementation of the pilot program and/or proposed changes in legislative language; and

(5) Any other information the Zone Administrator wishes to convey or which has been requested by the Review Panel.

Authority cited: Sections 71035.1 and 71305.2, Public Resources Code. Reference: Section 71305.10, Public Resources Code.

Subdivision 4. State Delegation

Chapter 1. Unified Hazardous Waste and Hazardous Materials Management Regulatory Program

Subchapter Ghost Header for Outline ADA compliance

Article Ghost Header for Outline ADA compliance

27 CCR T. 27, Div. 1, Chap. 1, Refs & Annos

Part I. Definitions, Application, ad Certification

Subchapter Ghost Header for Outline ADA compliance

Article 1. Introduction

Section 15100. Unified Program.

(a) Health and Safety Code (HSC) division 20, chapter 6.11, and these regulations outline the requirements for the Unified Program for hazardous materials and hazardous waste management. This division integrates requirements established pursuant to:

(1) The Hazardous Waste Generator (HWG) Program and the Onsite Hazardous Waste Treatment activities authorized under the permit-by-rule (PBR), conditionally authorized (CA), and conditionally exempt (CE) tiers HSC division 20, chapter 6.5 (generally supplemented by California Code of Regulations (CCR), tit. 22, div. 4.5);

(2) The Aboveground Petroleum Storage Act (APSA) Program HSC division 20, chapter 6.67;

(3) The Underground Storage Tank (UST) Program HSC division 20, chapter 6.7; (generally supplemented by CCR, tit. 23, chs. 16 and 17);

(4) The Hazardous Materials Release Response Plans and Inventory (HMRRP) Program HSC division 20, chapter 6.95, article 1 (generally supplemented by CCR, tit. 19, §§ 2620-2734);

(5) California Accidental Release Prevention (CalARP) Program HSC division 20, chapter 6.95, article 2 (generally supplemented by CCR, tit. 19, §§ 2735.1-2785.1);

(6) The Hazardous Materials Management Plans and the Hazardous Materials Inventory Statement (HMMP/HMIS) requirements California Fire Code.

(b) The Secretary of the California Environmental Protection Agency (Secretary), state agency, and Certified Unified Program Agency (CUPA) responsibilities for Unified Program elements are clarified as follows:

(1) The Secretary is responsible for:

(A) Adopting regulations for the administration and implementation of the Unified Program.

(B) Consolidating, coordinating, and making consistent the requirements of the Unified Program with requirements imposed by other government agencies on businesses regulated by the Unified Program, to the maximum extent feasible.

(C) Developing a Unified Program in close consultation with Department of Toxic Substances Control (DTSC), Governor's Office of Emergency Services (Cal OES), Department of Forestry and Fire Protection (CAL FIRE) Office of the State Fire Marshal (SFM), State Water Resources Control Board (State Water Board), local health officers and fire services, other interested local agencies, affected businesses, environmental organizations, and interested members of the public.

(D) Implementing a Unified Program that consolidates the administration of program elements.

(E) Implementing a Unified Program that ensures coordination and consistency of the regulations adopted for each program element, to the maximum extent feasible.

(F) Determining Unified Program implementation in each jurisdiction and certifying an agency as the CUPA, including approval of the implementation of each Participating Agency (PA).

(G) Periodically evaluating each CUPA's ability to adequately implement the Unified Program.

(H) Maintaining the California Environmental Reporting System (CERS) in accordance with HSC 25404(E).

(I) Managing the State Certified Unified Program Agency Account (SCUPA Account) in accordance with HSC 25404.9.

(2) The state agencies with Unified Program responsibilities will establish and interpret statewide standards for those Unified Program elements for which they are responsible.

(A) Cal OES has responsibility for the HMRRP Program and the CalARP Program.

(B) SFM has responsibility for the APSA Program pursuant to HSC Section 25270.4.1(a) and the California Fire Code Sections, as adopted pursuant to HSC Section 13143.9, concerning HMMP/HMIS requirements.

(i) To avoid overlap, CUPA and SFM responsibilities for the HMMP/HMIS requirements (HSC Section 25404(c)(6)) are clarified as follows:

(a) SFM will coordinate program responsibilities concerning the HMMP/HMIS.

(b) HMMP/HMIS, when required, will comply with HSC Sections 25500 through 25519 and CCR, title 19, division 2, chapter 4, Section 2620 et. seq.

(c) The CUPA will provide access to the information collected in CERS, local information management systems or local reporting portals to those agencies with shared responsibilities for protection of the public health and safety and the environment.

(C) State Water Board has responsibility for the UST Program.

(i) To avoid overlap, CUPA and State Water Board responsibilities for the UST Program are clarified as follows:

(a) A CUPA may oversee the abatement of unauthorized releases of hazardous substances from USTs if it is authorized by the State Water Board as a Local Oversight Program (LOP) pursuant to HSC Section 25297.01.

(D) DTSC has responsibility for the HWG Program, the Onsite Hazardous Waste Treatment activities (PBR, CA, and CE), and additional requirements pursuant to HSC Section 25404(c)(1).

(i) To avoid overlap, CUPA and DTSC responsibilities for the HWG Program and Onsite Hazardous Waste Treatment activities are clarified as follows:

(a) DTSC will coordinate responsibilities concerning hazardous waste generators and Onsite Hazardous Waste Treatment activities with the CUPA at a hazardous waste Treatment, Storage and Disposal (TSD) facility.

(b) The CUPA may refer enforcement cases to DTSC. DTSC may accept enforcement cases at its discretion.

(c) The CUPA will establish procedures to accept the following reports from businesses:

1. Release reports for tank systems or secondary containment systems reporting the release of a reportable quantity (Cal. Code Regs., tit. 22, Section 66265.196(e)).

2. Tiered Permitting Closure Reports.

(d) CUPAs will review source reduction documents required of businesses pursuant to HSC Sections 25244.19, 25244.20, and 25244.21; and may impose civil penalties pursuant to HSC Section 25244.21(a).

(e) Hazardous Waste Manifest documents will continue to be submitted to DTSC.

(f) Hazardous Waste Manifest Exception Reports will continue to be submitted to DTSC.

(g) DTSC will retain responsibility for hazardous waste classifications.

(h) DTSC will retain responsibility for overseeing exports of hazardous waste out of the country.

(i) DTSC and the U.S. Environmental Protection Agency (U.S. EPA) will retain responsibility for issuing EPA numbers.

(j) DTSC will retain the responsibility to accept Biennial Reports specified in CCR, title 22, Section 66262.41.

(k) DTSC will notify and coordinate with the appropriate CUPA regarding any investigation it will conduct of hazardous waste generators; hazardous waste generators conducting treatment under conditional authorization pursuant to HSC Section 25200.3; hazardous waste generators conducting treatment under conditional exemption pursuant to HSC Section 25201.5; and facilities deemed to hold a permit-by-rule pursuant to the regulations adopted by DTSC. Information related to an ongoing investigation shall remain confidential.

(E) State agencies' responsibilities include:

(i) Maximizing coordination, consolidation, and consistency of their Unified Program element(s) within the Unified Program.

(ii) Participating in evaluating CUPAs as defined by the Secretary.

(iii) Providing necessary guidance, training, and support to Unified Program Agencies (UPAs).

(3) UPA responsibilities include implementing the requirements in HSC chapter 6.11, these regulations, and the requirements for each program element.

Authority cited: Sections 25404(b), 25404.1(b)(1), 25404.3(f) and 25404.6(c), Health and Safety Code. Reference: Sections 25404(b), 25404(c), 25404(d), 25404.1, 25404.2(a), 25404.2(c), 25404.3(f), 25404.5 and 25533(f), Health and Safety Code.

Article 2. Definitions

Section 15110. Unified Program Definitions.

(a) Applicant Agency means a county, city or other qualified local agency that is applying to the Secretary to become a CUPA.

(b) The California Environmental Reporting System (CERS) is the statewide information management system established by the Secretary to receive all data collected by the UPAs and reported by regulated businesses, pursuant to HSC chapter 6.11.

(c) Certified Unified Program Agency (CUPA) means the agency certified by the Secretary to implement the Unified Program in a specified jurisdiction, pursuant to HSC chapter 6.11.

(d) Data Collection. For the purposes of this division, terms related to Unified Program information have the following meaning:

(1) Data elements are the discrete data fields that define information required to be collected by applicable statutes or regulations. Data elements are defined in the Unified Program Data Dictionary.

(2) Submittal Element means a collection of related Unified Program data elements or document(s) that must be submitted by a regulated business as a single unit.

(3) Document means a collection of data that are not submitted as a set of standardized data elements either because the document's data are not suitable to define as discrete data elements, or the document's data elements are not yet defined in the Unified Program Data Dictionary. When a document needs to be submitted to meet Unified Program electronic reporting requirements, it shall be provided in the Portable Document Format (PDF) or other document format supported by CERS.

(4) Electronic reporting means the collection, submittal, and transfer of Unified Program data using electronic media.

(5) Electronic Data Transfer (EDT) means the electronic exchange of Unified Program data elements or documents as one or more submittal elements as defined in the

Unified Program Data Dictionary between UPAs and CalEPA. EDT is performed using Data Exchange Technical Specifications.

(6) A Data Exchange Technical Specification is a standardized format for exchanging Unified Program data between CERS and a local information management system or local reporting portal. The Data Exchange Technical Specifications for Unified Program electronic reporting involve Extensive Markup Language (XML) schemas that define how Unified Program data elements must be formatted or arranged to support XML-based electronic data exchange. Data Exchange Technical Specifications also include specifically formatted spreadsheets and other files for exchanging Unified Program data. CalEPA releases updated Data Exchange Technical Specifications after changes are approved to the Unified Program Data Dictionary.

(e) Enforcement Actions. There are two types of Unified Program enforcement actions:

(1) Formal Enforcement means a civil, criminal, or administrative action that mandates compliance, imposes sanctions, and results in an enforceable agreement or order. Enforceable agreement or order means the instrument creates an independent, affirmative obligation to comply and imposes sanctions for the prior failure to comply. Sanctions include fines and penalties as well as other tangible obligations, beyond returning to compliance, that are imposed upon the regulated business.

(2) Informal Enforcement means a notification to the regulated business of non-compliance and establishes an action and a date by which that non-compliance is to be corrected. Examples include a letter, notice of violation, or notice to comply. Informal Enforcement does not impose sanctions.

(f) Inspection Types. There are two types of Unified Program inspections, which for reporting purposes are mutually exclusive:

(1) Routine Inspection is a regularly scheduled inspection to evaluate compliance pursuant to one or more program elements.

(2) Other Inspection includes, but is not limited to, regulatory field activity such as re-inspections to verify compliance, complaint investigations, enforcement follow-up, closures, tank installation and/or removal oversight, tank cleaning, and release investigations. It does not include routine inspections or field or site visits whose principal purposes are informational or educational, pollution prevention education, verification of administrative information, or orientation of new owners or operators.

(g) Local Information Management System is a data management system, other than CERS, used by an UPA to collect, retain, and manage Unified Program data.

(h) Local Reporting Portal is a designated web site used by a CUPA to collect Unified Program data from regulated businesses within its jurisdiction for reporting to CERS.

(i) Participating Agency (PA) means a state or local agency that has a formal agreement with the CUPA to implement one or more a program elements as part of the Unified Program.

(j) Program Element or Unified Program Element means one of the six sets of requirements listed in Section 15100(a) or any other requirements incorporated pursuant to HSC chapter 6.11, Section 25404.2(d).

(k) Regulated Business means any of the following:

(1) "person" as defined in:

(A) the Hazardous Waste Management Program, HSC Section 25118;

(B) the California Hazardous Substances Tax Law, Revenue and Taxation Code part 22, division 2, Section 43006;

(C) the HMRRP Program, CCR, title 19, Section 2650;

(D) the CalARP Program, HSC Section 25532(m);

(E) the UST Program, HSC Section 25281(l); and

(F) the APSA Program, HSC chapter 6.67, Section 25270.2(g).

(2) "business" as defined in the HMRRP Program, HSC Section 25501(c).

(3) "facility" as defined in the UST Program, HSC Section 25281(f).

(4) "tank facility" as defined in the APSA Program, HSC Section 25270.2(n).

(5) "hazardous waste facility" as defined in the Hazardous Waste Management Program, HSC Section 25117.1.

(6) "stationary source" as defined in the CalARP Program, CCR, title 19, Section 2735.3(xx).

(l) Signed or signature for purposes of electronic submissions means any symbol, including a digital signature defined in Government Code Section 16.5, executed or adopted by a party with present intention to authenticate a writing.

(m) Surcharge means an element of the single fee assessed by the CUPA on each regulated business that covers the necessary and reasonable costs of the state agencies in carrying out their responsibilities pursuant to HSC Section 25404.5(b).

(n) Unified Program Agency (UPA) is a CUPA or PA that implements one or more Unified Program elements.

(o) Unified Program Consolidated Form (UPCF) is a standardized set of forms used before January 1, 2013, by CUPAs to collect Unified Program data from regulated businesses. The UPCF is a single, comprehensive format that consolidates business-to-CUPA reporting requirements within the Unified Program.

(p) Unified Program Data Dictionary (Data Dictionary) is the document maintained by the Secretary that defines CERS data elements, data field size and type, and edit criteria for regulatory data that shall be reported by businesses and collected, retained and managed by an UPA. The Data Dictionary is contained in Title 27, Division 3, Subdivision 1.

(1) Chapters 1-4 of the Data Dictionary pertain to information reported by regulated businesses to UPAs.

(2) Chapter 5 of the Data Dictionary pertains to CUPA-to-State reporting of CUPA activities or other information that shall be collected and retained by a CUPA and reported pursuant to Section 15290.

(q) Unified Program Facility Permit means those permits issued under the Unified Program. The permit may be a single permit or multiple permits in a single package which shall minimize duplicate information. It includes the UST permit, permit-by-rule, and any other permit or authorization requirements found under any local ordinance or requirement relating to the generation or handling of hazardous waste or materials. The Unified Program Facility Permit does not include the permitting requirements of a local ordinance that incorporates provisions of the California Fire or Building Code.

Authority cited: Sections 25404(b), 25404(c), 25404(d) and 25404(e), Health and Safety Code. Reference: Sections 25404(c), 25404(d), 25404.5(a) and 25532(k), Health and Safety Code; Section 43006, Revenue and Taxation Code; and the 1996 United States Environmental Protection Agency Enforcement Response Policy for the Resource Conservation and Recovery Act.

Article 3. Application Process

Section 15120. Certified Unified Program Agency Applicants.

(a) Counties must apply.

(b) Cities or other local agencies that qualify pursuant to HSC Section 25404.1(b)(2) may apply.

(c) A city that incorporates after January 1, 1996, may apply for certification as a CUPA pursuant HSC Section 25404.1(b)(2)(B) and Section 15130(b) of this title. Any request to the Secretary for approval to apply for certification shall be submitted within 180 days of incorporation.

(d) Two or more counties, cities or local agencies that propose to form a Joint Powers Agency (JPA) may apply on or before January 1, 1996.

(1) Cities or other local agencies that have formed or propose to form a JPA may apply if one of the following is true:

(A) A maximum of two member agencies of the JPA have not implemented the HMRRP Program or the UST Program prior to December 31, 1995, and at least one member agency has implemented the HMRRP Program or the UST Program prior to December 31, 1995; or

(B) The JPA has an agreement with the county to implement the Unified Program in the JPA's jurisdiction; or

(C) The county is a member agency of the JPA.

(e) Each county shall and each city or local agency within the county that qualifies pursuant to HSC Section 25404.1(b)(2) and chooses to apply, shall apply for certification on or before January 1, 1996.

(f) An applicant agency shall apply to the Secretary according to the provisions of Sections 15130, 15150, and 15160.

(g) Applications shall be valid if they meet the requirements of this article and one copy is mailed to: California Environmental Protection Agency, Unified Program, 1001 "I" Street, P.O. Box 2815, Sacramento, California 95812.

Authority cited: Sections 25404 and 25404.6(c), Health and Safety Code. Reference: Section 25404.1(b), Health and Safety Code.

Section 15130. Application Notices.

(a) A non-county agency, as defined in Section 15120(c) and (d), that intends to apply for certification as a CUPA shall file with the Secretary and the county within which the city or other local agency is located, a letter that expresses the applicant's intent to apply. This "intent to apply" letter shall be valid if mailed to: California Environmental Protection Agency, Unified Program, 1001 "I" Street, P.O. Box 2815, Sacramento, California 95812.

(b) Any request to the Secretary by a non-county agency for approval to apply for certification pursuant to HSC Section 25404.1(b)(2)(B) shall be submitted in writing.

(1) In its request, the applicant shall specify the date it received the county's agreement or the reasons for failing to enter into an agreement. Any relevant correspondence to or from the county shall be attached to the request.

(2) The Secretary shall respond within 45 days of receiving the request.

Authority cited: Sections 25204(b) and 25404.6(c), Health and Safety Code. Reference: Section 25404.1(b), Health and Safety Code.

Section 15140. Must proposed participating agencies enter into final agreements with the applicant agency before the application is submitted? [Repealed]

Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code.
References: Section 25404.3(d), Health and Safety Code.

Section 15150. Information Provided in an Application.

(a) Identify which agency will be the point of contact within the CUPA.

(1) An applicant agency shall designate only one administrative body, such as an internal department or office within a county or city, within that jurisdiction as the point of contact for Unified Program implementation.

(2) The governing body of the applicant agency may designate itself as the point of contact by not specifying any other.

(3) The applicant agency shall provide the name, address, phone number, e-mail and facsimile number of the contact (use Appendix A).

(b) The application for certification as a CUPA shall be signed by at least one elected or appointed official who is authorized to represent the jurisdiction.

(c) The application for certification shall include an Authorizations Section including a list and brief description of all ordinances and resolutions used in the Unified Program.

(1) If overlapping authority will arise pursuant to certification under this division, the applicant agency shall include in the application, a discussion of how jurisdictional authority will be managed to ensure that health and safety are maintained within the jurisdiction.

(2) Copies of all local UST Program ordinances required by HSC chapter 6.7 must be provided.

(d) The application for certification shall include an agreements Section including copies of all agreements or draft agreements between the applicant agency and any proposed PAs.

(1) The agreements Section shall include draft or final agreements between the applicant agency and all proposed PAs. Final copies of all agreements must be submitted to the Secretary prior to certification.

(A) If an applicant agency proposes that any agency other than itself implement any aspect of the single fee system, including the surcharge, the written agreement shall specify responsibilities of each agency. The written agreement shall:

(i) Identify responsibility for absorbing funds lost on non-payment of fees.

(ii) Identify under what conditions and authority fees will be waived.

(B) Include procedures for removing a PA required pursuant to 15180(e)(6).

(C) CUPAs may satisfy information collection, retention, and management requirements through agreements with PAs that serve as the repository of the information.

(e) The application for certification shall be constructed in Sections so as to meet the requirements and structure of Appendix A, including the following:

(1) A cover sheet. Use Appendix A and complete all appropriate information.

(2) For a county applicant, documentation that cities within the county either intend or do not intend to apply to be a CUPA. Documentation may take the form of a listing of all cities within the county with an indication of whether they intend to apply or not.

(3) A description of the geographic scope of the proposed Unified Program in the jurisdiction.

(4) The number of regulated businesses within the jurisdiction, for each program element. Use Appendix B, Table 1 to provide this information.

(5) The organizational structure of the proposed Unified Program in the jurisdiction.

(6) A Unified Program Implementation Plan that provides:

(A) A description or implementation timeline that addresses all phases from startup through full operation.

(B) Specific information required for the Secretary's evaluation of the application pursuant to Section 15170.

(C) For a transition from multiple billing statements and collection agencies within the Unified Program to a single billing statement and collection agency within the Unified Program, this shall:

(i) Provide for a transition period no longer than five years;

(ii) Provide for regulated businesses to receive a single billing statement annually that includes all recurring United Program activity fees;

(iii) Provide for regulated businesses to remit Unified Program fees with a single payment; and

(iv) Include provisions for instances of non-payment.

(7) Adequate information to determine that the applicant agency and any proposed PAs meet education, expertise and training requirements specified in Sections 15260 and 15270.

(A) Table 2 and Table 4 may be used to provide this information.

(B) If Table 2 and Table 4 are not used, the information required in the tables must be provided in some form.

(8) A certification that the administrative procedures of the proposed Unified Program will meet the requirements of Section 15180. Use Appendix B.

(9) A Unified Program Facility Permit Plan that meets the requirements of Section 15190.

(10) An Inspection and Enforcement Program Plan that meets the requirements of Section 15200.

(11) A Fee Accountability Program in compliance with Section 25404.5(c) of the HSC and with Sections 15210 and 15220 of this title.

(12) A Single Fee System Implementation Plan that meets the requirements of Section 15210.

(13) A budget and funding mechanism for the Unified Program that meets the requirements of Section 15170(a)(3), staff time allocations, and certification that adequate resources exist to carry out the Unified Program. Appendix B, Table 3 may be

used to provide information on staff time allocations. Appendix B will be used to certify adequate resources exist.

(14) A description of how the CUPA will fulfill reporting requirements and certification that it will meet requirements of article 6 of this title.

(15) A summary of program implementation history that shall include the following information. Appendix B, Table 2 may be used to provide this information.

(A) A list of the Unified Program elements that have been managed by the applicant agency and PAs for the past three years. This list shall include voluntarily consolidated programs.

(B) A summary of inspection and enforcement activities within the scope of the Unified Program, undertaken within the past three years, including the types and numbers of inspections conducted and enforcement actions handled.

(16) A description of recordkeeping and costs accounting systems.

(17) A description of the applicant agency's compliance with the criteria identified in the CCR, title 22, Section 66272.10 except subdivisions (b)(2) and (b)(3).

(18) A description of any additional programs incorporated into the Unified Program.

(19) An explanation of why the Secretary need not be concerned that certification of the applicant agency might lead to adverse impacts on the county.

(20) A description of how certification of the proposed Unified Program will lead to less fragmentation between jurisdictions within the county.

(f) The application for certification shall contain a Single Fee System Implementation Plan that provides for a transition from multiple billing statements and collection agencies within the Unified Program, to a single billing statement and collection agency within the Unified Program.

(1) The applicant agency shall implement the Single Fee System Implementation Plan upon certification.

(2) The applicant agency shall provide for public participation and review of the proposed Single Fee System Implementation Plan.

(3) A CUPA that has partially implemented the single fee system but requires an extension of the transition period may petition the Secretary for an exception of the five-year limit.

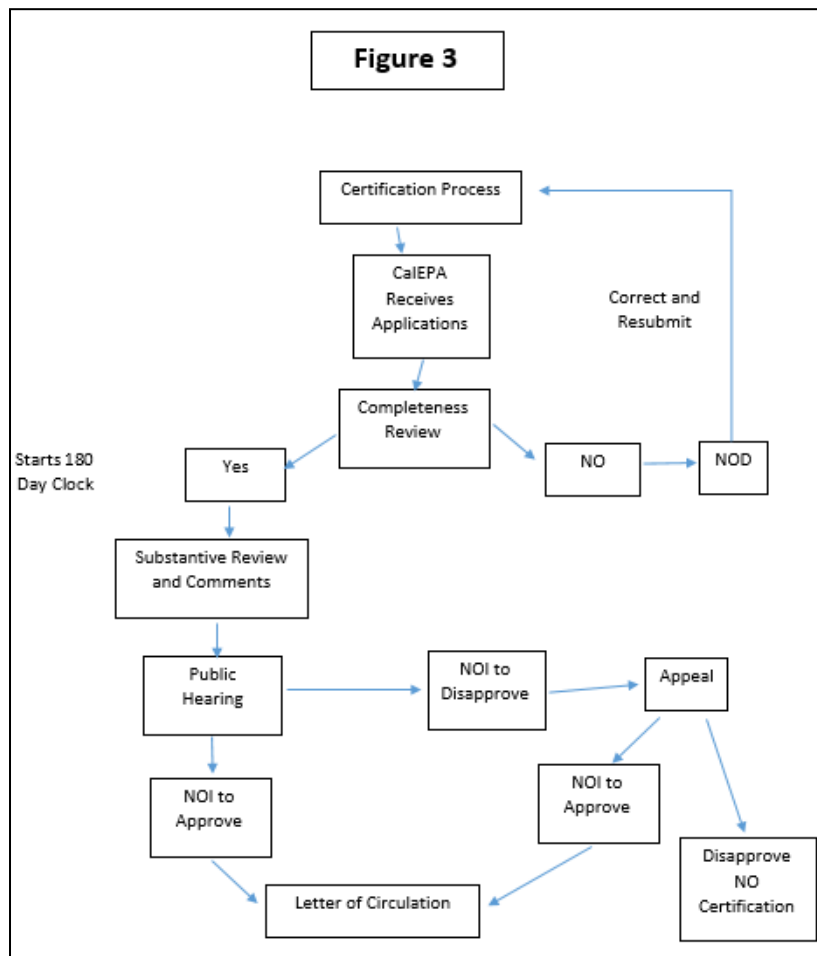
(A) The CUPA shall submit such petition at least one year prior to expiration of the five-year limit.

(B) The Secretary shall rule on such petitions within 180 days of receipt of the request for extension.

Authority cited: Sections 25404 and 25404.6(c), Health and Safety Code. Reference: Sections 25404.1(b), 25404.2, 25404.3(b), 25404.3(c), 25404.3(d) and 25404.5, Health and Safety Code.

Article 4. Certification Process and Responsibilities

Section 15160. Certification Process.



(a) Completeness review.

(1) Each application shall be reviewed to determine whether all required information has been provided. Such review shall be finished within 90 days of receipt of the application. Within the 90-day period:

(A) The Secretary shall send a notice of completeness to an applicant agency whose application has been determined to contain all necessary components; or

(B) The Secretary shall return an incomplete application to the applicant agency.

(i) The Secretary shall notify an applicant agency of an incomplete application by using a Notice of Deficiency (NOD).

(ii) In the NOD, the Secretary shall specify those provisions of the application that are not sufficient and the date by which the additional information is due.

(b) State agency review and recommendation.

(1) Applications that are found to be complete shall be reviewed pursuant to HSC Section 25404.3(b). In determining whether an applicant agency should be certified, the Secretary shall consider comments from the following or their designee:

Director of Department of Toxic Substances Control (DTSC);

Director of the Office of Emergency Services (Cal OES);

State Fire Marshal (SFM); and

Executive Director of the State Water Resources Control Board (State Water Board)

(2) Comments and recommendations to the Secretary shall be based on analysis of the application contents and consideration of the requirements of this division.

(c) Public hearing.

(1) The Secretary shall hold a public hearing regarding the application for certification.

(2) The Secretary may group public hearings for efficiency purposes.

(3) The Secretary shall consider comments received as part of the public hearing in the determination of whether an applicant should be certified.

(d) The Notice of Intent (NOI).

(1) The Secretary shall complete the review process and issue a NOI within 180 days of receipt of the complete application for certification.

(A) The Secretary shall issue a NOI to disapprove the application for certification if the Secretary finds the applicant agency should not be certified. The NOI to disapprove shall identify those areas of the Unified Program that are deficient.

(B) The Secretary shall issue a NOI to approve if the Secretary intends to approve an application for certification.

(2) During periodic review of the Unified Program, or review of an amended application, if the Secretary finds the Unified Program or the Unified Program implementation to be deficient, the Secretary shall issue a NOI to withdraw certification. The NOI shall identify those areas of the Unified Program that are deficient.

(e) Final Decision.

(1) The Secretary's final decision shall be issued in writing to the applicant agency within 30 days of issuing the NOI except as provided in Section 15160(f). The certification shall include the date upon which the CUPA's authority shall commence.

(2) For purposes of this division and the CCR, title 22, division 4.5, "certification" of a CUPA shall constitute "designation" pursuant to HSC Section 25180, of the responsible agency implementing chapter 6.5 of the HSC, pursuant to the CCR, title 22, Section 66272.10.

(f) Certification Decision Appeal Process.

(1) Within 30 days of receipt of a NOI to disapprove certification, the applicant agency may respond to the reasons specified and correct the deficiencies in its application.

(2) Within 30 days of receipt of a NOI to withdraw certification, the CUPA may respond to the reasons specified and correct the deficiencies in its Unified Program.

(3) In addition to its rights pursuant to (1) above, the applicant agency may request a second public hearing, at which time the Secretary shall hear the applicant agency's response to the reasons specified in the NOI to disapprove.

(4) The appeal process shall be completed within 60 days of receipt of the appeal.

(5) The Secretary's final decision on the certification decision appeal shall be issued in writing.

Authority cited: Sections 25404 and 25404.6(c), Health and Safety Code. Reference: Sections 25404(d), 25404.3 and 25404.4(a), Health and Safety Code.

Section 15170. Criteria the Secretary Will Use to Evaluate Applications.

(a) The Secretary will evaluate applications based on the following:

(1) Adequacy of education, expertise, and training as required by Sections 15260 and 15270.

(2) Adequacy of proposed resources including an analysis of:

(A) The number and type of regulated businesses within the jurisdiction;

(B) An estimate of the annual number of compliance and complaint inspections;

(C) The time allocation requirements of local agency staff shall be computed on a full-time equivalent basis, not to exceed 1776 work hours per year per person, for the following:

(i) Inspections and the related travel, research, analysis of findings, and documentation;

(ii) Inspection and enforcement activities including warnings, notices, meetings, hearings, legal proceedings, and documentation;

(iii) Permit activities including application reviews, modifications and revisions, and facility evaluations;

(iv) Training including field, meetings, seminars, workshops, courses and literature reviews; and

(v) Management including day-to-day operation scheduling and supervision.

(vi) Technical staff or contractors to support Unified Program electronic reporting mandates.

(D) An estimate of required staff and supervisory personnel to manage the single fee system, surcharge and fee accountability system;

(E) The number of support staff, both technical and non-technical, for all program elements; and

(F) Description of contacts, working relationship with local prosecution and law enforcement agencies (i.e., district attorneys, strike force memberships, etc.).

(3) Proposed budget resources and funding mechanisms. The applicant agency shall include as part of the application, a summary of projected annual funding and expenses for the entire local Unified Program. Adequacy of budget resources and funding

mechanisms shall be calculated as the ratio of funding to expenses, a value of one being the standard for most adequate.

(4) Past performance of the applicant agency and its proposed PAs in implementing hazardous materials and hazardous waste management programs.

(5) Record keeping and cost accounting systems proposed for the Unified Program, including:

(A) Elements required by the Secretary pursuant to HSC Section 25404(c);

(B) A method for calculating program costs;

(C) Permit fee structure;

(D) Fee collection process; and

(E) Data management.

(6) Compliance with the criteria in CCR, title 22, Section 66272.10, except for the requirement of paragraph (2) of subdivision (b) of that Section related to countywide jurisdiction and paragraph (3) of subdivision (b) of that Section related to hazardous waste facilities.

(7) Additional programs, including but not limited to programs such as hazardous waste source reduction and pollution prevention programs, incorporated in the Unified Program.

(8) Identified adverse impacts on the county. The Secretary will give particular consideration to written comments or comments received during the public hearing.

(9) The Unified Program throughout the entire county in which the applicant agency is located will be less fragmented between jurisdictions, as compared to before January 1, 1994, with regard to the administration of the provisions specified in HSC Section 25404(c). The Secretary shall consider, but shall not be limited to, the following measures of fragmentation. The applicant agency shall justify its certification with respect to these measures in the implementation plan required pursuant to CCR, title 27, Section 15150(e)(6).

(A) The number of agencies managing the six Unified Program elements listed in HSC Section 25404(c) within the county prior to January 1, 1994, and the number of agencies managing those program elements as proposed by the applicant agency.

(B) The number of agencies a regulated business had to work with for the Unified Program elements prior to January 1, 1994, and the number of agencies a regulated business will have to work with as proposed by the applicant agency.

(10) Countywide coordination and consistency. The Secretary shall consider, but not be limited to the following:

(A) Agreements among the county, city, and local agency applicants indicating consistency with a countywide Unified Program.

(11) The Secretary shall not certify an applicant agency that proposes to include PAs in the Unified Program, unless there is a finding that:

(A) It meets the requirements of HSC Section 25404.3(d)(1).

(B) The proposed PAs have met the education, training and experience requirements identified in Sections 15260 and 15270, and have adequate resources to implement the program element(s) that the applicant agency has proposed it will take on.

(C) All necessary agreements are in place, pursuant to HSC Section 25404.3(d)(3).

(12) The requirements of Sections 15160(b) and 15160(c).

(13) The implementation plan for the consolidation of permits, inspections, enforcement, and fees.

(14) Documentation of authority to implement program elements.

(15) If the program will be fully operational no later than one year after certification.

Authority cited: Sections 25404(b), 25404.2(c), 25404.3(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25404.2(a), 25404.2(c), 25404.3(b), 25404.3(c) and 25404.3(d), Health and Safety Code.

Part II. Operations

SubChapter Ghost Header for Outline ADA compliance

Article 5. Implementation and Maintenance of the Unified Program

Section 15180. Maintenance of Certification and Administration.

(a) A CUPA shall implement the Unified Program consistent with the implementation plan submitted in compliance with Section 15150(e)(6) and these regulations.

(b) A CUPA shall maintain certification through the administration of the Unified Program in compliance with these regulations.

(c) Any agency designated by the Secretary as the CUPA pursuant to HSC Section 25404.3(f)(2) must comply with the requirements in these regulations.

(d) Any local agency authorized to continue its role, responsibilities, and authority pursuant to HSC Sections 25404.3(f)(2) or 25533(f) shall comply with the requirements in the regulations placed on CUPAs with the exception of articles 3, 4, and 7, Sections 15210, 15220, 15240, 15250, and 15260.

(e) The CUPA shall establish and implement the following Unified Program administrative procedures.

(1) Public participation procedures that:

(A) Ensure receipt and consideration of comments from regulated businesses and the public.

(B) Coordinate, consolidate, and make consistent locally required public hearings related to any Unified Program element.

(C) Coordinate, consolidate, and make consistent public notices for activities related to any Unified Program element.

(2) Records maintenance procedures that include:

- (A) Identification of the records maintained.
 - (B) Minimum retention times.
 - (C) Archive procedures.
 - (D) Proper disposal methods.
- (3) Procedures for responding to requests for information from the public, from government agencies with a legal right to access the information, or from emergency responders, including methods to prevent the release of confidential and trade secret information.
- (4) Procedures for providing HMRRP information to emergency response personnel and other appropriate government entities in accordance with HSC Section 25504(c).
- (5) Financial management procedures that include:
- (A) A single fee system in compliance with Section 15210;
 - (B) A fee accountability program in compliance with Section 15220; and
 - (C) A surcharge collection and reimbursement program in compliance with Section 15250.
- (6) Procedures for the withdrawal or removal of a PA that include:
- (A) Providing notice;
 - (B) Stating causes;
 - (C) Taking public comment;
 - (D) Making appeals; and
 - (E) Resolving disputes.
- (7) Data management procedures that include:
- (A) The collection, retention, and management of electronic data and documents in compliance with Section 15185;
 - (B) The transfer and exchange of electronic data through an applicable local information management system or local reporting portal in compliance with 15187; and

(C) The reporting of electronic data in compliance with Section 15290.

Authority cited: Sections 25404(b), 25404(e) and 25404.6, Health and Safety Code.
Reference: Sections 25103, 25404(a), 25404(c), 25404.3(d), 25404.4(a)(1), 25404.5, 25500, 25506 and 25534.5, Health and Safety Code; and Section 6253 et seq., Government Code.

Section 15185. Information Collection, Retention, and Management.

(a) CUPAs shall collect, retain, and manage information needed to implement the Unified Program, including these regulations and all data specified in the Data Dictionary. Data Dictionary data and documents retained in CERS do not need to be also retained locally unless otherwise required by local rule or ordinance.

(b) A CUPA shall retain the following information for a minimum of five years:

(1) Copies of self-audits, inspection reports, enforcement files, and UPCFs.

(2) All records related to hazardous waste enforcement actions from the date the enforcement action is resolved.

(3) Detailed records used to produce the summary reports submitted to the state.

(4) Surcharge billing and collection records following closure of any billing period, or until completion of any audit process, whichever is longer.

(5) Training records required by Section 15260 of this chapter and any other required training records specific to each program element.

(c) The Data Dictionary data elements and submittal elements must be used for electronic reporting by businesses to a CUPA pursuant to this Section or by a CUPA to the state pursuant to this Section. The CUPA is not required to store or maintain the data in the Data Dictionary format, but must be able to electronically submit the data to CalEPA in the Data Dictionary format using the Data Exchange Technical Specifications provided by CalEPA.

(d) The CUPA shall process all submittal elements from regulated businesses within their jurisdiction that include the relevant data elements as specified in the Data Dictionary.

(e) The CUPA may collect locally required supplemental information.

(1) CUPAs are prohibited from requesting duplicative information if the information is included in the Data Dictionary.

(2) Locally required information must be adopted by local ordinance.

(3) A description of locally required supplemental information requirements must be reported to CalEPA for inclusion in CERS.

(f) A CUPA shall provide access to information in accordance with Section 15100(b)(2)(B)(i)(c).

(g) The Secretary may establish and maintain standard descriptions for chemical inventory reporting of common chemical products in the Data Dictionary. The UPA shall accept the standard descriptions for inventory reporting.

Authority cited: Sections 25404(b), 25404(c), 25404(d), 25404(e) and 25404.6(c), Health and Safety Code. Reference: Sections 25143.10, 25144.6, 25200.3, 25201, 25201.4.1, 25201.5, 25201.13, 25201.14, 25281.2, 25218.9, 25286, 25287, 25505, 25506 and 25509, Health and Safety Code.

Section 15186. Unified Program Data Standards.

(a) The Secretary shall establish and maintain a Data Dictionary, located at title 27, division 3, subdivision 1, that lists, organizes, and describes the data to be collected and submitted by CUPAs in administering the programs listed in HSC chapter 6.11. It shall contain:

(1) a listing of the data elements and the submittal elements reported by a regulated business to a CUPA.

(2) a listing of the data elements a CUPA reports to the state.

(3) a listing of the data elements required for electronic data exchange.

(b) The Secretary shall periodically review and amend, if necessary, the Data Dictionary in accordance with the Administrative Procedure Act.

(c) The state agency with assigned program responsibility shall identify and specify Data Dictionary submittal options for data that cannot be divided into discrete data elements.

(d) If a Unified Program reporting requirement is created by new statute or regulation that is not covered by the Data Dictionary as defined in subdivision (a), the state agency with assigned program responsibility, in consultation with the Secretary, may develop and maintain a standard form that requires the statutory or regulatory information in a format that can be electronically uploaded to CERS, a local information management system, or a local reporting portal until such time that the new reporting requirement is

integrated into the Data Dictionary, CERS, local information management systems, and local reporting portals.

Authority cited: Sections 25404(b), 25404(c), 25404(d), 25404(e) and 25404.6(c), Health and Safety Code. Reference: Section 25505, Health and Safety Code.

Section 15186.1. Standard Descriptions for Chemical Inventory Reporting.

(a) A handler shall report lead acid batteries as part of a chemical inventory submission using the standard descriptions and values contained in the CERS Chemical Library (template CCL-106669) as follows:

- (1) Data element 205, Chemical Name, is "Lead Acid Batteries".
- (2) Data element 206, Trade Secret, is "No".
- (3) Data element 207, Common Name, is "Lead Acid Batteries".
- (4) Data element 208, EHS, shall be left blank.
- (5) Data element 209, CAS#, shall be left blank.
- (6) Data element 210, Fire Code Hazard Classes, is "Corrosive".
- (7) Data element 211, Hazardous Material Type, is "Mixture".
- (8) Data element 212, Radioactive, is "No".
- (9) Data element 214, Physical State, is "Liquid".
- (10) Data element 215, Largest Container, shall be reported as gallons of electrolyte.
- (11) Data element 216, Fed Hazard Categories, is data element 216d, "Acute Health" and data element 216e, "Chronic Health".
- (12) Data element 217, Average Daily Amount, shall be reported as gallons of electrolyte.
- (13) Data element 218, Maximum Daily Amount, shall be reported as gallons of electrolyte.
- (14) Data element 221, Units, is "Gallons".
- (15) Data element 223, Storage Container, is data element 223r, "Other".

- (16) Data element 224, Storage Pressure, is “Ambient”.
- (17) Data element 225, Storage Temperature, is “Ambient”.
- (18) Data element 226, Hazardous Component 1 Percent by Weight, is “40”.
- (19) Data element 227, Hazardous Component 1 Name, is “Sulfuric Acid”.
- (20) Data element 228, Hazardous Component 1 EHS, is “Yes”.
- (21) Data element 229, Hazardous Component 1 CAS #, is “7664-93-9”.

(b) A handler shall report lead acid battery waste as part of a chemical inventory submission using the standard descriptions and values contained in the CERS Chemical Library (template CCL-106669) as follows:

- (1) Data element 211, Hazardous Material Type, is “Waste.”
- (2) Data element fields 226-245, Hazardous Component, shall be modified as applicable, based on the actual type and components of the waste.

Authority cited: Sections 25404(b), 25404(c), 25404(d), 25404(e) and 25404.6(c), Health and Safety Code. Reference: Section 25404, Health and Safety Code.

Section 15187. Local Information Management Systems Electronic Reporting.

(a) A CUPA may establish and implement a local reporting portal that can receive electronic data from regulated businesses within their own jurisdiction.

(1) A CUPA that establishes and implements a local reporting portal is required to process all Unified Program data elements and submittal elements submitted by any regulated businesses in its jurisdiction.

(2) A CUPA's local reporting portal shall be able to transfer or exchange electronic data submitted by regulated businesses to CERS using the Data Exchange Technical Specifications provided by CalEPA.

(b) A regulated business shall use CERS to meet regulatory reporting requirements. However, if a CUPA has a local reporting portal approved by CalEPA, then a regulated business may use the local reporting portal to meet regulatory reporting requirements.

(c) If not otherwise manually entered into CERS, a CUPA's local information management system shall be able to transfer inspection, violation, and enforcement information to CERS, using the data elements in the Data Dictionary and the data exchange technical specifications provided by CalEPA.

(d) Locally required supplemental information collected, if any, and the applicable local code citations shall be included in both the local information management system or local reporting portal and CERS.

(e) PAs shall not have a local reporting portal unless provided by the CUPA for use by all regulated businesses to meet all Unified Program reporting requirements throughout the CUPA's jurisdiction.

Authority cited: Sections 25404(b), 25404(c), 25404(d), 25404(e) and 25404.6(c), Health and Safety Code. Reference: Sections 25503(a), 25505 and 25509, Health and Safety Code.

Section 15187.1. What are the requirements for use of electronic signatures with electronic submittals of Unified Program information? [Repealed]

Authority cited: Section 25404(e), Health & Safety Code, Sections 71061 and 71066, Public Resources Code; and Section 16.5(c), Government Code. References: Sections 71060 et seq., Public Resources Code, Section 16.5, Government Code, ABA, Section of Science and Technology, Digital Signature Guidelines, Legal Infrastructure for Certification Authorities and Secure Electronic Commerce, August 1, 1996, Sections 2B-113, 2B-115, 2B-118 of the Proposed Uniform Commercial Code, Section 250 of the California Evidence Code, and Section 1001(a) of the Federal Rules of Evidence.

Section 15188. Reporting Requirements Business Responsibilities.

(a) Regulated businesses are required to meet the reporting requirements of any applicable Unified Program element.

(b) Regulated businesses shall report required data applicable to their business to the UPA by electronic submission of the data elements described in the Data Dictionary.

(c) The business shall verify the accuracy of the data and documents submitted.

(d) Regulated businesses shall comply with the established reporting timeframes (HSC, division 20, chapter 6.95, Sections 25504, 25507, 25507.2, 25508, 25508.2 and 25512, effective January 1, 2014) or events (HSC, division 20, chapter 6.95, Section 25508.1, effective January 1, 2014) that trigger the requirements for businesses to submit information required as a part of the Data Dictionary. An UPA may establish other specific dates for submission of information consistent with state and federal law.

(e) If a business believes a chemical or mixture reported in a Hazardous Material Business Plan CERS submittal to be trade secret, the business shall complete and include the Trade Secret Disclosure form (Appendix C) with the Hazardous Material Business Plan CERS submittal. The Trade Secret Disclosure (TSD) form must be

completed, signed and uploaded in CERS for each chemical or mixture claimed to be trade secret at the time of submitting the Hazardous Material Business Plan CERS submittal.

(1) For purposes of this subdivision, trade secret is defined in HSC Sections 25512(a) and (b), Cal. Gov. Code Section 6254.7(d), Evidence Code Section 1061(a)(1) and Cal. Civil Code Section 3426.1(d).

(2) The TSD form shall provide the following information:

(A) Chemical or common name(s) of the chemical or mixture believed to be trade secret.

(B) Whether the chemical or mixture is part of any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information that is believed to be trade secret.

(C) Whether any information about the chemical or mixture is part of a patent. If so, an explanation as to why the chemical or mixture is still believed to be trade secret.

(D) Whether the chemical or mixture is known only to certain individuals with a commercial concern who are using it to fabricate, produce, or compound an article of trade.

(E) Whether and how the chemical or mixture derives independent economic value, commercial value, or a business advantage, actual or potential, in the process it is used. If not, an explanation as to why the chemical or mixture is still believed to be trade secret.

(F) Whether the chemical or mixture is generally known to the public or to other persons who can obtain economic value from its disclosure or use. If so, an explanation as to why the chemical or mixture is still believed to be trade secret.

(G) An explanation of how the business is making reasonable efforts to maintain the secrecy of the chemical or mixture.

(3) For reporting trade secret information relating to the UST Program, refer to CCR, title 23, Section 2714.

(4) For reporting trade secret information relating to the CalARP Program and submittal of information in a risk management plan by a stationary source, refer to HSC chapter 6.95, Section 25538.

(5) For reporting trade secret information relating to methods of hazardous waste handling and disposal as described in HSC, chapter 6.5, Section 25173, refer to HSC chapter 6.8, Section 25358.2.

(f) Other documents may also be required by federal and state statutes and regulations or by local ordinance.

Authority cited: Sections 25404(b), 25404(c), 25404(d), 25404(e) and 25404.6(c), Health and Safety Code. Reference: Sections 3426.1(d)(1) and 3426.1(d)(2), Civil Code; Section 2714, Cal. Code of Regs.; Section 6254.7(d), Government Code; Section 1061(a)(1), Evidence Code; and Sections 25173, 25358.2, 25505, 25512(a), 25512(b) and 25538, Health and Safety Code.

Section 15189. Digital Signatures. [Repealed]

Authority cited: Section 25404(e), Health and Safety Code; Sections 71061 and 71066, Public Resources Code; and Section 16.5(c), Government Code. References: Sections 71060 et seq., Public Resources Code; Section 16.5, Government Code; ABA, Section of Science and Technology, Digital Signature Guidelines, Legal Infrastructure for Certification Authorities and Secure Electronic Commerce, August 1, 1996, Sections 2B-113, 2B-115, 2B-118 of the Proposed Uniform Commercial Code; Section 250, Evidence Code; and Section 1001(a) of the Federal Rules of Evidence.

Section 15190. Permitting.

(a) The UPA shall issue a Unified Program facility permit in accordance with these regulations.

(b) The CUPA shall consolidate the permits issued under the Unified Program utilizing the Unified Program facility permit.

(1) The UPA shall provide to regulated businesses Unified Program facility permit instructions for the specific requirements that are applicable to regulated businesses.

(2) The UPA shall use CERS, a local information management system, or a local reporting portal to manage permit information.

(3) Additional locally required supplemental information must follow Section 15185(e).

(c) The CUPA shall provide for a single point of local contact for permit applicants. The program shall provide for a coordinated and consolidated permit process that provides regulated businesses a single point of local contact for obtaining information on, the requirements for, and the application process for the Unified Program facility permit.

(d) The CUPA, in cooperation with the PAs, shall ensure timely decisions regarding Unified Program facility permits, including:

- (1) Time lines and time limits of appeal processes;
- (2) Provisions for preliminary check for application completeness;
- (3) Provisions for technical review of permit applications by the responsible agency;
- (4) A procedure for tracking permit applications, establishing follow-up protocol, and facilitating expeditious processing, when necessary.

(e) The CUPA shall identify and utilize efficient methods of transmitting the permit.

(f) The CUPA shall establish a permit cycle.

(g) The CUPA shall evaluate the coordination, consolidation and consistency of the Unified Program facility permit process.

(1) Information obtained through the permit evaluation process shall be considered and used in modifying the Unified Program facility permit when appropriate.

(h) The Unified Program facility permit shall include:

(1) The applicable program element(s) and authorizations that make up the Unified Program facility permit;

(2) The agency responsible for issuing the Unified Program facility permit;

(3) The permitted facility by business name and address;

(4) The permit issuance date;

(5) The permit expiration date; and

(6) An addendum used to document permit conditions for each applicable element of the Unified Program.

(i) The CUPA shall address any coordination, consolidation, or consistency issues not specifically addressed above.

Authority cited: Sections 25404 and 25404.6(c), Health and Safety Code. Reference: Sections 25404.2(a)(1), 25404.2(a)(2) and 25299.6, Health and Safety Code; and Section 8670.36.5, Government Code.

Section 15200. Inspection and Enforcement.

(a) The CUPA shall develop a written plan to implement an inspection and enforcement program. The Inspection and Enforcement Program Plan shall be developed and implemented in cooperation with all PAs of the jurisdiction. The plan shall include:

(1) Provisions for administering all program elements.

(2) The following types of inspections shall be conducted according to the standards contained in statute and regulation:

(A) Hazardous waste generator inspections [refer to HSC, Sections 25150, 25159; CCR, tit. 22, div. 4.5, ch. 12];

(B) Inspection of Onsite Hazardous Waste Treatment activities under the CE, CA, and PBR tiers of Tiered Permitting [refer to HSC Sections 25200.3, 25201.5; CCR, tit. 22, div. 4.5, ch. 45];

(C) UST Program inspections [refer to HSC Section 25288; CCR, tit. 23, div. 3, ch. 16, § 2712 et seq.];

(D) HMRRP Program inspections [refer to HSC Section 25500 et seq.];

(E) CalARP Program inspections [refer to HSC Section 25533 et seq.];

(F) APSA Program inspections [refer to HSC Section 25270.5 et seq.]; and

(G) Other inspections that may be consolidated pursuant to HSC Section 25404.2(a)(4).

(3) A schedule of the inspection frequencies to be conducted that shall, at a minimum, meet the inspection frequencies mandated in statutes, as shown in Figure 1.

Figure 1 MANDATED INSPECTION FREQUENCIES

Program Element	Inspection Frequency	Statutory Reference
Hazardous Waste Generator Program	No Mandated Frequency	No Value Indicated

Program Element	Inspection Frequency	Statutory Reference
Onsite Hazardous Waste Treatment Activities-PBR, CA and CE	Initial Inspection within two years of notification and every three years thereafter	HSC section 25201.4(b)
UST Program	At least once every year	HSC section 25288(a)
HMRRP and Inventories Program	At least once every three years	HSC section 25511(b)
CalARP Program	At least once every three years	HSC section 25537
APSA Program	At least once every three years for tank facilities with 10,000 gallons or more of petroleum	HSC section 25270.5(a)

(A) If there is no mandated inspection frequency, the CUPA shall establish an inspection frequency considering the following: local zoning requirements, population density, local ground water conditions, identified hazards of a type of business, quantity and types of hazardous materials and hazardous waste, emergency response capability, compliance history, and any other pertinent local issues.

(4) Coordination of inspection efforts between the CUPA and its PAs.

(5) Enforcement notification procedures that ensure:

(A) Appropriate confidentiality; and

(B) Coordination and timely notification of appropriate prosecuting agency(s).

(6) Identification of all available enforcement options.

(7) Uniform and coordinated application of enforcement standards.

(8) Identification of penalties and enforcement actions that are consistent and predictable for similar violations and no less stringent than state statute and regulations.

(9) A description of the graduated series of enforcement actions the UPA shall initiate based on the severity of the violation.

(10) Provisions for multi-media enforcement.

(11) A description of how the CUPA minimizes or eliminates duplication, inconsistencies, and lack of coordination within the inspection and enforcement program.

(12) Procedures for coordinating enforcement efforts between the CUPA and its PAs.

(13) Procedures for addressing complaints, including but not limited to the receipt, investigation, enforcement, and closure of a complaint.

(14) Provisions for ensuring the CUPA has sampling capability and ensuring the analysis of any material shall be performed by a state certified laboratory pursuant to HSC, chapter 6.5, Section 25198.

(b) The CUPA shall review the Inspection and Enforcement Program Plan annually and revise it as necessary.

(1) The CUPA shall consult and reach consensus with the PA prior to any changes that affect program elements for which the PA is responsible.

(c) The CUPA shall participate in a multi-media enforcement approach to the unified inspection and enforcement program in order to promote the effective detection, abatement and deterrence of violations affecting more than one environmental medium or regulatory scheme.

(d) In addition to the mandatory elements of HSC division 20, chapter 6.5, the CUPA may integrate optional waste reduction and pollution prevention programs into the unified inspection and enforcement program.

(e) CUPAs are responsible for initiating enforcement actions when appropriate, but may also refer enforcement cases to the appropriate state or federal agency for their consideration.

(f) These regulations shall not limit the authority of any state agency to investigate alleged violations of state law. These regulations shall not limit appropriate state agencies from taking any other actions that are mandated, allowed, or authorized pursuant to state law.

Authority cited: Sections 25404, 25404.2 and 25404.6(c), Health and Safety Code; and Section 6254(f), Government Code. Reference: Sections 25404(c), 25404(d), 25404.2, 25404.2(a), 25404.2(c), 25404.4(b)(3), 25150, 25159, 25179.4, 25200.3, 25201.5, 25288, 25500 and 25533, Health and Safety Code; and Section 6254(f), Government Code.

Section 15210. Single Fee System.

(a) Each CUPA shall implement a single fee system within its jurisdiction. The single fee system will do the following:

(1) Consolidates all fees currently mandated in statute and regulation used for local implementation of the Unified Program.

(2) Consolidate any other fees levied by a local agency specifically to fund their implementation of the programs specified in HSC Section 25404(c).

(b) The single fee system may be used to charge fees for programs that are not listed as Unified Program elements in HSC Section 25404.5(c), if those programs are incorporated into the Unified Program.

(c) The single fee system may reflect variations in cost to implement and maintain programs for different regulated businesses.

(1) Fee schedules shall be based on factors associated with the cost of implementing and maintaining programs.

(2) Fees may differ from one jurisdiction to the next, based on the necessary and reasonable costs to implement the Unified Program.

(3) The fee schedule may be adjusted by the CUPA to reflect changes in reasonable and necessary costs.

(d) Provided the single fee system meets the minimum requirements of the law, an UPA has the authority to determine the level of service it will provide and to set its fees to fund the necessary and reasonable costs of its program.

(e) Each PA shall notify the CUPA of its program costs.

(f) The CUPA shall ensure that all funds collected on behalf of the PA are forwarded to the PA.

(1) The CUPA shall pay the PA within 45 days of receiving fees designated for the PA unless the PA and CUPA agree in writing to an alternate schedule.

- (g) Each billing statement shall itemize the fees by program element, if those fee elements are calculated separately.
- (h) Fees for non-recurring activities of the UPA such as, but not limited to, the fee for an initial permit or special inspection, may be billed separately from the single fee billing.
- (i) The governing body of the CUPA shall establish the fee schedule for businesses regulated under the Unified Program. The governing body of the CUPA shall utilize the fee schedules established by the PAs and authorize the collection of those fees.
- (j) The UPA shall make fee schedules available to interested parties upon request.
- (k) The CUPA shall prepare and implement a plan to resolve fee disputes that arise between the CUPA and PAs, between a regulated business and either the PA or the CUPA, or between a regulated business and the state regarding the state surcharge.
- (1) The CUPA shall attempt to resolve disputes involving the surcharge in the same manner used to resolve local fee disputes. Those disputes regarding the state surcharge that cannot be resolved locally may be referred to the Secretary for resolution.
- (A) Disputes referred to the Secretary shall be in writing and shall include a recommendation for resolution.
- (I) The single fee system shall include mechanisms for the billing, collection, and transmittal of the state surcharge.
- (1) The CUPA may show the state surcharge as a separate item or items within the single fee billing.

Authority cited: Sections 25404, 25404(b), 25404.5, 25404.5(b), 25404.5(c) and 25404.6(c), Health and Safety Code. Reference: Sections 25404.1(a)(1), 25404.4 and 25404.5, Health and Safety Code.

Section 15220. Fee Accountability Program.

- (a) Each CUPA shall implement a fee accountability program designed to encourage efficient and cost-effective operation of the program for which the single fee and surcharge are assessed.
- (1) The fee accountability program shall be instituted before the single fee system. The fee accountability program shall include at a minimum the following elements:

- (A) Accounting for: the fee schedule, the actual amount billed, and the revenue collected.
 - (B) Discrete billable services, categorized as either site specific or general.
 - (C) Staff work hours required to implement the program.
 - (D) Direct program expenses including durable and disposable equipment.
 - (E) Indirect program expenses including overhead for facilities and administrative functions.
 - (F) The number of regulated businesses in each program element within the jurisdiction.
 - (G) Total number of regulated businesses in the jurisdiction.
 - (H) Quantity and range of services provided, including frequency of inspection.
- (2) The CUPA and PAs shall annually review and update the fee accountability program.

Authority cited: Sections 25404, 25404(b), 25404.5, 25404.5(b) and (c) and 25404.6(c), Health and Safety Code. Reference: Sections 25404.1(a)(1), 25404.4 and 25404.5, Health and Safety Code.

15230. What are a participating agency's responsibilities within the Single Fee System?
[Repealed]

Section 15240. State's Surcharge Responsibilities.

- (a) The Secretary shall determine the annual surcharge based on the assumptions, calculations, and supporting data that justify the reasonable and necessary costs of CUPA oversight and program element management by state agencies with responsibilities under the Unified Program.
- (1) The Secretary shall determine the amount of each surcharge component based upon information received from each state agency responsible for activities under HSC division 20, chapter 6.11.
- (2) Each state agency responsible for activities under HSC division 20, chapter 6.11 shall submit to the Secretary, on a date specified by the Secretary, its projected reasonable and necessary costs, including the detailed supporting information to carry out responsibilities under HSC division 20, chapter 6.11.

(3) Reasonable and necessary costs shall include but are not limited to, the costs of bad debts, and uncollected fees.

(b) The Secretary shall review annually, and revise if necessary, the state surcharge to be assessed on regulated businesses. The state surcharge shall not be revised more than once per fiscal year.

(c) The Secretary shall determine the amount of state surcharge to be assessed on each person regulated by the Unified Program in order to cover the necessary and reasonable costs of the state agencies in carrying out their responsibilities under HSC division 20, chapter 6.11, pursuant to HSC Section 25404.5(b)(1). The state surcharge consists of the following components:

(1) A component for oversight of each CUPA assessed on all regulated businesses.

(2) A component assessed on regulated businesses for each UST that meets the criteria of HSC Section 25281(y)(1).

(3) A component assessed on regulated businesses under HSC Section 25531 et seq., for the CalARP Program.

(A) The CalARP Program surcharge component is assessed on a regulated business within a CUPA's jurisdiction, regardless of the business's number of stationary sources.

(B) A regulated business is not required to pay the CalARP Program surcharge component at a stationary source if a CUPA makes a determination that there is not a significant likelihood of a regulated substances accident risk and does not require the preparation and submission of a risk management plan at that stationary source operated by that business in the CUPA's jurisdiction, pursuant to HSC Section 25534.

(C) The CalARP Program surcharge component waiver is effective starting in the following fiscal year after the determination is made by the CUPA. If subsequent changes lead to a redetermination and a requirement by the CUPA for the regulated business to prepare and submit any risk management plan at any of the business's stationary source(s), then the CalARP Program surcharge component will be assessed beginning in the following fiscal year.

(4) A component assessed on regulated businesses under HSC Section 25270 et seq., for the APSA Program.

(5) A component assessed on petroleum refineries, as defined in CCR, title 19, Section 2735.3(vv) for refinery safety.

(d) The Secretary shall publish the amendments to the state surcharge in the California Regulatory Notice Register and accept comments on the proposed surcharge for 30 days.

(e) Following the 30-day comment period required in subdivision (d) for this Section, the Secretary will publish the final surcharge in the California Regulatory Notice Register.

(f) Sixty days following the publishing of the final surcharge in the California Regulatory Notice Register, the CUPAs shall be responsible for collecting the new surcharge as part of their single fee system.

Authority cited: Sections 25404(b), 25404(d), 25404.6(c) and 25531.2, Health and Safety Code. Reference: Sections 25404.5(b), 25404.5(d) and 25534, Health and Safety Code.

Section 15241. Establishing the Single Fee for Designated State Agencies.

(a) The Secretary shall determine the Unified Program single fee for any state agency designated to act as the CUPA pursuant to Sections 25404.3 and 25404.5, subdivision (a)(2)(B) of the HSC, based on data that sets forth the necessary and reasonable costs of CUPA implementation by that state agency, according to the methodology described in subdivision (c).

(b) Each state agency designated to administer the Unified Program shall provide the Secretary with the information necessary to determine the amount of the single fee. Each designated agency shall annually submit to the Secretary, on a date specified by the Secretary, the amount of necessary and reasonable costs to carry out its responsibilities as the designated agency, including the supporting information requested by the Secretary. Necessary and reasonable costs shall include, but not be limited to, the costs of bad debts and uncollected fees.

(c) The Secretary or the designated agency shall assess an annual fee on regulated businesses that is sufficient to recover the designated agency's net costs. The annual fee shall consist of a program element fee, levied on each program element to which a regulated business is subject within the CUPA's jurisdiction during the reporting period or any portion thereof, and a flat fee, levied equally on each regulated business within the CUPA's jurisdiction during the reporting period or any portion thereof. The initial reporting period is July 1, 2005, through June 30, 2006.

(1) The program element fee shall be calculated for each business by multiplying a base rate by an hourly fee for each program element to which a business is subject. If a business is subject to multiple program elements, all program element fees to which it is subject shall be added to determine its total program element fee.

(A) Program element fee categories include APSA, UST, CalARP, Refinery Safety, HMRRP, hazardous waste generator, hazardous waste recycler, and tiered permit. In determining the base rate, the Secretary may divide tanks and generators into categories of large, medium, and small, and divide tiered permits into categories of PBR, CA and CE. Businesses with multiple tiered permit operations at the same site will be subject to the tiered permit program element fee for only one such operation per site, which shall be for the operation that is subject to the highest fee.

(B) Businesses that have filed documents required for permanent tank closure with the designated agency or its predecessor, and have discontinued storage of hazardous substances within the tank, shall not be subject to the program element fee beginning with the reporting period after such documents have been filed, but shall be subject to cost recovery pursuant to subdivision (j).

(2) The flat fee shall be calculated for each business by dividing the designated agency's net costs, minus all estimated program element fee receipts, by the total number of regulated businesses within the CUPA's jurisdiction.

(d) In addition to the annual fee, the Secretary or the designated agency shall assess the annual state surcharge pursuant to Section 25404.5, subdivision (b)(1) of the HSC.

(e) A transfer of ownership or operation of assets at a site shall not cause an additional fee to be assessed if the fee for the same reporting period has been paid by the previous owner or operator. Businesses with multiple program elements will be assigned the specified base rate for each element that is present at an individual site, except that businesses with more than one tank will be assigned the specified number of units based on the combined capacity of all active tanks per site, regardless of the number of such tanks.

(f) The fee shall be due on the date or dates specified by the Secretary or the designated agency, which shall not be less than 30 days from the date of the bill. The fee may be assessed in a single billing or in more than one billing. A penalty of 10 percent shall be assessed on any payment that is not received as postmarked by the due date. Beginning on the first day of the calendar month following the due date, simple interest shall accrue monthly on any unpaid fee or portion thereof at the rate established by the State Board of Equalization pursuant to Section 43155 of the Revenue and Taxation Code, and shall continue until the fee is paid. The penalty or interest may be waived if the Secretary or the designated agency determines that the failure to make a timely payment was due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect. Mere disagreement with the fee assessment shall not be deemed reasonable cause. A person seeking to be relieved of penalty or interest shall submit a written statement to the Secretary or the designated agency, signed under penalty of perjury, setting forth the facts upon which he or she bases the claim for relief.

(g) If the Secretary or the designated agency provides a refund because of an erroneous billing, the refund shall be subject to simple interest at the rate provided in Section 43455 of the Revenue and Taxation Code, unless the erroneous billing was due to incorrect information provided by the person who receives the refund. No refund shall be granted unless the person who seeks the refund submits written notification of the error to the Secretary or the designated agency within one year of the date the person is notified of the fee or cost assessment.

(h) Failure to pay the required fee or cost reimbursement may result in a suspension by the Secretary or the designated agency of the regulated business's right to conduct the activity that is subject to the fee. The regulated business will receive at least 30 days notice of the suspension. Failure to pay the fee, or conducting the activity during the suspension, shall be deemed a violation of the regulatory law administered by the Secretary or the designated agency. Any suspension will be stayed during the appeal of the fee under subdivision (k).

(i) The Secretary shall review annually, and revise if necessary according to the procedures set forth in this Section, the fees assessed pursuant to this Section. The Secretary shall not revise the fees more than once per fiscal year. The Secretary shall publish any proposed revisions to the fees in the California Regulatory Notice Register and accept comments on the proposed fees for 30 days thereafter. Following the 30-day comment period, the Secretary will consider comments and prepare a response that identifies the comments, the Secretary's findings, and the Secretary's final fee decisions. The Secretary will make responses available upon request and will publish the final fee in the California Regulatory Notice Register.

(j) The Secretary or the designated agency may recover the cost of non-recurring activities directly from the person who receives the non-recurring activities, based on the total cost to the Secretary or designated agency of providing that non-recurring activity.

(k) A person may dispute the assessment of the fee or cost recovery by submitting a petition to the director of the designated agency. The person must submit the petition, in writing, within one year of the date the person is notified of the fee or cost assessment. The petition must state the specific grounds upon which it is founded. If the matter cannot be resolved informally, the director shall designate a hearing officer to decide the petition. The hearing officer shall be in neither a subordinate nor a supervisory or managerial position to any staff involved in making the initial determination. A hearing shall be conducted in person, by telephone, or by video conference at which all relevant evidence will be admissible. The hearing officer shall make the final decision to approve or deny the petition.

Authority cited: Sections 25404 and 25404.6, Health and Safety Code. Reference: Sections 25404.3, 25404.5 and 25404.6, Health and Safety Code.

Section 15242. Definitions.

The following definitions apply to Section 15241 of this title:

- (a) "Base rate" is an estimate of the designated agency's workload standard (amount of time) to complete a program element task for each jurisdiction for which it acts as the CUPA.
- (b) "Business" or "regulated business" shall have the meaning of "regulated business" defined in Section 15110 of this title.
- (c) "Generator" shall have the meaning of "generator" in Section 66260.10 of CCR, title 22. Notwithstanding this definition, a person shall not be subject to the program element fee or the flat fee solely for reason of any of the following: generation of waste that is not transported off site; removing soil for purposes of site mitigation; removing an unexpected or extraordinary spill of hazardous materials; or removing abandoned hazardous waste that was not produced in the course of conducting his or her business. Also, no program element fee or flat fee shall be assessed for any activity that is exempt from any fee pursuant to Section 25174.7 or 25205.3 of the HSC. The following terms are defined for establishment of the single fee for designated state agencies:
- (1) "Large generator" means a person who generates 500 or more tons of hazardous waste per calendar year.
- (2) "Medium generator" means a person who generates at least one ton but less than 500 tons of hazardous waste per calendar year.
- (3) "Small generator" means a person who generates hazardous waste in an amount less than one ton per calendar year.
- (d) "Hourly fee" is the designated agency's hourly labor charge. It will be calculated by dividing 80 percent of the designated agency's net annual costs by the total estimated annual workload hours to administer the program.
- (e) "Net costs" means projected costs to administer the Unified Program during the fiscal year, minus any money collected from grants, reimbursements, penalties, cost recoveries, and allocations from the Rural CUPA Reimbursement Account. Any surplus or deficit from the preceding fiscal year will be subtracted from or added to the designated agency's cost projections for the following fiscal year.
- (f) "Non-recurring activities" shall include, but not be limited to, oversight of facility closure or of remedial activities, including closure or remedial activities required by an order issued by the designated agency or another government agency. "Non-recurring activities" do not include any of the following: a regulatory compliance inspection, the

issuance or approval of a permit or other form of authorization, the issuance of an order for corrective action or penalties, a plan review, or any activity that is essential to carry out one or more of the foregoing regulatory activities.

(g) "Site" means real property that is owned or operated by the same person that is either contiguous or satisfies the meaning of "on site" in Section 66260.10 of CCR, title 22.

(h) "Tank" means a storage tank or group of storage tanks.

(1) "Large storage tank" means a storage tank or group of storage tanks with a total capacity per site of 34,000 gallons or more.

(2) "Medium storage tank" means a storage tank or group of storage tanks with a total capacity per site of at least 19,000 gallons but less than 34,000 gallons.

(3) "Small storage tank" means a storage tank or group of storage tanks with a total capacity per site of less than 19,000 gallons.

(i) Except as otherwise stated in this Section, words have the meanings provided by the following authorities, in order of precedence: (1) Section 25404 of the HSC; (2) Section 15110 of this title, (3) article 2 (commencing with Section 25110) of chapter 6.5 of division 20 of the HSC; and (4) Section 66260.10 of CCR, title 22.

Authority cited: Sections 25404 and 25404.6, Health and Safety Code. Reference: Sections 25404.3, 25404.5 and 25404.6, Health and Safety Code.

Section 15250. CUPA Surcharge Responsibilities.

(a) The CUPA shall collect the surcharge for all program elements within its jurisdiction as part of the single fee system.

(1) Willful or negligent failure to collect the surcharge may be a basis for withdrawing the CUPA's certification.

(2) The CUPA shall begin assessing the surcharge within its first billing cycle or within 12 months after the effective date of certification, whichever is shorter. The full surcharge will be assessed and collected within 12 months of the effective date of certification and every 12 months thereafter.

(3) The CUPA may waive the state surcharge for specific regulated businesses provided that the criteria for waiving the state surcharge meets the same standards as those established by the CUPA for waiving the single fee.

(A) The state surcharge may not be waived for any regulated business so long as the regulated business is assessed a fee under the single fee system.

(i) The Secretary may revoke the CUPA's authority to waive state surcharge fees if it is determined that the CUPA consistently does not make a reasonable, good faith effort to protect the state's interests or is not following the established criteria for waiving the state surcharge.

(B) Notwithstanding the provisions of Sections 15241 and 15242, if a CUPA prorates their fees for a regulated business in operation for part of a year, the applicable surcharge components may be prorated at the same rate.

(b) The CUPA shall remit collected state surcharge revenues to the Secretary within 30 days of the end of each state fiscal quarter, as specified in Section 15290 of this chapter.

(1) Remittance of the surcharges should be made payable to: *Secretary for Environmental Protection*.

(2) With each surcharge remittance, the CUPA shall submit:

(i) the collected state surcharge revenues with a completed copy of the Surcharge Transmittal Report (Appendix C) to:

AIR RESOURCES BOARD

ATTN: ACCOUNTING

P.O. BOX 1436

SACRAMENTO, CALIFORNIA 95812

(ii) an electronic copy of the Surcharge Transmittal Report (Appendix C) to:
cupa@calepa.ca.gov.

(3) Failure to remit the surcharge after collection may be a basis for withdrawing the CUPA's certification.

Authority cited: Sections 25404, 25404(b) and 25404.6(c), Health and Safety Code.
Reference: Sections 25404.5(a)(1), 25404.5(a)(2), 25404.5(a)(4) and 25404.5(b), Health and Safety Code.

Section 15260. CUPA Education, Technical Expertise, and Training.

(a)(1) CUPAs shall meet the following minimum qualifications:

(A) CUPA technical program staff and supervisors who are involved in specific activities associated with oversight of the local Unified Program requirements must meet the following minimum educational requirements:

(i) Thirty semester units earned from an accredited college or institution from one or more of the following disciplines:

(aa) Biology or microbiology

(bb) Chemistry, chemical engineering

(cc) Physics, physical science

(dd) Environmental science

(ee) Geology or soil science

(ff) Environmental health

(gg) Environmental or sanitary engineering

(hh) Toxicology

(ii) Industrial hygiene

(jj) Hazardous materials management

(kk) Fire science, fire technology;

OR

(ii) Equivalent to graduation from an accredited college or university or equivalent degree with major course work in the disciplines listed in paragraph (a)(1)(A)(i);

OR

(iii) Qualifying experience in hazardous materials management, regulation, analysis, or research; environmental research, monitoring, surveillance or enforcement; or resource recovery may be substituted for the required education, on the basis of one year of qualifying experience for 15 units of college course work authorized pursuant to paragraph (a)(1)(A)(i), for up to a maximum of 15 units.

(B) CUPA technical program staff and supervisors who are involved in specific activities associated with oversight of the local Unified Program requirements shall meet

minimum hours of training or experience requirements contained in subdivision (d)(3)(B) of this Section, for all the following subject areas:

- (i) Regulatory overview;
 - (ii) Classification, identification, and chemistry of hazardous materials and hazardous waste;
 - (iii) Health and environmental effects of hazardous substances, including chemical exposure and route of entry;
 - (iv) Sampling methodologies and use of instrumentation for detection and sampling of hazardous substances;
 - (v) Conducting inspections and enforcement actions, and writing inspection reports and notices of violation;
 - (vi) Interviewing, case development, and collection and preservation of evidence.
- (b) One or more CUPA technical staff or supervisors, as needed to effectively meet the requirements of paragraphs (a)(1)(A) and (1)(B), shall meet the requirements of subdivision (d) of this Section.
- (c) Technical staff and supervisors of the CUPA and PAs shall receive training in the following areas:
- (1) Hazardous materials and hazardous waste permitting, inspection and enforcement duties and responsibilities pursuant to state law and regulation, and to local ordinances and resolutions;
 - (2) Inspection techniques and scheduling, including evidence collection, chain of custody, sample preservation, and interviewing;
 - (3) Administration practices within a hazardous materials and hazardous waste program;
 - (4) Monitoring equipment, data evaluation, and interpretation of the results as related to hazardous materials and hazardous waste analysis; and
 - (5) Field staff health and safety training including: planning field inspections, safety equipment, on-site procedures, decontamination and hazard recognition and avoidance.
- (d)(1) Education Requirements:

(A) Equivalent to graduation from an accredited college or university or equivalent degree with major coursework in biological, chemical, physical, environmental or soil science; environmental health; environmental or sanitary engineering; toxicology; industrial hygiene; or a related field. Additional qualifying experience in hazardous materials management, regulation, analysis, or research; environmental research, monitoring, surveillance or enforcement; or resource recovery may be substituted for the required education on the basis of one year of qualifying experience for each year of college work for up to a maximum of two years. When substituting experience for education, qualifying education must include a minimum of 30 semester units in natural science from an accredited college or equivalent units from an institution approved as above; or

(B) Registration as an Environmental Health Specialist may be substituted for the required education.

(2) Participating staff shall have a minimum of one year experience in conducting hazardous materials or hazardous waste regulatory compliance inspections.

(3) Staff issuing enforcement orders shall complete the following minimum training:

(A) Health and safety training as specified in Section 5192(e) title 8, CCR;

(B) 100 hours of training in regulatory investigative techniques including training in the following subjects:

(i) Federal and state statutes and regulations on hazardous waste control;

(ii) Conducting an inspection;

(iii) Waste classification;

(iv) Inspection report writing;

(v) Collection and preservation of samples;

(vi) Enforcement response options;

(vii) Writing reports of violation;

(viii) Interviewing;

(ix) Case development;

(x) Collection and preservation of evidence;

(xi) Witness training; and

(xii) Rules of evidence and the administrative hearing process.

(C) Twenty-four hours of training in the following additional areas:

(i) Training on penalty assessment; and

(ii) Negotiation techniques.

(D) It shall be the responsibility of the CUPA to document the training and experience of staff participating in this program.

Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25404(c), 25404(d), 25404.1(a)(1), 25404.3(b)(1), 25404.3(b)(4), 25404.3(b)(5) and 25404.3(b)(7), Health and Safety Code.

Section 15270. PA Education, Technical Expertise and Training.

(a) A PA implementing one or more of the program elements on or before December 31, 1995, shall be considered qualified to implement those specific program element(s).

(b) PA technical staff and supervisors shall meet the ongoing training requirements identified in Section 15260(c).

Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25404(c), 25404(d), 25404.1(a)(1), 25404.1(b)(2), 25404.1(b)(4), 25404.3(b)(1), 25404.3(b)(4), 25404.3(b)(5) and 25404.3(b)(7), Health and Safety Code

Article 6. CUPA Self-Auditing and Reporting

Section 15280. Self-Auditing.

(a) The CUPA shall conduct an annual self-audit at the end of each state fiscal year and shall be maintained on file by the CUPA for a period of five years. Annual self-audit reports shall be completed by September 30 of each year. The time period covered by each self-audit is the state fiscal year from July 1 through June 30 of each year.

(1) The first self-audit report shall be produced by September 30 following a full year of operation as a CUPA.

(2) Upon written request of the Secretary or a state agency responsible for overseeing one or more program elements, the CUPA shall forward the self-audit to the person or agency making the request upon 60 days notice.

(3) For an agency authorized to continue its role, responsibilities, and authority for a program element or elements pursuant to HSC Sections 25404.3(f) or 25533(f), the self-audit shall only include information on the program element or elements that particular agency is authorized to continue to operate and shall not include information related to the surcharge or single fee system.

(b) The self-audit shall assess the performance of the CUPAs and any PAs implementation of standards in statutes and regulations established by the Secretary or the state agencies responsible for one or more of the program elements.

(c) The self-audit report shall include:

(1) A report of deficiencies with a plan of correction.

(2) A narrative summary of the effectiveness of activities including, but not limited to:

(A) Permitting;

(B) Inspections;

(C) Enforcement; and

(D) The single fee system.

(3) An explanation of any discrepancies on the annual and quarterly reports of program activities submitted to the Secretary pursuant to Section 15290 and the Unified Program requirements for those activities.

(4) The annual review and update of the fee accountability program as required by Section 15220.

(5) A record of changes in local ordinances, resolutions, and agreements affecting the Unified Program.

(6) A summary of new programs being included in the Unified Program if applicable.

Authority cited: Sections 25404, 25404(b) and 25404.6(c), Health and Safety Code.

Reference: Sections 25404(b), 25404(c), 25404(d), 25404.4(a)(1) and 25404.5(b), Health and Safety Code; and Title 23, Section 2713, California Code of Regulations.

Section 15290. CUPA-to-State Reporting.

(a) The CUPA shall submit the following CUPA-to-State reports:

(1) The Surcharge Transmittal Report (Appendix C) shall be submitted as specified in Section 15250 of this chapter.

(2) The Annual Single Fee Summary Report (Appendix C) shall be submitted to the Secretary no later than September 30 of each year.

(A) The Annual Single Fee Summary Report shall include the following information from the previous fiscal year:

(i) The amount of the single fees billed, waived, and collected.

(ii) The amount of single fees billed and collected by the CUPA on behalf of its PA(s), as well as the amounts remitted and still owed to the PA(s).

(iii) The amounts of surcharge billed, waived, collected, remitted and still owed to the Secretary for each category identified in Section 15240(c).

(iv) The total count for each of the following categories, within the jurisdiction of the CUPA, that were regulated during the previous fiscal year:

(I) Businesses assessed the CUPA Oversight surcharge component;

(II) Hazardous waste generators (HWG);

(III) Large quantity hazardous waste generators (LQG);

(IV) RCRA large quantity hazardous waste generators (RCRA LQG);

(V) Small quantity hazardous waste generators (SQG);

(VI) Onsite hazardous waste treatment facilities permit by rule (PBR);

(VII) Onsite hazardous waste treatment facilities conditional authorization (CA);

(VIII) Onsite hazardous waste treatment facilities conditional exemption (CE), including Conditionally Exempt Commercial Laundries (CECL), Conditionally Exempt Specified Wastestreams (CESW), Conditionally Exempt Small Quantity Treatment (CESQT) and Conditionally Exempt Limited (CEL);

(IX) Businesses assessed the CalARP Program surcharge component;

(X) Aboveground storage tank facilities with the capacity to store 10,000 gallons or more of petroleum; and

(XI) Petroleum refineries assessed the Refinery Safety surcharge component at each tier.

(B) If the CUPA believes that the number of regulated businesses will change significantly in the current year or in the next year, then estimates of those changes for each program element shall be provided in a cover letter with the Annual Single Fee Summary Report.

(C) The Annual Single Fee Summary Report (Appendix C) shall be submitted to the Secretary using one of the following methods:

(i) Mail to:

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
UNIFIED PROGRAM
P.O. BOX 2815
SACRAMENTO, CALIFORNIA 95812-2815

or

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
UNIFIED PROGRAM
1001 "I" STREET
SACRAMENTO, CALIFORNIA 95814

or

(ii) Email to: cupa@calepa.ca.gov

(3) The CUPA shall report inspection, violation, and enforcement information for each program element to the Secretary through CERS no later than 30 days after the end of each state fiscal quarter as specified in subdivision (b) of this Section.

(A) Each PA shall report inspection, violation, and enforcement information to its overseeing CUPA or enter that information in CERS.

(i) Each PA shall coordinate the distribution of its inspection, violation, and enforcement information with its overseeing CUPA so that the CUPA may report that information in accordance with paragraph (b) of this Section.

(B) The CUPA shall include inspection, violation, and enforcement information received from the PA(s) as part of the quarterly reporting requirement in accordance with paragraph (b) of this Section, so long as each PA has not yet reported the information in CERS.

(C) Regulated businesses shall be able to access their inspection, violation, and enforcement information reported to CERS.

(4) On a semi-annual basis, each UPA shall report to the State Water Board information pertaining to its local UST Program. The report shall include inspection, violation, and enforcement information including but not limited to facility and tank counts, release detection and release prevention compliance, and Red Tag issuance in accordance with HSC Sections 25288, 25292.3, 25299, 25299.7(b), and CCR, title 23 Sections 2712(c), (g) and 2713(c).

(5) Each UPA shall submit a Formal Enforcement Summary Report to the Secretary for each formal enforcement case that has received a final judgment. The Formal Enforcement Summary Report includes facility identification, violation summary, formal enforcement action, and the description of final disposition.

(A) No later than 30 days after a final judgement, the UPA shall submit the Formal Enforcement Summary Report to the following email address until such a time when Formal Enforcement Summary Report information can be reported in CERS:
cupa@calepa.ca.gov

(b) For purposes of this Section, state fiscal quarters are specified as:

(1) First quarter July 1 through September 30;

(2) Second quarter October 1 through December 31;

(3) Third quarter January 1 through March 31; and

(4) Fourth quarter April 1 through June 30.

(c) Nothing in this Section shall limit the authority of the Secretary or state agencies with Unified Program responsibilities to request records or documents that are normally maintained by the CUPA in the course of implementing the Unified Program or otherwise required by law to be retained by the CUPA. The CUPA shall provide this information to the Secretary or state agencies with Unified Program responsibilities no later than 60 days after the request.

(d) The CUPA shall provide any other program reports required by federal or state law or regulation to the person or agency making the request no later than 60 days after the request.

(e) An agency authorized to operate a program element or elements pursuant to HSC Sections 25404.3(f) or 25533(f) shall only report information on the implementation of the program element or elements that particular agency is authorized to operate and shall not include information related to the surcharge or single fee system.

(f) If the Secretary or state agencies with Unified Program responsibilities do not receive current information on the regulated business from each CUPA, the Secretary or state agencies with Unified Program responsibilities may use whatever information is available to estimate the data of that regulated business.

(g) The Secretary shall provide copies of the received summary reports required pursuant to this Section that are requested by any state agency with Unified Program responsibilities.

Authority cited: Sections 25404(b), 25404(c), 25404(d), 25404(e) and 25404.6(c), Health and Safety Code. Reference: Sections 25299.3(b), 25404(b), 25404(c), 25404(d), 25404.4(a)(1) and 25404.5(b), Health and Safety Code.

Article 7. Changes in the Program

Section 15300. Prior Notification and Approval by the Secretary.

(a) A CUPA must notify and receive approval from the Secretary prior to instituting the following significant changes:

(1) Addition or deletion of a program element;

(2) Replacement or addition of a PA.

(b) The CUPA shall submit a proposal for change in the Unified Program to the Secretary. The proposal shall include the following if applicable:

(1) Explanation of the proposed changes in sufficient detail to enable a full understanding of the roles and responsibilities of the CUPA, each member of a Joint Powers Authority (JPA), and all PAs;

(2) PA agreements for any new PAs or any changes in the role or responsibilities of any PA;

(3) Adequate information to enable the Secretary to determine that agencies proposed to implement some element of the Unified Program meet requirements including technical expertise, training, and education applicable to those elements; and

(4) Sufficient information to enable the Secretary to determine that adequate resources exist to carry out all aspects of the Unified Program.

(c) The CUPA shall notify any affected PA.

(d) Any PA implementing a program element that is subject to proposed change shall have the opportunity to comment on the proposed change.

(e) The Secretary shall review proposed changes to a Unified Program in consultation with other affected state agencies.

(1) The Secretary may conduct a public hearing if in the Secretary's opinion the proposed changes are likely to generate significant public interest.

(f) The Secretary shall approve or disapprove of the CUPA's proposal within 60 days of receipt of the proposal by certified mail.

(g) Within 30 days of receipt of the Secretary's decision, the CUPA may appeal a decision pursuant to this Section.

(1) The appeal shall respond to the reasons specified in the Secretary's decision and may propose additional changes necessary to correct deficiencies in the original proposal.

(2) The appeal process shall be completed within 60 days of receipt of the appeal.

(3) The Secretary's final decision on the proposal changes shall be issued by certified mail within the 60-day appeal timeframe.

Authority cited: Sections 25404, 25404(b) and 25404.6(c), Health and Safety Code.
Reference: Sections 25404.2(c), 25404.3, 25404.3(d) and 25404.4(a), Health and Safety Code.

Section 15310. What are the notification and approval procedures for activities which require prior approval from the Secretary? [Repealed]

Authority cited: Sections 25404 and 25404.6(c), Health and Safety Code. Reference: Sections 25404.2(c), 25404.3 and 25404.4(a), Health and Safety Code.

Section 15320. Withdrawal of a Certification.

(a) If the Secretary finds the CUPA is not adequately implementing Unified Program requirements, the Secretary may:

(1) Issue a Notice of Intent to withdraw certification or

(2) Enter into a Program Improvement Agreement with the CUPA to correct deficiencies and make necessary improvements.

(b) A Notice of Intent to withdraw certification shall include specific reasons why the CUPA has failed to adequately implement the Unified Program within its jurisdiction in accordance with HSC, Section 25404.4.

(1) A period of 60 days shall be allowed for the CUPA to respond to the Notice of Intent to withdraw certification and to correct deficiencies.

(2) A public hearing may be scheduled, at which the Secretary shall hear the CUPA's response to the Notice of Intent to withdraw.

(c) If a city or JPA certified as a CUPA and implementing the Unified Program within a city desires to withdraw as a CUPA, it shall give 180 days notice to the Secretary and to the county within which the city is located or to the JPA with which the county has an agreement to implement the Unified Program prior to withdrawing from its Unified Program obligations. A successor CUPA will be chosen in accordance with the provisions of Section 25404.3(f) of the HSC.

Authority cited: Sections 25404, 25404(b), 25404.3(g) and 25404.6(c), Health and Safety Code. Reference: Sections 25404.3(g) and 25404.4(a), Health and Safety Code.

Article 8. Performance Evaluations

Section 15330. Evaluation of CUPAs and PAs.

(a) The Secretary shall evaluate a CUPA's performance and implementation of the Unified Program at least once every three years.

(1) The Secretary shall coordinate the performance evaluation of a CUPA with all state agencies with Unified Program responsibilities.

(2) The Secretary may assess the performance of a PA if in agreement with the CUPA.

(b) Each CUPA performance evaluation shall be conducted as follows:

(1) The Secretary will send a notification letter to the CUPA that informs the CUPA a performance evaluation will be conducted and requests information from the CUPA, including, but not limited to, administrative documents, policies and procedures, information not available in CERS, and facility file information not otherwise obtained by state agencies with Unified Program responsibilities.

(A) The CUPA shall provide the Secretary with the information requested in the notification letter electronically, unless otherwise approved by the Secretary.

(B) The CUPA shall provide the Secretary with the information requested in the notification letter within 60 days after the date of the letter, unless otherwise approved by the Secretary.

(2) To conduct the CUPA performance evaluation, the Secretary and state agencies with Unified Program responsibilities will review documents and information including, but not limited to, materials provided by the CUPA as requested in the notification letter, CERS data, materials from previous performance evaluations, the original application for certification, and information reviewed onsite at the CUPA office(s).

(3) State agencies with Unified Program responsibilities may:

(A) Accompany CUPA personnel during scheduled facility inspections to verify inspections are conducted in accordance with applicable requirements.

(B) Conduct inspections of regulated facilities independent of and following inspections conducted by CUPA personnel to verify inspections are conducted in accordance with applicable requirements.

(4) The Secretary and state agencies with Unified Program responsibilities shall conduct meetings with CUPA personnel to review and discuss the findings of the performance evaluation.

(5) The Secretary will provide performance evaluation findings to the CUPA, in writing, with identified deficiencies and specified timeframes for associated corrective actions, program observations and recommendations, and examples of outstanding program implementation, when applicable.

(6) The CUPA shall provide the Secretary with progress reports that detail actions taken toward the correction of each deficiency identified in the performance evaluation.

(A) The CUPA shall provide the first progress report to the Secretary 60 days after the issuance of the final performance evaluation findings, and every 90 days thereafter, unless otherwise approved by the Secretary.

(B) The CUPA shall provide progress reports to the Secretary electronically, unless otherwise approved by the Secretary.

(C) The CUPA shall provide progress reports to the Secretary until all deficiencies are acknowledged as corrected, in writing, by the Secretary.

(c) Nothing in this Section shall limit the authority of the Secretary to request records or documents for use in conducting the CUPA performance evaluation that are normally maintained by the CUPA in the course of implementing the Unified Program or otherwise required by law to be retained by the CUPA.

(d) The CUPA shall evaluate its PAs on an annual basis at the time of the self-audit pursuant to Section 15280, or as necessary to maintain standards required in HSC chapter 6.11, the statutes governing specific program elements, and the specific performance standards established in regulation by the Secretary or the state agencies with Unified Program responsibilities.

(1) A CUPA overseeing a PA that ceases to meet minimum qualifications or fails to implement its program element(s) as described in the Unified Program application approved by the Secretary at any time during the term of its agreement with the CUPA shall enter into a Program Improvement Agreement with the CUPA. The Program Improvement Agreement shall specify the areas of improvement, minimum accomplishments necessary, and time frames that shall be met.

(A) The CUPA may apply to the Secretary, in accordance with Section 15300, for approval to remove or replace a PA that fails to perform according to the Program Improvement Agreement.

Authority cited: Sections 25404(b) and 25404.6(c), Health and Safety Code. Reference: Sections 25143.10, 25144.6, 25200.3, 25201, 25201.5, 25201.13, 25201.14, 25286, 25287, 25404.2(c), 25404.3(d), 25404.4(a)(1) and 25506, Health and Safety Code.

Article 9. Unified Program Standardized Forms and Formats

[Repealed]

Section 15400. Unified Program Consolidated Form. [Repealed]

Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5, 25201.13, 25281.2, 25218.9, 25245.4, 25286, 25287, 25503.5, 25505, 25506 and 25509, Health and Safety Code.

Section 15400.1. Format of the UPCF and its Required Elements. [Repealed]

Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5, 25201.13, 25218.2, 25218.9, 25245.4, 25286, 25287, 25503.5, 25505, 25506 and 25509, Health and Safety Code.

Section 15400.2. What is the relationship between the UPCF and the forms previously adopted by State departments for the individual program elements? [Repealed]

Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5, 25201.13, 25201.14, 25218.2, 25218.9, 25245.4, 25286, 25287, 25503.5, 25505, 25506 and 25509, Health and Safety Code.

Section 15400.3. Use the UPCF and Alternative Versions. [Repealed]

Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25503.5(a) and (b)(1) and (2), 25505 and 25509, Health and Safety Code.

Section 15400.4. CUPA-Required Additional Information. [Repealed]

Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25503.3(a) and 25505, Health and Safety Code.

Article 10. Business Reporting to CUPAs

Section 15600. Required Business-to-CUPA Submission. [Repealed]

Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5, 25201.13, 25218.2, 25218.9, 25245.4, 25286, 25287, 25503.5, 25505, 25506 and 25509, Health and Safety Code.

Section 15610. Use of UPCF and Business-Generated Facsimiles. [Repealed]

Authority cited: Sections 25404(b), (c), (d), and (e), 25404.6(c) and 25505(d), Health and Safety Code. Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5, 25201.13, 25218.2, 25218.9, 25245.4, 25286, 25287, 25501, 25503.3(b) and (c), 25503.5(c), 25505, 25506 and 25509, Health and Safety Code.

Section 15620. Updated, Amended, Revised, or Resubmitted UPCF. [Repealed]

Authority cited: Sections 25404(b), (c), (d), and (e) and 25404.6(c), Health and Safety Code. Reference: Sections 25143.10, 25144.6, 25200.3, 25200.14, 25201, 25201.4.1, 25201.5, 25201.13, 25218.2, 25218.9, 25245.4, 25286, 25287, 25503.5, 25505, 25506 and 25509, Health and Safety Code.

Appendix A

APPENDIX A: Certified Unified Program Agency (CUPA) Application cover Sheet
Completeness Checklist

Appendix B

Certified Unified Program Agency (CUPA) Applicant Certification

Table 1 Enumerations/Demographic Information

Table 2 Summary of Program Activities

Table 3 Time Allocation of Staff

Table 4 Training and Expertise

Appendix C

Surcharge Transmittal Report

Annual Single Fee Summary Report

Trade Secret Disclosure Form for Chemical Inventory Submittals

Article 8. Unified Agency Review of Hazardous Materials Release Sites [Repealed]

DIVISION 2. SOLID WASTE

SUBDIVISION 1. Consolidated Regulations for Treatment, Storage, Processing or Disposal of Solid Waste

Chapter 1. General

SubChapter Ghost Header for Outline ADA Compliance

Article 1. Purpose, Scope and Applicability of this Subdivision

Section 20005. CIWMB Purpose Scope and Applicability of CIWMB Standards. (T14: Section 17601)

(a) Regulatory standards promulgated by the California Integrated Waste Management Board (CIWMB) in this division implement only the jurisdiction of the CIWMB, as set forth in Division 30, Commencing with Section 40000, of the PRC, and shall not be construed by the CIWMB or the enforcement agency (EA) in a manner that would infringe upon or interfere with the administration or implementation of the comprehensive program of regulatory standards promulgated by the SWRCB in this title for the protection of water quality, pursuant to Division 7, commencing with Section 13000, of the Water Code.

(b) The purpose for the CIWMB standards in this subdivision is to protect public health and safety and the environment. The CIWMB standards in this chapter do not address air or water quality aspects of the environment that are regulated by other state or local agencies.

(c) The standards promulgated by the CIWMB in Chapters 1, 2, 3, and applicable portions of Chapter 4 shall apply to all disposal sites meaning active, inactive closed or abandoned, as defined in Section 40122 of the Public Resources Code including facilities or equipment used at the disposal sites. Responsibility for enforcing state minimum standards as defined by the CIWMB shall be administered by the EA in consultation as deemed appropriate with the Regional Water Quality Control Board or other oversight agency

Authority cited: Section 40502, 43020, 43021 and 43030, Public Resources Code.

Reference: Sections 40000-40002, 40508, and 43103, Public Resources Code.

Section 20010. Statutory Mandate. (non-regulatory) [Reserved]

Section 20012. SWRCB Reliance Upon CIWMB Requirements. (new)

(a) Where necessary to protect water quality, the Regional Water Quality Control Board (RWQCB) can implement, in coordination with the enforcement agency (EA) or, as appropriate, the California Integrated Waste Management Board (CIWMB), appropriate standards promulgated by the CIWMB in this subdivision, provided that the action does not duplicate or conflict with any action taken by the EA.

(b) Where necessary to protect water quality, the RWQCB can cite the standards promulgated by the CIWMB in this subdivision as evidence of a violation of standards promulgated by the SWRCB or of Waste Discharge Requirements (WDRs) in any ensuing enforcement proceeding, provided that the violation does not duplicate or conflict with any action by the EA and that such enforcement proceeding is based upon the authority of the RWQCB under Division 7 of the Water Code.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, 13226, 13227, 13263, 13267, Water Code; Section 43103, Public Resources Code.

Section 20014. CIWMB Reliance Upon SWRCB Requirements. (new)

(a) Where necessary to protect aspects of the public health and safety and the environment, other than water quality, the EA may implement, in coordination with the RWQCB and the CIWMB, appropriate standards promulgated by the SWRCB in this subdivision provided that the action is not duplicative of or in conflict with any action taken by the RWQCB.

(b) Where necessary to protect aspects of the public health and safety and the environment, other than water quality, the EA may cite the standards promulgated by the SWRCB in this subdivision as criteria to cause a site to correct a violation of the standards promulgated by the CIWMB or of a Solid Waste Facility Permit (SWFP). The EA may also reference the aforementioned criteria as evidence of a violation of appropriate CIWMB promulgated standards or of a SWFP in any ensuing enforcement proceeding, provided that the violation is not duplicative of or in conflict with any action by the RWQCB and such enforcement proceeding is based upon the authority of the EA under Division 30 of the Public Resources Code.

Authority cited: Section 43103, Public Resources Code.

Reference: Sections 43101(d), 43103, Public Resources Code.

Section 20020. How to Use Combined Regulations. (non-regulatory) [Reserved]

Section 20030. CIWMB Authority. (T14: Section 17200)

The regulations contained herein are promulgated pursuant to Public Resources Code (PRC) Sections 43020, 43020.1, 43021, 43030, 43101, 43103 and Health and Safety Code Section 4520. No provision in this Division shall be construed as a limitation or restriction upon the CIWMB's right to exercise discretion which is vested in it by law. Nor shall any provision be construed to limit or restrict counties and cities from promulgating enactments which are as strict as or stricter than the regulations contained in this Division. However, no city or county may promulgate enactments which are inconsistent with the provisions of this Division. Any reference in this chapter to an EA shall be deemed to mean the EA created pursuant to PRC Sections 43200 43219.

Authority cited: Section 40502, 43020 and 43021, Public Resources Code.

Reference: Section 11125, Government Code; Sections 43020-43021, 43103, Public Resources Code.

Section 20040. CIWMB Compliance with Laws and Regulations. (T14:Section 17201)

Nothing in these standards shall be construed as relieving an owner, operator, or designer from the obligation of obtaining all required permits, licenses, or other clearances, and complying with all orders, laws, regulations, or other requirements of other approval, regulatory or enforcement agencies, such as, but not limited to the Department of Toxic Substances Control, local health entities, water and air quality control boards, local land use authorities, fire authorities, etc.

Authority cited: Sections 40502, 43020 and 43021, Public Resources Code.

Reference: Sections 40053, 40054, 40055, 43020, 43021 and 43103, Public Resources Code.

Section 20050. CIWMB Purpose, Intent. (T14:Sections 17202-17203)

[This Section will be amended upon the adoption of future regulations pertaining to tiers, transfer stations, operations, etc.]

(a) The purpose of the regulations in Chapters 1, 2, and 3 is to promote the health, safety and welfare of the people of the State of California, and to protect the environment by establishing minimum standards for the handling and disposal of solid wastes at disposal sites.

(b) By adopting these standards, the CIWMB hereby sets forth performance standards for solid waste disposal sites which are of state concern, as required by PRC Section 43020 and Section 43021, and sets forth minimum substantive requirements for operators' submission of information concerning individual solid waste disposal sites.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 40000, 40001, 40002 and 43103, Public Resources Code.

Section 20060. CIWMB Applicability of Federal Subtitle D Related Standards to Small Landfills. (T14: portions of Section 17258.1)

(a) MSWLF units that meet the conditions of 40 CFR 258.1(f)(1) and received waste after October 9, 1991 but stopped receiving waste before October 9, 1997, are exempt from all the requirements promulgated as a result of 40 CFR 257 and 258, except the final cover minimum standards specified in Section 21140 and all other applicable requirements of Chapters 3 and 4, of this subdivision. The final cover must be installed by October 9, 1998. Owners and operators of MSWLF units described in this paragraph that fail to complete cover installation by October 9, 1998 will be subject to all the requirements of this subdivision, unless otherwise specified.

(b) MSWLF units that receive 20 tons or less of municipal solid waste per day, based on an annual average, may be allowed alternative frequencies for daily cover requirements and landfill gas monitoring requirements subject to the criteria set forth in Sections 20680 and 20919.5.

Authority cited: Section 40502, 40508, 43020, 43021 and 43030, Public Resources Code.

Reference: Sections 40508 and 43103, Public Resources Code; and Title 40, Code of Federal Regulations, Section 258.1, 258.21, and 258.23.

Section 20070. Combined CIWMB and SWRCB Federal Subtitle D Research, Development, and Demonstration Permits.

(a) Except as provided in paragraph (f) of this Section, EA with concurrence by the CIWMB, and the RWQCB, may issue a research, development, and demonstration permit for a new MSWLF unit, existing MSWLF unit, or lateral expansion, for which the owner or operator proposes to utilize innovative and new methods which vary from either or both of the criteria listed in Subsections(1) and (2) below, provided that the MSWLF unit has a leachate collection system designed and constructed to maintain less than a 30-cm depth of leachate on the liner:

(1) The run-on control system in 40 CFR 258.26(a)(1), as implemented in Title 27, CCR; and

(2) The liquids restrictions in 40 CFR 258.28(a), as implemented in Title 27, CCR.

(b) The EA with concurrence by the CIWMB, and the RWQCB, may issue a research, development, and demonstration permit for a new MSWLF unit, existing MSWLF unit, or lateral expansion, for which the owner or operator proposes to utilize innovative and new methods which vary from the final cover criteria of 40 CFR 258.60(a)(1), (a)(2) and(b)(1), as implemented in Title 27, CCR, provided the MSWLF unit owner/operator demonstrates that the infiltration of liquid through the alternative cover system will not cause contamination of groundwater or surface water, or cause leachate depth on the liner to exceed 30-cm.

(c) Any permit issued under this Section must include such terms and conditions at least as protective as the criteria for MSWLFs, as set forth in this Division, to assure protection of public health and safety and the environment. Such permits shall:

(1) Provide for the construction and operation of such facilities as necessary, for not longer than three years, unless renewed as provided in paragraph (e) of this Section ;

(2) Provide that the MSWLF unit must receive only those types and quantities of municipal solid waste and nonhazardous wastes which the EA, CIWMB, and the RWQCB, deems appropriate for the purposes of determining the efficacy and performance capabilities of the technology or process;

(3) Include such requirements as necessary to protect public health and safety and the environment, including such requirements as necessary for testing and providing information to the EA, CIWMB, and the RWQCB with respect to the operation of the facility;

(4) Require the owner or operator of a MSWLF unit permitted under this Section to submit an annual report to the EA, CIWMB, and the RWQCB showing whether and to what extent the site is progressing in attaining project goals. The report shall also include a summary of all monitoring and testing results, as well as any other operating information specified in the permit and its supporting documents; and

(5) Require compliance with all MSWLF criteria, as set forth in this Division, except as permitted under this Section.

(d) The EA, CIWMB, or the RWQCB may order an immediate termination of all operations at the facility allowed under this Section or other corrective measures at any time the EA, CIWMB, or the RWQCB determines that the overall goals of the project are not being attained, including protection of public health and safety or the environment, pursuant to procedures set forth in this Division, Division 7 of Title 14, and Division 30 of the Public Resources Code.

(e) For the purposes of this Section, a research, development, and demonstration permit shall mean the SWFP and WDRs issued pursuant to Chapter 4 of this Division, or if applicable, the approved final closure and postclosure maintenance plans required in accordance with Chapter 4 of this Division.

(f) Any permit issued under this Section shall not exceed three years and each renewal of a permit shall not exceed three years. The total term for a permit for a project including renewals shall not exceed twelve years. A permit renewal under this Section shall conform to the following requirements:

(1) The applicant shall provide a detailed assessment of the project showing the status with respect to achieving project goals, a list of problems and status with respect to problem resolutions, and any other requirements specific to the operation that the EA with concurrence by the CIWMB, and the RWQCB determine are necessary for permit renewal.

(2) The EA shall process the permit renewal in accordance with Sections 21650 through 21665 of Chapter 4 of this Division. A permit issued under this Section shall be renewed by amending the RFI or revising the SWFP, as applicable.

(3) The process for permit renewal for approved final closure and postclosure maintenance plans shall be in accordance with Sections 21860 and 21890, if applicable, of Chapter 4 of this Division.

(4) For the purpose of this Section, renewal shall apply solely to the research, development, and demonstration activities authorized under this Section, and not the unrelated activities of the facility or site.

(g) Small MSWLFs:

(1) An owner or operator of a MSWLF unit operating under an exemption set forth in 40 CFR 258.1(f)(1) is not eligible for any variance from 40 CFR 258.26(a)(1) and 258.28(a) of the operating criteria in subpart of 40 CFR, as implemented by Title 27, CCR, and

(2) An owner or operator of a MSWLF unit that disposes of 20 tons of municipal solid waste per day or less, based on an annual average, is not eligible for a variance from 40 CFR 258.60(b) (1), as implemented by Title 27, CCR, except in accordance with 40 CFR 258.60(b)(3), as implemented by Title 27, CCR.

(h) Any variances issued under this Section shall not relieve the owner or operator from complying with all other applicable standards of this Division.

Authority cited: Section 40502, 43020, and 43021, Public Resources Code.

Reference: Sections 40053, 43020 and 43021, Public Resources Code.

Section 20080. SWRCB General Requirements. (C15: Section 2510)

(a) Scope—The regulations in this subdivision that are promulgated by the State Water Resources Control Board (SWRCB) pertain to water quality aspects of discharges of solid waste to land for treatment, storage, or disposal. The SWRCB-promulgated regulations in this subdivision establish waste and site classifications and waste

management requirements for solid waste treatment, storage, or disposal in landfills, surface impoundments, waste piles, and land treatment units. Requirements in the SWRCB-promulgated portions of this subdivision:

(1) Minimum standards—are minimum standards for proper management of each waste category. Regional boards may impose more stringent requirements to accommodate regional and site specific conditions;

(2) MSW Landfill Requirements—as they apply to MSW landfills, are superseded by any more stringent requirements in SWRCB Resolution No. 93-62 (Section 2908, Title 23 of this code) or in the federal MSW regulations (40CFR258);

(3) Utilize Abbreviated Internal References—make reference only to requirements of the Sections within this subdivision, unless otherwise stated. Under this internal reference convention: (A) any unenumerated paragraph reference in this division [e.g., "(c)," or "(d)(2)(A D)"] (i.e., Subsections A through D, inclusive) is to be found in the same Section as the referring SubSection; and (B) any enumerated reference that does not explicitly identify a source outside this subdivision [e.g., "Section 20200", "Section 20220(b)," or "Article 2, Subchapter 3, Chapter 3"] is to be found in this subdivision; and

(4) Contain Nonregulatory Notes and Examples—contain some nonregulatory language that is needed in a body of multi-agency regulations such as this in order to improve clarity and continuity. Such non-regulatory language is always italicized, is always set off from adjacent regulatory text by parentheses or brackets, serves an obviously explanatory function, and typically begins with either "Note:" or "e.g., ". In the SWRCB-promulgated Sections of this subdivision, such italicized notes and examples are intended only to provide the reader with useful guidance, and do not constitute standards having regulatory effect.

(b) Engineered Alternatives Allowed—Unless otherwise specified, alternatives to construction or prescriptive standards contained in the SWRCB-promulgated regulations of this subdivision may be considered. Alternatives shall only be approved where the discharger demonstrates that:

(1) the construction or prescriptive standard is not feasible as provided in (c); and

(2) there is a specific engineered alternative that:

(A) is consistent with the performance goal addressed by the particular construction or prescriptive standard; and

(B) affords equivalent protection against water quality impairment.

(c) Demonstration [for (b)]—To establish that compliance with prescriptive standards in this subdivision is not feasible for the purposes of (b), the discharger shall demonstrate that compliance with a prescriptive standard either:

(1) is unreasonably and unnecessarily burdensome and will cost substantially more than alternatives which meet the criteria in (b); or

(2) is impractical and will not promote attainment of applicable performance standards. The RWQCB shall consider all relevant technical and economic factors including, but not limited to, present and projected costs of compliance, potential costs for remedial action in the event that waste or leachate is released to the environment, and the extent to which ground water resources could be affected.

(d) Existing and New Units—Units which were operating, or had received all permits necessary for construction and operation, on or before November 27, 1984, are designated as "existing" Units. This includes disposal sites classified under previous regulations and unclassified Units. Dischargers shall continue to operate existing Units under existing classifications and WDRs until those classifications and requirements are reviewed in accordance with Section 21720(c). Existing Units shall be closed and maintained after closure according to Subchapter 5, Chapter 3 of this subdivision (Section 20950 et seq.). All other Units (including expansions and reconstructions of existing Units initiated after November 27, 1984) are "new" Units. For discharges at new Units, the discharger shall comply with all applicable provisions of this division, as summarized in Table 3.1 [of Article 3, Subchapter 2, Chapter 3 of this subdivision] and in Section 20310(d). Pending review and reclassification, the following SWRCB promulgated provisions of this division shall apply to existing Units:

(1) except with regard to Units which were closed, abandoned, or inactive on or before November 27, 1984 [such Units are addressed separately, under (g)], all dischargers are required to be in compliance with the monitoring program requirements [in Article 1, Subchapter 3, Chapter 3, Subdivision 1 of this division (Section 20380 et seq.)];

(2) dischargers may be required to submit additional technical and monitoring reports to the RWQCB as determined to be necessary on a case by case basis.

(e) Reclassification—In reviewing WDRs for existing Units, the RWQCB shall consider the results of monitoring programs developed under (d)(1) and technical and monitoring reports submitted under (d)(2). Existing Units shall be reclassified according to the geologic siting criteria in Article 3, Subchapter 2, Chapter 3, Subdivision 1 of this division (Section 20240 et seq., as summarized in Table 3.1 of that article) and shall be required to comply with applicable SWRCB-promulgated construction standards in Article 4, Subchapter 2, Chapter 3, Subdivision 1 of this division [as summarized in Section 20310(d)] as feasible. To establish that retrofitting is not feasible, the discharger shall be required to make the demonstrations in (b) and (c).

(f) WDRs Implement Regulations—The RWQCB shall implement the SWRCB-promulgated regulations in this subtitle through the issuance of WDRs for Units.

(g) CAI Units—Persons responsible for discharges at Units which were closed, abandoned, or inactive on or before November 27, 1984 (CAI Units), may be required to develop and implement a detection monitoring program in accordance with Article 1,

Subchapter 3, Chapter 3, Subdivision 1 of this division (Section 20380 et seq.). If water quality impairment is found, such persons may be required to develop and implement a corrective action program under that article.

(h) Mining Waste—Discharges of mining waste, as defined in Section 22470(a), shall be regulated only by the provisions of Article 1, Subchapter 1, Chapter 7, Subdivision 1 of this division (Section 22470 et seq.) and by such provisions of the other portions of this subdivision as are specifically referenced in that article.

(i) Combined SWRCB/CIWMB Solid Waste Landfill Regulations—The California Integrated Waste Management Board (CIWMB) and the SWRCB have promulgated the combined regulations contained in this division. For clarity, in moving the modified Sections from their former location (in Chapter 15, Division 3, Title 23 of this code):

(1) Section Title Coding—the title of each SWRCB-promulgated Section in the combined regulations begins with "SWRCB " and ends with the Section number (in parentheses) that Section had in Title 23 [e.g., the notation "(C-15: Section 2540)" following the Section title signifies that the subject Section is derived from Section 2540, Chapter 15, Division 3, Title 23 of this code, as that chapter existed prior to July 18, 1997] and

(2) Paragraph Subtitles—subtitles have been added at the beginning of many paragraphs, to assist the reader in quickly finding specific portions of the SWRCB's requirements that address a particular issue.

Authority cited: Section 1058, Water Code.

Reference: Sections 13142, 13260 and 13263, Water Code.

Section 20090. SWRCB Exemptions. (C15: Section 2511)

The following activities shall be exempt from the SWRCB-promulgated provisions of this subdivision, so long as the activity meets, and continues to meet, all preconditions listed:

(a) Sewage—Discharges of domestic sewage or treated effluent which are regulated by WDRs issued pursuant to Chapter 9, Division 3, Title 23 of this code, or for which WDRs have been waived, and which are consistent with applicable water quality objectives, and treatment or storage facilities associated with municipal wastewater treatment plants, provided that residual sludge or solid waste from wastewater treatment facilities shall be discharged only in accordance with the applicable SWRCB-promulgated provisions of this division.

(b) Wastewater—Discharges of wastewater to land, including but not limited to evaporation ponds, percolation ponds, or subsurface leachfields if the following conditions are met:

(1) the applicable RWQCB has issued WDRs, reclamation requirements, or waived such issuance;

(2) the discharge is in compliance with the applicable water quality control plan; and

(3) the wastewater does not need to be managed according to Chapter 11, Division 4.5, Title 22 of this code as a hazardous waste.

(c) **Underground Injection**—Discharges of waste to wells by injection pursuant to the Underground Injection Control Program established by the United States Environmental Protection Agency (USEPA) under the Safe Drinking Water Act, [42 U.S. Code Section 300(h), see Title 40 of the Code of Federal Regulations, Parts 144 to 146, 40 CFR 144 to 146].

(d) **RWQCB Cleanup Actions**—Actions taken by or at the direction of public agencies to cleanup or abate conditions of pollution or nuisance resulting from unintentional or unauthorized releases of waste or pollutants to the environment; provided that wastes, pollutants, or contaminated materials removed from the immediate place of release shall be discharged according to the SWRCB-promulgated Sections of Article 2, Subchapter 2, Chapter 3, Subdivision 1 of this division (Section 20200 et seq.); and further provided that remedial actions intended to contain such wastes at the place of release shall implement applicable SWRCB promulgated provisions of this division to the extent feasible.

(e) **Gas Condensate**—Discharges of condensate from methane gas recovery operations at classified Units if the following conditions are met:

(1) condensate shall have no chemical additives which could adversely affect containment features, and shall consist only of water and liquid contaminants removed from gas recovered at a Unit;

(2) except as otherwise provided in Section 20200(d) regarding MSW landfills, condensate shall either be discharged to a different landfill that has a leachate collection and removal system and that is operated under WDRs issued by the RWQCB, or returned to the Unit(s) from which it came; and

(3) the discharger shall submit a report of waste discharge to the RWQCB, pursuant to Chapter 9, Division 3, Title 23 of this code, and shall discharge condensate only in compliance with WDRs.

(f) **Soil Amendments**—Use of nonhazardous decomposable waste as a soil amendment pursuant to applicable best management practices, provided that RWQCBs may issue waste discharge or reclamation requirements for such use.

(g) **Drilling Waste**—Discharges of drilling mud and cuttings from well drilling operations, provided that such discharges are to on site sumps and do not contain halogenated solvents, and further provided that, at the end of drilling operations, the discharger either:

(1) removes all wastes from the sump; or

(2) removes all free liquid from the sump and covers residual solid and semi solid wastes, provided that representative sampling of the sump contents after liquid removal shows residual solid wastes to be nonhazardous. If the sump has appropriate containment features, it may be reused.

(h) Reuse—Recycling or other use of materials salvaged from waste, or produced by waste treatment, such as scrap metal, compost, and recycled chemicals, provided that discharges of residual wastes from recycling or treatment operations to land shall be according to applicable provisions of this division.

(i) Fully Enclosed Units—Waste treatment in fully enclosed facilities, such as tanks, or in concrete lined facilities of limited areal extent, such as oil water separators designed, constructed, and operated according to American Petroleum Institute specifications.

Authority cited: Section 1058, Water Code.

Reference: Sections 13142, 13260 and 13269, Water Code.

Section 20100. [Reserved by SWRCB.]

Section 20110. [Reserved by SWRCB.]

Section 20120. [Reserved by SWRCB.]

Section 20130. [Reserved by SWRCB.]

Section 20140. [Reserved by SWRCB.]

Chapter 2. Definitions

SubChapter Ghost Header for Outline ADA Compliance

Article 1. Statutory Definitions

Section 20150. CIWMB General. (T14:Section 17225, 17258.2)

Unless the context requires another construction, the definitions set forth in this chapter and in Division 30 of the Public Resources Code shall govern the construction of this Subdivision. No definitions which are present in Division 30 of the Public Resources

Code are repeated herein. Consequently, those definitions should be read in conjunction with the ones set forth herein.

Authority cited: Section 40502, 43020 and 43021, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20163. SWRCB Statutory Definitions. (C15: Section 2600)

Except as otherwise indicated in this article, definitions of terms used in the SWRCB promulgated portions of this subdivision shall be those set forth in Division 7 (commencing with Section 13000) of the Water Code, or Chapter 6.5 of Division 20 of the Health and Safety Code (commencing with Section 25100).

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, Water Code.

Article 2. Specific Definitions

Section 20164. Combined CalRecycle & SWRCB Technical Definitions.

[This Section contains the SWRCB's and CalRecycle's technical definitions, combined and listed in alphabetical order. Each agency is responsible for adopting its own definitions within this combined listing. Unless otherwise stated in a given regulation, it is the intent of the SWRCB and CalRecycle that each agency's definitions function for the other agency (e.g., when CalRecycle uses a term adopted by the SWRCB, or vice versa, the term has the same meaning as defined by the agency that adopted the term).]

"Abandoned site" (CIWMB) means a site where there is no responsible party.

"Abandoned Vehicles" (CIWMB) includes vehicles, with or without motor power, including cars, trucks, trailers, mobile homes, buses, etc., left on public or private property for an extended period of time and usually in an inoperable or hazardous condition.

"Acceptance for filing" (CIWMB) means the enforcement agency has determined that the application package is complete and correct and the specified permit action time frames contained in Chapter 4 of this subdivision commence.

"Active" (CIWMB) for CIWMB promulgated Sections means the period when waste is being accepted for disposal at a disposal site.

"Active Face" (CIWMB) means the working surface of a landfill upon which solid wastes are deposited during the landfill operation, prior to the placement of cover material.

"Active life" or "operating life" (SWRCB) means the period during which wastes are being discharged to a waste management unit. The active life continues until final closure of the waste management unit has been initiated pursuant to this subdivision. For surface impoundments, the active life includes any time when the impoundment contains liquid, including waste and leachate.

"Affected medium" (SWRCB) means any natural medium that consists of or contains waters of the state (e.g., ground water, surface water, or the unsaturated zone) that has been affected by a release from a waste management unit.

"Agricultural Solid Wastes" (CIWMB) include wastes resulting from the production and processing of farm or agricultural products, including manures, prunings and crop residues wherever produced.

"Airport" (CIWMB) means public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.

"Alternative Daily Cover" (CIWMB) see "cover material".

"Annular Seal" (CIWMB) the seal placed in the space between the casing in a well and the wall of the hole, or between two concentric strings of casing, or between casing and tubing.

"Approval Agency" (CIWMB) includes any agency with regulatory powers regarding solid waste generation, collection, transportation, processing or disposal and includes, but is not limited to the CIWMB, the Department of Toxic Substances Control, California Regional Water Quality Control Boards, local air districts, local enforcement agencies, local health entities and local land use authorities.

"Approved closure plan" (SWRCB) means the portion of a waste management unit's (Unit's) final closure and post-closure maintenance plan that describes all actions necessary to prepare the Unit for post-closure maintenance, and that has been approved by the RWQCB and by any other state and local agencies having purview over that plan.

"Aquifer" (SWRCB) means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

"Attitude" (SWRCB) means either the orientation in space of a geologic structural feature or the structural element position of a geologic bed, stratum, fracture, or surface relative to the horizontal.

"Background" (SWRCB) means the concentrations or measures of constituents or indicator parameters in water or soil that has not been affected by waste constituents or leachate from the waste management unit being monitored.

"Background Monitoring Point" (SWRCB) (as capitalized) means a well, device, or location specified in the waste discharge requirements at which monitoring for background water quality or background soil quality is conducted.

"Background plot" (SWRCB) means an area adjacent to a land treatment unit that can reasonably be expected to have the same, or similar soil conditions as were present at the land treatment unit prior to discharges of waste.

"Baling" (CIWMB) includes the process of compressing and binding solid wastes.

"Bench" (CIWMB) means a terrace or comparatively level platform breaking the continuity of a slope.

"Best management practice(s)" (SWRCB) means a practice, or combination of practices, that is the most effective and feasible means of controlling pollution generated by nonpoint sources for the attainment of water quality objectives.

"Bird hazard" (CIWMB) means an increase in the likelihood of bird/aircraft collisions that may cause damage to the aircraft or injury to its occupants.

"Bulky Waste" (CIWMB) includes large items of solid waste such as appliances, furniture, large auto parts, trees, branches, stumps and other oversize wastes whose large size precludes or complicates their handling by normal collection, processing or disposal methods.

"CAI Units" (SWRCB) means waste management units that were closed, abandoned, or inactive prior to November 27, 1984.

"CalRecycle" (CalRecycle) means the Department of Resources Recycling and Recovery (formerly the California Integrated Waste Management Board), which is the lead agency for implementing the State municipal solid waste program that is deemed to be adequate by USEPA under regulations published pursuant to Sections 2002 and 4005 of RCRA.

"Capillary force(s)" (SWRCB) means the adhesive force between liquids and solids which, in the case of ground water hydrology, causes soil pore liquid to move in response to differences in matric potential. This effect causes ground water to rise from a saturated zone into the unsaturated zone, thereby creating a capillary fringe.

"Cell" (CIWMB) means that portion of compacted solid wastes in a landfill that is enclosed by natural soil or cover material during a designated period.

"Certified Engineering Geologist" (CIWMB) means a registered geologist, certified by the State of California, pursuant to Section 7842 of the Business and Professions Code.

"CIWMB" (CIWMB) means the California Integrated Waste Management Board, which, as of January 1, 2010, ceased to exist as an agency and became part of (subjoined into) a new Department of Resources Recycling and Recovery (CalRecycle). CalRecycle is the lead agency for implementing the State municipal solid waste permit program that is deemed to be adequate by US EPA under regulations published pursuant to Sections 2002 and 4005 of RCRA.

"Classified waste management unit" or "classified Unit" (SWRCB) means a waste management unit (as defined in this Section) that has been classified by a Regional Water Quality Control Board according to the provisions of Article 3 Subchapter 2, Chapter 3 of this division (Section 20240 et seq.).

"Classified Unit" see "classified waste management unit" or "classified Unit" "CLGB" see "concentration limit"

"Closed Site" (CIWMB) means a disposal site that has ceased accepting waste and was closed in accordance with applicable statutes, regulations, and local ordinances in effect at the time.

"Closure" (SWRCB) means the process during which a waste management unit (Unit), or portion thereof, that is no longer receiving waste, is undergoing all operations necessary to prepare the Unit (or portion thereof, as appropriate) for post-closure maintenance in accordance with an approved plan for closure, or partial final closure as appropriate.

"Closure plan" (CIWMB) as used in this division refers to preliminary, final, and/or partial final closure plans as appropriate.

"COC" or "COCs" see "Constituents Of Concern"

"Coefficient of variation" (SWRCB) means the standard deviation divided by the mean. It is a statistical measure of the dispersion of individual samples relative to the mean value of the samples.

"Collection" (CIWMB) means the act of collecting solid waste at the place of waste generation by an approved collection agent (public or private) and is distinguished from "removal."

"Collection Vehicle or Equipment" (CIWMB) includes any vehicle or equipment used in the collection of residential refuse or commercial solid wastes.

"Commercial Solid Wastes" (CIWMB) include all types of solid wastes generated by stores, offices and other commercial sources, excluding residences, and excluding industrial wastes.

"Concentration limit" (SWRCB) means the value for a constituent specified in the water quality protection standard under Section 20390 and Section 20400, including but not limited to values for concentration, temperature, pH, conductivity, and resistivity. The term can apply to a concentration that exceeds the constituent's background concentration [i.e., a "concentration limit greater than background (CLGB)" (SWRCB) as described under Section 20400].

"Concentration limit greater than background (CLGB)" see "concentration limit"

"Confined animal facility" (SWRCB) means any place where cattle, calves, sheep, swine, horses, mules, goats, fowl, or other domestic animals are corralled, penned, tethered, or otherwise enclosed or held and where feeding is by means other than grazing.

"Constituent" (SWRCB) means an element or compound which occurs in or is likely to be derived from waste discharged to the waste management unit.

"Constituent(s) of concern" or "COC(s)" (SWRCB) means any waste constituent(s), reaction product(s), and hazardous constituent(s) that is reasonably expected to be in or derived from waste contained in a waste management unit.

"Construction and Demolition Wastes" (CIWMB) include the waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures.

"Construction quality assurance" or "CQA" (SWRCB) means a planned system of activities that provides assurance that the facility, or component thereof, is constructed as specified in the approved design. As used in these regulations, the term includes "Construction quality control" or "CQC", a planned system of inspections that is used to directly monitor and control the quality of a construction project.

"Containment" (SWRCB) means the use of waste management unit characteristics or installed systems and structures to prevent or restrict the release of waste constituents, including waste constituents mobilized as a component of leachate or of landfill gas.

"Containment feature" (SWRCB) means any feature, whether natural or artificial, used to contain waste constituents, including waste constituents mobilized as a component of leachate or of landfill gas.

"Containment structure" (SWRCB) means an artificial feature designed and installed to contain waste constituents, including waste constituents mobilized as a component of leachate or of landfill gas.

"Contaminated materials" (SWRCB) means materials that contain waste constituents or leachate.

"Control chart" (SWRCB) means a graphical method for evaluating whether a process is or is not in a state of statistical control.

"Coverage" (SWRCB), when applied to financial assurance, means the amount of funds the discharger must make available for a known eventuality (e.g., closure) or potential eventuality (e.g., corrective action).

"Cover Material" (CIWMB) means soils/earthen materials or alternative materials used in covering compacted solid wastes in a disposal site. Cover material may serve as daily, intermediate or final cover. "Alternative Daily Cover" (CIWMB) means cover material other than at least six inches of earthen material, placed on the surface of the active face at the end of each operating day to control vectors, fires, odors, blowing litter, and scavenging. "Daily Cover Material" (CIWMB) includes that cover material placed on the entire surface of the active face at least at the end of each operating day in order to control vectors, fire, odors, blowing litter and scavenging. "Final Cover Material" (CIWMB) means cover material that represents the permanently exposed final surface of a fill. "Intermediate Cover Material" (CIWMB) means cover material placed on all fill surfaces where additional cells are not to be constructed for 180 days or more to control vectors, fires, odors, blowing litter, scavenging, and drainage. Intermediate cover does not include final cover as defined in this Section.

"CQA" see "construction quality assurance"

"CQC" refer to "construction quality assurance"

"Critical Slope" (SWRCB) means a potential slip surface or slope on a site that has the lowest factor of safety.

"Cross contamination" (SWRCB) means a condition created when a drill hole, boring, or improperly constructed well forms a pathway for fluid movement between a saturated zone which contains pollutants and a formerly separated saturated zone containing uncontaminated ground water.

"Cutoff wall" (SWRCB) means a subsurface barrier to lateral fluid movement which extends from in place natural geologic materials (which have the required hydraulic conductivity) to ground surface.

"Day" (CIWMB) means calendar day unless otherwise specified.

"Dead Animals" (CIWMB) include those animals whose carcasses or parts thereof require disposal.

"Decomposable waste" (SWRCB) means waste which, under suitable natural conditions, can be transformed through biological and chemical processes into compounds which do not impair the quality of waters of the state. Nevertheless, incomplete decomposition may result in some water quality degradation (e.g., hardness, taste, odor, etc.).

"Decomposition Gases" (CIWMB) include gases produced by chemical or microbial activity during the decomposition of solid waste.

"Dedicated" (SWRCB), when applied to a waste management unit (Unit), means the Unit is used exclusively for discharges of particular wastes.

"Dendritic" (SWRCB) when applied to a waste management unit's subdrain system, means that this system is arranged in a branching pattern.

"Designated waste" (SWRCB) has the same meaning as under California Water Code Section 13173.

"Dewatered sludge" (SWRCB) means residual semi solid waste from which free liquid has been evaporated or otherwise removed.

"Discharger" (SWRCB) means any person who discharges waste which could affect the quality of waters of the state, and includes any person who owns a waste management unit (Unit) or who is responsible for the operation of a Unit. When referring to dischargers of hazardous waste, the terms "discharge" and "waste" in this definition have the same meaning as they would have under the definitions for these terms provided in Section 66260.10 of Chapter 11 of Division 4.5 of Title 22, CCR, effective July 1, 1991.

"Discrete unit" (CIWMB) means any portion of the disposal area that can be individually monitored.

"Disposal Area" (CIWMB) [CIWMB usage] means that portion of a disposal site which has received or is receiving solid wastes.

"Dump" (CIWMB) means a disposal site which has waste exposed to the elements, vectors and scavengers.

"Dynamic Conditions" (CIWMB) means under transitory loading conditions, such as during an earthquake.

"EA" (CIWMB) means enforcement agency as defined in PRC Section 40130.

"Earthquake Magnitude" (CIWMB) means the Richter scale of earthquake magnitude used to express the total energy of an earthquake.

"Electrical conductivity" (SWRCB) means the relative ability of water to conduct electrical current. It depends on the ion concentration of, and can be used to approximate the total filterable residue (total dissolved solids) in, the water.

"Environmental Control System" (CIWMB) means a system to prevent the release of waste constituents from the containment structures of sites. Environmental control system for the purpose of this definition does not include systems which primary function is to protect water quality.

"Excess exposure" (SWRCB) means that, for an organism exposed to a release from a waste management unit, the combined effect of all hazardous constituents in the

organism's environment is such that the organism will suffer some measurable adverse effect on health or reproductive success, which effect is partly or wholly attributable to the release.

"Existing" (SWRCB), when describing a waste management unit (e.g., "existing surface impoundment", or "existing Unit"), means that the waste management unit in question was operating, or had received all permits necessary for construction and operation, on or before November 27, 1984, pursuant to Section 20080(d).

"Existing Footprint" (SWRCB) (as capitalized) means the area of land, at an MSW landfill, that is covered by waste as of the date that landfill became subject to the federal regulations of 40 CFR Part 258, pursuant to Section 258.1 of that part, as published in the Federal Register of October 1, 1993 (Volume 58, No. 189, pages 51546 and 51547). [see also definitions for "Federal Deadline" and "MSW landfill".]

"Existing MSWLF unit" (CIWMB) means any municipal solid waste landfill unit that is receiving solid waste as of the appropriate dates specified in Section 20060. Waste placement in existing units must be consistent with past operating practices or modified practices to ensure good management.

"External hydrogeologic forces" (SWRCB) means seasonal and other fluctuations in ground water levels, and any other hydraulic condition which could cause a change in the hydraulic stress on a containment structure.

"Facility" see "waste management facility"

"Facility Boundary" (CIWMB) means the boundary surrounding the entire area on which solid waste facility activities occur and are permitted.

"Facility wastewater" (SWRCB) means all wastewater, from whatever source, produced at a confined animal facility.

"Factor of safety" (SWRCB) means the ratio of forces resisting slope or foundation failure over forces driving slope or foundation failure.

"Federal Deadline" (SWRCB) applies only to an MSW landfill, and means the compliance date applicable to that landfill or portion thereof pursuant to Section 258.1(e) of the federal MSW regulations (40CFR258), as revised in the Federal Register of October 1, 1993 (Volume 58, No. 189, pages 51546 and 51547). The term does not mean the date an MSW landfill must begin monitoring, in that all waste management units subject to these regulations have been required to monitor since the November 27, 1984 version of these regulations (see Section 20380 et seq.).

"Fill" (CIWMB) includes compacted solid waste and cover material. "Flexible membrane liner (FML)" see "geosynthetic(s)"

"Floodplain" (SWRCB) means the land area which is subject to flooding in any year from any source.

"FML" see "geosynthetic(s)"

"Foundation Failure" (CIWMB) means the failure of a foundation, soil or rock that serves to support an imposed load, along a surface of weakness.

"Freeboard" (SWRCB) means the vertical distance between the lowest point along the top of a surface impoundment dike, berm, levee, or other similar feature and the surface of the liquid contained therein.

"Free liquid" (SWRCB) means liquid which readily separates from the solid portions of waste under ambient temperature and pressure. Free liquids are not present when a 100 milliliter representative sample of the waste can be completely retained in a standard 400 micron conical paint filter for 5 minutes without loss of any portion of the waste from the bottom of the filter (or an equivalent test approved by the Department of Toxic Substances Control).

"Garbage" (CIWMB) includes all kitchen and table food waste, and animal or vegetable waste that attends or results from the storage, preparation, cooking or handling of food stuffs.

"Geologic materials" (SWRCB) means in place naturally occurring surface and subsurface rock and soil.

"Geologist" (CIWMB) means a person who is engaged in professional geological work under the supervision of registered geologist or registered civil engineer, who is in responsible charge of the work, pursuant to Section 7805 of the Business and Professions Code.

"Geomembrane" see "geosynthetic(s)"

"Geosynthetic(s)" (SWRCB) (n) means flexible materials in planar form manufactured to meet specific engineering purposes. The term includes, but is not limited to: "geomembrane", an essentially impermeable membrane used as a barrier to waste solids and fluids, and synonymous with "synthetic liner" and "flexible membrane liner (FML)" ; "geocomposite liner (GCL)," a manufactured material using geotextiles, geogrids, geonets, and/or geomembranes in laminated or composite form; "geotextile" (including "geonet"), any permeable textile used with foundation, soil, rock, earth, or any other geotechnical engineering-related material as an integral part of a constructed project, structure, or system.

"Ground acceleration" (SWRCB) means acceleration of earth particles caused by an earthquake.

"Ground rupture" (SWRCB) means disruption of the ground surface due to natural or manmade forces (e.g., faulting, landslides, subsidence).

"Ground water" (SWRCB) for the purpose of the SWRCB-promulgated requirements of this subtitle, means water below the land surface that is at or above atmospheric pressure.

"Grout curtain" (SWRCB) means a subsurface barrier to fluid movement, installed by injecting grout mixtures (such as cement, silicates, synthetic resins, etc.) to fill and seal fractures in rock.

"Hazardous constituent" (SWRCB) means a constituent identified in Appendix VIII to Chapter 11 of Division 4.5 of Title 22, CCR, or an element, chemical compound, or mixture of compounds which is a component of a waste or leachate and which has a physical or chemical property that causes the waste or leachate to be identified as a hazardous waste by the California Department of Toxic Substances Control.

"Hazardous waste" (SWRCB) means any waste which, under Article 1, Chapter 11, Division 4.5 (Section 66261.3 et seq.) of Title 22 of this code, is required to be managed according to Division 4.5 of Title 22 of this code.

"Head" or "hydraulic head" (SWRCB) means the pressure exerted by fluid on a given area. It is caused by the height of the fluid surface above the area.

"Holding facilities" (CIWMB) means sedimentation basins/ponds designed to control suspended solids entrained in surface run-off, prior to discharge.

"Holocene fault" (SWRCB) means a fault which is or has been active during the last 11,000 years.

"Household waste" (CIWMB) means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day use recreation areas).

"Hydraulic conductivity" (SWRCB) means the ability of natural and artificial materials to transmit fluid. For water, including aqueous solutions, the term is expressed as a measure of the rate of flow (e.g., cubic centimeters per second) one can expect through a unit-area (e.g., one square centimeter) cross Section of the material when the hydraulic gradient is unity (e.g., one centimeter of head loss per centimeter of travel through the material). The resulting numerical value is expressed in velocity units (e.g., centimeters per second).

"Illegal Site" (CIWMB) means a disposal site that is not permitted and not exempt from obtaining a permit and is not closed or excluded from the requirement to obtain a SWFP.

"Inactive" (SWRCB) means a temporary status of a waste management unit (Unit), following the initial receipt of waste, in which the Unit is no longer receiving waste.

"Inactive mining waste management unit" (SWRCB) means any area containing mining wastes which is located at a present or former mining or milling site, and where all mining operations and discharges of mining waste ended and have not been resumed for 5 years, or more.

"Inactive Site" (CIWMB) means a site that is temporarily idle for a specific period due to known circumstances and not part of the normal operation pattern contained in the solid waste facility permit.

"Incinerator" (CIWMB) includes any equipment used for the volume reduction or destruction of combustible wastes by burning, from which the exhaust gases pass through a flue.

"Incinerator Residue" (CIWMB) includes the solid materials remaining after reduction in an incinerator.

"Independent sample" (SWRCB) means an individual sample of a monitored medium, obtained from a given Monitoring Point, that:

- 1) does not contain a parcel of the medium that has been previously sampled at that Monitoring Point sufficient to cause a measurable effect in the analytical results; and
- 2) has not been otherwise affected differently than any other individual sample or group of samples with which it will be compared.

In applying No. 1, above, to ground water monitoring, the parcel of water of interest is the parcel of water that was in the well bore at the time of any previous sampling event.

"Indicator parameters" (SWRCB) means measurable physical or chemical characteristics of water or soil pore moisture which are used to detect the presence of waste constituents in water or soil pore moisture, or the effects of waste constituents on waters of the state.

"Industrial Wastes" (CIWMB) include all types of solid wastes and semi solid wastes which result from industrial processes and manufacturing operations.

"Inert waste" (SWRCB) means the same as under Section 20230(a).

"Interim cover" (SWRCB) means the same as under Section 20705(a).

"Intermediate cover" (SWRCB), when used in an SWRCB-promulgated requirement applicable to a waste pile waste management unit, has a meaning identical to the CIWMB's definition of the term as it applies to landfills (under the definition for "cover material" in this Section).

"Iso-settlement map" (SWRCB) means a contour map showing lines of equal settlement of a landfill over a period of time.

"Land application unit" (CIWMB) means an area where wastes are applied onto or incorporated into the soil surface (excluding manure spreading operations) for agricultural purposes or for treatment and disposal.

"Landfill" (SWRCB) means a waste management unit at which waste is discharged in or on land for disposal. It does not include surface impoundment, waste pile, land treatment unit, injection well, or soil amendments. [see also the definition of "waste management unit" and Section 20090(c&f).]

"Landfill gas condensate" (SWRCB) means liquids which are removed from a gas control system at a landfill and which are produced by the condensation of landfill gas being conveyed by that system. The term ceases to apply to such liquid upon its being treated to the extent that it no longer contains any constituent of concern whose concentration exceeds the water quality objectives of ground water in the uppermost aquifer underlying the waste management unit. [see also Section 20200(d).]

"Land treatment unit" (SWRCB) means a waste management unit (Unit) at which liquid and solid waste is discharged to, or incorporated into, soil for degradation, transformation, or immobilization within the treatment zone. Such Units are disposal Units if the waste will remain after closure. [see also the definition of "waste management unit" and Section 20090(f).]

"Lateral expansion" (CIWMB) means a horizontal expansion beyond the disposal area boundary.

"Lateral expansion (beyond Existing Footprint)" (SWRCB) applies only to an existing MSW landfill that is subject to the federal regulations under 40 CFR 258, and means any portion of the landfill which— in map view— is contiguous with the landfill's Existing Footprint (as defined in this Section) and which receives waste after the landfill's Federal Deadline (as defined in this Section).

"Lateral expansion (of RWQCB-Permitted Area)" (SWRCB), for any new or existing waste management unit (Unit), means any increasing map view of the Unit's RWQCB-Permitted Area (as defined in this Section.)

"LCRS" see "leachate collection and removal system"

"Leachate" (SWRCB) means any liquid formed by the drainage of liquids from waste or by the percolation or flow of liquid through waste. It includes any constituents extracted from the waste and dissolved or suspended in the fluid. The term ceases to apply to such liquid upon its being mingled with ground water outside the Unit's liner system. The term also ceases to apply to such liquid upon its being treated to the extent that it no longer contains any constituent of concern whose concentration exceeds the water quality objectives of ground water in the uppermost aquifer underlying the waste management unit.

"Leachate collection and removal system" or "LCRS" (SWRCB) means that portion of a waste management unit's containment system that is designed and constructed

(pursuant to Section 20340) to collect all leachate that reaches it, and to convey such leachate to a designated collection area to minimize the buildup of leachate head on any underlying liner. The term does not include systems that are designed to collect ground water outside the Unit's liner, if any, including ground water that has been polluted by leachate.

"Liner" (SWRCB) means a continuous layer of natural or artificial material, or a continuous membrane of flexible artificial material, or a continuous composite layer consisting of a membrane of flexible artificial material directly overlying a layer of engineered natural material, which is installed beneath or on the sides of a waste management unit (Unit), and which acts as a barrier to both vertical or lateral fluid movement.

"Liner system" (SWRCB) means the entire sequence of individual liners, composite liners, and leachate collection system(s) which prevent or minimize releases from the waste management unit.

"Liquefaction" (SWRCB) means the process resulting from seismic or other shaking whereby solid granular material takes on the flowing characteristics of a liquid.

"Liquid waste" (SWRCB) means any waste materials which are not spadable.

"Litter" (CIWMB) means all solid waste which has been improperly discarded at any location or which has migrated by wind or equipment away from the unloading area of a solid waste facility, disposal site or operation. Litter includes, but is not limited to, convenience food, beverage, and other product packages or containers constructed of steel, aluminum, glass, paper, plastic, and

other natural and synthetic materials, thrown or deposited on the lands and waters of the state, but not including the properly discarded waste of the primary processing of agriculture, mining, logging, sawmilling, or manufacturing.

"Local Air District" (CIWMB) means the local Air Quality Management District (AQMD) or the local Air Pollution Control District (APCD).

"Local Government" (CIWMB) is a local public entity which is a county, city, district, or any other special political subdivision, but is not the State.

"Manure" (SWRCB) means the accumulated moist animal excrement that does not undergo decomposition or drying as would occur on open grazing land or natural habitat. This definition shall include feces and urine which may be mixed with bedding materials, spilled feed, or soil.

"Maximum credible earthquake", or "MCE" (SWRCB), means the maximum earthquake that appears capable of occurring under the presently known geologic framework. In determining the maximum credible earthquake, little regard is given to its probability of occurrence except that its likelihood of occurring is great enough to be of concern. The term describes an event that could be approached more frequently in one geologic

environment than in another; therefore, the following factors have a bearing upon the derivation of the MCE for any given facility:

- (a) the seismic history of the vicinity and of the geologic province;
- (b) the length of the significant fault or faults which can affect the site within a radius of 62 miles (100 kilometers) of the facility boundary;
- (c) the type(s) of faults involved;
- (d) the tectonic and/or structural history; and
- (e) the tectonic and/or structural pattern or regional setting (geologic framework); nevertheless
- (f) the time factor shall not be a parameter.

"Maximum probable earthquake", or "MPE" (SWRCB), means the maximum earthquake that is likely to occur during a 100 year interval. The term describes a probable occurrence, rather than an assured event that will occur at a specific time; therefore, the following factors have a bearing upon the derivation of the MPE for a given facility:

- (a) the regional seismicity, considering the known past seismic activity;
- (b) the fault or faults within a 62 mile (100 kilometer) radius from the facility boundary that may be active within the 100 years following first acceptance of waste;
- (c) the type(s) of faults considered;
- (d) the seismic recurrence factor for the area described in (b), above, and for any faults (when known) within that area; and
- (e) the mathematic probability analysis (or statistical analysis) of seismic activity associated with the faults included in the area described under (b), above, including a graphical plot of recurrence information.

Nevertheless, the postulated magnitude of the MPE is superseded by any more powerful seismic event that has occurred within historic time in the area described under (b), above.

"Measurably significant" (SWRCB) means a change in the Monitoring Point data that, relative to the reference background value (or other approved reference value or distribution), is sufficient to indicate that a release has occurred, pursuant to the applicable data analysis method (including its corresponding trigger).

"Medical Waste" (CIWMB) means waste regulated pursuant to the Medical Waste Management Act, Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code.

"Mining waste" (SWRCB) means all waste materials (solid, semi solid, and liquid) from the mining and processing of ores and minerals including soil, waste rock, and other forms of overburden as well as tailings, slag, and other processed mining wastes.

"Moisture holding capacity" (SWRCB) means the amount of liquid which can be held against gravity by waste materials without generating free liquid.

"Monitoring parameter" (SWRCB) means one of the set of parameters specified in the waste discharge requirements for which monitoring is conducted. Monitoring parameters include physical parameters, waste constituents, reaction products, and hazardous constituents, that provide a reliable indication of a release from a waste management unit.

"Monitoring Point" (SWRCB) (as capitalized) means a well, device, or location specified in the waste discharge requirements at which monitoring is conducted and at which the water quality protection standard, under Section 20390, applies.

"MSW landfill" or "municipal solid waste landfill unit" (SWRCB) means any landfill that is subject to the federal regulations of 40CFR258, including any portion of a disposal site that is subject to those regulations. The term includes any landfill, other than a Class I landfill, that received municipal solid waste (MSW) at any time and that has received any solid waste since October 9, 1991; therefore, the term does not include any landfill that stopped receiving waste prior to that date.

"Municipal solid waste," or "MSW" (SWRCB) has the same meaning as under 40 CFR Part 258.

"New Unit" (SWRCB), when applied to a waste management unit (Unit) or portion thereof, means that the Unit (or portion thereof) began operating, or had received all permits necessary for construction and operation, after November 27, 1984, pursuant to Section 20080(d).

"New MSWLF unit" (CIWMB) means any municipal solid waste landfill unit that has not received waste prior to the operative date of October 9, 1993, or prior to October 9, 1997 if the MSWLF unit meets the conditions of 40 CFR 258.1(f)(1).

"Nonhazardous solid waste" (SWRCB) has the same meaning as under Section 20220(a). "Nuisance" (SWRCB) has the same meaning as under Water Code Section 13050(m).

"Nuisance" (CIWMB) for CIWMB-promulgated Sections includes anything which is injurious to human health or is indecent or offensive to the senses and interferes with the comfortable enjoyment of life or property, and affects at the same time an entire community, neighborhood, household or any considerable number of persons although

the extent of annoyance or damage inflicted upon an individual may be unequal and which occurs as a result of the storage, removal, transport, processing or disposal of solid waste.

"On-site" (CIWMB) means located within the permitted boundary. "Open burning" (CIWMB) means the combustion of solid waste without:

- (1) Control of combustion air to maintain adequate temperature for efficient combustion,
- (2) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and
- (3) Control of the emission of the combustion products.

"Operating" (CIWMB) means currently active or the period of site activity from the first receipt of waste until the final receipt of waste consistent with the normal pattern of operation in the solid waste facility permit.

"Operating" (SWRCB) see "active life"

"Operating Area" (CIWMB) means that portion of a solid waste facility which is currently in use for the unloading, management or disposal of wastes.

"Operating life" see "active life"

"Operator" (CIWMB) means the landowner or other person who through a lease, franchise agreement or other arrangement with the landowner becomes legally responsible to the State for including, but not limited to, the following requirements for a solid waste facility or disposal site:

- (a) obtaining a solid waste facility permit;
- (b) complying with all applicable federal, state and local requirements;
- (c) the physical operation of the facility or site; and
- (d) closing and maintaining the site during the postclosure maintenance period.

"Overpulling" (CIWMB) means excessive air intrusion into a disposal site during gas extraction to control the migration of landfill gas or to increase the production of landfill gas in an energy production system or flare.

"Partial Final Closure" (CIWMB) means the closure of discrete units of a site consistent with the approved closure and postclosure maintenance plan.

"Peak stream flow" (SWRCB) means the maximum expected flow of surface water at a waste management facility from a tributary watershed for a given recurrence interval.

"Peer-reviewed" (CIWMB) means published and independently reviewed by other experts within the same academic field.

"Perched ground water" (SWRCB) means a body of unconfined ground water separated from the zone of saturation by a portion of the unsaturated zone. Such perched water can be either permanent or ephemeral.

"Permeability" (SWRCB) means the ability of natural and artificial materials to transmit fluid.

"Physical parameter" (SWRCB) means any measurable physical characteristic of a substance including, but not limited to, temperature, electrical conductivity, pH, and specific gravity.

"Point of Compliance" (SWRCB) (as capitalized) means a vertical surface located at the hydraulically downgradient limit of a waste management unit (Unit) and that extends through the uppermost aquifer underlying the Unit.

"Post closure maintenance" (SWRCB) means all activities undertaken at a closed waste management unit to maintain the integrity of containment features and to monitor compliance with applicable performance standards.

"Post closure maintenance period" (SWRCB) means the period after closure of a waste management unit (Unit) during which the waste in the Unit could have an adverse effect on the quality of the waters of the state.

"Postclosure maintenance plan" (CIWMB) as used in this division refers to preliminary, final, and/or partial final postclosure maintenance plans as appropriate.

"Premises" (CIWMB) includes a tract or parcel of land with or without habitable buildings or appurtenant structures.

"Principal Gases" (CIWMB) means the organic or inorganic constituents of landfill gas, greater than one percent by volume, that typically include carbon dioxide, methane, oxygen, and nitrogen.

"Private Access" (CIWMB) means that public access and disposal are not allowed.

"Probable maximum precipitation" (SWRCB) means the estimated amount of precipitation for a given duration, drainage area, and time of year, which approaches and approximates the maximum that is physically possible within the limits of contemporary hydrometeorological knowledge and techniques. The term describes a precipitation event that has virtually no risk of being exceeded.

"Professional Land Surveyor" (CIWMB) means a land surveyor licensed by the State of California pursuant to Section 8747 of the Business and Professions Code.

"Putrescible Wastes" (CIWMB) include wastes that are capable of being decomposed by micro organisms with sufficient rapidity as to cause nuisances because of odors, gases or other offensive conditions.

"P value" (SWRCB) means the smallest significance level for which the null hypothesis would be rejected, based on the data that was actually observed.

"Rapid geologic change" (SWRCB) means alteration of the ground surface through such actions as landslides, subsidence, liquefaction, and faulting.

"R Chart (range chart)" (SWRCB) means a control chart for evaluating the variability within a process in terms of the subgroup range R.

"Reconstruction" (SWRCB) means modification to an existing waste management unit (Unit) which entails costs amounting to 50 percent or more of the initial cost of the Unit.

"Refuse" (CIWMB) includes garbage and rubbish.

"Regional Water Quality Control Board" see "RWQCB"

"Registered Civil Engineer" (CIWMB) means a civil engineer registered by the State of California, pursuant to Section 6762 of the Business and Professions Code.

"Registered Geologist" (CIWMB) means a geologist registered by the State of California, pursuant to Section 7842 of the Business and Professions Code.

"Regulated Hazardous Waste" (CIWMB) means a hazardous waste, as defined in Section 66260.10 of Division 4.5 of Title 22 of this code.

"Relative compaction" (SWRCB) means the degree of compaction achieved, as a percentage of the laboratory compaction, in accordance with accepted civil engineering practices.

"Removal" (CIWMB) means the act of taking solid wastes from the place of waste generation either by an approved collection agent or by a person in control of the premises.

"Removal Frequency" (CIWMB) means frequency of removal of solid wastes from the place of waste generation either by an approved collection agency or by the owner of the waste, or frequency of removal of recyclables at facilities which separate recyclables from the waste stream.

"Rubbish" (CIWMB) includes non-putrescible solid wastes such as ashes, paper, cardboard, tin cans, wood, glass, bedding, crockery, plastics, rubber by products or litter.

"Run-off" (SWRCB) means any precipitation, leachate, or other liquid that drains from any part of a waste management unit (Unit).

"Run-on" (SWRCB) means any precipitation or other liquid that drains onto any part of a waste management unit.

"RWQCB" or "Regional Water Quality Control Board" (RWQCB) has the same meaning as does the latter term, as described under Division 7 of the California Water Code.

"RWQCB-Permitted Area" (SWRCB) (as capitalized) means the portion of land designated in WDRs for the discharge of waste at a waste management unit.

"Salvaging" (CIWMB) means the controlled removal of waste material for utilization.

"Saturated zone" (SWRCB) means an underground zone in which all openings in and between natural geologic materials are filled with water.

"Scavenging" (CIWMB) means the uncontrolled and/or unauthorized removal of solid waste materials, or recyclable material at a solid waste facility.

"Semi solid waste" (SWRCB) means waste containing less than 50 percent solids.

"Sensitive biological receptor of concern" (SWRCB) means a member of any species of

organism whose members are likely to be exposed to a release from a waste management unit

and experience some measurable adverse effect as a result of that exposure.

"Septic Tank Pumpings" (CIWMB) include sludge and wastewater removed from septic tanks.

"Shredding" (CIWMB) includes a process of reducing the particle size of solid wastes through use of grinding, shredding, milling or rasping machines. Shredding for the purposes of this Division does not apply to shredding of waste tires.

"Site Specific" (CIWMB) means specific to the local site.

"Slope Failure" (SWRCB) means the downward and outward movement of ground slopes (e.g., natural rock, soils, artificial fills, or continuations of these materials).

"Sludge" (SWRCB) means residual solids and semi solids from the treatment of water, wastewater, and other liquids. It does not include liquid effluent discharged from such treatment processes.

"Soil Engineer" (CIWMB) is synonymous with geotechnical engineer; means a registered civil engineer that is qualified to use the title of "soil engineer," pursuant to California Code of Regulations, Title 16, Section 426.50.

"Soil pore liquid" (SWRCB) means the liquid contained in openings between particles of soil in the unsaturated zone.

"Solid Waste Management" (CIWMB) includes a planned program for effectively controlling the generation, storage, collection, transportation, processing and reuse, conversion or disposal of solid wastes in a safe, sanitary, aesthetically acceptable, environmentally sound and economical manner. It includes all administrative, financial, environmental, legal and planning functions as well as the operational aspects of solid waste handling, disposal and resource recovery systems necessary to achieve established objectives.

"Sorbent" (SWRCB) means a substance which takes up and holds a liquid either by absorption or adsorption.

"Special Waste" (CIWMB) means "special waste" as defined in Title 22.

"State Minimum Standards" (CIWMB) means the following Sections of this Subdivision for the purposes of implementing Public Resources Code Section 44104: 20510 to 20701, 20710 to 20937, 21100 to 21200, 21430 and 21600.

"State Water Resources Control Board" see "SWRCB"

"Static Conditions" (SWRCB) means under conditions of no external motions or forces, such as those of earthquakes.

"Statistically significant" (SWRCB) means a statistical test has a p value that is small enough for the null hypothesis to be rejected.

"Storage" (SWRCB) means the holding of waste or recyclable materials for a temporary period, at the end of which the materials either is treated or is discharged elsewhere.

"Store" (CIWMB) means stockpile, accumulate for later use or discard. [this standard does not apply to waste tires.]

"Storm" (SWRCB) means the maximum precipitation for a given duration that is expected during the given recurrence interval [e.g., a 24-hour (duration) 100 year (recurrence interval) storm].

"Surface impoundment" (SWRCB) means a waste management unit which is a natural topographic depression, excavation, or diked area, which is designed to contain liquid wastes or wastes containing free liquids, and which is not an injection well.

"SWRCB" (SWRCB) means the State Water Resources Control Board, as described under Division 7 of the Water Code.

"Synthetic liner" see "geosynthetic(s)"

"Tailings pond" (SWRCB) means an excavated or diked area which is intended to contain liquid and solid wastes from mining and milling operations.

"Trace Gases" (CIWMB) means all other organic or inorganic compounds or elements, measured at less than one percent by volume, found together with the principal gases in landfill gas, and may include vinyl chloride, benzene, hydrogen sulfide, carbon monoxide, hydrogen, mercury, etc.

"Transmissivity" (SWRCB) means the rate at which water of the prevailing kinematic viscosity is transmitted through a unit width of the aquifer under a unit hydraulic gradient.

"Treatment" (SWRCB) means any method, technique, or process designed to change the physical, chemical, or biological characteristics of waste so as to render it less harmful to the quality of the waters of the state, safer to handle, or easier to contain or manage. The term includes use of waste as a fuel, nutrient, or soil amendment.

"Treatment zone" (SWRCB) means a soil area of the unsaturated zone of a land treatment unit within which constituents of concern are degraded, transformed, or immobilized.

"Underlying ground water" (SWRCB), for the purposes of waste management unit siting criteria, includes water which rises above the zone of saturation due to capillary forces.

"Unit" see "waste management unit"

"Unsaturated zone" (SWRCB) means the zone between the ground surface and the regional water table or, in cases where the uppermost aquifer is confined, the zone between the ground surface and the top of the saturated portion of the aquifer's confining layer.

"Unstable Areas" (CIWMB) means locations susceptible to natural or human induced events or forces which are capable of rupturing the site containment structure.

"Uppermost aquifer" (SWRCB) means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer.

"Vector" (CIWMB) includes any insect or other arthropod, rodent, or other animal capable of transmitting the causative agents of human disease, or disrupting the normal enjoyment of life by adversely affecting the public health and wellbeing.

"Waste constituent" (SWRCB) means a constituent that is reasonably expected to be in or derived from waste contained in a waste management unit.

"Waste management facility" or "facility" (SWRCB) means the entire parcel of property at which waste discharge operations are conducted. Such a facility may include one or more waste management units.

"Waste management unit" or "Unit" (SWRCB) (the latter capitalized or in quotes at the beginning of a sentence) means an area of land, or a portion of a waste management facility, at which waste is discharged. The term includes containment features and ancillary features for precipitation and drainage control and for monitoring.

"Waste pile" (SWRCB) means a waste management unit (Unit) at which only noncontainerized, bulk, dry solid waste is discharged and piled for treatment or storage on an engineered liner system that prevents the waste from contacting the underlying land surface. The term does not include a Unit of similar construction which is used for waste disposal (such a Unit would be a landfill).

"Water quality impairment" (SWRCB) means degradation of the existing quality of a body of surface or ground water resulting from a release of waste constituents, waste-derived hazardous constituents, or reaction products, including but not limited to any incomplete decomposition product which could cause nuisance by odor.

"Water Standard" (SWRCB) (as capitalized) means the water quality protection standard under Section 20390.

"WDRs" (SWRCB) means waste discharge requirements.

"X Bar chart" (SWRCB) means a control chart for evaluating the process level or subgroup differences in terms of the subgroup average.

"Zone of saturation" (SWRCB) means the subsurface zone which extends downward from the base of the unsaturated zone in which the interstices are filled with water under pressure that is equal to or greater than atmospheric pressure. Although the zone can contain gas filled interstices (in which the gas pressure exceeds atmospheric pressure) or interstices filled with fluids other than water, it is still considered saturated.

Authority cited: Section 1058, Water Code; and Sections 40110, 40400, 40401 and 40502, Public Resources Code.

Reference: Sections 13172, Water Code; Section 43103, Public Resources Code. Sections 40000, 40001, 40002, 40110, 40400, 40401, 43103, and 43105, and Title 40, CFR 258.2.

Chapter 3. Criteria for All Waste Management Units, Facilities, and Disposal Sites

Subchapter 1. General

Article 1. CIWMB--General

Section 20180. CIWMB Owner and Operator. (T14: Section 17602)

Responsibility for compliance with the standards in this chapter shall rest with both the owner and the operator. If specifically designated, the operator is considered to have prime responsibility for compliance; however, this does not relieve the owner of the duty to take all reasonable steps to assure compliance with these standards and any assigned conditions.

Authority cited: Section 40502, 43020, 43021 and 43030, Public Resources Code.

Reference: Sections 40000-40002, 40508, and 43103, Public Resources Code.

Section 20182. CIWMB Change of Ownership. (T14: Section 17603)

When the title to a disposal site is transferred to another person, the new owner shall be notified by the previous owner of the existence of these standards and of the conditions assigned to assure compliance.

Authority cited: Sections 40502, 43020, 43021 and 43030, Public Resources Code.

Reference: Sections 40000-40002, 40508, and 43103, Public Resources Code.

Subchapter 2. Siting and Design

Article 1. [Reserved by SWRCB]

Article 2. SWRCB Waste Classification and Management

Section 20200. SWRCB Applicability and Classification Criteria. (C15: Section 2520)

(a) Concept—This article contains a waste classification system which applies to solid wastes that cannot be discharged directly or indirectly to waters of the state and which therefore must be discharged to waste management units (Units) for treatment, storage, or disposal in accordance with the requirements of this division. Wastes which can be discharged directly or indirectly (e.g., by percolation) to waters of the state under effluent or concentration limits that implement applicable water quality control plans (e.g., municipal or industrial effluent or process wastewater) are not subject to the SWRCB-promulgated provisions of this division. This waste classification system shall provide the basis for determining which wastes may be discharged at each class of Unit. Waste classifications are based on an assessment of the potential risk of water quality degradation associated with each category of waste.

(1) The waste classifications in this article shall determine where the waste can be discharged unless the waste does not consist of or contain municipal solid waste (MSW) and the discharger establishes to the satisfaction of the RWQCB that a particular waste constituent or combination of constituents presents a lower risk of water quality degradation than indicated by classification according to this article.

(2) Discharges of wastes identified in Section 20210 or Section 20220 of this article shall be permitted only at Units which have been approved and classified by the RWQCB in accordance with the criteria established in Article 3 of this subchapter, and for which WDRs have been prescribed or waived pursuant to Article 4, Subchapter 3, Chapter 4 of this subdivision (Section 21710 et seq.). Table 2.1 (of this article) presents a summary of discharge options for each waste category.

(b) Dedicated Units/Cells For Certain Wastes—The following wastes shall be discharged only at dedicated Units [or dedicated landfill cells (e.g., ash monofill cell)] which are designed and constructed to contain such wastes:

(1) wastes which cause corrosion or decay, or otherwise reduce or impair the integrity of containment structures;

(2) wastes which, if mixed or commingled with other wastes can produce a violent reaction (including heat, pressure, fire or explosion), can produce toxic byproducts, or can produce any reaction product(s) which:

- (A) requires a higher level of containment;
- (B) is a restricted waste; or
- (C) impairs the integrity of containment structures.

(c) Waste Characterization—Dischargers shall be responsible for accurate characterization of wastes, including determinations of whether or not wastes will be compatible with containment features and other wastes at a Unit under (b), and whether or not wastes are required to be managed as hazardous wastes under Chapter 11 of Division 4.5 of Title 22 of this code.

(d) Management of Liquids at Landfills and Waste Piles—The following requirements apply to discharges of liquids at Class II waste piles and at Class II and Class III landfills, except as otherwise required for MSW landfills by more-stringent state and federal requirements under SWRCB Resolution No. 93-62 (Section 2908, Title 23 of this code) (see 40CFR258.28) [see also definitions of "leachate" and "landfill gas condensate" in Section 20164]:

(1) [Reserved.];

(2) wastes containing free liquids shall not be discharged to a Class II waste pile. Any waste that contains liquid in excess of the moisture holding capacity of the waste in the Class II landfill, or which contains liquid in excess of the moisture holding capacity as a result of waste management operations, compaction, or settlement shall only be discharged to a surface impoundment or to another Unit with containment features equivalent to a surface impoundment; and

(3) liquids or semi solid waste (i.e., waste containing less than 50 percent solids, by weight), other than dewatered sewage or water treatment sludge as described in Section 20220(c), shall not be discharged to Class III landfills. Exceptions may be granted by the RWQCB if the discharger can demonstrate that such discharge will not exceed the moisture holding capacity of the landfill, either initially or as a result of waste management operations, compaction, or settlement, so long as such discharge is not otherwise prohibited by applicable state or federal requirements.

Authority cited: Section 1058, Water Code.

Reference: Section 13172, Water Code; Section 43103, Public Resources Code.

Section 20210. SWRCB Designated Waste. (C15: Section 2522)

Designated waste, as defined in California Water Code Section 13173, shall be discharged only at Class I waste management units (for information regarding Class I Units, see Chapter 15, Division 3, Title 23 of this code) or at Class II waste management units which comply with the applicable SWRCB-promulgated provisions of this subdivision and have been approved by the RWQCB for containment of the

particular kind of waste to be discharged. Decomposable wastes in this category can be discharged to Class I or II land treatment units.

Table 2.1, Summary of Waste Management Strategies for Discharges of Waste to Land¹

Waste Category^{2,3}	Waste Management Strategy	Unit Type	Unit Class	Primary Containment⁴	Siting and Geologic Criteria⁵
Liquid Designated (including underwatered sludge)	Full Containment	II	Surface Impoundment	Double Liners ^{7,8}	(a) Natural features capable of containing waste and leachate may satisfy primary containment requirements
Solid Designated	Full Containment	II ⁶	Landfill	Single Liner 10,11	(b) May be located in most areas except high risk
MSW	Full Containment	II ⁶	Landfill	Single Composite Liner	No Value Indicated
Nonhazardous Solid Waste (including dewatered sludge and acceptable incinerator ash)	Protected Beneficial Uses	III ⁶	Landfill	None ¹²	(a) Consideration of factors listed in Section 20260(b) ¹²
MSW	Full Containment	III ⁶	Landfill	Single Composite Liner	(b) May be located in most areas except high risk areas

1. See Section 20080 for applicability to existing facilities
2. Waste in any category may be discharged at Units with higher levels of containment ability
3. Wastes suitable for land treatment in any category may be discharged at land treatment facilities
4. See Article 4, Subchapter 3, Chapter 3 of this subdivision
5. See Article 3, Subchapter 3, Chapter 3 of this subdivision
6. Certain hazardous wastes may be discharged at Class II or III Units (e.g., asbestos waste going to a Class III landfill), see Sections 20200(a)(1) & 20210(a)(2)
7. Leachate collection and removal system (LCRS) required
8. Single liner may be acceptable, see Table 4.1
9. Suitable natural features may satisfy requirements for outer liner where double liners are needed. Single replaceable (no LCRS) clay liner also accepted
10. Suitable natural features may satisfy primary containment requirement
11. LCRS required as appropriate
12. Units at sites meeting siting and geologic criteria must have a single clay liner and LCRS

Authority cited: Section 1058, Water Code.

Reference: Sections 3172, Water Code; Section 43103, Public Resources Code.

Section 20220. SWRCB Nonhazardous Solid Waste. (C15: Section 2523)

(a) Definition—Nonhazardous solid waste means all putrescible and nonputrescible solid, semi solid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semi solid wastes and other discarded waste (whether of solid or semi solid consistency); provided that such wastes do not contain wastes which must be managed as hazardous wastes, or wastes which contain soluble pollutants in concentrations which exceed applicable water quality objectives, or could cause degradation of waters of the state (i.e., designated waste).

(b) Units That Receive—Except as provided in Section 20200(d) (for liquids), nonhazardous solid waste may be discharged at any classified landfill which is authorized to accept such waste, provided that:

(1) the discharger shall demonstrate that codisposal of nonhazardous solid waste with other waste shall not create conditions which could impair the integrity of containment features and shall not render designated waste hazardous (e.g., by mobilizing hazardous constituents); and

(2) the discharger shall ensure, to the maximum extent feasible, that the Unit receives only those wastes that are approved for being discharged at that Unit. [see also CIWMB Section 20870]

(c) Dewatered Sludge—Dewatered sewage or water treatment sludge may be discharged at a Class III landfill under the following conditions, unless DTSC determines that the waste must be managed as hazardous waste:

(1) the landfill is equipped with a leachate collection and removal system (LCRS);

(2) the sludge contains at least 20 percent solids (by weight) if primary sludge, or at least 15 percent solids if secondary sludge, mixtures of primary and secondary sludges, or water treatment sludge; and

(3) a minimum solids to liquid ratio of 5:1 by weight shall be maintained to ensure that the codisposal will not exceed the initial moisture holding capacity of the nonhazardous solid waste. The actual ratio required by the RWQCB shall be based on site specific conditions.

(d) Ash—Incinerator ash may be discharged at a Class III landfill unless DTSC determines that the waste must be managed as hazardous waste.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, Water Code; Section 43103, Public Resources Code.

Section 20230. SWRCB Inert Waste. (C15: Section 2524)

(a) Defined—Inert waste is that subset of solid waste that does not contain hazardous waste or soluble pollutants at concentrations in excess of applicable water quality objectives, and does not contain significant quantities of decomposable waste.

(b) Units That Accept—Inert wastes do not need to be discharged at classified Units.

(c) WDRs Optional—The RWQCB can prescribe individual or general WDRs for discharges of inert wastes.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, Water Code; Section 43103, Public Resources Code.

Article 3. Waste Management Unit, Facility, or Disposal Site Classification and Siting

Section 20240. SWRCB Classification and Siting Criteria. (C15: Section 2530)

(a) Units and Facilities —Waste management units (Units) shall be classified according to their ability to contain wastes. Containment shall be determined by geology, hydrology, topography, climatology, and other factors relating to the ability of the Unit to protect water quality. A waste management facility can consist of several Units each with a different classification. Classification of Units shall be based on the criteria contained in this article, on field inspections by RWQCB and SWRCB staffs, and on other pertinent information. Information used to classify Units shall be submitted according to the provisions of Article 4, Subchapter 3, Chapter 4 of this subdivision (Section 21710 et seq.). Owners or operators of classified Units shall comply with waste discharge requirements (WDRs) adopted by the RWQCB.

(b) Reclassification—Existing Units shall be reclassified according to applicable criteria in this article, provided that such Units:

(1) comply with siting criteria for each category of existing Units in Section 20250 and Section 20260, and summarized in Table 3.1 of this article; and

(2) are operating in compliance with Section 20080(d).

(c) Five-Foot Separation All new landfills, waste piles, and surface impoundments shall be sited, designed, constructed, and operated to ensure that wastes will be a minimum of five feet (5 ft.) above the highest anticipated elevation of underlying ground water. Existing landfills, waste piles, and surface impoundments shall be operated to ensure that wastes will be a minimum of five feet (5 ft.) above the highest anticipated elevation of underlying ground water. For new and existing land treatment units, the base of the treatment zone shall be a minimum of five feet (5 ft.) above the highest anticipated elevation of underlying ground water and dischargers shall not be entitled to exemption under Section 20080(b).

(d) Unit Foundation All engineered structures (including, but not limited to, containment structures) constituting any portion of a Unit shall have a foundation or base capable of providing support for the structures, and capable of withstanding hydraulic pressure gradients to prevent failure due to settlement, compression, or uplift and all effects of ground motions resulting from at least the maximum probable earthquake [for Class III Units (see Section 20370)] or the maximum credible earthquake [for Class II Units (see Section 20370)], as certified by a registered civil engineer or certified engineering geologist. [see also Section 21750(f)(5).]

Authority cited: Section 1058, Water Code.

Reference: Sections 13172 and 13360, Water Code; Section 43103, Public Resources Code.

Section 20250. SWRCB Class II: Waste Management Units for Designated Waste. (C15: Section 2532)

(a) General Class II waste management units (Class II Units) shall be located where site characteristics and containment structures isolate waste from waters of the state. The classification criteria in this Section shall be used for reclassification of existing Units at disposal sites approved as Class II 1 under previous versions of these SWRCB regulations, and for existing Units used for treatment or for storage, whether or not classified, provided that no hazardous wastes other than those which DTSC has determined need not be discharged as a hazardous waste) have been discharged at such Units (including discharge at any expansion of such Units).

(b) Geologic Setting.

(1) New and existing Class II landfills or waste piles shall be immediately underlain by natural geologic materials which have a hydraulic conductivity of not more than 1×10^{-6} cm/sec (i.e., 1 foot/year) and which are of sufficient thickness to prevent vertical movement of fluid, including waste and leachate, from Units to waters of the state for as long as wastes in such units pose a threat to water quality. Class II units shall not be located where areas of primary (porous) or secondary (rock opening) hydraulic conductivity greater than 1×10^{-6} cm/sec (i.e., 1 foot/year) could impair the competence of natural geologic materials to act as a barrier to vertical fluid movement.

(2) Natural or artificial barriers shall be used to prevent lateral movement of fluid, including waste and leachate.

(3) A liner system which conforms to the requirements of Article 4 of this subchapter with a hydraulic conductivity of not more than 1×10^{-6} cm/sec (i.e., 1 foot/year) shall be used for landfills and waste piles when natural geologic materials do not satisfy the requirements in (b)(1).

(4) Class II surface impoundments are not required to comply with the requirements of (b)(1), but shall have a liner system designed in accordance with the applicable SWRCB-promulgated provisions of Article 4 of this subchapter (Section 20310 et seq.). The RWQCB can allow Class II surface impoundments which are designed and constructed with a double liner system in accordance with that article to use natural geologic materials which comply with (b)(1) for the outer liner.

(5) Land treatment units (LTUs) are not required to comply with the requirements of (b). Dischargers who treat or dispose of wastes in LTUs shall demonstrate, prior to application of the waste, that waste can be completely degraded, transformed, or

immobilized in the treatment zone. To demonstrate this, prior to the application of waste, the discharger shall operate a test plot for a sufficient period to give the RWQCB a reasonable indication that degradation, transformation, or immobilization will take place in the treatment zone. During the full scale operation of the LTU, soil and soil pore liquid samples shall be taken within the treatment zone to verify that complete degradation, transformation, or immobilization is taking place. The RWQCB shall specify in WDRs the elements of the land treatment program including the dimensions of the treatment zone. The maximum depth of the treatment zone shall not exceed 5 feet from the initial soil surface.

(c) Flooding New and existing Class II Units shall be designed, constructed, operated, and maintained to prevent inundation or washout due to floods with a 100 year return period. MSW landfills are also subject to any more-stringent flood plain and wetland siting requirements referenced in SWRCB Resolution No. 93-62 (i.e., see Section 258.11 and Section 258.12 of 40CFR258).

(d) Ground Rupture New Class II Units, other than LTUs and expansions of existing Class II units, shall have a 200 foot setback from any known Holocene fault. Other units (that are subject to this Section)can be located within 200 feet of a known Holocene fault, provided the RWQCB finds that the Unit's containment structures are capable of withstanding ground accelerations associated with the maximum credible earthquake.

(e) Rapid Geologic Change New and existing Class II Units can be located within areas of potential rapid geologic change only if the RWQCB finds that the Unit's containment structures are designed, constructed, and maintained to preclude containment failure. MSW landfills are also subject to any more-stringent unstable area siting requirements referenced in SWRCB Resolution No. 93-62 (i.e., see Section 258.15 and Section 258.16 of 40CFR258).

(f) Tidal Waves New and existing Class II Units may be located in areas subject to tsunamis, seiches, and surges. Other Units may be located within these areas if designed, constructed, and maintained to preclude failure due to such events.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172 and 13360, Water Code; Section 43103, Public Resources Code.

Section 20260. SWRCB Class III: Landfills for Nonhazardous Solid Waste. (C15: Section 2533)

(a) General Class III landfills shall be located where site characteristics provide adequate separation between nonhazardous solid waste and waters of the state. The classification criteria in this Section shall be used for reclassification of existing landfills at disposal sites approved as Class II-1 or II-2 (under previous versions of these SWRCB regulations) and any expansions of such landfills.

(b) Geologic Setting.

(1) MSW landfills are subject to the SWRCB-promulgated waste containment requirements of this subdivision and of SWRCB Resolution No. 93-62. New Class III and existing Class II-2 landfills shall be sited where soil characteristics, distance from waste to ground water, and of factors will ensure no impairment of beneficial uses of surface water or of groundwater beneath or adjacent to the landfill. Factors that shall be evaluated include:

(A) size of the landfill:

(B) hydraulic conductivity and transmissivity of underlying soils;

(C) depth to ground water and variations in depth to ground water;

(D) background quality of ground water;

(E) current and anticipated use of the ground water; and

(F) annual precipitation.

(2) Where consideration of the factors in (b)(1) indicates that site characteristics alone do not ensure protection of the quality of ground water or surface water, Class III landfills shall be required to have a single clay liner with hydraulic conductivity of 1×10^{-6} cm/sec or less.

(c) Flooding New Class III and existing Class II-2 landfills shall be designed, constructed, operated, and maintained to prevent inundation or washout due to floods with a 100 year return period. MSW landfills are also subject to any more-stringent flood plain and wetland siting requirements referenced in SWRCB Resolution No.93-62 (i.e., see Sections 258.11, 258.12, and 258.16 of 40CFR258).

(d) Ground Rupture New Class III and expansions of existing Class II-2 landfills shall not be located on a known Holocene fault. However, existing landfills assigned a Class II-2 designation under previous versions of the SWRCB regulations may be located on a known Holocene fault, provided that the Unit's containment structures are capable of withstanding ground accelerations associated with the maximum probable earthquake (see Section 20370).

(e) Rapid Geologic Change New Class III and unreclassified existing Class II-2 landfills can be located within areas of potential rapid geologic change only if the RWQCB finds that the Unit's containment structures are designed, constructed, and maintained to preclude failure. MSW landfills are also subject to any more-stringent unstable area siting requirements referenced in SWRCB Resolution No. 93-62 (see Section 258.15 and Section 258.16 of 40CFR258).

Table 3.1 SWRCB's Geologic and Siting Criteria for Classified Units

Unit Classification / Site Characteristic	Reserved ^{1,4}	Reclassification of New Class II ₂	Reclassification of Existing Class II	Reclassification of New Class III ₃	Reclassification of Existing Class II-2 ₃
Geologic Setting	No Data Available	Substantial isolation from ground water; see Section 20250(b)	As for new Class II	Adequate separation Class III from ground water; characteristics other than hydraulic conductivity will be considered; see Section 20260(b).	As for new considered; see Section 20260(b).
Flooding	No Data Available	No Siting Restrictions ₅	No Siting Restrictions ₅	No Siting Restrictions ₅	No Siting Restrictions ₅
Ground Rupture	No Data Available	200' setback from known Holocene fault.	Exempts ₅ , except that expansions are as for new Class II.	Not located on known Holocene fault.	No Data Available
Rapid Geologic Change	No Data Available	No Siting Restrictions ₅	No Siting Restrictions ₅	No Siting Restrictions ₅	No Siting Restrictions ₅
Tidal Waves ₆	No Data Available	No Siting Restrictions ₅	No Siting Restrictions ₅	No Siting Restrictions ₅	No Siting Restrictions ₅

1. [Reserved.] These standards removed because they apply only to Class I Units (see Chapter 15, Div. 3 Title 23, CCR).
2. This category is defined in s20250(a).
3. This category is defined in s20260(a).
4. [Reserved.] Left in Ch-15. Applies only to Class I Units.
5. Exemption from siting criteria does not release dischargers from the obligation to protect Units from the geologic or environmental hazards involved. Exemption is conditions on such protection.

6. The term "Tidal Waves" includes tsunamis, seiches, and surge condition.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172 and 13360, Water Code; Section 43103, Public Resources Code.

Section 20270. CIWMB Location Restrictions: Airport Safety. (T14: Section 17258.10)

(a) Owners or operators of new Municipal Solid Waste Landfill units (MSWLF), existing MSWLF units, and lateral expansions of MSWLF units that are located within 10,000 feet (3,048 meters) of any airport runway end used by turbojet aircraft or within 5,000 feet (1,524 meters) of any airport runway end used by only piston-type aircraft must demonstrate that the units are designed and operated so that the MSWLF unit does not pose a bird hazard to aircraft.

(a) Owners or operators proposing to site new MSWLF units and lateral expansions located within a five-mile radius of any airport runway end used by turbojet or piston-type aircraft must notify the affected airport and the Federal Aviation Administration (FAA).

(a) The owner or operator must place the demonstration made pursuant to paragraph (a) of this Section in the operating record and notify the EA that it has been placed in the operating record.

(a) Existing MSWLF units that cannot make the demonstration specified in Section 20270(a) pertaining to airports must:

(1) close by October 9, 1996, in accordance with Section 21110 of this article;

(2) conduct postclosure activities in accordance with Section 21110 of this article; and

(3) conduct closure and postclosure activities in accordance with applicable Sections of Chapter 4, and Chapter 6, of this Division.

(a) The deadline for closure required by paragraph (a) of this Section may be extended up to two years if the owner or operator demonstrates to the CIWMB that:

(1) There is no available alternative disposal capacity; and

(2) There is no immediate threat to human health and the environment.

Authority cited: Section 40502, 43020, 43021, Public Resources Code.

Reference: Sections 40508 and 43103, Public Resources Code; and Title 40, Code of Federal Regulations, Section 258.10, and 258.16.

Article 4. SWRCB Waste Management Unit Construction Standards

Section 20310. SWRCB General Construction Criteria. (C15: Section 2540)

(a) Class II waste management units (Class II "Units") shall be designed and constructed to prevent migration of wastes from the Units to adjacent geologic materials, ground water, or surface water, during disposal operations, closure, and the post closure maintenance period. Class II and Class III MSW landfills are also subject to any applicable waste containment system design requirements of SWRCB Resolution No. 93-62 to the extent that such requirements are more stringent than those applicable to a non-MSW Class II or Class III landfill under this subdivision.

(b) Each Class II Unit shall be designed and constructed for the containment of the specific wastes which will be discharged.

(c) Class III landfills shall have containment structures which are capable of preventing degradation of waters of the state as a result of waste discharges to the landfills if site characteristics are inadequate.

(d) For the purposes of this paragraph, the words "new" and "existing" have the same meaning as described in Section 20080(d). New landfills, waste piles, and surface impoundments shall comply with the requirements of this article. Existing waste piles and surface impoundments shall be fitted with liners and leachate collection and removal systems as described in Section 20330 and Section 20340 as feasible. Existing landfills and waste piles shall have interim cover as described in Section 20705. Existing landfills, waste piles, and surface impoundments shall be fitted with subsurface barriers as described in Section 20360 as needed and feasible, and shall have precipitation and drainage control facilities as described in Section 20365. Existing surface impoundments shall comply with Section 20375. New and existing land treatment units shall comply with Section 20377. All existing Units shall comply with the seismic design criteria in Section 20370.

(e) Containment structures shall be designed by, and construction shall be supervised and certified by, a registered civil engineer or a certified engineering geologist. Units shall receive a final inspection and approval of the construction by RWQCB or SWRCB staff before use of the Unit commences.

(f) The discharger shall maintain the integrity of containment structures in spite of normal excavation or fire control work; nevertheless, for fire control work, the discharger can damage containment structures to the extent necessary to control the fire, so long as the discharger promptly repairs such damage after extinguishing the fire. Excavations made as part of discharge operations shall not result in removal of any portion of a containment structure.

(g) Stability Analysis for any portions of the Unit's containment system installed after July 18, 1997, for which the RWQCB has not approved a slope and foundation stability report on or before that date, the discharger shall meet the requirements of Section 21750(f)(5).

Authority cited: Section 1058, Water Code.

Reference: Sections 13172 and 13360, Water Code; Section 43103, Public Resources Code.

Section 20320. SWRCB General Criteria for Containment Structures. (C15: Section 2541)

(a) Material Properties Materials used in containment structures shall have appropriate chemical and physical properties to ensure that such structures do not fail to contain waste because of pressure gradients (including hydraulic head and external hydrogeologic forces), physical contact with the waste or leachate, chemical reactions with soil and rock, climatic conditions, the stress of installation, or because of the stress of daily operation.

(b) Applicable Permeants Hydraulic conductivities specified for containment structures other than cover shall be relative to the fluids, including waste and leachate, to be contained. Hydraulic conductivities specified for final cover shall be relative to water.

(c) Determining Hydraulic Conductivity Hydraulic conductivities shall be determined primarily by appropriate field test methods in accordance with accepted civil engineering practice. The results of laboratory tests with both water and leachate, and field tests with water (e.g., on the test pad), shall be compared to evaluate how the field permeabilities will be affected by leachate. It is acceptable for the discharger to use appropriate compaction tests in conjunction with laboratory hydraulic conductivity tests to determine field permeabilities as long as a reasonable number of field hydraulic conductivity tests are also conducted (e.g., a sealed double ring infiltrometer test on the test pad).

(d) Soils Used in Containment Structures Earthen materials used in containment structures other than cutoff walls and grout curtains shall consist of a mixture of clay and other suitable fine grained soils which have the following characteristics, and which, in combination, can be compacted to attain the required hydraulic conductivity when installed. Liners made of such materials are referred to as "clay liners" in this subchapter.

(1) At least 30 percent of the material, by weight, shall pass a No. 200 U.S. Standard sieve.

(2) The materials shall be fine grained soils with a significant clay content and without organic matter, and which is a clayey sand, clay, sandy or silty clay, or sandy clay under a soil classification system having industry-wide use [e.g., the "SC", "CL", or

"CH" soil classes under ASTM Designation: D2487-93 Standard Classification of Soils for Engineering Purposes (Unified Soil Classification System)].

(e) Synopses Construction standards for waste management units other than land treatment are given on Table 4.1 and in Figure 4.1.

Table 4.1 Construction Standards for Class 2, Waste Management Unit Classification

Non MSW Landfill

Clay²	Synthetic Liner	Leachate Collection & Removal System	Interim Cover	Cutoff Walls Subsurface	Grout Curtains Barriers	Capacity of Precipitation and Drainage Control Facilities (design storm)	Seismic Design
Required ⁵ , $\leq 1 \times 10^{-6}$ cm/sec	Not Required	Required, blanket type	Required	$\leq 1 \times 10^{-6}$ cm/sec ¹¹	$\leq 1 \times 10^{-6}$ cm/sec	1000-year 24-hour precipitation	Withstand maximum credible earthquake

Non MSW Landfill¹³

Clay²	Synthetic Liner	Leachate Collection & Removal System	Interim Cover	Cutoff Walls Subsurface	Grout Curtains Barriers	Capacity of Precipitation and Drainage Control Facilities (design storm)	Seismic Design
Special ¹³	Special ¹³	Special ¹³	Required	$\leq 1 \times 10^{-6}$ cm/sec ¹¹	$\leq 1 \times 10^{-6}$ cm/sec	1000-year 24-hour precipitation	Withstand maximum credible

Clay ²	Synthetic Liner	Leachate Collection & Removal System	Interim Cover	Cutoff Walls Subsurface	Grout Curtains Barriers	Capacity of Precipitation and Drainage Control Facilities (design storm)	Seismic Design
							earthquake

Table 4.1 Construction Standards for Class 3, Waste Management Unit Classification

Surface Impoundments

Clay ²	Synthetic Liner	Leachate Collection & Removal System	Interim Cover	Cutoff Walls Subsurface	Grout Curtains Barriers	Capacity of Precipitation and Drainage Control Facilities (design storm)	Seismic Design
Double or single required ⁶	Not Required	Required with double liner, blanket type	Not Required	$\leq 1 \times 10^{-6}$ cm/sec ¹¹	$\leq 1 \times 10^{-6}$ cm/sec	1000-year 24-hour precipitation	Withstand maximum credible earthquake

Waste Pile

Clay²	Synthetic Liner	Leachate Collection & Removal System	Interim Cover	Cutoff Walls Subsurface	Grout Curtains Barriers	Capacity of Precipitation and Drainage Control Facilities (design storm)	Seismic Design
Optional ^{4,5} ≤1x10 ⁻⁶ cm/sec	Not Required	May be required, blanket type	May be Required	≤1x10 ⁻⁶ cm/sec ¹¹	≤1x10 ⁻⁶ cm/sec, if required	1000-year 24-hour precipitation	Withstand maximum credible earthquake

Non MSW Landfill

Clay²	Synthetic Liner	Leachate Collection & Removal System	Interim Cover	Cutoff Walls Subsurface	Grout Curtains Barriers	Capacity of Precipitation and Drainage Control Facilities (design storm)	Seismic Design
Optional ^{4,5} ≤1x10 ⁻⁶ cm/sec (see Section 20260)	Not Required	Require if liner is required, blanket or dendretic	Required	≤1x10 ⁻⁶ cm/sec, if required	≤1x10 ⁻⁶ cm/sec, if required	100-year 24-hour precipitation	Withstand maximum credible earthquake

Non MSW Landfill¹³

Clay ²	Synthetic Liner	Leachate Collection & Removal System	Interim Cover	Cutoff Walls Subsurface	Grout Curtains Barriers	Capacity of Precipitation and Drainage Control Facilities (design storm)	Seismic Design
Special ¹³	Special ¹³	Special ¹³	Required	$\leq 1 \times 10^{-6}$ cm/sec, if required	100-year, 24-year precipitation	100-year 24-hour precipitation	Withstand maximum credible earthquake

¹ Applicable Regulations in this article may provide for exemptions to certain requirements (Section 20310(d) describes applicability to existing facilities.

² All permeabilities specified in this table are maximum allowable permeabilities

³ [Reserved] this footnote left in Ch-15 (Division 3, Title 23, CCR) as it applies to only Class 1 Units.

⁴ A synthetic liner alone may be allowed based on nature of waste to be contained and duration of the operation. A waste pile with a synthetic liner alone may not be closed as a landfill pursuant to Section 21410 of this subchapter. The synthetic liner or hydraulic conductivity shall be the same or less than that which would be required for a clay liner.

⁵ Clay liner required unless units are underlain by a substantial thickness of natural geologic materials with hydraulic conductivity of $\leq 1 \times 10^{-6}$ cm/sec [1 foot per year] or less.

⁶ Single liner shall be a clay liner and removed or replaced as described in Section 20330. Double liner systems shall have either an outer clay liner or shall be underlain by a substantial thickness of natural geologic materials with $\leq 1 \times 10^{-6}$ cm/sec [1 foot per year] or less to act as a single liner.

⁷ [Reserved]

⁸ [Reserved]

⁹ [Reserved]

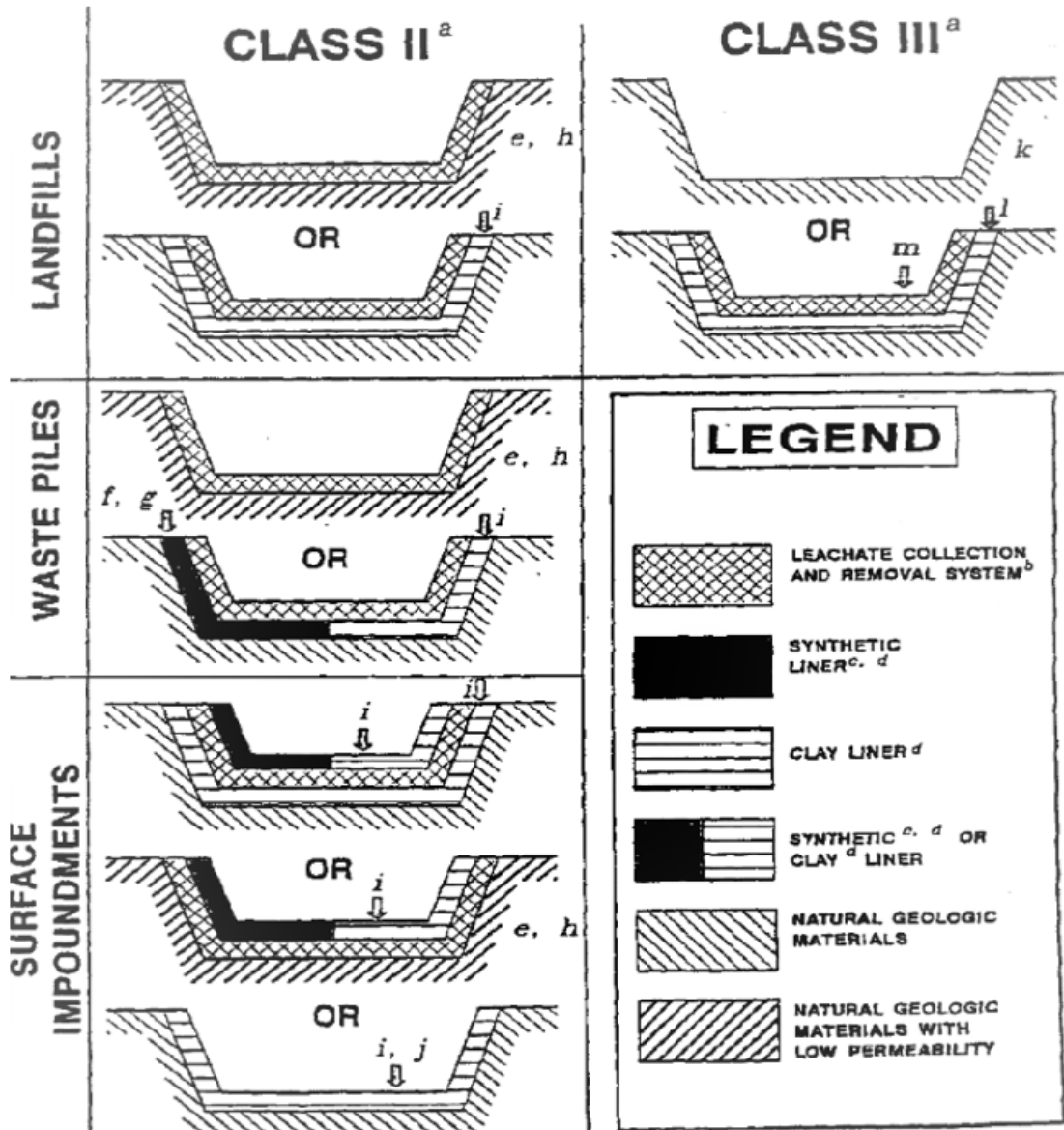
¹⁰ [Reserved]

¹¹ Cut off walls required where there is potential for lateral movement of fluid, including waste or leachate, in the hydraulic conductivity of natural geologic materials is used for Waste containment.

¹² For units other than MSW landfills, the RWQCB can grant an exemption to this design storm requirement if the discharger can demonstrate that the integrity of facilities will not be jeopardized if this criterion is not met.

¹³ All Class 2 and Class 3 landfills that received MSW at any time and they received solid waste after October 9, 1991 (MSW landfills) are subject to the additional state and federal requirements contained (or incorporated by reference) in SWRCB Resolution Number 93-62.

Figure 4.1
SUMMARY OF LINER REQUIREMENTS FOR CLASSIFIED UNITS



Footnotes for figure 4.1; Summary of liner requirements for classified units (for MSW landfills. See additional requirements in SWRCB Resolution Number 93-92).

^A Requirements for chapter 3, subdivision one of this division.

^B Designated to convey twice the anticipated volume of the leachate; must ensure no buildup of hydraulic head on liner; blanket type required unless otherwise specified.

^C Minimum 40 mls thick.

^D Must be compatible with waste and/or leachate.

^E Cut off walls required when potential exist for lateral movement of waste or leachate.

^F Acceptability of synthetic liner depends on the nature of waste and duration of operation.

^G Liner and ways to be removed a closure.

^H Substantial thickness of natural geological material with maximum hydrologic hydraulic conductivity of $\leq 1 \times 10^{-6}$ cm/sec (i.e. 10 foot per year). For MSW landfill see SWRCB Resolution Number 93-62 for superseding containment system requirements.

^I Minimum thickness of 2 feet; maximum hydraulic conductivity of $\leq 1 \times 10^{-6}$ cm/sec (i.e. 10 foot per year). For MSW landfill see SWRCB Resolution Number 93-62 for superseding containment system requirements.

^J Liner removed or replaced before lower 25% (minimum one foot thickness) of the liner is penetrated by waste or leachate.

^K Soil characteristics, distant from waste to ground water, and other factors must ensure no impairment of beneficial uses. Leachate collection systems require for sludge disposal. For landfills, see SWRCB Resolution Number 93-62 for superseding containment system requirements.

^L Minimum thickness of 1 foot; maximum hydraulic conductivity of $\leq 1 \times 10^{-6}$ cm/sec (i.e. 10 foot per year. For MSW landfills, see SWRCB Resolution Number 93-62 for superseding containment system requirements.

^M Dendritic system allowed of waste in contact with the liner will remain permeable and liner is sloped towards the system to prevent ponding. For MSW landfills, see SWRCB Resolution Number 93-62 for superseding containment system requirements.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172 and 13360, Water Code; Section 43103, Public Resources Code.

Section 20323. SWRCB CQA Plan. (new)

After July 18, 1997, the RWQCB shall require construction for all liner systems and final cover systems to be carried out in accordance with a CQA plan certified by an appropriately registered professional to satisfy the requirements of Section 20324. If the RWQCB finds that any construction of the liner system or final cover system was undertaken in the absence of a CQA plan that satisfies the requirements of Section 20324, the RWQCB shall require the discharger to undertake any corrective construction needed to achieve such compliance.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172 and 13360, Water Code; Section 43103, Public Resources Code.

Section 20324. SWRCB CQA Requirements. (T14: Section 17774)

(a) Performance Standard The construction quality assurance (CQA) program, including all relevant aspects of construction quality control (CQC), shall provide evidence that materials and procedures utilized in the placement of the any containment feature at a waste management unit (Unit) will be tested and monitored to assure the structure is constructed in accordance with the design specifications approved by the RWQCB.

(b) Professional Qualifications.

(1) The design professional who prepares the CQA plan shall be a registered civil engineer or certified engineering geologist; and

(2) The construction quality assurance program shall be supervised by a registered civil engineer or certified engineering geologist who shall be designated the CQA officer.

(c) Reports.

(1) The project's CQA report shall address the construction requirements, including any vegetation procedures, set forth in the design plan for the containment system. For each specified phase of construction, this report shall include, but not be limited to:

(A) a delineation of the CQA management organization, including the chain of command of the CQA inspectors and contractors;

(B) a detailed description of the level of experience and training for the contractor, the work crew, and CQA inspectors for every major phase of construction in order to ensure that the installation methods and procedures required in the containment system design will be properly implemented.

(C) a description of the CQA testing protocols for preconstruction, construction, and postconstruction which shall include at a minimum:

i. the frequency of inspections by the operator,

ii. the sampling and field testing procedures and equipment to be utilized, and the calibration of field testing equipment,

iii. the frequency of performance audits determined by the design professional and examined by the CQA officer,

iv. the size, method, location and frequency of sampling, sampling procedures for laboratory testing, the soils or geotechnical laboratory to be used, the laboratory

procedures to be utilized, the calibration of laboratory equipment and quality assurance and quality control of laboratory procedures,

v. the pass/fail criteria for sampling and testing methods used to achieve containment system design, and

vi. a description of the corrective procedures in the event of test failure.

(d) Documentation Construction quality assurance documentation requirements shall include, at the minimum: reports bearing unique identifying sheet numbers for cross referencing and document control, the date, project name, location, descriptive remarks, the data sheets, inspection activities, and signature of the designated authorities with concurrence of the CQA officer.

(1) The documentation shall include:

(A) Daily Summary Reports daily recordkeeping, which shall include preparation of a summary report with supporting inspection data sheets, problem identification and corrective measures reports. Daily summary reports shall provide a chronological framework for identifying and recording all other reports. Inspection data sheets shall contain all observations (i.e., notes, charts, sketches, or photographs), and a record of field and/or laboratory tests. Problem identification and corrective measures reports shall include detailed descriptions of materials and/or workmanship that do not meet a specified design and shall be cross-referenced to specific inspection data sheets where the problem was identified and corrected;

(B) Acceptance Reports all reports shall be assembled and summarized into Acceptance Reports in order to verify that the materials and construction processes comply with the specified design. This report shall include, at a minimum, inspection summary reports, inspection data sheets, problem identification and corrective measures reports;

(C) Final Documentation at the completion of the project, the operator shall prepare a Final Documentation which contains all reports submitted concerning the placement of the containment system. This document shall provide evidence that the CQA plan was implemented as proposed and that the construction proceeded in accordance with design criteria, plans, and specifications. The discharger shall submit copies of the Final Documentation report to the RWQCB as prepared by the CQA officer.

(2) Once construction is complete, the document originals shall be stored by the discharger in a manner that will allow for easy access while still protecting them from any damage. All documentation shall be maintained throughout the postclosure maintenance period.

(e) Laboratory Testing Requirements. [the following (ASTM) standards are available from the American Society of Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2929, phone: 610-832-9585.]

(1) Analysis of earthen materials shall be performed prior to their incorporation into any containment system component. Representative samples for each layer within the containment system shall be evaluated. The following minimum laboratory testing procedures shall be performed:

(A) ASTM Designation: D 1557 91 [1/91], "Laboratory Compaction Characteristics of Soil Using Modified Effort (2,700 kN-m/m³)" which is incorporated by reference;

(B) ASTM Designation: D 422 63 (Reapproved) [9/90], "Standard Method for Particle Size Analysis of Soils," which is incorporated by reference; and

(C) ASTM Designation: D 2487 93 [11/93], "Standard Classification of Soils for Engineering Purposes," which is incorporated by reference.

(2) In addition to the tests listed in (e and f), the following minimum laboratory tests shall be performed on low-hydraulic-conductivity layer components constructed from soil:

(A) ASTM Designation: D 4318 93 [11/93], "Standard Test Method for Liquid Limit, Plastic Limit, and Plasticity Index of Soils," which is incorporated by reference; and

(B) United States Environmental Protection Agency (USEPA) Test Method 9100 [Approved 9 86], "Triaxial-Cell Method with Back Pressure," which is incorporated by reference.

(f) Field Testing Requirements The following minimum field test procedure shall be performed for each layer in the containment system: ASTM Designation: D 2488 93 [9/93], Standard Practice for Description and Identification of Soils (Visual Manual Procedure), which is incorporated by reference.

(g) Test Fill Pad Requirements Before installing the compacted soil barrier layer component of a final cover system, or the compacted soil component of a liner system, the operator shall accurately establish the correlation between the design hydraulic conductivity and the density at which that conductivity is achieved. To accomplish this the operator shall:

(1) provide a representative area for a test on any compacted foundation and low-hydraulic conductivity layers. The following minimum testing procedures shall be performed:

(A) the test pad foundation and, for final covers, the barrier layers shall be compacted with the designated equipment to determine if the specified density/moisture-content/hydraulic conductivity relationships determined in the laboratory can be achieved in the field with the compaction equipment to be used and at the specified lift thickness;

(2) perform laboratory tests as specified in Subsection (e); and

(3) perform field tests as specified in Subsection (f). The discharger shall perform hydraulic conductivity tests in the test area under saturated conditions by using the

standard test method ASTM Designation: D 3385 94 [9/94], "Standard Test Method for Infiltration Rate of Soils in Field Using Double Ring Infiltrometer," which is incorporated by reference, for vertical hydraulic conductivity measurements. A sufficient number of tests shall be run to verify the results. Other methods that provide an accurate and precise method of measuring field hydraulic conductivity may be utilized as approved by the RWQCB.

(4) Correlations between laboratory tests and test pad results shall be established for each of the various types of fill materials and blends to be used in construction of the actual cover.

(h) Earthen Material Requirements.

(1) The following minimum tests shall include, but not be limited to:

(A) Laboratory tests as specified in (e); and

(B) Field tests as specified in Subsections (f and g).

(2) The following minimum testing frequencies shall be performed:

(A) Four (4) field density tests shall be performed for each 1,000 cubic yards of material placed, or at a minimum of four (4) tests per day;

(B) Compaction curve data (ASTM Designation: D 1557 91) graphically represented, and Atterberg limits (ASTM Designation: D 4318 93) shall be performed on the barrier layer material once a week and/or every 5,000 cubic yards of material placed;

(C) For field hydraulic conductivity tests, representative samples shall be performed on barrier layer material;

1. The frequency of testing may be increased or decreased, based on the pass/failure status of previous tests, as approved by the RWQCB.

2. Field infiltration tests shall be performed for the duration necessary to achieve steady conditions for the design hydraulic conductivity.

3. The following interpretive equation shall be used to determine the design hydraulic conductivity:

The infiltration rate (I) is

defined as: $I = Q/(tA)$

where:

Q = volume of flow;

t = interval of time corresponding to flow

Q; and A = area of the ring;

then the hydraulic conductivity (k) can be calculated from Darcy's law as

follows: $k = l/i$

where:

l = infiltration rate; and

i = hydraulic gradient.

(i) Geosynthetic Membrane Requirements.

(1) Performance requirements for the geosynthetic membrane include, but are not limited to, the following:

(A) a need to limit infiltration of water, to the greatest extent possible;

(B) a need to control landfill gas emissions;

(C) for final covers, mechanical compatibility with stresses caused by equipment traffic, and the result of differential settlement of the waste over time; and

(D) for final covers, durability throughout the postclosure maintenance period.

(2) Minimum Criteria The minimum construction quality assurance criteria to ensure that geosynthetic membranes will meet or exceed all design specifications shall include, but not be limited to:

(A) Preconstruction quality control program:

1. inspection of the raw materials (e.g., density, melt flow index, percent carbon Black);

2. manufacturing operations and finished product specifications (e.g., thickness, puncture resistance, multi axial stress/strain tests),

3. fabrication operations (e.g., factory seaming);

4. observations related to transportation, handling, and storage of the geosynthetic membrane; and

5. inspection of foundation preparation;

(B) Construction activities:

1. the geosynthetic membrane shall have thickness strength sufficient to withstand the stresses to which it shall be subjected, including shear forces, puncture from rocks or, for final covers, penetration from roots.

2. inspection of geosynthetic membrane placement (e.g., trench corners, monitoring systems).

3. seaming of the material; and

4. installation of anchors and seals;

(C) Postconstruction Activity postconstruction activity includes checking for material and placement imperfections in the installed geosynthetic membrane. Imperfections that jeopardize the integrity of the membrane's function as an impermeable barrier (i.e., pin holes, rips, creases created during placement) shall be repaired to the original manufacturer's specifications and reinspected by the CQA officer; and

(D) Evaluation evaluation of the personnel and equipment to be used to install and inspect the geosynthetic membrane, and pass/fail criteria and corrective procedures for material and installation procedures shall be specified as required in (c).

Authority cited: Section 1058, Water Code.

Reference: Sections 13172 and 13360, Water Code; Section 43103, Public Resources Code.

Section 20330. SWRCB Liners. (C15: Section 2542)

(a) Performance Standard Liners shall be designed and constructed to contain the fluid, including landfill gas, waste, and leachate, as required by Article 3 of this subchapter (Section 20240 et seq., and Section 20310).

(b) Clay Liners Clay liners for a Class II Unit shall be a minimum of 2 feet thick and shall be installed at a relative compaction of at least 90 percent. For a Class III landfill, a clay liner, if required, shall be a minimum of 1 foot thick and shall be installed at a relative compaction of at least 90 percent. For MSW landfills subject to the liner requirements in the federal MSW regulations of 40CFR258, after the Federal Deadline for liners at that Unit, the requirements of this paragraph are superseded by those of SWRCB Resolution No. 93-62 for all portions of the Unit outside the Existing Footprint.

(c) FMLs Flexible membrane liners ("FMLs," or synthetic liners) shall have a minimum thickness of 40 mils (i.e., 0.040"). For an MSW landfill subject to the liner requirements in the federal MSW regulations (40CFR258), after the Federal Deadline for liners at that Unit, the requirements of this paragraph are superseded by those of SWRCB Resolution No. 93-62 for all portions of the Unit outside the Existing Footprint.

(d) Lined Area Liners shall be installed to cover all natural geologic materials (at the Unit) that are likely to be in contact with waste (including landfill gas or leachate).

(e) S.I. With Replaceable Liner A Class II surface impoundment may have a single clay liner with a hydraulic conductivity of 1×10^{-6} cm/sec (i.e., 1 foot/year) or less if the liner is

removed or replaced before the last 25 percent (minimum 1 foot thickness) of the liner is penetrated by fluid, including waste or leachate. The method used to determine seepage velocity shall be included with the calculations of liner penetration.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172 and 13360, Water Code; Section 43103, Public Resources Code.

Section 20340. SWRCB Leachate Collection and Removal Systems (LCRS). [C15: Section 2543 // T14: Section 17781(b)(2) (d)(1)]

(a) Basic LCRS Design Leachate collection and removal systems (LCRS) are required for Class II landfills and surface impoundments, and for Class III landfills which have a liner or which accept sewage or water treatment sludge. The LCRS shall be installed directly above underlying containment features for landfills and waste piles, and installed between the liners for surface impoundments. LCRS requirements are summarized on Table 4.1. Class II landfills and waste piles which contain only dry wastes (not including nonhazardous solid waste and decomposable waste) may be allowed to operate without an LCRS if the discharger demonstrates, based on climatic and hydrogeologic conditions, that leachate will not be formed in, or migrate from, the Unit; nevertheless, for a Class II or Class III MSW landfill, after the Federal Deadline for installing liners at that Unit, the LCRS requirements of SWRCB Resolution No. 93-62 apply to all portions outside of the Unit's Existing Footprint.

(b) Placement Except as otherwise provided in (e or f), where an LCRS is used, it shall be installed immediately above the liner (except in the case of a surface impoundment), and between the inner and outer liner of a double liner system, and shall be designed, constructed, maintained, and operated to collect and remove twice the maximum anticipated daily volume of leachate from the Unit.

(c) Head Buildup The RWQCB shall specify design and operating conditions in WDRs to ensure that there is no buildup of hydraulic head on the liner. The depth of fluid in the collection sump shall be kept at the minimum needed to ensure efficient pump operation.

(d) Clogging LCRSs shall be designed and operated to function without clogging through the scheduled closure of the Unit and during the post closure maintenance period. The systems shall be tested at least annually to demonstrate proper operation. The results of the tests shall be compared with earlier tests made under comparable conditions.

(e) Standard LCRS LCRSs shall consist of a permeable subdrain layer which covers the bottom of the Unit and extends as far up the sides as possible, (i.e., blanket type) except as provided in (f). The LCRS shall be of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying wastes, waste cover materials, and by any equipment used at the Unit.

(f) Alternative LCRS Except as otherwise required for MSW landfills, under SWRCB Resolution No. 93-62, if a Class III landfill is required to have an artificial liner and receives only permeable waste that allows free drainage of percolating fluid, the RWQCB can allow the use of a dendritic LCRS which underlies less than 100 percent of the waste; in this type of LCRS system, only wastes which have an hydraulic conductivity which approximates that of subdrain material, and which will remain permeable throughout the active life and post closure maintenance period of the landfill, shall be placed adjacent to the liner. Furthermore, to prevent ponding, when using this type of LCRS, all portions of the liner not overlain by a portion of the subdrain system shall be sloped towards the subdrain so that ponding is minimized and leachate is removed as quickly as possible from the base of the landfill.

(g) Leachate Handling Except as otherwise provided under SWRCB Resolution No. 93-62 (for MSW landfills subject to 40CFR258.28), collected leachate shall be returned to the Unit(s) from which it came or discharged in another manner approved by the RWQCB. Collected leachate can be discharged to a different Unit only if:

- (1) the receiving Unit has an LCRS, contains wastes which are similar in classification and characteristics to those in the Unit(s) from which leachate was extracted, and has at least the same classification (under Article 3 of this subchapter) as the Unit(s) from which leachate was extracted;
- (2) the discharge to a different Unit is approved by the RWQCB;
- (3) the discharge of leachate to a different Unit shall not exceed the moisture holding capacity of the receiving unit, and shall comply with Section 20200(d).

(h) Leachate Production Rate After July 18, 1997, for a landfill equipped with an LCRS, the discharger shall note, as a part of each regularly scheduled monitoring report [under Article 1, Subchapter 3, Chapter 3 of this division (Section 20380 et seq.)], the total volume of leachate collected each month since the previous monitoring report.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172 and 13360, Water Code; Section 43103, Public Resources Code.

Section 20360. SWRCB Subsurface Barriers. (C15: Section 2545)

(a) Subsurface barriers are cutoff walls or grout curtains which are used in conjunction with natural geologic materials to assure that lateral hydraulic conductivity standards specified in Article 3 of this subchapter are satisfied. Paragraphs (b) and (c) specify conditions under which cutoff walls and grout curtains, respectively, are used.

(b) Cutoff walls.

(1) Cutoff walls are required at Class II Units where there is potential for lateral movement of fluid, including waste or leachate, and the hydraulic conductivity of natural geologic materials is used for waste containment in lieu of a liner. Cutoff walls shall be installed at Class III landfills as required by the RWQCB.

(2) Cutoff walls shall be:

(A) a minimum of two feet thick for clay materials; or

(B) a minimum of 40 mils (i.e., 0.040") thick for synthetic materials; and

(C) regardless of the option under (b)(2)(A or B), shall be keyed a minimum of five feet into natural geologic material which satisfies the applicable hydraulic conductivity requirements in Article 3 of this subchapter.

(3) If cutoff walls are used, excavations for Units shall be keyed into natural geologic materials which satisfy applicable hydraulic conductivity requirements in Article 3 of this Subchapter.

(4) At closure of a waste pile or surface impoundment, all contaminated natural geologic materials present between the cutoff wall(s) and the waste shall be removed and disposed of at an authorized location, or the Unit shall be closed as a landfill.

(5) Cutoff walls shall have fluid collection systems installed upgradient of the structure. The systems shall be designed, constructed, operated, and maintained to prevent the buildup of hydraulic head against the structure. The collection system shall be inspected regularly, and accumulated fluid shall be removed.

(c) Grout Curtains.

(1) Grout curtains may be used as needed to prevent lateral waste movement through fractures in natural geologic materials that otherwise satisfy applicable hydraulic conductivity requirements in Article 3 of this Subchapter. Only fractures that are at or near the surface and are of limited vertical extent may be grouted.

(2) The acceptability of grout curtains for a Unit shall include consideration of:

(A) depth and nature of fracturing; and

(B) fracture orientation.

(3) Grout characteristics shall not be adversely affected by fluid, including waste and leachate, or natural conditions.

(4) Optimum grouting pressure and the placement of grout holes shall be determined by test grouting.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172 and 13360, Water Code; Section 43103, Public Resources Code.

Section 20365. SWRCB Precipitation and Drainage Controls. [C15: Section 2546 // T14: Section 17778(e), (f)(1), (g), & (j)]

(a) General Units and their respective containment structures shall be designed and constructed to limit, to the greatest extent possible, ponding, infiltration, inundation, erosion, slope failure, washout, and overtopping under the precipitation conditions specified in Table 4.1 (of this article) for each class of waste management unit (Unit). [see also Section 21090(b)(1).]

(b) Undiverted Precipitation on landfills or waste piles which is not diverted by covers or drainage control systems shall be collected and managed through the leachate collection and removal system, which shall be designed and constructed to accommodate precipitation conditions specified in Table 4.1 of this article or each class Unit.

(c) Performance Standards Diversion and drainage facilities shall be designed, constructed, and maintained:

(1) to accommodate the anticipated volume of precipitation and peak flows from surface runoff under the precipitation conditions specified in Table 4.1 of this article for each class of Unit;

(2) to effectively divert sheet flow runoff laterally, or via the shortest distance, into the drainage and collection facilities;

(3) to prevent surface erosion through the judicious use of:

(A) energy dissipators where required to decrease the velocity of runoff; and

(B) slope protection and other erosion control measures;

(4) to control and intercept run-on, in order to isolate uncontaminated surface waters from water that might have come into contact with waste;

(5) to take into account:

(A) for closed Units and for closed portions of Units, the expected final contours of the closed Unit, including its planned drainage pattern;

(B) for operating portions of Units other than surface impoundments, the Unit's drainage pattern at any given time;

(C) the possible effects of the Unit's drainage pattern on and by the regional watershed;

(D) the design capacity of drainage systems of downstream and adjacent properties by providing for the gradual release of retained water downstream in a manner which does not exceed the expected peak flow rate at the point of discharge if there were no waste management facility; and

(6) to preserve the system's function. Therefore, the discharger shall periodically remove accumulated sediment from the sedimentation or detention basins as needed to preserve the design capacity of the system.

(d) Maintain Capacity Collection and holding facilities associated with precipitation and drainage control systems shall be emptied immediately following each storm or otherwise managed to maintain the design capacity of the system.

(e) Divert Drainage Surface and subsurface drainage from outside of a Unit shall be diverted from the Unit.

(f) Resist Erosion from Design Storm Cover materials shall be graded to divert precipitation from the Unit, to prevent ponding of surface water over wastes, and to resist erosion as a result of precipitation with the return frequency specified in Table 4.1 (of this article) for each class of Unit, unless, for a landfill, the CIWMB/EA requires (for protection of public health and safety) that the design be capable of resisting erosion resulting from a longer return interval storm [see Section 21150(b)]. Any drainage layer in the final cover shall be designed and constructed to intersect with the final drainage system for the Unit in a manner promoting free drainage from all portions of the drainage layer.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172 and 13360, Water Code; Section 43103, Public Resources Code.

Section 20370. SWRCB Seismic Design. (C15: Section 2547)

(a) Class II Units shall be designed to withstand the maximum credible earthquake (MCE) without damage to the foundation or to the structures which control leachate, surface drainage, or erosion, or gas. Class III Units shall be designed to withstand the maximum probable earthquake (MPE) without damage to the foundation or to the structures which control leachate, surface drainage, or erosion, or gas. [see also submittal requirements under Section 21750(f)(5)]

Authority cited: Section 1058, Water Code.

Reference: Sections 13172 and 13360, Water Code; Section 43103, Public Resources Code.

Section 20375. SWRCB Special Requirements for Surface Impoundments. (C15: Section 2548)

(a) Freeboard Surface impoundments shall have sufficient freeboard to accommodate seasonal precipitation and the design storm specified in Table 4.1 of this article, but in no case less than 2 feet (measured vertically, from the water surface up to the point on the surrounding lined berm, or dike, having the lowest elevation), and shall be designed and constructed to prevent overtopping as a result of wind conditions likely to accompany such precipitation conditions. The RWQCB can allow a freeboard of less than 2 feet at surface impoundments located on the interior portions of a waste management facility where:

(1) these interior most impoundments are designed such that potential overflows would be reliably conveyed by gravity flow and discharged to other surface impoundments having adequate capacity to receive such diversion without exceeding their respective freeboard limitations;

(2) the operation implements a properly developed water balance plan; and

(3) the facility is provided with a fail safe emergency retention area solely for the purpose of containing wastes due to surface impoundment failures.

(b) Operation Plan An operation plan shall be submitted to the RWQCB which will provide operation levels and waste input quantities permitted each month based on anticipated precipitation and on past precipitation conditions for the year.

(c) Fail-Safe Direct pipeline discharge to surface impoundments shall be either equipped with devices or shall have fail safe operating procedures to prevent overfilling. Discharges shall be stopped in the event of any containment system failure which causes a threat to water quality.

(d) Unauthorized Discharges There shall be no discharge from a surface impoundment except as authorized by WDRs.

(e) Scour Protection Surface impoundments shall be designed and constructed to prevent scouring of containment structures at points of discharge into the impoundments and by wave action at the waterline.

(f) Liner Inspections All visible portions of synthetic liners shall be inspected weekly until all free liquid is removed from the surface impoundment as part of closure pursuant to Section 21400(a). If, during the active life of the impoundment, the wastes are removed and the bottom of the impoundment is cleaned down to the liner, an inspection shall be made of the bottom of the liner prior to refilling of the impoundment.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172 and 13360, Water Code; Section 43103, Public Resources Code.

Section 20377. SWRCB Special Requirements for Land Treatment Units (LTUs). (C15: Section 2549)

(a) General Dischargers operating LTUs shall comply with the general criteria specified in Section 20320(a & d), with the precipitation and drainage controls specified in Section 20365, and with the seismic design criteria in Section 20370.

(b) Performance Standard Dischargers shall design, construct, operate, and maintain LTUs to maximize the degradation, transformation, and immobilization of waste constituents in the treatment zone. Dischargers shall design, construct, operate, and maintain units in accord with all design and operating conditions that were used in treatment demonstrations under Section 20250.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172 and 13360, Water Code; Section 43103, Public Resources Code.

Subchapter 3: Water Monitoring

Article 1. SWRCB Water Quality Monitoring and Response Programs for Solid Waste Management Units

Section 20380. SWRCB Applicability

(a) The regulations in this article apply to owners or operators of facilities that treat, store, or dispose of waste at waste management units. The owner or operator of a surface impoundment, waste pile, landfill, or land treatment unit that receives or has received waste (hereinafter referred to as “waste management units”, or “Units”) that is subject to the SWRCB-promulgated requirements of this division, pursuant to Sections 20080 and 20090 shall comply with the provisions of this article for purposes of detecting, characterizing, and responding to releases to ground water, surface water, or the unsaturated zone. Furthermore, s20400 of this article also applies to all determinations of alternative cleanup levels for unpermitted discharges to land of solid waste, pursuant to ¶III.G. of SWRCB Resolution No. 92-49 [Section 2550.4 of Title 23 of this code serves a similar function for unpermitted discharges to land of hazardous waste].

(b) Known or Reasonably Foreseeable Release -In accordance with applicable requirements of Sections 22220-22222, waste discharge requirements (WDRs) for a Unit subject to this Section shall contain a provision which requires the discharger to

obtain and maintain assurances of financial responsibility for initiating and completing corrective action for all known or reasonably foreseeable releases from the Unit.

(c) [Reserved]

(d) Apply Unless Clean-Closed -The regulations under this article apply during the Unit's active life and closure period. After closure of the Unit, the regulations in this article apply during the post-closure maintenance period of the Unit and during any compliance period under s20410 of this article, unless:

(1) the Unit has been in compliance with the water quality protection standard ("Water Standard" of s20390) for a period of three consecutive years; and

(2) Clean-Closure -all waste, waste residues, contaminated containment system components, contaminated subsoils, and all other contaminated materials are removed or decontaminated at closure, pursuant to: s21090(f), for landfills; s21400(b)(1), for surface impoundments; or s21410(a)(1), for waste piles.

(e) Allowable Engineered Alternatives -In considering a monitoring proposal by the discharger, the RWQCB can allow an engineered alternative for any of the prescriptive standards in this article so long as the RWQCB:

(1) finds that each engineered alternative meets the requirements of s20080(b & c);

(2) finds, for each applicable program under s20385, that the discharger's proposed monitoring data procurement and analysis methods achieve the program's respective goals, including:

(A) for a detection monitoring program, the goals articulated in s20420(b);

(B) for an evaluation monitoring program, the goals articulated in s20425(a)(2); and

(C) for a corrective action program, the goals articulated in s20430(b);

(3) requires ground water monitoring at least annually at disposal Units and at Units that will be used for five or more years for waste treatment or storage.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172 and 13267, Water Code; and Section 43103, Public Resources Code.

Section 20385. Required Programs.

(a) Monitoring Programs & their Respective Triggers -A discharger subject to this article shall conduct a monitoring and response program, approved by the RWQCB, for each Unit at the facility as follows.

(1) Detection Monitoring (default) -The discharger shall institute a detection monitoring program (under Section 20420) except as required below under (a)(2-4);

(2) Evaluation Monitoring (trigger #1) -The discharger shall institute an evaluation monitoring program (under s20425) whenever there is “measurably significant” (see Section 20164) evidence of a release from the Unit during a detection monitoring program [under Section 20420(g or i)];

(3) Evaluation Monitoring (trigger #2) -The discharger shall institute an evaluation monitoring program (under Section 20425) whenever there is significant physical evidence of a release from the Unit. Significant physical evidence of a release includes unexplained volumetric changes in surface impoundments, unexplained stress in biological communities, unexplained changes in soil characteristics, visible signs of leachate migration, and unexplained water table mounding beneath or adjacent to the Unit and any other change to the environment that could reasonably be expected to be the result of a release from the Unit; and

(4) Corrective Action -The discharger shall institute a corrective action program under Section 20430 of this article when the RWQCB determines (pursuant to Section 20425) that the assessment of the nature and extent of the release and the design of a Corrective Action Program have been satisfactorily completed and the RWQCB approves the application for an amended report of waste discharge for corrective action submitted by the discharger during an evaluation monitoring program [pursuant to Section 20425(d)].

(b) Preparation for Other Programs -The RWQCB shall specify in the WDRs the specific type or types of monitoring programs required and the specific elements of each monitoring and response program. For each Unit, the RWQCB shall require one or more of the programs identified in (a) that is appropriate for the prevailing state of containment at the Unit, and shall specify the circumstances under which each of the programs will be required. In deciding whether to require the discharger to be prepared to institute a particular program, the RWQCB shall consider the potential adverse effects on human health or the environment that might occur before final administrative action on an amended report of waste discharge to incorporate such a program could be taken.

(c) Concurrent Detection Monitoring Program, Where Necessary -In conjunction with an evaluation monitoring program or a corrective action program, the discharger shall continue to conduct a detection monitoring program as necessary to provide the best assurance of the detection of subsequent releases from the Unit.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, 13263, 13267 and 13304, Water Code; and Section 43103, Public Resources Code.

Section 20390. SWRCB Water Quality Protection Standard (Water Standard).

(a) Components & Duration For each Unit, the RWQCB shall establish a water quality protection standard (Water Standard) in the WDRs. This Water Standard shall consist of the list of constituents of concern (under Section 20395), the concentration limits (under Section 20400), and the Point of Compliance and all Monitoring Points (under Section 20405). This Water Standard shall apply during the active life of the Unit, the closure period, the post-closure maintenance period, and during any compliance period (under s20410).

(b) Program-Specific Water Standards If a discharger is conducting a detection monitoring program in conjunction with a corrective action program for a Unit [pursuant to s20385(c)], the RWQCB may establish separate Water Standards for each program.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, 13263, 13267 and 13304, Water Code; and Section 43103, Public Resources Code.

Section 20395. SWRCB Constituents of Concern (COCs). (C15: Section 2550.3)

(a) COCs For each Unit, the RWQCB shall specify in the WDRs the Constituents of Concern (COCs) to which the Water Standard (under Section 20390) applies. The COC list shall include all waste constituents, reaction products, and hazardous constituents that are reasonably expected to be in or derived from waste contained in the Unit.

(b) MSW COCs For MSW landfills, the COC list shall include all constituents mandated under SWRCB Resolution No. 93-62.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, 13263, and 13267, Water Code; Section 43103, Public Resources Code.

Section 20400. SWRCB Concentration Limits. (C15: Section 2550.4)

[The special applicability of this Section is described in Section 20380(a); see also Section 20080(a).]

(a) Proposal of Concentration Limits For each Constituent of Concern (COC) specified pursuant to Section 20395 (or for a solid waste constituent that is addressed by a cleanup and abatement action taken pursuant to SWRCB Resolution No. 92-49), the discharger shall propose one of the following for each medium (under Section 20415, including ground water, surface water, and the unsaturated zone) monitored pursuant to Section 20415 of this article:

(1) Background Value a concentration limit not to exceed the background value of that constituent as determined pursuant to Section 20415(e)(10)(A);

(2) Value Redetermined Each Time that the WDRs include a statement that, at any given time, the concentration limit for that COC will be equal to the background value of that constituent, as determined pursuant to Section 20415(e)(10)(B); or

(3) CLGBC a concentration limit greater than background (CLGB) established pursuant to this Section for a corrective action program.

(b) Adoption of Concentration Limits The RWQCB shall review the proposed concentration limits and statements and shall approve, modify, or disapprove each proposed limit and each proposed statement. Upon final approval by the RWQCB, each concentration limit and each statement shall be specified in WDRs. The RWQCB shall approve more than one concentration limit for different Monitoring Points in the same medium only if:

(1) more than one background condition exists within a particular medium;

(2) the statistical method approved for a constituent uses intra well comparisons procedures; or

(3) CLGBs have been established for a corrective action program at the Monitoring Points in the zone affected by a release from the Unit.

(c) Establishing a CLGB For a corrective action program, the RWQCB shall establish a CLGB [under (a)(3)] only if the RWQCB finds that it is technologically or economically infeasible to achieve the background value for that constituent and that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the CLGB is not exceeded. In making this finding, the RWQCB shall consider the factors specified in (d), the results of the engineering feasibility study submitted pursuant to Section 20425(c), data submitted by the discharger pursuant to Section 20425(d)(2) to support the proposed CLGB, public testimony on the proposal, and any additional data obtained during the evaluation monitoring program.

(d) Considerations In establishing a CLGB for a constituent of concern, the RWQCB shall consider the following factors:

(1) potential adverse effects on ground water quality and beneficial uses, considering:

(A) the physical and chemical characteristics of the waste in the Unit;

(B) the hydrogeological characteristics of the facility and surrounding land;

(C) the quantity of ground water and the direction of ground water flow;

(D) the proximity and withdrawal rates of ground water users;

- (E) the current and potential future uses of ground water in the area;
- (F) the existing quality of ground water, including other sources of contamination or pollution and their cumulative impact on the ground water quality;
- (G) the potential for health risks caused by human exposure to waste constituents;
- (H) the potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and
- (I) the persistence and permanence of the potential adverse effects; and
 - (2) potential adverse effects on surface water quality and beneficial uses, considering:
 - (A) the volume and physical and chemical characteristics of the waste in the Unit;
 - (B) the hydrogeological characteristics of the facility and surrounding land;
 - (C) the quantity and quality of ground water and the direction of ground water flow;
 - (D) the patterns of precipitation in the region;
 - (E) the proximity of the Unit to surface waters;
 - (F) the current and potential future uses of surface waters in the area;
 - (G) the existing quality of surface water including other sources of contamination or pollution and the cumulative impact on surface water quality;
 - (H) the potential for health risks caused by human exposure to waste constituents;
 - (I) the potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and
- (J) the persistence and permanence of the potential adverse effects.
 - (e) CLGB Ceiling In no event shall a CLGB for a constituent of concern exceed the lowest concentration that the discharger demonstrates and the RWQCB finds is technologically and economically achievable. No provision of this Section shall be taken to allow a CLGB for a constituent of concern to exceed the maximum concentration that would be allowed under other applicable statutes or regulations [e.g., Maximum Concentration Limits established under the federal Safe Drinking Water Act (P.L. 93 523, codified as Subchapter XII of the Public Health Service Act at 42 USC 300f, et. seq.; regulations establishing MCL's are located in 40 CFR Part 141, Subpart B), etc.].
 - (f) Receptor Location For ground water, in evaluating risk pursuant to (d) to any biological receptor, the risk shall be evaluated as if exposure would occur at the Point of Compliance.

(g) Additivity Proposals for CLGBs shall include a demonstration that the aggregate of hazardous constituents in the environment will not result in excessive exposure to a sensitive biological receptor. In the absence of scientifically valid data to the contrary, theoretical risks from chemicals associated with the release from the Unit shall be considered additive across all media of exposure, and shall be considered additive for all chemicals having similar toxicological effects or having carcinogenic effects.

(h) Applicability A CLGB may only be applied during corrective action, or during detection monitoring following corrective action, at Monitoring Points at which "measurably significant" (see Section 20164) evidence of the release has been determined.

(i) Decreasing the CLGB When a detection monitoring program incorporating a CLGB is reinstated after a corrective action program has been terminated, each CLGB shall be re evaluated during each review of WDRs or at least every five years. If the RWQCB, upon re evaluation, determines that the concentration of a constituent of concern in ground water, surface water, or the unsaturated zone is lower than its associated concentration limit by a "measurably significant" (see Section 20164) amount, the concentration limit for that constituent shall be lowered to reflect current water quality.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, 13263, and 13267, Water Code; Section 43103, Public Resources Code.

Section 20405. SWRCB Monitoring Points and the Point of Compliance. (C15: Section 2550.5)

(a) For each Unit, the RWQCB shall specify in the WDRs the Point of Compliance at which the Water Standard (of Section 20390) applies. The Point of Compliance is a vertical surface located at the hydraulically downgradient limit of the Unit that extends through the uppermost aquifer underlying the Unit. For each Unit, the RWQCB shall specify Monitoring Points (as defined in Section 20164) along the Point of Compliance, and shall specify additional Monitoring Points at locations determined pursuant to Section 20415(b-d) at which the Water Standard under Section 20390 applies and at which monitoring shall be conducted.

(b) If the facility contains contiguous Units and monitoring along a shared boundary would impair the integrity of a containment or structural feature of any of the Units, the Point of Compliance may be located at the hydraulically downgradient limit of an area described by an imaginary line along the outer boundary of the contiguous Units. This provision only applies to contiguous Units that have operated or have received all permits necessary for construction and operation before 7-1-91.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, 13263, and 13267, Water Code; Section 43103, Public Resources Code.

Section 20410. SWRCB Compliance Period. (C15: Section 2550.6)

(a) The RWQCB shall specify in WDRs a compliance period for each Unit. The compliance period is the number of years equal to the active life of the Unit (including any waste management activity prior to the adoption of the WDRs) plus the closure period. The compliance period is the minimum period of time during which the discharger shall conduct a water quality monitoring program subsequent to a release from the Unit.

(b) The compliance period begins anew each time the discharger initiates an evaluation monitoring program (under Section 20425).

(c) If the discharger is engaged in a corrective action program at the scheduled end of the compliance period specified under (a), the compliance period shall be extended until the discharger can demonstrate that the Unit has been in continuous compliance with its Water Standard (under Section 20390) for a period of three consecutive years.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, 13263, and 13267, Water Code; Section 43103, Public Resources Code.

Section 20415. SWRCB General Water Quality Monitoring and System Requirements. [C15: Section 2550.7 // T15: Section 17783.5(d)]

(a) The discharger shall comply with the requirements of this Section for any water quality monitoring program developed to satisfy Section 20420, Section 20425, or Section 20430 of this article.

(b) Ground Water Monitoring System.

(1) General Except as provided under (e)(3), the discharger shall establish a ground water monitoring system for each Unit. This ground water monitoring system shall include:

(A) For All Programs for all monitoring and response programs, a sufficient number of Background Monitoring Points (as defined in Section 20164) installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer that represent the quality of ground water that has not been affected by a release from the Unit;

(B) For DMP for a detection monitoring program under Section 20420:

1. A sufficient number of Monitoring Points (as defined in Section 20164) installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer that represent the quality of ground water passing the Point of Compliance and to allow for the detection of a release from the Unit;
2. A sufficient number of Monitoring Points installed at additional locations and depths to yield ground water samples from the uppermost aquifer to provide the best assurance of the earliest possible detection of a release from the Unit;
3. A sufficient number of Monitoring Points and Background Monitoring Points installed at appropriate locations and depths to yield ground water samples from portions of the zone of saturation, including other aquifers, not monitored pursuant to (b)(1)(B)1. and (b)(1)(B)2., to provide the best assurance of the earliest possible detection of a release from the Unit;
4. A sufficient number of Monitoring Points and Background Monitoring Points installed at appropriate locations and depths to yield ground water samples from zones of perched water to provide the best assurance of the earliest possible detection of a release from the Unit; and
5. Monitoring Point locations and depths that include the zone(s) of highest hydraulic conductivity in each ground water body monitored pursuant to this Subsection[i.e., under (b), inclusive].

(C) For EMP for an evaluation monitoring program under Section 20425:

1. A sufficient number of Monitoring Points installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer that represent the quality of ground water passing the Point of Compliance and at other locations in the uppermost aquifer to provide the data needed to evaluate changes in water quality due to the release from the Unit;
2. A sufficient number of Monitoring Points and Background Monitoring Points installed at appropriate locations and depths to yield ground water samples from portions of the zone of saturation, including other aquifers, not monitored pursuant to (b)(1)(C)1., to provide the data needed to evaluate changes in water quality due to the release from the Unit; and
3. A sufficient number of Monitoring Points and Background Monitoring Points installed at appropriate locations and depths to yield ground water samples from zones of perched water to provide the data needed to evaluate changes in water quality due to the release from the Unit; and

(D) For CAP for a corrective action program under Section 20430:

1. A sufficient number of Monitoring Points installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer that represent the quality of ground water passing the Point of Compliance and at other locations in the

uppermost aquifer to provide the data needed to evaluate the effectiveness of the corrective action program;

2. A sufficient number of Monitoring Points and Background Monitoring Points installed at appropriate locations and depths to yield ground water samples from portions of the zone of saturation, including other aquifers, not monitored pursuant to (b)(1)(D)1., to provide the data needed to evaluate the effectiveness of the corrective action program; and
3. A sufficient number of Monitoring Points and Background Monitoring Points installed at appropriate locations and depths to yield ground water samples from zones of perched water to provide the data needed to evaluate the effectiveness of the corrective action program.

(2) Alternate Background Locations The ground water monitoring system may include Background Monitoring Points that are not hydraulically upgradient of the Unit if the discharger demonstrates to the satisfaction of the RWQCB that sampling at other Background Monitoring Points will provide samples that are representative of the background quality of ground water or are more representative than those provided by the upgradient Background Monitoring Points.

(3) Drillers' Logs Copies of drillers' logs which the Department of Water Resources requires to be submitted pursuant to Section 13751 of the California Water Code shall be submitted to the RWQCB.

(4) Monitoring Well Performance Standards.

- (A) All monitoring wells shall be cased and constructed in a manner that maintains the integrity of the monitoring well bore hole and prevents the bore hole from acting as a conduit for contaminant transport.
- (B) The sampling interval of each monitoring well shall be appropriately screened and fitted with an appropriate filter pack to enable collection of representative ground water samples.
- (C) For each monitoring well, the annular space (i.e., the space between the bore hole and well casing) above and below the sampling interval shall be appropriately sealed to prevent entry of contaminants from the ground surface, entry of contaminants from the unsaturated zone, cross contamination between portions of the zone of saturation, and contamination of samples.
- (D) All monitoring wells shall be adequately developed to enable collection of representative ground water samples.

(c) Surface Water Monitoring Systems

(1) General The discharger shall establish a surface water monitoring system to monitor each surface water body that could be affected by a release from the Unit.

(2) Each Monitored Surface Water Body Each surface water monitoring system shall include:

- (A) Background Monitoring Points a sufficient number of Background Monitoring Points established at appropriate locations and depths to yield samples from each surface water body that represent the quality of surface water that has not been affected by a release from the Unit;
- (B) For DMP for a detection monitoring program (under Section 20420), a sufficient number of Monitoring Points established at appropriate locations and depths to yield samples from each surface water body that provide the best assurance of the earliest possible detection of a release from the Unit;
- (C) For EMP for an evaluation monitoring program (under Section 20425), a sufficient number of Monitoring Points established at appropriate locations and depths to yield samples from each surface water body that provide the data to evaluate changes in water quality due to the release from the Unit; and
- (D) For CAP for a corrective action program (under Section 20430), a sufficient number of Monitoring Points established at appropriate locations and depths to yield samples from each surface water body that provide the data to evaluate compliance with the Water Standard (of Section 20390) and to evaluate the effectiveness of the corrective action program.

(d) Unsaturated Zone Monitoring System.

(1) Except as otherwise provided in (d)(5), the discharger shall establish an unsaturated zone monitoring system for each Unit.

(2) The unsaturated zone monitoring system shall include:

- (A) Background Monitoring Points a sufficient number of Background Monitoring Points established at appropriate locations and depths to yield soil pore liquid samples or soil pore liquid measurements that represent the quality of soil pore liquid that has not been affected by a release from the Unit;
- (B) For DMP for a detection monitoring program (under Section 20420), a sufficient number of Monitoring Points established at appropriate locations and depths to yield soil pore liquid samples or soil pore liquid measurements that provide the best assurance of the earliest possible detection of a release from the Unit;
- (C) For EMP for an evaluation monitoring program (under Section 20425), a sufficient number of Monitoring Points established at appropriate locations and depths to yield soil pore liquid samples or soil pore liquid measurements that provide the data to evaluate changes in water quality due to the release from the Unit; and
- (D) For CAP for a corrective action program (under Section 20430), a sufficient number of Monitoring Points established at appropriate locations and depths to yield soil pore

liquid samples or soil pore liquid measurements that provide the data to evaluate compliance with the Water Standard (of Section 20390) and to evaluate the effectiveness of the corrective action program.

(3) Background Plot Background Monitoring Points shall be installed at a background plot having soil characteristics similar to those of the soil underlying the Unit.

(4) Alternate Methods Liquid recovery types of unsaturated zone monitoring (e.g., the use of lysimeters) are required unless the discharger demonstrates to the satisfaction of the RWQCB that such methods of unsaturated zone monitoring cannot provide an indication of a release from the Unit. The RWQCB shall require complementary or alternative (non liquid recovery or remote sensing) types of unsaturated zone monitoring to provide the best assurance of the earliest possible detection of a release from the Unit.

(5) Exemption Unsaturated zone monitoring is required at all new Units unless the discharger demonstrates to the satisfaction of the RWQCB that there is no unsaturated zone monitoring device or method designed to operate under the subsurface conditions existent at that Unit. For a Unit that has operated or has received all permits necessary for construction and operation before 7-1-91, unsaturated zone monitoring is required unless the discharger demonstrates to the satisfaction of the RWQCB that either there is no unsaturated zone monitoring device or method designed to operate under the subsurface conditions existent at that Unit or that installation of unsaturated zone monitoring devices would require unreasonable dismantling or relocating of permanent structures.

(e) General monitoring requirements.

(1) All monitoring systems shall be designed and certified by a registered geologist or a registered civil engineer.

(2) Boring Logs All monitoring wells and all other borings (including but not limited to gas monitoring wells) drilled to satisfy the requirements of this division shall be drilled by a licensed drilling contractor (or by a drilling crew under the direct supervision of the design engineer or engineering geologist), and shall be logged during drilling under the direct supervision of a person who is a registered geologist or a registered civil engineer, and who has expertise in stratigraphic well logging. These logs shall be submitted to the RWQCB upon completion of drilling.

(A) Soil shall be described in the geologic log in accordance with current industry-wide practices [e.g., American Society for Testing and Materials (ASTM) Designation "D2488-93 Method for Visual Classification, Standard Practice for Description and Identification of Soils (Visual Manual Procedure)" for field work, with initial determinations backed up by laboratory work under ASTM Designation "D2487-93 Standard Classification of Soils for Engineering Purposes (Unified Soil Classification System)," available from ASTM, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959].

(B) Rock shall be described in the geologic log in a manner appropriate for the purpose of the investigation.

(C) Where possible, the depth and thickness of saturated zones shall be recorded in the geologic log.

(3) Shared Systems If a facility contains contiguous Units, separate ground water monitoring systems are not required for each such Unit if the discharger demonstrates to the satisfaction of the RWQCB that the water quality monitoring program for each Unit will enable the earliest possible detection and measurement of a release from that Unit.

(4) QA/QC The water quality monitoring program shall include consistent sampling and analytical procedures that are designed to ensure that monitoring results provide a reliable indication of water quality at all Monitoring Points and Background Monitoring Points. At a minimum, the program shall include a detailed description of the procedures and techniques for:

(A) sample collection, including purging techniques, sampling equipment, and decontamination of sampling equipment;

(B) sample preservation and shipment;

(C) analytical procedures; and

(D) chain of custody control.

(5) Sampling & Analytical Methods The water quality monitoring program shall include appropriate sampling and analytical methods for ground water, surface water, and the unsaturated zone that accurately measure the concentration of each COC and the concentration or value of each Monitoring Parameter.

(6) Initial Background Sampling For each Unit, the discharger shall collect all data necessary for selecting the appropriate data analysis methods pursuant to (e)(7-9) and for establishing the background values specified pursuant to (e)(10). At a minimum, this data shall include analytical data obtained during quarterly sampling of all Background Monitoring Points for a period of one year, including the times of expected highest and lowest annual elevations of the ground water surface. For a new Unit, this data shall be collected before wastes are discharged at the Unit and background soil pore liquid data shall be collected from beneath the Unit before the Unit is constructed.

(7) Propose Data Analysis Method(s) Based on data collected pursuant to (e)(6), the discharger shall implement data analysis methods allowed in (e)(8) for each COC and for each Monitoring Parameter. The data analysis methods shall be used in evaluating water quality monitoring data. The specifications for each data analysis method shall include a detailed description of the criteria to be used for determining "measurably significant" (as that term is defined in Section 20164) evidence of any release from the Unit and for determining compliance with the Water Standard. Each statistical test

specified for a particular COC or Monitoring Parameter shall be conducted for that COC or Monitoring Parameter at each Monitoring Point. Where practical quantitation limits (PQLs) are used in any of the following data analysis methods to comply with (e)(9)(E), the discharger shall identify the PQL to the RWQCB. The discharger shall:

- (A) continue using the methods specified in the existing M&RP; or
- (B) submit to the RWQCB, before implementing the selected methods, a comprehensive technical report, certified by an appropriately registered professional, documenting that use of the proposed data analysis methods will comply with the performance standards outlined in (e)(9, 10, & 12):
 1. the RWQCB shall audit selected reports submitted pursuant to this subdivision for compliance and applicability, as deemed necessary by the RWQCB; and
 2. the discharger shall not change the data analysis methods developed pursuant to this subdivision until the next review/update of the M&RP, unless directed to make changes by the RWQCB; or
- (C) use any water quality data analysis software the SWRCB or RWQCB deems appropriate for such use, provided that the manner of such use is consistent with the manner of usage the SWRCB or RWQCB has deemed appropriate (without the need for additional substantiation), for that software, and further provided that the discharger notifies the RWQCB before initiating such use.

(8) Allowable Data Analysis Methods The statistical data analysis requirement in this article do not preclude the use of a particular non-statistical method which can achieve the goal of the particular monitoring program at least as well as will the most appropriate statistical method. If statistical methods cannot meet these goals, the discharger's proposed non-statistical method must achieve the goal of the particular monitoring program adequately [see (e)(12)(A)1.-3.]. For those monitoring data analyses in which statistical methods are used, the discharger shall use one fo the following methods:

- (A) Parametric ANOVA a parametric analysis of variance (ANOVA) followed in all instances by a multiple comparisons procedure to identify "measurably significant" (see Section 20164) evidence of a release from the Unit. The method shall include estimation and testing of the contrasts between each monitoring point's mean and the background mean value for each constituent or parameter;
- (B) Nonparametric ANOVA an ANOVA based on ranks followed in all instances by a multiple comparisons procedure to identify "measurably significant" (see Section 20164) evidence of a release from the Unit. The method shall include estimation and testing of the contrasts between each monitoring point's median and the background median values for each constituent of concern or monitoring parameter;
- (C) Tolerance Interval a tolerance or prediction interval procedure in which an interval for each COC or Monitoring Parameter is established from the distribution of the

background data, and the value for each COC or Monitoring Parameter at each monitoring point is compared to the upper tolerance or prediction limit;

(D) Control Chart a control chart approach that gives control limits for each COC or Monitoring Parameter; or

(E) Other Statistical Methods any statistical test method submitted by the discharger including, but not limited to, any statistical method which includes a procedure to verify that there is "measurably significant" (see Section 20164) evidence of a release from the Unit. If the statistical test method includes a verification procedure, this procedure shall include either a single "composite" retest (i.e., a statistical analysis that augments and reanalyzes the data from the Monitoring Point that indicated a release) or shall consist of at least two "discrete" retests (i.e., statistical analyses each of which analyzes only newly acquired data from the Monitoring Point that indicated a release). The verification procedure shall comply with the following requirements in addition to the statistical performance standards under (e)(9):

1. Discrete Retest Rule if the verification procedure consists of discrete retests, rejection of the null hypothesis for any one of the retests shall be considered confirmation of "measurably significant" (see Section 20164) evidence of a release;
2. Retest Sample Size the number of additional samples collected and analyzed for use in the verification procedure shall be appropriate for the form of statistical test specified in the WDRs for that COC or Monitoring Parameter pursuant to (e)(7). The number of additional samples (obtained at the indicating Monitoring Point for the indicating COC or Monitoring Parameter) shall be greater than or equal to the number of samples specified in the WDRs for that constituent or parameter pursuant to (e)(12)(A);
3. 30-Day Resampling Window if resampling at the interval identified for use in the initial statistical test pursuant to (e)(12)(B) would cause the entire resampling effort to take longer than 30 days, the sampling interval for use in the verification procedure shall be reduced to ensure that all samples are collected and submitted for laboratory analysis within 30 calendar days from the time that the discharger determines "measurably significant" (see Section 20164) evidence of a release pursuant to Section 20420(g or i);
4. Data Mix (for Composite Retest) for a verification procedure containing a composite retest, the statistical verification procedure shall be based on all data obtained from the initial sampling event combined with all data obtained during the resampling event. For a verification procedure containing discrete retests, each retest shall analyze data obtained during its respective resampling event(s) and no data shall be shared between retests;
5. Retest Effects on Type I Error Rate the Type I error for statistical methods employing a retest procedure shall be as follows:

- a. When Initial Test = Retest in cases where the discharger proposes to use the same statistical test for both the initial test and the retest, either:
- i. For Composite Retest for a verification procedure containing a composite retest, the statistical test method used in the verification procedure shall be conducted at a Type I error rate of no less than 0.05 for both the experiment wise analysis (if any) and the individual Monitoring Point comparisons. Therefore, if a control chart approach is used to evaluate water quality monitoring data, the upper limit on an X Bar or R Chart must be set at no more than 1.645 standard deviations of the statistic plotted for a one sided statistical comparison or at no more than 1.96 standard deviations of the statistic plotted for a two sided statistical comparison; or
 - ii. For Discrete Retest (& Original Test Too) For a verification procedure containing discrete retests, the statistical test method used shall be the same as the method used in the initial statistical comparison. Notwithstanding any provision of (e)(9), the critical value for the tests shall be chosen so that the Type I error rate for all individual monitoring point comparisons is the same, whether for an initial test or for a retest, and is equal to or greater than either

$$(1-[0.95]^{1/[M*W*S]})^{0.5} *$$

$$(1/R)^{0.5} , \text{ or } -(0.99)^{1/S} ,$$

whichever is larger, where: M = the number of Monitoring Parameters (or COCs, as appropriate) being tested by statistical methods during that Reporting Period; W = the total number of Monitoring Points at the Unit (considering all monitored media); S = the number of times that suites of monitoring data from the Unit are subjected to initial statistical analysis within a period of six months (i.e., for Monitoring Parameter testing, S>=1, but for COC testing, S=1); and R = the number of discrete retests that are to be conducted at a Monitoring Point for a given COC or Monitoring Parameter whose initial statistical analysis, at that Monitoring Point, has indicated the presence of a release (i.e., R>= 2); or

- b. When Retest Differs From Initial Test Method in cases where the discharger proposes to use a different statistical test for the composite or discrete retest than that which provided the

initial indication of a release (e.g., parametric Tolerance Limit test facility-wide, following by a parametric Prediction Limit retest for any indicating Monitoring Point), the individual Monitoring Point error level requirements of (e)(9)(B) do not apply. Nevertheless, the discharger shall demonstrate that the initial and retest method, in combination, provide:

- i. a facility-wide false positive rate of >= 5%, for the indicated COC or Monitoring Parameter; and

- ii.a statistical power equivalent to or better than the USEPA Reference Power Curve (see Section 5 and Appendix B of "Statistical Analysis of Ground-Water Monitoring Data at RCRA Facilities C Addendum To Interim Final Guidance", USEPA Office of Solid Waste, Washington, D.C., July, 1992), which is hereby incorporated by reference.
6. Reporting the discharger shall report to the RWQCB by certified mail the results of both the initial statistical test and the results of the verification procedure, as well as all concentration data collected for use in these tests within seven days of the last laboratory analysis of the samples collected for the verification procedure; and
 7. Scope the verification procedure shall only be performed for the constituent(s) or parameters which has shown "measurably significant" (see Section 20164) evidence of a release, and shall be performed for those Monitoring Points at which a release is indicated.

(9) Data Analysis Method Performance Standards In cases where the discharger proposes to use a non-statistical data analysis method, the discharger shall demonstrate that it meets the performance standard given in the leading paragraph of (e)(8). Each statistical method chosen under (e)(7) for specification in the WDRs shall comply with the following performance standards for each six month period:

- (A) Fit & Performance the statistical method used to evaluate water quality monitoring data shall be appropriate for the distribution of the COC or Monitoring Parameter to which it is applied and shall be the least likely of the appropriate methods to fail to identify a release from the Unit. If the distribution of a COC or Monitoring Parameter is shown by the discharger to be inappropriate for a normal theory test, then the data shall be either transformed so that the distribution of the transformed data is appropriate for a normal theory test or a distribution free theory test shall be used. If the distributions for the COC or Monitoring Parameters differ, more than one statistical method may be needed;
- (B) Level if an individual Monitoring Point comparison procedure is used to compare an individual Monitoring Point constituent concentration or Monitoring Parameter value with a concentration limit in the Water Standard or with a background Monitoring Parameter value, the test shall be done at a Type I error rate (as a decimal fraction) no less than 0.01. If a multiple comparisons procedure is used, the Type I experiment wise error rate (experiment-wise) shall be no less than 0.05; however, a Type I error rate of no less than 0.01 for individual Monitoring Point comparisons shall be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, control charts, or any method using discrete retests [for levels applicable to the latter case, see (e)(8)(E)5.b.];
- (C) Control Chart Rate if a control chart approach is used to evaluate water quality monitoring data, the specific type of control chart and its associated statistical parameter values (e.g., the upper control limit) shall be included in the supporting documentation under (e)(7). The discharger shall use the procedure only if the discharger's supporting documentation under (e)(7) shows the procedure to be

protective of human health and the environment. Any control charting procedure must have a false positive rate of no less than 1 percent for each Monitoring Point charted (e.g., upper control limits on X bar or R Charts used only once every six months must be set at no more than 2.327 standard deviations of the statistic plotted for a one sided statistical comparison or at no more than 2.576 standard deviations of the statistic plotted for a two sided statistical comparison);

- (D) Tol. Int./Pred. Int. Rate if a tolerance interval or a prediction interval is used to evaluate water quality monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval must contain shall be proposed by the discharger and included in the technical documentation submitted to the RWQCB pursuant to (e)(7). The discharger can use the parameters only if the documentation submitted under (e)(7) shows these statistical parameters to be protective of human health and the environment. These statistical parameters shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentrations or values for each COC or Monitoring Parameter. The coverage of any tolerance interval used shall be no more than 95 percent and the confidence coefficient shall be no more than 95 percent for a six month period. Prediction intervals shall be constructed with an experiment wise error rate of no less than 5 percent and an individual monitoring point error rate of no less than 1 percent;
 - (E) Addressing Censored Data the statistical method shall account for data below the practical quantitation limit with one or more statistical procedures that are protective of human health and the environment. Any practical quantitation limit validated pursuant to (e)(7) that is used in the statistical method shall be the lowest concentration (or value) that can be reliably achieved within limits of precision and accuracy specified in the WDRs for routine laboratory operating conditions that are available to the facility. The discharger's technical report, under (e)(7) shall consider the practical quantitation limits listed in Appendix IX to Chapter 14 of Division 4.5 of Title 22, California Code of Regulations (Appendix IX) for guidance when specifying limits of precision and accuracy in the WDRs;
 - (F) Seasonal/Spatial Variability if necessary, the statistical methods shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data; and
 - (G) Outliers any quality control procedure that is declared for use, in the technical report under (e)(7), for application to water quality data from downgradient monitoring points for a monitored medium shall also be applied to all newly acquired background data from that medium. Any newly acquired background monitoring datum that is rejected by an approved quality control procedure shall be maintained in the facility record but shall be excluded from use in statistical comparisons with downgradient water quality data.
- (10) Background Values/Procedures Based on the data collected pursuant to (e)(6) and the data analysis methods addressed in the technical report under (e)(7), the discharger

shall justify the use of a procedure for determining a background value for each COC and for each Monitoring Parameter specified in the WDRs. These procedures shall be proposed for ground water, surface water, and the unsaturated zone. The discharger shall declare and substantiate one of the following methods in the technical report under (e)(7):

- (A) By Reference to Historical Data a procedure for determining a background value for each constituent or parameter that does not display appreciable variation; or
- (B) By Using a Formula/Procedure a procedure for establishing and updating a background value for a constituent or parameter to reflect changes in the background water quality if the use of contemporaneous or pooled data provides the greatest power to the data analysis method for that constituent or parameter.

(11) [Reserved]

(12) Sampling Methods For each COC and Monitoring Parameter listed in the WDRs, the discharger shall verify, in the technical report under (e)(7), that the sampling methods to be used to establish background values and the sampling methods to be used for monitoring pursuant to this article are consistent with the following:

- (A) Sample Size the number and kinds of samples collected shall be appropriate for the form of data analysis employed and, in the case of statistical data analysis shall follow generally accepted statistical principles. The "sample size" (i.e., the number of water quality data points representing a given Monitoring Point or Background Monitoring Point) approved for the data analysis method shall be as large as necessary to ensure with reasonable confidence that:

1. for a detection monitoring program, a release from the Unit will be detected;
2. for an evaluation monitoring program, changes in water quality due to a release from the Unit will be recognized; and
3. for a corrective action program, compliance with the water quality protection standard and effectiveness of the corrective action program will be determined; and

- (B) Data Collection & Analysis the sampling method (including the sampling frequency and the interval of time between successive samples) shall be appropriate for the medium from which samples are taken (e.g., ground water, surface water, and soil pore liquid). For ground water, sampling shall be scheduled to include the times of expected highest and lowest elevations of the potentiometric surface. The sampling method shall assure, to the greatest extent possible, that independent samples are obtained. For ground water, the discharger can use a post-sampling purge to assure sample independence whenever the time between successive sampling events (for a given COC or Monitoring Parameter) is insufficient to assure sample independence, in which case the volume of well water to be withdrawn from the well bore for the post sampling purge shall be determined by the same method used to determine adequate pre sampling purging. The sampling method selected shall include collection of at least the

appropriate number of new data points [pursuant to (e)(12)(A)] at least semi annually from each Monitoring Point and background monitoring point and data analysis carried out at least semi annually. The RWQCB shall require more frequent sampling and statistical analysis than is stated in the discharger's technical report under (e)(7) where necessary to protect human health or the environment.

(13) Elevation & Field Parameters The ground water portion of the monitoring program shall include an accurate determination of the ground water surface elevation and field parameters (temperature, electrical conductivity, turbidity, and pH) at each well each time ground water is sampled.

(14) Annual Data Graphs The discharger shall graph all analytical data from each Monitoring Point and Background Monitoring Point and shall submit these graphs to the RWQCB at least once annually, except that graphs are not required for constituents for which no new data has been collected since the previous graph submittal. Graphs shall be at a scale appropriate to show trends or variations in water quality. All graphs for a given constituent shall be plotted at the same scale to facilitate visual comparison of monitoring data. Unless the discharger receives written approval from the RWQCB to use an alternate procedure that more effectively illustrates trends or variations in the data, each graph shall represent data from one Monitoring Point or Background Monitoring Point and one Constituent of Concern or Monitoring Parameter.

(15) G.W. Flow Direction In addition to the water quality sampling conducted pursuant to the requirements of this article, the discharger shall measure the water elevation in each well and determine ground water flow rate and direction in the uppermost aquifer and in any zones of perched water and in any additional portions of the zone of saturation monitored pursuant to (b)(1) at least quarterly, including the times of expected highest and lowest elevations of the water levels in the wells.

(16) Operating Record Water quality monitoring data collected in accordance with this article, including actual values of constituents and parameters, shall be maintained in the facility operating record. The RWQCB shall specify in the WDRs when the data shall be submitted for review.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, 13263, and 13267, Water Code; Section 43103, Public Resources Code.

Section 20420. SWRCB Detection Monitoring Program. (C15: Section 2550.8)

(a) General A discharger required, pursuant to Section 20385, to establish a detection monitoring program for a Unit shall, at a minimum, comply with the requirements of this Section for that Unit.

(b) Standards The discharger subject to this Section shall install water quality monitoring systems that are appropriate for detecting, at the earliest possible time, a release from the Unit, and that comply with applicable provisions of Section 20415.

(c) Background The discharger shall establish a background value pursuant to Section 20415(e)(10) for each Monitoring Parameter specified pursuant to (e) and for each Constituent of Concern under Section 20395.

(d) Water Standard The RWQCB shall specify the Water Standard under Section 20390 in the WDRs.

(e) Monitoring Parameters The discharger shall propose for approval by the RWQCB a list of Monitoring Parameters for each medium (ground water, surface water, and the unsaturated zone) to be monitored pursuant to (i) and Section 20415, including a data analysis method meeting the requirements of that Section for each Monitoring Parameter. The list for each monitored medium shall include those physical parameters, hazardous constituents, waste constituents, and reaction products that provide a reliable indication of a release from the Unit to that medium. In addition, for an MSW landfill, the list of monitoring parameters shall meet the requirements of SWRCB Resolution No. 93-62 (which incorporates by reference the federal requirements of 40CFR258.54). The RWQCB shall specify each list of Monitoring Parameters in the WDRs after considering the following factors:

- (1) the types, quantities, and concentrations of constituents in wastes managed at the Unit;
- (2) the expected or demonstrated correlation between the proposed Monitoring Parameters and the Constituents of Concern specified for the Unit under Section 20395;
- (3) the mobility, stability, and persistence of waste constituents or their reaction products;
- (4) the detectability of physical parameters, waste constituents, and reaction products; and
- (5) the background values and the coefficients of variation of proposed Monitoring Parameters in ground water, surface water, and the unsaturated zone.

(f) Routine Monitoring The discharger shall monitor [pursuant to (i)] for the Monitoring Parameters listed in the WDRs pursuant to (e). The RWQCB shall specify the frequencies for collecting samples and for analyzing the resulting data, pursuant to Section 20415(e)(12).

(g) Five-Yearly COC Monitoring In addition to monitoring for the Monitoring Parameters specified pursuant to (e), the discharger shall periodically monitor for COCs specified in the WDRs, and shall determine, pursuant to (i), whether there is "measurably significant" (see definition in Section 20164) evidence of a release for any COC using

the data analysis procedure specified pursuant to Section 20415(e)(7). The RWQCB shall specify in WDRs the frequencies and locations for monitoring pursuant to this paragraph after considering the degree of certainty associated with the expected or demonstrated correlation between values for Monitoring Parameters and values for the COCs. Monitoring pursuant to this paragraph shall be conducted at least every five years.

(h) Data Record & Format The discharger shall maintain a record of water quality analytical data as measured and in a form necessary for implementing the data analysis procedure required pursuant to (g) and (i).

(i) Data Analysis For each Monitoring Point, the discharger shall determine whether there is "measurably significant" (see Section 20164) evidence of a release from the Unit for any Monitoring Parameter (or COC) specified in the WDRs pursuant to (e) at a frequency specified pursuant to (f) or (g).

(1) In determining whether "measurably significant" (see Section 20164) evidence of a release from the Unit exists, the discharger shall use the method(s) chosen pursuant to Section 20415(e)(7). This method(s) shall be used to compare data collected at the Monitoring Point(s) with the background water quality data, except as otherwise provided in Section 20400(i).

(2) Determination The discharger shall determine whether there is "measurably significant" (see Section 20164) evidence of a release from the Unit at each Monitoring Point within a reasonable period of time after completion of sampling. The RWQCB shall specify in the WDRs what period of time is reasonable after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of samples.

(3) RWQCB Finding The provisions of this Section shall not preclude the RWQCB from making an independent finding that there is "measurably significant" (see Section 20164) evidence of a release from the Unit. If the RWQCB makes such a finding, the discharger shall comply with the provisions of this Section that are required in response to "measurably significant" (see Section 20164) evidence of a release from the Unit.

(j) If Release Indicated If the discharger determines pursuant to (i) that there is "measurably significant" (see Section 20164) evidence of a release from the Unit, the discharger:

(1) Notification shall immediately notify RWQCB staff verbally of the finding and shall provide written notification by certified mail within seven days of such determination. The notification shall, for each affected monitoring point, identify the monitoring parameters and constituents of concern that have indicated "measurably significant" (see Section 20164) evidence of a release from the Unit;

(2) Retest Optional can immediately initiate the verification procedure pre-approved by the RWQCB [pursuant to Section 20415(e)(8)(E)] to verify that there is "measurably

significant" (see Section 20164) evidence of a release from the Unit for a parameter or constituent which has indicated a release at a Monitoring Point; and

(3) Next Step immediately following detection of a release [or after completing the retest under (j)(2)], shall comply with the requirements of (k).

(k) Responding to Release Discovery If a verification procedure, performed pursuant to (j)(2), confirms that there is "measurably significant" (see Section 20164) evidence of a release from the Unit or if the discharger does not resample the discharger shall perform the following:

(1) Non-Statistical COC Scan if the detection was made based upon sampling and analysis for Monitoring Parameters [under (f)], immediately sample all Monitoring Points in the affected medium at that Unit and determine the concentration of all COC. Because this COC scan does not involve statistical testing, the discharger need collect and analyze only a single water sample from each Monitoring Point in the affected medium. The RWQCB can approve an appropriate subset of Monitoring Points to be sampled for all COCs, based upon the hydrogeologic conditions at the Unit;

(2-4) [Reserved.];

(5) Amended ROWD Proposing EMP within 90 days of determining "measurably significant" (see Section 20164) evidence of a release, submit to the RWQCB an amended report of waste discharge to establish an evaluation monitoring program meeting the provisions of Section 20425. The report shall include the following information:

(A) COC Concentrations the maximum concentration of each COC at each Monitoring Point as determined during the most recent COC sampling event [i.e., under (g) or (k)(1)];

(B) Proposed Monitoring System Changes any proposed changes to the water quality monitoring systems at the Unit necessary to meet the provisions of Section 20425;

(C) Proposed Monitoring Changes any proposed additions or changes to the monitoring frequency, sampling and analytical procedures or methods, or statistical methods used at the Unit necessary to meet the provisions of Section 20425; and

(D) Proposed Delineation Approach a detailed description of the measures to be taken by the discharger to assess the nature and extent of the release from the Unit;

(6) Submit Initial EFS within 180 days of determining measurably significant evidence of a release, submit to the RWQCB an engineering feasibility study for a corrective action program necessary to meet the requirements of Section 20430. At a minimum, the feasibility study shall contain a detailed description of the corrective action measures that could be taken to achieve background concentrations for all Constituents of Concern; and

(7) Optional Demonstration (That Unit Is Not At Cause) if the discharger determines, pursuant to (i), that there is "measurably significant" (see Section 20164) evidence of a release from the Unit at any Monitoring Point, the discharger may demonstrate that a source other than the Unit caused the evidence of a release or that the evidence is an artifact caused by an error in sampling, analysis, or statistical evaluation or by natural variation in the ground water, surface water, or the unsaturated zone. The discharger may make a demonstration pursuant to this Subsection in addition to or in lieu of submitting both an amended report of waste discharge pursuant to (k)(5) and an engineering feasibility study pursuant to (k)(6); however, the dischargers not relieved of the requirements specified in (k)(5) and (k)(6) unless the demonstration made pursuant to this Subsection successfully shows that a source other than the Unit caused the evidence of a release or that the evidence resulted from error in sampling, analysis, or evaluation, or from natural variation in ground water, surface water, or the unsaturated zone. In making a demonstration pursuant to this SubSection, the discharger shall:

(A) Notification of Intent within seven days of determining "measurably significant" (see Section 20164) evidence of a release, notify the RWQCB by certified mail that the discharger intends to make a demonstration pursuant to this Subsection[(k)(7)];

(B) Demonstration Due Date within 90 days of determining "measurably significant" (see Section 20164) evidence of a release, submit a report to the RWQCB that demonstrates that a source other than the Unit caused the evidence, or that the evidence resulted from error in sampling, analysis, or evaluation, or from natural variation in ground water, surface water, or the unsaturated zone;

(C) Amended ROWD within 90 days of determining "measurably significant" (see Section 20164) evidence of a release, submit to the RWQCB an amended report of waste discharge to make any appropriate changes to the detection monitoring program; and

(D) DMP Continues continue to monitor in accordance with the detection monitoring program established pursuant to this Section.

(I) Changes in Response to Other Problems If the discharger determines that there is significant physical evidence of a release, as described in Section 20385(a)(3), or that the detection monitoring program does not satisfy the requirements of this Section , the discharger shall:

(1) notify the RWQCB by certified mail within 7 days of such determination; and

(2) within 90 days of such determination, submit an amended report of waste discharge to make any appropriate changes to the program.

(m) Changes By RWQCB Any time the RWQCB determines that the detection monitoring program does not satisfy the requirements of this Section the RWQCB shall send written notification of such determination to the discharger by certified mail, return receipt requested; the discharger shall, within 90 days after receipt of such notification

by the RWQCB, submit an amended report of waste discharge to make any appropriate changes to the program.

(n) [Reserved.]

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, 13263, and 13267, Water Code; Section 43103, Public Resources Code.

Section 20425. SWRCB Evaluation Monitoring Program. (C15: Section 2550.9)

(a) General:

(1) A discharger required pursuant to Section 20385 to establish an evaluation monitoring program for a Unit shall, at a minimum, comply with the requirements of this Section for that Unit.

(2) Standards The evaluation monitoring program shall be used to assess the nature and extent of the release from the Unit and to design a corrective action program meeting the requirements of Section 20430.

(b) 90 Days To Delineate Release The discharger shall collect and analyze all data necessary to assess the nature and extent of the release from the Unit. This assessment shall include a determination of the special distribution and concentration of each COC throughout the zone affected by the release. The discharger shall complete and submit this assessment within 90 days of establishing an evaluation monitoring program. For MSW landfills, the discharger shall comply with the additional notification and monitoring system requirements incorporated by reference into SWRCB Resolution No. 93-62, regarding notification and monitoring relative to offsite or potential off-site migration of waste constituents [see Sections 258.55(g)(1)(ii & iii) of 40CFR258].

(c) 90 Days to Update EFS Based on the data collected pursuant to (b) and (e), the discharger shall update the engineering feasibility study for corrective action required pursuant to Section 20420(k)(6). The discharger shall submit this updated engineering feasibility study to the RWQCB within 90 days of establishing an evaluation monitoring program.

(d) 90 Days to Amend ROWD Based on the data collected pursuant to (b) and on the engineering feasibility study submitted pursuant to (c), the discharger shall submit an amended report of waste discharge to establish a corrective action program meeting the requirements of Section 20430. The discharger shall submit this report to the RWQCB within 90 days of establishing an evaluation monitoring program.

(1) MSW Landfills For MSW landfills, the discharger shall meet the additional federal notification requirements incorporated by reference by SWRCB Resolution No. 93-62 [see 40CFR258.56(d)].

(2) Minimum ROWD Update This report shall at a minimum include the following information:

(A) Delineation of Release a detailed assessment of the nature and extent of the release from the Unit;

(B) Water Standard a proposed Water Standard under Section 20390, including any proposed CLGBs under Section 20400, and all data necessary to justify each such limit;

(C) Corrective Action Measures a detailed description of proposed corrective action measures that will be taken to achieve compliance with the Water Standard proposed for a corrective action program; and

(D) Monitoring Plan a plan for a water quality monitoring program that will demonstrate the effectiveness of the proposed corrective action.

(3) Coordinated Landfill Gas Control For landfills at which the information submitted under (d) indicates that the release likely involves landfill gas, the RWQCB shall notify and shall coordinate, as appropriate, with the EA and (as appropriate) the CIWMB in developing those aspects of the corrective action program involving the design, installation, and operation of the landfill-gas control and monitoring systems at the Unit, such that the resulting gas control program satisfies the needs of all agencies concerned. [the CIWMB's gas control regulations are in Article 6, Subchapter 4, Chapter 3 (Section 20920 et seq.)]

(e) Ongoing Monitoring In conjunction with the assessment conducted pursuant to (b), and while awaiting final approval of the amended report of waste discharge, submitted pursuant to (d), the discharger shall monitor ground water, surface water, and the unsaturated zone to evaluate changes in water quality resulting from the release from the Unit. In conducting this monitoring, the discharger shall comply with the following requirements:

(1) EMP Monitoring Points the discharger shall install water quality monitoring systems that are appropriate for evaluation monitoring and that comply with the provisions of Section 20415. These water quality monitoring systems can include all or part of existing monitoring systems;

(2) EMP Monitoring Parameters the discharger shall propose for approval by the RWQCB a list of Monitoring Parameters for each medium (ground water, surface water, and the unsaturated zone) to be monitored pursuant to Section 20415. The list for each medium shall include all hazardous constituents that have been detected in that medium and those physical parameters, waste constituents, and reaction products that provide a reliable indication of changes in water quality resulting from any release from the Unit to that medium. For MSW landfills, the list of Monitoring Parameters must also meet the federal requirements incorporated by reference into SWRCB Resolution No. 93-62 [see Section 258.54(a) and Section 258.55(a) of 40CFR258]. The RWQCB shall specify each list of Monitoring Parameters in the WDRs after considering the following factors:

(A) the types, quantities, and concentrations of COCs in wastes managed at the Unit;

(B) information that demonstrates, to the satisfaction of the RWQCB, a sufficient correlation between the proposed Monitoring Parameters and the COCs specified for the Unit;

(C) the mobility, stability, and persistence of COCs [i.e., waste constituents and their (known or anticipated) reaction products];

(D) the detectability of COCs and of monitored physical parameters; and

(E) the background values and the coefficients of variation of proposed Monitoring Parameters in ground water, surface water, and the unsaturated zone;

(3) Monitoring Parameter Analyses the discharger shall monitor for the Monitoring Parameters listed in the WDRs pursuant to (e)(2). The discharger shall use data analysis methods and frequencies for collecting samples and for conducting data analyses that comply with Section 20415(e)(7) for evaluating changes in water quality due to the release from the Unit;

(4) Five-Yearly COC Monitoring in addition to monitoring for the Monitoring Parameters specified pursuant to (e)(3), at least every five years, the discharger shall periodically monitor for all constituents of concern specified in the WDRs to evaluate changes in water quality due to the release from the Unit. The discharger shall use data analysis methods for conducting data analysis that comply with Section 20415(e)(7) for evaluating changes in water quality due to the release from the Unit;

(5) Data Records & Format the discharger shall conduct water quality monitoring for each Monitoring Parameter and each COC in accordance with Section 20415(e)(12). The discharger shall maintain a record of water quality analytical data as measured and in a form necessary for the evaluation of changes in water quality due to a release from the Unit;

(6) [Reserved.]; and

(7) Note and Report Changes while awaiting final approval of an amended report of waste discharge [submitted under (e)] to establish a corrective action program, the discharger shall evaluate all water quality data obtained pursuant to (e) with respect to the design criteria for the corrective action program. If the evaluation indicates that the plan for corrective action is insufficient, the discharger shall:

(A) notify the RWQCB by certified mail within 7 days of such determination; and

(B) within 90 days of such determination, submit for approval by the RWQCB any appropriate changes to the amended report of waste discharge.

(f) Optional Demonstration The discharger may demonstrate that a source other than the Unit caused the evidence of a release or that the evidence is an artifact caused by

an error in sampling, analysis, or statistical evaluation, or by natural variation in ground water, surface water, or the unsaturated zone. Upon a successful demonstration the RWQCB shall specify that the discharger shall reinstitute a detection monitoring program meeting the requirements of Section 20420. In making a demonstration under this SubSection, the discharger shall:

(1) Notification notify the RWQCB by certified mail that the discharger intends to make a demonstration pursuant to this SubSection;

(2) Submit Demonstration Report submit a report to the RWQCB that demonstrates that a source other than the Unit caused the evidence of a release or that the evidence resulted from error in sampling, analysis, or evaluation, or from natural variation in ground water, surface water, or the unsaturated zone;

(3) Submit Amended ROWD submit to the RWQCB an amended report of waste discharge to reinstitute a detection monitoring program for the Unit. This report shall propose all appropriate changes to the monitoring program; and

(4) Continue EMP Monitoring continue to monitor in accordance with the evaluation monitoring program established pursuant to this Section.

(g) Interim CAMs The RWQCB shall require interim corrective action measures where necessary to protect human health or the environment.

(h) Discharger-Initiated EMP Changes If the discharger determines that the evaluation monitoring program does not satisfy the requirements of this Section, the discharger shall, within 90 days, submit an amended report of waste discharge to make any appropriate changes to the program.

(i) RWQCB-Initiated EMP Changes Any time the RWQCB determines that the evaluation monitoring program does not satisfy the requirements of this Section, the RWQCB shall send written notification of such determination to the discharger by certified mail, return receipt requested. The discharger shall, within 90 days of such notification by the RWQCB, submit an amended report of waste discharge to make appropriate changes to the program.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, 13263, and 13267, Water Code; Section 43103, Public Resources Code.

Section 20430. SWRCB Corrective Action Program. (C15: Section 2550.10)

(a) General A discharger required pursuant to Section 20385 to establish a corrective action program for a Unit shall, at a minimum, comply with the requirements of this Section for that Unit.

(b) Standards The discharger shall take corrective action to achieve the following goals: to remediate releases from the Unit; to ensure that the discharger achieves compliance with the Water Standard adopted under Section 20390 for that Unit. The RWQCB shall specify the Water Standard for corrective action [including any concentration limits greater than background, under Section 20400(c-g)] in the WDRs.

(c) Scope of Actions The discharger shall implement corrective action measures that ensure that COCs achieve their respective concentration limits at all Monitoring Points and throughout the zone affected by the release, including any portions thereof that extend beyond the facility boundary, by removing the waste constituents or treating them in place. The discharger shall take other action approved by the RWQCB to prevent noncompliance with those limits due to a continued or subsequent release from the Unit, including but not limited to, source control. The WDRs shall specify the specific measures that will be taken.

(d) Monitoring In conjunction with the corrective action measures, the discharger shall establish and implement a water quality monitoring program to demonstrate the effectiveness of the corrective action program. Such a monitoring program can be based on the requirements for an evaluation monitoring program (under Section 20425), and shall be effective in determining compliance with the Water Standard (under Section 20390) and in determining the success of the corrective action measures pursuant to (c).

(e) Compliance Schedule Corrective action measures taken pursuant to this Section shall be initiated and completed by the discharger within a period of time specified by the RWQCB in the WDRs.

(f) Terminating Measures Corrective action measures taken pursuant to (c) (e.g., pumping and treatment of ground water) may be terminated when the discharger demonstrates to the satisfaction of the RWQCB that the concentrations of all COCs are reduced to levels below their respective concentration limits throughout the entire zone affected by the release.

(g) Demonstrating Completion of CAP After suspending the corrective action measures, pursuant to (f), the Unit shall implement the remaining portions of the Corrective Action Program until an approved Detection Monitoring Program meeting the requirements of Section 20420 has been incorporated into WDRs and until the discharger demonstrates to the satisfaction of the RWQCB that the Unit is in compliance with the Water Standard (under Section 20390). If the Unit is an MSW landfill, then this demonstration shall meet the federal requirements incorporated by reference in SWRCB Resolution No. 93-62 [see Section 258.58(c) of 40CFR258], in lieu of meeting the requirements of (g)(1 & 2). For all other Units, this demonstration shall be based on the following criteria and requirements:

(1) the concentration of each COC in each sample from each Monitoring Point in the Corrective Action Program for the Unit must have remained at or below its respective

concentration limit during a proof period of at least one year, beginning immediately after the suspension of corrective action measures; and

(2) the individual sampling events for each Monitoring Point must have been evenly distributed throughout the proof period and have consisted of no less than eight sampling events per year per Monitoring Point.

(h) Semi-Annual Progress Reports The discharger shall report, in writing, to the RWQCB on the effectiveness of the corrective action program. The discharger shall submit these reports at least semi annually. More frequent reporting shall be required by the RWQCB as necessary to ensure the protection of human health or the environment.

(i) Discharger-Initiated CAP Changes If the discharger determines that the corrective action program does not satisfy the provisions of this Section, the discharger shall, within 90 days of making the determination, submit an amended report of waste discharge to make appropriate changes to the program.

(j) RWQCB-Initiated CAP Changes Any time the RWQCB determines that the corrective action program does not satisfy the requirements of this Section, the discharger shall, within 90 days of receiving written notification of such determination by the RWQCB, submit an amended report of waste discharge to make appropriate changes to the program.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, 13263, 13267 and 13304, Water Code; Section 43103, Public Resources Code.

Section 20435. SWRCB Unsaturated Zone Monitoring and Response Provisions for Land Treatment Units (LTUs). (C15: Section 2550.11)

(a) General A discharger required pursuant to the provisions of this article to conduct unsaturated zone monitoring at a land treatment unit (LTU) shall comply with the unsaturated zone monitoring and response provisions of this Section in conjunction with all other unsaturated zone monitoring and response provisions of this article.

(b) Monitor Below Zone The discharger shall monitor the soil and soil pore liquid to determine whether COCs migrate out of the treatment zone.

(c) Mon. Pars. & COCs The RWQCB shall specify the Monitoring Parameters and Constituents of Concern to be monitored in the WDRs. The Monitoring Parameters to be monitored are those specified pursuant to Section 20420(e) for detection monitoring and Section 20425(e)(2) for evaluation monitoring. The COCs to be monitored are those specified in the Water Standard specified under Section 20390 for each monitoring and response program. The COCs to be monitored shall include the constituents, including hazardous constituents, that must be degraded, transformed, or immobilized in the treatment zone of the LTU.

(d) [Reserved.]

(e) **Monitoring Below Treatment Zone** The discharger shall install an unsaturated zone monitoring system that includes soil monitoring using soil cores and soil pore liquid monitoring using appropriate devices such as lysimeters capable of acquiring soil pore liquid samples. The unsaturated zone monitoring system shall consist of a sufficient number of sampling points at appropriate locations and depths to yield samples that:

(1) represent the quality of background soil pore liquid quality and the chemical makeup of soil that has not been affected by a release from the treatment zone; and

(2) indicate the quality of soil pore liquid and the chemical makeup of the soil below the treatment zone.

(f) **Background** The discharger shall establish a background value for each monitoring parameter and each COC to be monitored under (c). The discharger shall propose, for approval by the RWQCB, the background values for each Monitoring Parameter and each COC or the procedures to be used to calculate the background values according to the provisions of Section 20415(e)(10). The RWQCB shall specify the background values or procedures in WDRs according to Section 20415(e)(10).

(g) **Background Plot** Background soil values may be based on a one time sampling at a background plot having characteristics similar to those of the treatment zone. For new land treatment units, background soil values shall include data from sampling at the proposed plot for the unit.

(h) **Initial Background Data** Background soil pore liquid values shall be based on at least quarterly sampling for one year at a background plot having characteristics similar to those of the treatment zone. For new land treatment units, background soil pore liquid values shall include data from sampling at the proposed plot for the Unit.

(i) **Data Format** The discharger shall express all background values in a form necessary for the determination of "measurably significant" (see Section 20164) increases pursuant to (n).

(j) **Performance Standard** In taking samples used in the determination of all background values, the discharger shall use an unsaturated zone monitoring system that complies with (e)(1).

(k) **Timing & Frequency** The discharger shall conduct soil monitoring and soil pore liquid monitoring immediately below the treatment zone. The RWQCB shall specify the frequency and timing of soil and soil pore liquid monitoring in the WDRs after considering all other monitoring provisions of this article, the frequency, timing, and rate of waste application, the soil hydraulic conductivity, and the maximum anticipated rate of migration. The discharger shall express the results of soil and soil pore liquid monitoring in a form necessary for the determination of "measurably significant" (see Section 20164) increases pursuant to (n).

(l) Propose Procedures The discharger shall propose, for approval by the RWQCB, consistent sampling and analysis procedures that are designed to ensure sampling results that provide a reliable indication of soil pore liquid quality and the chemical makeup of the soil below the treatment zone. At a minimum, the discharger shall implement the approved procedures and techniques for:

- (1) sample collection;
- (2) sample preservation and shipment;
- (3) analytical procedures; and
- (4) chain of custody control.

(m) Testing The discharger shall determine whether there is a "measurably significant" (see Section 20164) increase below the treatment zone using a statistical method that provides reasonable confidence that migration from the treatment zone will be identified. The discharger shall propose each statistical method in accordance with the provisions of this Subsection and pursuant to the provisions of Section 20415(e)(7). The RWQCB shall specify each statistical method pursuant to Section 20415(e)(7) that the RWQCB finds:

- (1) is appropriate for the distribution of the data used to establish background values; and
- (2) provides a reasonable balance between the probability of falsely identifying migration from the treatment zone and the probability of failing to identify real migration from the treatment zone.

(n) Coordinate w/DMP Sampling The discharger shall determine whether there is a "measurably significant" (see Section 20164) change over background values for each Monitoring Parameter [or, on a five-yearly basis under Section 20420(g), for each COC] to be monitored below the treatment zone each time the discharger conducts soil monitoring and soil pore liquid monitoring under (k).

(o) Data Analysis In determining whether a "measurably significant" (see Section 20164) increase has occurred, the discharger shall compare the value of each parameter or constituent, using data obtained pursuant to (n), to the background value for that parameter or constituent by using an appropriate statistical procedure specified in the WDRs pursuant to this Section.

(p) Timing of Data Analysis The discharger shall determine whether there has been a "measurably significant" (see Section 20164) increase below the treatment zone within a reasonable time period after completion of sampling. The RWQCB shall specify this time period in the WDRs after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of soil and soil pore liquid samples.

(q) Discovery of a Release If the discharger determines pursuant to (n), that there has been a "measurably significant" (see Section 20164) increase in the value of a hazardous constituent below the treatment zone the discharger shall:

(1) report to the RWQCB describing the full extent of the dischargers findings, including the identification of all constituents that have shown a "measurably significant" (see Section 20164) increase, within 72 hours of making such a determination; and

(2) submit written notification of this finding to the RWQCB within seven days of making such a determination.

(r) Release Response Options Upon receiving notice pursuant to (q) or upon the independent confirmation by the RWQCB, the RWQCB shall order the discharger to cease operating the LTU. The discharger shall not resume operating the LTU and shall close the LTU unless one of the following actions is taken:

(1) Cleanup, and Change Practices the discharger completes appropriate removal or remedial actions to the satisfaction of the RWQCB and the discharger submits to the RWQCB and the RWQCB approves, an amended report of waste discharge to modify the operating practices at the unit to maximize the success of degradation, immobilization, or transformation processes in the treatment zone; or

(2) Cleanup, Line Unit, and Change Practices the discharger completes appropriate removal or remedial actions, submits to the RWQCB and the RWQCB approves, an amended report of waste discharge to modify the operating practices at the unit to maximize the success of degradation, immobilization, or transformation processes in the treatment zone, and equips the land treatment unit with liners, and a leachate collection and removal system that satisfy the provisions of Section 20330 and Section 20340.

(s) Schedule of Compliance All actions taken by a discharger pursuant to (r)(1 or 2) shall be completed within a time period specified by the RWQCB, which shall not exceed 18 months after the RWQCB receives notice pursuant to (q)(1). If the actions are not completed within this time period, the LTU shall be closed, unless granted an extension by the RWQCB due to exceptional circumstances beyond the control of the discharger.

(t) Optional Demonstration If the discharger determines pursuant to (n) that there is a "measurably significant" (see Section 20164) increase of hazardous constituents below the treatment zone, the discharger may demonstrate that the increase resulted from an error in sampling, analysis, or evaluation. While the discharger may make a demonstration pursuant to this Subsection in addition to or in lieu of the requirements of (r)(1 or 2), the discharger is not relieved of the requirements of (r and s) unless the demonstration made pursuant to this Subsection successfully shows that the increase resulted from an error in sampling, analysis, or evaluation. In making a demonstration pursuant to this SubSection, the discharger shall:

(1) Notification notify the RWQCB of this finding in writing within seven days of determining a "measurably significant" (see Section 20164) increase beneath the treatment zone that the discharger intends to make a demonstration pursuant to this SubSection;

(2) Demonstration Submittal Deadline within 90 days of such determination, submit a report to the RWQCB demonstrating that the increase resulted from error in sampling, analysis, or evaluation;

(3) Amended ROWD Submittal Deadline within 90 days of such determination, submit to the RWQCB an amended report of waste discharge to make any appropriate changes to the unsaturated zone monitoring program for the LTU; and

(4) Continue Monitoring continue to monitor in accordance with the unsaturated zone monitoring program established pursuant to this Section.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, 13263, 13267 and 13304, Water Code; Section 43103, Public Resources Code.

Article 2. [S20480-S20499 Reserved by SWWRCB]

Subchapter 4. Criteria for Landfills and Disposal Sites

Article 1. CIWMB Operating Criteria

Section 20510. CIWMB Disposal Site Records. (T14:Section 17258.29, 17636, 17637, 17638, 17639)

(a) Each site operator shall maintain records of weights or volumes accepted in a form and manner approved by the EA. Such records shall be submitted to the EA upon request, accurate within 10 percent and adequate for overall planning purposes and forecasting the rate of site filling.

(b) Each site operator shall maintain records of excavations that may affect the safe and proper operation of the site or cause damage to adjoining properties.

(c) Each site operator shall maintain a daily logbook or file of the following information: fires, landslides, earthquake damage, unusual and sudden settlement, injury and property damage accidents, explosions, receipt or rejection of unpermitted wastes, flooding, and other unusual occurrences.

(d) Each site operator shall maintain a record of personnel training as required in section 20610.

(e) Each site operator shall maintain a copy of written notification to the EA, local health agency, and fire authority of names, addresses, and telephone numbers of the operator or responsible party of the site as required in section 20615.

(f) Disposal site records, including MSWLF unit records, shall be available for inspection by authorized representatives of the EA, the local health agency, and the Department during normal business hours and retained near the site in an operating record or in an alternative location approved by the EA.

(g) Each operator shall maintain records in accordance with Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815.1 et seq. The records shall be available for inspection as authorized by that article during normal business hours and retained in the operating record near the site or in an alternative location approved by the Local Enforcement Agency.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20515. CIWMB MSWLF Unit Records. (T14:Section 17258.29, Section 18257)

(a) The owner or operator of a MSWLF unit must record the following information as it becomes available:

(1) Any location restriction demonstration required under Section 20270;

(2) Inspection records, training procedures, and notification procedures required in Section 20870;

(3) Gas monitoring results from monitoring and any remediation plans required by Section 20919 of this Subchapter;

(4) Closure and postclosure maintenance plans as required by Section 21780, notice of intent to close the unit as described in Section 21135, notice of certification of closure as required by Section 21880, deed notation as required by Section 21170, demonstration of release from postclosure maintenance required by Section 21180, and any gas monitoring, testing, or analytical data as required by 40 CFR Section 258.61; and

(5) Any cost estimates and financial assurance documentation required by Sections 22221, 22226, 21820, and 21840.

(6) Any information demonstrating compliance with the small community exemption as required by 40 CFR Section 258.1(f)(2).

(b) The owner/operator must notify the EA when the documents from (a) of this Section have been placed in or added to the operating record, unless an alternative frequency is

approved as specified in (c) and all information contained in the operating record must be furnished upon request to the EA.

(c) The EA may set alternative schedules for record keeping and notification requirements as specified in (a) and (b) of this Section, except for the notification requirements in Section 20270.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 40508 and 43103, Public Resources Code and Title 40, Code of Federal Regulations, Section 258.29.

Section 20517. CIWMB Documentation of Enforcement Agency (EA) Approvals, Determinations and Requirements. (new)

Approvals, determinations and other requirements the EA is authorized to make under this Subchapter shall be documented in writing to the operator and placed in the operating record by the operator.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 40508 and 43103, Public Resources Code.

Section 20520. CIWMB Signs. (T14:Section 17656,17657)

(a) Each point of access from a public road shall be posted with an easily visible sign indicating the facility name, and other pertinent information as required by the EA.

(b) If the site is open to the public, there shall be an easily visible sign at the primary entrance of the site indicating the name of the site operator, the operator's telephone number, and, hours of operation; an easily visible sign at an appropriate point shall indicate the schedule of charges and the general types of materials which either (1) WILL be accepted or (2) WILL NOT be accepted.

(c) If the site is open to the public, there shall be easily visible road signs and/or traffic control measures which direct traffic to the active face and other areas where wastes or recyclable materials will be deposited.

(d) Additional signs and/or measures may be required at a disposal site by the EA to protect personnel and public health and safety.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20530. CIWMB Site Security. (T14:Section 17658)

The site shall be designed to discourage unauthorized access by persons and vehicles by using a perimeter barrier or topographic constraints. Areas within the site where open storage or ponding of hazardous materials occurs shall be separately fenced or otherwise secured as determined by the EA. The EA may also require that other areas of the site be fenced to create an appropriate level of security.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20540. CIWMB Roads. (T14:Section 17659,17660)

Roads within the permitted facility boundary shall be designed to minimize the generation of dust and the tracking of material onto adjacent public roads. Such roads shall be kept in safe condition and maintained such that vehicle access and unloading can be conducted during inclement weather.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20550. CIWMB Sanitary Facilities. (T14:Section 17666)

Sanitary facilities, consisting of an adequate number of toilets and handwashing facilities, shall be available to personnel at or in the immediate vicinity of the site as approved by the EA.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20560. CIWMB Drinking Water Supply. (T14:Section 17667)

Safe and adequate drinking water for the site personnel shall be available.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20570. CIWMB Communications Facilities. (T14:Section 17668)

Each site shall have communication facilities available to site personnel to allow quick response to emergencies.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20580. CIWMB Lighting. (T14:Section 17669)

Where operations are conducted during hours of darkness, the site and/or equipment shall be equipped with adequate lighting as approved by the enforcement agency to ensure safety and to monitor the effectiveness of operations.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20590. CIWMB Personnel Health and Safety. (T14:Section 17670)

Operating and maintenance personnel shall wear and use appropriate safety equipment as required by the EA.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20610. CIWMB Training. (T14:Section 17672)

Personnel assigned to operate the site shall be adequately trained in subjects pertinent to the site operation and maintenance, including requirements of this chapter, hazardous materials recognition and screening, and heavy equipment operations, with emphasis on safety, health, environmental controls and emergency procedures. A record of such training shall be placed in the operating record.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20615. CIWMB Supervision. (T14:Section 17671, 17673)

The site operator shall provide adequate supervision of a sufficient number of qualified personnel to ensure proper operation of the site in compliance with all applicable laws,

regulations, permit conditions and other requirements. The operator shall notify the enforcement agency and local health agency in writing of the names, addresses, and telephone number of the operator or responsible party. A copy of the written notification shall be placed in the operating record.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20620. CIWMB Site Attendant. (T14:Section 17674)

Any disposal site open to the public shall have an attendant present during public operating hours or the site shall be inspected by the operator on a regularly scheduled basis, as determined by the enforcement agency.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20630. CIWMB Confined Unloading. (T14:Section 17676)

Unloading of solid wastes shall be confined to as small an area as possible to accommodate the number of vehicles using the area without resulting in traffic, personnel, or public safety hazards. Waste materials shall normally be deposited at the toe of the fill, or as otherwise approved by the enforcement agency.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20640. CIWMB Spreading and Compacting. (T14:Section 17677)

Solid waste shall be spread and compacted in layers with repeated passages of the landfill equipment to minimize voids within the cell and maximize compaction. The loose layer shall not exceed a depth of approximately two feet before compaction. Spreading and compacting shall be accomplished as rapidly as practicable, unless otherwise approved by the enforcement agency.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20650. CIWMB Grading of Fill Surfaces. (T14:Section 17710)

Covered surfaces of the disposal area shall be graded to promote lateral runoff of precipitation and to prevent ponding. Grades shall be established of sufficient slopes to account for future settlement of the fill surface. Other effective maintenance methods may be allowed by the enforcement agency.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20660. CIWMB Stockpiling. (T14:Section 17680)

Cover material or native material unsuitable for cover, stockpiled on the site for use or removal, shall be placed so as not to cause problems or interfere with unloading, spreading, compacting, access, safety, drainage, or other operations.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Article 2. CIWMB Alternative Daily Cover Material and Beneficial Reuse

Section 20670. CIWMB Availability of Cover Material. [T14:Section 17681]

A sufficient quantity of cover material of a suitable quality to meet the requirements of this Subchapter shall be available. If on-site sources of cover material are insufficient, substantiation must be shown to the EA that an adequate supply of cover material will be provided.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20680. CIWMB Daily Cover. [T14:Section 17682, 17258.21]

(a) Except as provided in (b), and (f) and Section 20690, the owners or operators of all municipal solid waste landfill units shall cover disposed solid waste with a minimum of six inches of compacted earthen material at the end of each operating day, or at more frequent intervals if necessary, to control vectors, fires, odors, blowing litter, and scavenging. For the purposes of this Section, the operating day shall be defined as the

hours of operation specified in the solid waste facility permit, and may extend for more than 24 hours if operations are continuous.

(b) The EA, with concurrence by the CIWMB, may grant a temporary waiver from the requirements of (a) if the owner or operator demonstrates that there are extreme seasonal climatic conditions that make meeting such requirements impractical.

(c) Earthen material or alternative cover materials of alternative thickness shall be placed over all surfaces of disposed solid waste for other than municipal solid waste landfill units, as required by the EA to control vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment.

(d) For the purposes of this Section, earthen material shall include contaminated soil as defined in Title 14, California Code of Regulations, Section 17361(b), and soil with contaminants other than petroleum hydrocarbons which has been approved for use as landfill daily cover by the RWQCB, and any other governmental agencies from which approval is required, such as the Department of Toxic Substances Control and Air Pollution Control District or Air Quality Management District.

(e) For waste classification, composition, and liquid percolation requirements of daily cover, refer to the SWRCB requirements set forth in Section 20705 of this article.

(f) For those MSWLF's that accept for disposal 20 tons or less of municipal solid waste per day based on an annual average, the EA, with concurrence by the Board, may establish alternative frequencies for daily cover after consideration of the unique characteristics of small communities, climatic and hydrogeologic conditions, and protect of human health and the environment. Any proposal to allow an alternative frequency shall be available for public review for a minimum of 30 days to allow affected parties the opportunity to comment. Documentation of the considerations, public comment, and Board concurrence for any alternative frequency shall be placed in the operating record. The Executive Director or the EA may condition, limit, suspend, or terminate an operator's use of an alternative monitoring frequency if it is determined that the alternative frequency would cause harm to public health and safety, or the environment.

Authority cited: Sections 40502, 42245, 43020, 43021, 43030, Public Resources Code.

Reference: Sections 40508, 43020, 43021 and 43103, Public Resources Code; and Code of Federal Regulations Section 258.21(c)

Section 20685. CIWMB Performance Standards. [T14:Section 17683] **Authority Cited: Section 40502, Public Resources Code. Reference: Sections 43020, 43021 and 43103, Public Resources Code.**

Section 20686. Beneficial Reuse.

Beneficial reuse of solid wastes at a solid waste landfill shall include, but not be limited to, the following: alternative daily cover, alternative intermediate cover, final cover

foundation layer, liner operations layer, leachate and landfill gas collection system, construction fill, road base, wet weather operations pads and access roads, and soil amendments for erosion control and landscaping. Alternative daily cover reuse shall comply with the requirements of section 20690. Alternative intermediate cover reuse shall comply with the requirements of section 20700. Other beneficial reuse shall comply with the following requirements:

(a) Beneficial reuse shall be restricted to those solid wastes appropriate for the specific use and in accordance with engineering, industry guidelines, or other standard practices specified in the Report of Disposal Site Information as required by section 21600(b)(6).

(b) Beneficial reuse shall be restricted to quantities of solid wastes no more than necessary to meet the minimum requirements of (a). Should the Department determine that an owner or operator violated this standard, the owner or operator shall revise the applicable reports to reflect the overuse as disposal, and pay the required California Department of Tax and Fee Administration (CDTFA) disposal tipping fees for the amount of overuse.

(c) Storage and handling of solid waste and derived materials for beneficial reuse shall be conducted in a manner to protect public health and safety and the environment, and to control vectors, fires, odors, and nuisances.

(d) The owner or operator shall maintain a record of beneficial reuse in accordance with Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815.1 et seq. The records shall be available for inspection by authorized representatives of the EA, the local health agency, and the Department during normal business hours and retained in the operating record near the site or in an alternative location approved by the EA.

Authority Cited: Sections 40502, 41781.3, 43020, 43021, 43030 and 43103, Public Resources Code.

Reference: Sections 40508, 42245, 43020 and 43021, Public Resources Code; and 40 Code of Federal Regulations part 258.21.

Section 20690. CIWMB -Alternative Daily Cover. [T14: §17682, §17258.21(b)]

(a) General Requirements

(1) Alternative materials of alternative thickness for daily cover (other than at least six inches of earthen material) for municipal solid waste landfill units may be approved by the EA with concurrence by the Department, if the owner or operator demonstrates that the alternative material and thickness control vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment.

(2) Alternative daily cover alone, or in combination with compacted earthen material, shall be placed over the entire working face at the end of each operating day or at more frequent intervals to control vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment. For the purposes of this section, the operating day shall be defined as the hours of operation specified in the solid waste facility permit, and may extend for more than 24 hours if operations are continuous. Waste-derived alternative daily cover shall be processed prior to spreading and compacting on the working face and applied and compacted to ensure that all exposed waste is completely covered by ADC and that there are no open voids within the cover material or in contact with the underlying wastes. Waste materials used as ADC that already meet the grain-size specifications of these regulations, or an alternative grain size approved by the EA and Department pursuant to this section, need not be processed if the EA determines that the material as received at the landfill is adequate to perform the functions of daily cover and meets the appropriate specifications.

(3) Should the application of alternative daily cover become impracticable or contribute to conditions hazardous to public health and safety and the environment, the owner or operator shall terminate such use and revert to the use of compacted earthen cover material in accordance with section 20680. For the purposes of this section, impracticable conditions are those which make placement of alternative daily cover difficult due to adverse climatic or other conditions such that the performance requirements of (a)(2) cannot be met.

(4) The owner or operator shall place compacted earthen material over the entire working face at the end of any operating day preceding a period of time greater than 24 hours when the facility is closed, unless procedures as required by the EA are in place to ensure that the requirements of (a)(2) and (a)(3) are met. A stockpile of earthen cover material and required equipment shall be available to ensure a corrective response to violation of (a)(2) and (a)(3). Whenever an EA determines that an application of ADC is not meeting the requirements of this standard, the EA may direct the operator to immediately cover the ADC with soil. The continuing use of ADC that has been determined by the EA as not meeting the requirements of this section may become the basis for the EA to take enforcement action to seek compliance with the requirements of this section.

(5) The owner or operator shall maintain a record of waste derived alternative daily cover in accordance with Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815.1 et seq. The records shall be available for inspection by authorized representatives of the EA, the local health agency, and the Department during normal business hours and retained in the operating record near the site or in an alternative location approved by the EA.

(6) For waste classification, composition, and liquid percolation requirements of alternative daily cover, refer to the SWRCB requirements set forth in section 20705.

(7) Waste derived materials used as alternative daily cover shall be restricted to quantities no more than necessary to meet the performance requirements of (a)(2), or as specified in subdivision (b) of this section. Should the Department determine after consulting with the EA that an owner or operator violated this standard, the owner or operator shall revise the applicable reports to reflect the overuse as disposal, and pay the required California Department of Tax and Fee Administration (CDTFA) disposal tipping fees for the amount of overuse. EAs shall not be responsible for making such determinations.

(8) Compost, co-compost, and chemically fixed sewage sludge and water treatment sludge only, that meet the performance standards for cover material, shall be limited to up to 25 percent of landfill cover materials or landfill cover extenders as required under Public Resources Code (PRC) section 42245. For the purposes of this section, "chemically fixed sewage sludge" means solid and semisolid residue generated during the treatment of domestic sewage. The 25 percent limit shall apply on a quarterly basis to the total daily and intermediate cover or cover extender use. For the purposes of this section, landfill cover extenders shall mean compost, co-compost, or chemically fixed sewage sludge blended or mixed with soil.

(9) Storage and handling of waste derived materials at the landfill for use as alternative daily cover shall be conducted in a manner to protect public health and safety and the environment, and to control vectors, fires, odors, blowing litter, scavenging, and nuisances.

(10) The EA shall apply this section to disposal facilities other than municipal solid waste landfill units as necessary to control vectors, fires, odors, blowing litter, scavenging, and nuisances without presenting a threat to human health and the environment. This requirement shall also apply to municipal solid waste landfills which qualify for a delay in the general compliance date or additional flexibility as specified in 40 CFR Part 258.

(11) The owner or operator shall implement a program described in the Report of Disposal Site Information as required by section 21600(b)(6) to minimize contamination of alternative daily cover with wastes not included within the individual alternative daily cover material types specified in subdivision (b) of this section and wastes that would conflict with the performance requirements of (a)(2).

(b) Specific Requirements

All types of ADC must be approved by the EA in writing prior to use at solid waste landfills as consistent with Title 27, California Code of Regulations, section 21570 through section 21686. Proposed uses of alternative daily cover materials not specified shall be subject to site-specific demonstration projects approved by the EA with concurrence by the Department to establish suitability as daily cover. Unless otherwise specified in this section, alternative daily cover use by blending listed materials other than using side-by-side on the working face, or layering on top of one another listed materials, shall require site-specific demonstration projects approved by the EA with

concurrence by the Department as required by subsection (a)(1). Site-specific demonstration projects are not required for the following materials used as specified and in accordance with subdivision (a) of this section:

(1) Geosynthetic Fabric or Panel Products (Blankets).

(A) Geosynthetic blanket products shall be removed from the waste and the waste shall be covered with new waste or approved cover materials within 24 hours of product placement, unless the product is intended to be nonreusable, or has been approved by the EA for continuous use beyond 24 hours.

(2) Foam Products.

(A) Foam products shall not be applied when there is precipitation or when there is a local forecast of greater than 40% chance of precipitation within 8 hours of application time in the vicinity of the landfill.

(B) Foam products shall be covered with waste or other approved cover materials within 72 hours of application, unless a shorter time period is required by the EA to meet the requirements of (a)(2) and (a)(3) of this section.

(3) Processed Green Material.

(A) For the purposes of this section, processed green material means any plant material that is either separated at the point of generation, or separated at a centralized facility that employs methods to minimize contamination. Green material includes, but is not limited to, yard trimmings, untreated wood wastes, paper products, and natural fiber products. Green material does not include treated wood waste, mixed demolition or mixed construction debris, manure, or plant waste from the food processing industry, alone or blended with soil. Processed green material may include varying proportions of wood waste from urban and other sources and shall be ground, shredded, screened, source separated for grain size, or otherwise processed.

(B) Green material used for alternative daily cover shall be processed prior to being applied to the working face unless the green material to be used as alternative daily cover already meets the grain size specifications. Prior to spreading and compacting on the working face, processed green material shall comply with a grain size specification by volume of 95 percent less than 6 inches. Alternative processing and grain size specification requirements may be approved by the EA if the EA determines that the alternative meets the performance requirements of (a)(2) and (a)(3) of this section and the Department concurs.

(C) Processed green material shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than or equal to 12 inches.

(D) Processed green material placed as cover shall not be exposed for greater than 21 days.

(4) Sludge and Sludge-Derived Materials.

(A) Public contact with sludge or sludge-derived materials, either alone or blended with soil, ash, processed green material, or stabilization agents such as lime, lime kiln dust, or cement kiln dust, shall be prohibited. This prohibition shall apply to staging, processing, tipping, and cover placement areas.

(B) Sludge or sludge-derived materials, either alone or blended with soil, processed green material, ash, or stabilization agents such as lime, lime kiln dust, or cement kiln dust, shall form a compacted material which can be placed without forming open voids or causing material to be tracked off the working face area.

(C) Sludge or sludge-derived materials shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than or equal to 12 inches.

(5) Ash and Cement Kiln Dust Materials.

(A) Ash and Cement Kiln Dust, either alone or blended with earthen material or stabilization agents, shall form a compacted material which can be placed without forming open voids or causing material to be tracked off the working face area. For the purposes of this section, ash means the nonhazardous residue from the combustion of material or the hazardous residue that may be managed as a nonhazardous waste in accordance with Title 22 California Code of Regulations sections 66260.200(f) or 66260.210.

(B) Ash and Cement Kiln Dust, either alone or blended with earthen material or stabilization agents shall be used as alternative daily cover in a manner to minimize the creation of dust.

(C) Ash and Cement Kiln Dust, either alone or blended with earthen material or stabilization agents, shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than 12 inches.

(6) Treated Auto Shredder Waste.

(A) Auto shredder waste shall be treated pursuant Title 22, California Code of Regulations, section 66268.106(a)(1).

(B) Treated auto shredder waste used for alternative daily cover shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than 24 inches.

(7) Contaminated Sediment, Dredge Spoils, Foundry Sands, Energy Resource Exploration and Production Wastes.

(A) Contaminated sediment, dewatered dredge spoils, foundry sands, or processed energy resource exploration and production wastes shall be restricted to a minimum

compacted thickness of 6 inches and average compacted thickness of less than 12 inches. Such materials shall form a compacted material that can be placed without forming open voids or causing material to be tracked off the working face area.

(8) Compost Materials.

(A) Except as provided in (b)(8)(B) of this section, compost shall meet the environmental health standards of Title 14, California Code of Regulations, Division 7, Chapter 3.1, Article 7.

(B) Public contact shall be precluded from cover staging, processing, tipping, and placement areas for compost that does not meet the environmental health standards of Title 14, California Code of Regulations, Division 7, Chapter 3.1, Article 7.

(C) Compost materials shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than or equal to 12 inches. Compost materials shall comply with a grain size specification by volume of 95 percent less than 6 inches.

(9) Processed Construction and Demolition Wastes and Materials.

(A) Processed construction and demolition wastes and materials shall be ground, pulverized, shredded, screened, source separated, or otherwise processed, alone or mixed with soil in a manner to provide a compacted material free of open voids when applied to meet the performance requirements as alternative daily cover.

(B) Processed construction and demolition wastes and materials used as alternative daily cover shall be restricted to the following materials: rock, concrete, brick, sand, soil, ceramics, cured asphalt, lumber and wood, wood products, roofing material, plastic pipe, plant material when commingled from construction work, and fines derived from processing the above materials.

(C) Construction and demolition wastes shall be processed prior to being applied to the working face. Prior to spreading and compacting on the working face, these materials shall comply with a grain size specification by volume of 95 percent less than 12 inches and 50 percent less than 6 inches as determined by the EA. The Department shall provide technical assistance in making this determination if requested by the EA. Alternative processing and grain size specification requirements may be approved by the EA if the EA determines that the alternative meets the performance requirements of (a)(2) and (a)(3) of this section and the Department concurs.

(D) Construction and demolition wastes shall be restricted to a minimum compacted thickness of 6 inches and average compacted thickness of less than 18 inches.

(10) Shredded Tires.

(A) Shredded tires used as daily cover alone or mixed with soil shall be shredded such that 50% by volume is smaller than 6 inches in length and no individual pieces are greater than 12 inches in length.

(B) Shredded tires used as alternative daily cover without admixed soil shall not be applied when there is precipitation or when there is a local forecast of greater than 40% chance of precipitation within 8 hours of application time in the vicinity of the landfill.

(11) Spray Applied Cementitious Products

(A) Such products shall not be applied when there is a local forecast of greater than 40 percent chance of precipitation within 8 hours of application time in the vicinity of the landfill.

Authority Cited: Sections 40502, 41781.3, 43020, 43021, 43030 and 43103, Public Resources Code. Reference: Sections 40508, 42245, 43020 and 43021, Public Resources Code; and 40 Code of Federal Regulations part 258.21.

Section 20695. CIWMB Cover Performance Standards. [T14:Section 17683]

The EA may require the following cover performance standards if necessary to control vectors, fires, odors, and blowing litter and to evaluate the suitability of alternative daily or intermediate cover:

(a) Vectors

(1) Threshold Values-The following shall constitute threshold values for vector populations:

(A) Flies-A fly grill survey value of six (6) or more domestic flies, or observations of domestic flies in the "crawler" stage (newly emerged adults prior to wings becoming functional) at a density of three (3) or more per square yard of surface area at any location on the disposal area. Domestic flies are considered to be those species in the Families: Muscidae (including Anthomyiidae), Calliphoridae, Sarcophagidae, and Drosophilidae.

(B) Domestic Rats-The trapping of one or more domestic rats anywhere on the disposal site. Domestic rats are considered to be any species in the genus Rattus.

(C) Field Rodents-Observation of five (5) or more field rodents feeding on the active face of the disposal site. Field rodents are considered to be any species in the Family Sciuridae.

(D) Mosquitoes-The observation of any immature mosquito stages from water holding waste materials on the disposal site.

(E) Wasps, cockroaches, etc.-The observation of excessive populations utilizing accepted norms.

(2) Inspection Practices

(A) Schedule-Fly grill surveys shall be conducted on each disposal site a minimum of once per week. Sampling to determine the species composition of the fly population shall be conducted a minimum of once per month. Rat trapping surveys shall be conducted at least once each month. Observations for mosquitoes, wasps, cockroaches, "crawler" flies or other types of vectors shall be made during each inspection of the disposal site. The EA may approve alternative inspection schedules or cease inspections if previous inspections or other observations indicate no further threat to public health and safety.

(B) Procedure-Ten (10) fly grill counts shall be made over appropriate attractants on the active face of the disposal site during each inspection utilizing accepted practices to count and record the flies. The five (5) highest counts shall be averaged to obtain the value for that inspection. In sampling to provide qualitative data for the fly species composition on a disposal site, any of the following or other acceptable method for sampling adult flies shall be observed:

- bait traps, exposed for at least a continuous 24-hour period at separate locations, or
- sticky tapes, exposed for a continuous 24-hour period at separate locations, or
- utilization of a standard insect net on the active working face, or
- other approved method to provide a representative sample.

For uniformity of information, one of the approved methods shall be selected for use on a continuing basis at each disposal site.

A minimum of two (2) domestic rat trap lines each containing twenty (20) traps shall be operated for one night on each disposal site at the prescribed frequency. Traps appropriately baited, shall be set at 20-foot intervals in each trap line. One trap line shall be located on or as close to the active face as practical. The other trap line shall be located on the periphery of the site in suitable rodent habitat. On very large sites additional trap lines will be required to provide an adequate sample. Visual observations of field rodents or their signs shall be made and recorded during each inspection.

(C) Equipment-All fly surveys conducted on the active face of the disposal site shall be made with a Scudder fly grill. This device is a square grill consisting of 24 slats, each 3' * 3/4 " * 1/4" placed 3/4" apart on a z.-shaped framework. Species composition of fly populations at the site

shall be made with the use of fly traps, sticky tapes, an insect net, or other approved method to provide a representative sample. Snap traps or live traps, or a combination thereof, of suitable size and design shall be used to capture mature domestic rats.

(D) Records-The following information shall be recorded at a minimum during each inspection: Name of site; location; date of inspection; name of person(s) making the inspection; the time the inspection began; the time the inspection ended; temperature; wind conditions; moisture conditions; sky conditions; shade; attractants, when applicable; results of the 10 Scudder grill counts; number and species of all flies captured; number of domestic rats trapped since the previous inspection; number of field rodents observed (or signs of their presence), and the presence of any mosquitoes, wasps, cockroaches, or other types of vectors.

These records shall be kept up to date and shall be submitted to the EA upon request.

(b) Fire

Burning material, or any solid waste at a temperature likely to cause fire, shall not be deposited in the fill. Said material shall initially be deposited in a separate location a sufficient distance from the fill area to prevent fires from spreading to the normal fill area. It shall then be spread in a single layer not exceeding one (1) foot in thickness and immediately covered with a sufficient amount of earth or sprayed with sufficient fire retardant to extinguish all combustion. Final disposition of the material shall not take place until the operator is certain that no further combustion will take place under any conditions.

Fires which originate within the fill shall be handled by removing all the burning material from the fill and extinguishing it as described above, or by in-situ practices approved by the EA, in consultation with the local fire authority. Excavation of burning materials shall be undertaken in a planned and controlled manner; with sufficient fire fighting equipment present to control any "flare-ups" which may occur as outside air reaches the burning materials. The EA shall be immediately notified of any fire.

(c) Litter

Accumulation or offsite migration of litter in quantities that create a nuisance, injury to the public and personnel, or cause other problems, shall be prevented.

(d) Alternative Methods

Alternative cover performance standards in lieu of (a) through (c) of this Section may be applied by the EA with concurrence by the CIWMB.

Authority cited: Sections 40502, 41781.3, Public Resources Code.

Reference: Sections 40508, 43020, 43021 and 43103, Public Resources Code; and Code of Federal Regulations Section 258.21.

Section 20700. CIWMB Intermediate Cover. (T14:Section 17684)

(a) Compacted earthen material at least twelve (12) inches shall be placed on all surfaces of the fill where no additional solid waste will be deposited within 180 days to control vectors, fires, odors, blowing litter, and scavenging.

(b) Alternative materials of alternative thickness (other than at least twelve inches of earthen material) for intermediate cover may be approved by the EA with concurrence by the CIWMB, if the owner or operator demonstrates that the alternative material and thickness control vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment.

(c) For waste classification, composition, and liquid percolation requirements of intermediate cover and alternative intermediate cover, refer to the SWRCB requirements set forth in Section 20705 of this article.

(d) Proposed use of alternative intermediate cover shall be subject to site specific demonstration to establish suitability as intermediate cover. Demonstration projects shall be approved by the EA with concurrence by the CIWMB.

Authority cited: Sections 40502, 41781.3, Public Resources Code.

Reference: Sections 40508, 43020, 43021 and 43103, Public Resources Code; and Code of Federal Regulations Section 258.21.

Section 20701. CIWMB Slope Stability of Daily and Intermediate Cover. (T14:Section 17678) [Reserved]

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20705. SWRCB Standards for Daily and Intermediate (Interim) Cover. (C15: Section 2544)

[This Section applies in conjunction with CIWMB Sections 20680-20701 and addresses cover issues prior to the installation of the final cover. Readers interested in the SWRCB promulgated requirements for final cover will find them at Section 21090.]

(a) Daily & Intermediate-Interim cover at landfills is "daily cover" and "intermediate cover" as defined by the CIWMB (see Section 20164).

(b) Minimize Percolation-Interim cover over wastes discharged to a landfill shall be designed and constructed to minimize percolation of liquids through wastes.

(c) For Class II Waste Piles-Cover may be required by RWQCBs for Class II wastes piles.

(d) [Reserved]

(e) Limitations On Cover Materials-Except for reusable covers that are never incorporated into the Unit, daily and intermediate cover shall only consist of materials:

(1) Match Unit Classification-which meet the classification criteria for wastes that can be discharged to that landfill. Therefore, a material that would be classified as a designated waste cannot be utilized for daily or intermediate cover at a Class III landfill unless that material is approved for discharge (as a waste) to that landfill pursuant to Section 20200(a)(1); and

(2) Composition-whose constituents (other than water) and foreseeable breakdown byproducts, under the chemical (including biochemical) and temperature conditions which it is likely to encounter within the landfill, either:

(A) for non-composite lined portions of the Unit, are mobilizable only at concentrations which would not adversely affect beneficial uses of waters of the state, in the event of a release; or

(B) for composite-lined portions of the Unit, are listed as COCs in the Unit's water quality protection standard (Water Standard), created pursuant to Section 20395.

(f) Dust Control-The requirements of Section 21090(a)(5) regarding the discharge of leachate, gas condensate, and other liquids to final-covered portions of the Unit also apply to the discharge of liquids to daily and intermediate cover, including discharges made for the purpose of dust control.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172 and 13360, Water Code; Section 43103, Public Resources Code.

Article 3. CIWMB Handling, Equipment and Maintenance

Section 20710. CIWMB Scavenging, Salvaging, and Storage. (T14:Sections 17686, 17687, 17690, 17691)

(a) Scavenging is prohibited at any disposal site.

(b) Salvaging as approved by the EA shall be conducted in a planned and controlled manner and shall not interfere with other aspects of site operations, including the expeditious entry and egress of vehicles at the site.

(c) Salvaged materials generated on-site or imported shall be placed for storage in a specified, clearly identifiable area segregated from the working face. Salvaged materials shall be arranged so as to minimize risk of fire, health and safety hazard, vector harborage, or other hazard or nuisance, and be limited to a volume and storage time as approved by the enforcement agency.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20720. CIWMB Non-Salvageable Items. (T14:Section 17692)

Drugs, cosmetics, foods, beverages, hazardous chemicals, poisons, medical wastes, syringes, needles, pesticides and other materials capable of impairing public health shall not be salvaged unless approved by the EA and the local health agency.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20730. CIWMB Volume Reduction and Energy Recovery. (T14:Sections 17688, 17689)

Volume reduction such as incineration, baling, shredding, composting, pyrolysis, and materials and energy recovery operations as approved by the EA shall be confined to specified, clearly identifiable areas of the site. If volume reduction is conducted operations shall be done in a controlled manner as an integral part of the operation and not interfere with the proper construction and maintenance of the site or create health, safety, or environmental problems.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20740. CIWMB Equipment. (T14:Sections 17693, 17694)

Equipment shall be adequate in type, capacity and number, and sufficiently maintained to permit the site operation to meet requirements of these standards.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20750. CIWMB Site Maintenance. (T14:Sections 17695, 17696)

The operator shall implement a preventative maintenance program to monitor and promptly repair or correct deteriorated or defective conditions with respect to requirements of the CIWMB standards, and conditions established by the EA. All other aspects of the disposal site shall be kept in a state of reasonable repair.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20750.1. CalRecycle– Organic Waste Handling.

(a) For new or expanding solid waste landfills, the operator shall implement organic waste recovery activities, as approved by the EA. Organic waste recovery activities shall be confined to specified, clearly identifiable areas of the site and shall be arranged to minimize health and safety hazard, vector harborage, or other hazard or nuisance, and be limited to a volume and storage time as approved by the EA.

(1) An operator only accepting solid wastes that have already been processed through a high diversion organic waste processing facility or a designated source separated organic waste facility does not need to implement organic waste recovery activities.

(b) For the purposes of this section “organic waste recovery activities” means activities that divert organic waste from landfill disposal to activities that constitute a reduction of landfill disposal of organic waste as defined in Article 2 of Chapter 12 of Division 7 of Title 14 of the California Code of Regulations (commencing with Section 18983.1), either on-site or transport to another site where those activities occur.

(c) For the purposes of the section, “expanding” means a solid waste landfill proposing to make a significant change to the design or operation as determined by the EA pursuant to 27 CCR Section 21665.

(1) Changing the hours of operation of a landfill is not considered an expansion pursuant to 27 CCR Section 20750.1(c).

Authority cited: Section 40502 and 43020, Public Resources Code.

Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Article 4. CIWMB Controls

Section 20760. CIWMB Nuisance Control. (T14:Section 17701)

Each disposal site shall be operated and maintained so as not to create a public nuisance.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20770. CIWMB Animal Feeding. (T14:Section 17702)

Feeding of solid waste to animals which will be used for human consumption is prohibited on disposal sites. Grazing of livestock away from operating areas is permitted.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20780. CIWMB Open Burning and Burning Wastes. (T14:Sections 17258.24(b), 17703, 17741)

(a) Open burning of solid waste, except for the infrequent burning of agricultural wastes, silvicultural wastes, landclearing debris, diseased trees, or debris from emergency clean-up operations, is prohibited at all solid waste landfills.

(b) If burning wastes are received, they shall be deposited in a safe area and extinguished. If burning wastes have been placed in an active face, they shall be immediately excavated, spread and extinguished.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020 through 43022, and 43103, Public Resources Code.

Section 20790. CIWMB Leachate Control. (T14:Sections 17704, 17709)

The operator shall ensure that leachate is controlled to prevent contact with the public.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20800. CIWMB Dust Control. (T14:Section 17706)

The operator shall take adequate measures to minimize the creation of dust and prevent safety hazards due to obscured visibility.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20810. CIWMB Vector and Bird Control. (T14:Section 17707)

The operator shall take adequate steps to control or prevent the propagation, harborage or attraction of flies, rodents, or other vectors and to minimize bird problems.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20820. CIWMB Drainage and Erosion Control. (T14:Sections 17708, 17715)

(a) The drainage system shall be designed and maintained to:

- (1) ensure integrity of roads, structures, and gas monitoring and control systems;
- (2) prevent safety hazards; and
- (3) prevent exposure of waste.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20830. CIWMB Litter Control. (T14:Section 17711)

Litter shall be controlled, routinely collected and disposed of properly. Windblown materials shall be controlled to prevent injury to the public and personnel. Controls shall prevent the accumulation, or off-site migration, of litter in quantities that create a nuisance or cause other problems.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20840. CIWMB Noise Control. (T14:Section 17712)

Noise shall be controlled to prevent health and safety hazards to persons using the site and to nearby residents.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20860. CIWMB Traffic Control. (T14:Section 17714)

Traffic flow into, on, and out of the disposal site shall be controlled to minimize the following:

- (a) interference and safety problems with traffic on adjacent public streets or roads,
- (b) on-site safety hazards, and
- (c) interference with site operations.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20870. CIWMB Hazardous Wastes. (T14:Section 17742, 17258.20)

(a) Owners or operators of all MSWLF units must implement a program at the facility for detecting and preventing the disposal of regulated hazardous wastes as defined in 40 CFR Part 261 and polychlorinated biphenyls (PCB) wastes as defined in 40 CFR Part 761. This program must include, at a minimum:

- (1) Random inspections of incoming loads unless the owner or operator takes other steps to ensure that incoming loads do not contain regulated hazardous wastes or PCB wastes;
 - (2) Records of any inspections;
 - (3) Training of facility personnel to recognize regulated hazardous wastes and PCB wastes; and
 - (4) Notification of the EA, the Director of the California Department of Toxic Substances Control (DTSC) or its delegated agent, and the Regional Water Quality Control Board (RWQCB), if a regulated hazardous waste or PCB waste is discovered at the facility.
- (b) A site shall not accept hazardous wastes unless the site has been approved for the particular waste involved.

(c) At sites where hazardous materials are processed, precautions must be taken to eliminate or control dusts, fumes, mists, vapors or gases that may be produced in quantities and under conditions which may have harmful effects on site personnel, the general public or animals.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 40508, 43020, 43021 and 43103, Public Resources Code, Sections 25249.5 through 25249.13, Health and Safety Code; and Title 40, Code of Federal Regulations, Section 258.20.

Section 20880. CIWMB Medical Waste. (new)

Medical waste, unless treated and deemed to be solid waste, which is regulated pursuant to the Medical Waste Management Act [Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code], shall not be accepted for disposal at a site.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20890. CIWMB Dead Animals. (T14:Section 17744)

Dead animals may be accepted if allowed by local regulations and shall be covered immediately or at a frequency approved by the EA.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20900. CIWMB Air Criteria. (T14:Sections 17258.24(a))

Owners or operators of all MSWLF's must ensure that the units do not violate any applicable requirements developed under a State Implementation Plan (SIP) approved or promulgated by the Administrator, United States Environmental Protection Agency, pursuant to Section 110 of the Clean Air Act, as amended.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Article 5. CIWMB Fire Control at Active and Closed Disposal Sites

Section 20905. CIWMB [Reserved]

Section 20915. CIWMB Subsurface Fire Control. [Reserved]

Article 6. Gas Monitoring and Control at Active and Closed Disposal Sites

Section 20917. CIWMB Scope and Applicability. [Reserved]

Section 20918. CIWMB Exemptions.

A disposal site other than a MSWLF unit may be granted an exemption to all or any portion of the requirements of Article 6 of this Subchapter if the operator can demonstrate to the satisfaction of the EA that there is no potential for adverse impacts on public health and safety and the environment, based upon but not limited to: the amount, nature and age of refuse; projected landfill gas generation; and remoteness of the disposal site. Exemptions shall be reviewed by the EA at least every five (5) years and in conjunction with the five (5) year permit review for those sites which have a solid waste facilities permit, and, based on the results, the EA may extend or terminate the exemption. Any exemption granted by the EA shall be in writing and shall contain sufficient relevant information that justifies the exemption.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code; and Title 40, Code of Federal Regulations, Section 258.23.

Section 20919. CIWMB Gas Control.

Where the EA, the local fire control authority, the local building authority, or the CIWMB has sufficient relevant information to believe a hazard or nuisance is being or may be created by landfill gas, it shall so notify the operator. The local fire control authority and the local building authority shall also notify the EA and the CIWMB. Thereafter, as directed by the EA, the local fire control authority, the local building authority, or the CIWMB, the site operator shall cause the site to be monitored for presence and movement of landfill gas, and shall take necessary action to control such gas. The monitoring program shall be developed pursuant to the specifications of the above

agencies. The monitoring program shall not be discontinued until authorized to do so in writing by the requiring agency. Results of the monitoring shall be submitted to the appropriate agencies. If monitoring indicates landfill gas movement away from the site, the operator shall, within a period of time specified by the requiring agency, construct a gas control system approved by that agency. The agency may waive this requirement if satisfactory evidence is presented demonstrating that adjacent properties are safe from hazard or nuisance caused by landfill gas movement. The operator shall duly inform the EA of possible landfill gas problems.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 20919.5 CIWMB Explosive Gases Control. [Repealed]

Section 20920. CIWMB Scope and Applicability for Gas Monitoring and Control Requirements.

(a) Sections 20921 through 20939 set forth the performance standards and the minimum substantive requirements for landfill gas monitoring and control as it relates to active solid waste disposal sites and to proper closure, postclosure maintenance and ultimate reuse of solid waste disposal sites to assure that public health and safety and the environment are protected from pollution due to the disposal of solid waste.

(b) Sections 20921 through 20939 apply to all of the following:

(1) Active solid waste disposal sites;

(2) Solid waste disposal sites that did not commence complete closure prior to August 18, 1989, which was fully implemented by November 18, 1990, in accordance with all applicable requirements; and

(3) New postclosure activities at any solid waste disposal site that may jeopardize the integrity of a previously closed site or pose a threat to public health and safety or the environment.

Authority cited: Sections 40502 and 45020, Public Resources Code.

Reference: Sections 43021 and 43103, Public Resources Code.

Section 20921. CIWMB Gas Monitoring and Control.

(a) To provide for the protection of public health and safety and the environment, the operator shall ensure that landfill gas generated at a disposal site is controlled in such a manner as to satisfy the following requirements:

(1) The concentration of methane gas must not exceed 1.25 percent by volume in air within any portion of any on-site structures.

(2) The concentration of methane gas migrating from the disposal site must not exceed 5 percent by volume in air at the disposal site permitted facility boundary or an alternative boundary approved in accordance with Section 20925.

(3) Trace gases shall be controlled to prevent adverse acute and chronic exposure to toxic and/or carcinogenic compounds.

(b) The EA shall evaluate and, if it complies with the requirements of Sections 20921-20939 to the satisfaction of the EA, approve a gas monitoring and control program plan submitted by the disposal site operator. The EA shall act upon the submittal by approving, denying, or requesting additional information within 60 days of receipt of the submittal. Within 5 days from the date of approval, the EA shall submit the approved gas monitoring and control program plan to the CIWMB. The CIWMB shall evaluate and, if it complies with the requirements of Sections 20921-20939 to the satisfaction of the CIWMB, concur with a gas monitoring and control program plan submitted by the EA. The CIWMB shall act upon the submittal by concurring, denying, or requesting additional information within 60 days of receipt of the submittal; if the CIWMB does not act upon the submittal within 60 days, the submittal will be deemed to have been concurred with.

(1) New disposal sites and lateral expansions of existing disposal sites shall comply with these regulations prior to receipt of waste in the new or expanded area.

(2) Except as provided in subdivision (A) hereof, disposal sites which have received their final shipment of waste shall comply with these regulations immediately.

(A) Disposal sites for which the EA, RWQCB, and CIWMB approved a final closure plan on or before September 20, 2007 shall comply with these regulations immediately, except that Section 20925(c)(1) only applies with respect to any new wells or probes that are installed or existing wells or probes that are modified and only when such wells or probes are installed or modified. The depth of these new wells and modified existing wells shall comply with Section 20925(c)(1), unless an alternative depth is approved pursuant to Section 20925(c)(2).

(3) Existing disposal sites which have not yet received their final shipment of waste shall comply with these regulations in accordance with the following schedule.

(A) Disposal sites which are permitted to receive greater than 20 tons of waste per operating day shall:

(i) submit gas monitoring and control program plans to the EA by September 21, 2008,

(ii) fully implement the programs described in the EA-approved and CIWMB-concurred program plans by October 18, 2009.

(iii) Notwithstanding subdivision (ii) of this paragraph (b)(3)(A), the CIWMB, after consultation with the EA, may extend the date for full implementation of an approved program at a disposal site if it determines that the operator has made a good faith effort to achieve timely implementation but has been unable to complete the implementation of the program plan by the implementation date specified in subdivision (ii) for reasons beyond its control. An operator may apply for an extension by submitting to the CIWMB a written justification for the extension and its schedule for achieving full implementation. During an extended term for full implementation as approved by the CIWMB, the EA shall not find the operator in violation of subdivision (ii) nor commence an enforcement action respecting the operator's failure to fully implement its gas monitoring and control program plan by the date specified in subdivision (ii) with respect to those aspects of the program plan for which the CIWMB has granted an extension.

(B) Disposal sites which are permitted to accept less than or equal to 20 tons of waste per operating day shall:

(i) submit gas monitoring and control program plans to the EA by September 21, 2009,

(ii) fully implement the programs described in the EA-approved and CIWMB-concurred program plans by September 21, 2010.

(iii) Notwithstanding subdivision (ii) of this paragraph (b)(3)(B), the CIWMB, after consultation with the EA, may extend the date for full implementation of an approved program at a disposal site if it determines that the operator has made a good faith effort to achieve timely implementation but has been unable to complete the implementation of the program plan by the implementation date specified in subdivision (ii) for reasons beyond its control. An operator may apply for an extension by submitting to the CIWMB a written justification for the extension and its schedule for achieving full implementation. During an extended term for full implementation as approved by the CIWMB, the EA shall not find the operator in violation of subdivision (ii) nor commence an enforcement action respecting the operator's failure to fully implement its gas monitoring and control program plan by the date specified in subdivision (ii) with respect to those aspects of the program plan for which the CIWMB has granted an extension.

(c) The gas monitoring and control program implemented pursuant to Sections 20921-20939 shall continue until the operator receives written authorization to discontinue by the EA with concurrence by the CIWMB pursuant to 40 CFR 258.61(b). Authorization to cease gas monitoring and control shall be based on a demonstration by the operator that there is no potential for gas migration beyond the disposal site permitted facility boundary or into on-site structures. The operator's demonstration of this proposal shall be supported by data collected and any necessary studies.

(d) The gas monitoring and control program required pursuant to Sections 20921-20939, shall be included in the JTD and preliminary and final closure and postclosure maintenance plans. The implementation of the gas monitoring and control program shall

be described in detail in the JTD and the preliminary and final closure and postclosure maintenance plans to the satisfaction of the EA and CIWMB.

(e) The gas monitoring and control program shall be modified, during the operation and closure and postclosure maintenance periods to reflect changing on-site and adjacent land uses. Postclosure land use at the site shall not interfere with the function of gas monitoring and control systems. The operator may request a reduction of monitoring or control activities based upon the results of monitoring data collected. The request for reduction of monitoring or control activities shall be submitted in writing to the EA and CIWMB.

(f) For the purposes of this article, for disposal sites that do not have a solid waste facilities permit, the disposal site permitted facility boundary shall be as defined in the most recently approved closure and/or postclosure maintenance plan or other appropriate document (e.g., assessor's parcel map).

Authority cited: Sections 40502 and 45020, Public Resources Code.

Reference: Sections 43021 and 43103, Public Resources Code.

Section 20923. CIWMB Monitoring

(a) To ensure that the conditions of Section 20921 are met, the operator shall implement a gas monitoring and control program at the disposal site that satisfies the following requirements:

(1) the gas monitoring network shall be designed by a registered civil engineer or a certified engineering geologist and shall ensure detection of the presence of landfill gas migrating beyond the disposal site permitted facility boundary and also into on-site structures; and

(2) The monitoring network shall be designed to account for the following specific site characteristics and potential migration pathways or barriers, including, but not limited to:

(A) local soil and rock conditions;

(B) hydrogeological conditions at the disposal site;

(C) the hydraulic conditions surrounding the disposal site;

(D) locations of buildings and structures relative to the waste disposal area;

(E) adjacent land use and inhabitable structures within 1000 feet of the disposal site permitted facility boundary;

(F) man-made pathways, such as underground construction; and

(G) the nature and age of the waste and its potential to generate landfill gas.

Authority cited: Sections 40502 and 45020, Public Resources Code.

Reference: Sections 43201 and 43103, Public Resources Code; and Title 40, Code of Federal Regulations, Section 258.23.

Section 20925. CIWMB Perimeter Monitoring Network.

(a) Location

(1) Perimeter subsurface monitoring wells shall be installed around the waste disposal footprint but not within refuse. In some cases the installation of monitoring wells may not be necessary around the entire perimeter of the disposal site permitted facility boundary. In such a case, the operator shall demonstrate to the satisfaction of the EA that landfill gas migration could not occur due to geologic barriers and that no inhabitable structure or other property or land use, such as agricultural lands, within 1,000 feet of the disposal site permitted facility boundary is threatened by landfill gas migration.

(2) Perimeter monitoring wells shall be located at or near the disposal site permitted facility boundary. The operator may establish an alternate boundary closer to the waste disposal footprint based on a knowledge of the site factors in Section 20923(a)(2). When compliance levels are exceeded at the alternate boundary, the operator shall install additional monitoring wells closer to the permitted facility boundary, pursuant to Section 20937.

(b) Spacing

(1) The lateral spacing between adjacent monitoring wells shall not exceed 1,000 feet unless the operator demonstrates to the satisfaction of the EA and CIWMB, based on the factors specified in Section 20923(a) (2), that there is no potential for adverse impacts on the public health and safety and the environment from such wider spacing.

(2) The spacing of monitoring wells shall be determined based upon, but not limited to: the nature of the structure to be protected and its proximity to the refuse. Wells shall be spaced to align with gas permeable structural or stratigraphic features, such as dry sand or gravel, off site or on site structures, and areas of dead or stressed vegetation that might be caused by landfill gas migration.

(3) Monitoring well spacing shall be reduced as necessary to protect persons and structures threatened by landfill gas migration.

(c) Depth

(1) The depth of the wellbore of all monitoring wells shall equal the maximum depth of waste. The number and depths of monitoring probes within the wellbore shall be installed in accordance with the following criteria, except as specified in (c)(2) of this Section.

- (A) a shallow probe shall be installed 5 to 10 feet below the surface;
 - (B) an intermediate probe shall be installed at or near half the depth of the waste;
 - (C) a deep probe shall be set at or near the depth of the waste;
 - (D) the specified depths of monitoring probes within the wellbore shall be adjusted based on geologic data obtained during drilling, and probes shall be placed adjacent to soils which are most conducive to gas flow;
 - (E) All probes shall be installed above the permanent low seasonal water table, above and below perched ground water, and above bedrock; and
 - (F) When the depth of the waste does not exceed 30 feet, the operator may reduce the number of probes to two, with one probe located in the shallow zone as indicated above and the other located adjacent to permeable soils at or near the depth of the waste.
- (2) Exclusions or modifications to the requirements specified in (c)(1) of this Section may be requested when conditions limit the practicality or do not warrant the installation depth criteria (e.g., filled pits, cut and trench, and canyon fills). In those cases, the operator shall propose an alternate system of equivalent probe depths. The proposal must demonstrate to the satisfaction of the EA and CIWMB that probes located at these depths are sufficient to detect migrating landfill gas and provide protection to public health and safety and the environment.
- (3) The EA may require an increase in the number of monitoring wells or probes or the depth of the wellbore or modify the depths of monitoring probes within a wellbore to ensure compliance with Section 20921(a). The operator is not precluded from utilizing existing gas monitoring wells of an alternate design when the operator demonstrates to the satisfaction of the EA and CIWMB that such wells have been installed in a manner that ensures the detection of landfill gas migrating from the disposal site.

(d) Monitoring Well Construction

- (1) Monitoring wells shall be drilled by a licensed drilling contractor or by a drilling crew under the supervision of the design engineer or engineering geologist. Wells shall be logged during drilling by a geologist or geotechnical engineer. Soils shall be described using the ASTM Designation: D2488-84 method for visual classification, Standard Practice for Description and Identification of Soils (Visual Manual Procedure), which is incorporated by reference. Rock units shall be described in a manner appropriate for geologic investigation.
- (2) A record of each monitoring well shall be maintained by the operator and submitted to the EA upon request. The record shall include:
- (A) a map of the disposal site drawn to a scale proposed by the design engineer or engineering geologist sufficient to show the location of all monitoring wells. Each well

must be identified with a number that corresponds to the well log. Surface elevations at the wellheads shall be denoted on the map;

(B) well logs, including the names of the person(s) logging the hole; and

(C) an as-built description, including a well detail which indicates probe material and depth, extent and type of filter pack, thickness and material used for seals, extent and material used for backfill, size and interval of perforations, and a description of any shutoff valves or covers.

(3) To isolate monitored zones within the wellbore and prevent contamination of perched ground water and permanent ground water, the operator shall provide a minimum seal of five (5) feet of bentonite at the surface and between the monitored zones.

Authority cited: Sections 40502 and 45020, Public Resources Code.

Reference: Sections 43021 and 43103, Public Resources Code.

Section 20931. CIWMB Structure Monitoring.

(a) To ensure that the requirements of Section 20923(a)(1) are met, the monitoring network design shall include provisions for monitoring all structures within the disposal site permitted facility boundary, including but not limited to, buildings, subsurface vaults, utilities, or any other areas where potential landfill gas buildup may cause adverse impacts to the public health or safety or the environment.

(b) Methods for monitoring on-site structures may include, but are not limited to: periodic monitoring, utilizing either permanently installed monitoring probes or gas surveys, and continuous monitoring systems.

(c) Structures located on top of the waste disposal footprint shall be monitored on a continuous basis.

(d) When practical, structures shall be monitored after they have been closed overnight or for the weekend to allow for an accurate assessment of gas accumulation. Areas of the structure where gas may accumulate shall be monitored and may include, but are not limited to, areas in, under, beneath and around basements; crawl spaces; floor seams or cracks; and subsurface utility connections.

Authority cited: Section 40502 and 45020, Public Resources Code.

Reference: Sections 43021 and 43103, Public Resources Code.

Section 20932. CIWMB Monitored Parameters.

(a) All monitoring wells and on-site structures shall be monitored for methane during the monitoring period. The EA may require that a sample be collected for laboratory analysis for specified trace gases when there is a possibility of acute or chronic exposure due to hazardous materials.

Authority cited: Sections 40502 and 45020, Public Resources Code.

Reference: Sections 43021 and 43103, Public Resources Code.

Section 20933. CIWMB Monitoring Frequency.

(a) At a minimum, quarterly monitoring is required.

(1) The EA may require more frequent monitoring based upon site specific factors, including those noted in Section 20923(a)(2), or as needed to protect public health or safety or the environment.

(2) More frequent monitoring may also be required at those locations where results of monitoring indicate that landfill gas migration is occurring or is accumulating in structures.

(3) The operator shall increase the monitoring frequency, as is necessary, to detect migrating gas and ensure compliance with Section 20921.

(b) For those MSWLF's that are permitted to accept for disposal 20 tons or less of municipal solid waste per day based on an annual average, the EA, with concurrence by the CIWMB, may reduce the frequencies for monitoring landfill gas after consideration of the unique characteristics of the MSWLF and its surroundings, climatic and hydrogeologic conditions, and protection of public health and safety and the environment. Any proposal by an operator for a reduced monitoring frequency shall be made available by the EA for public review for a minimum of 30 days to allow interested persons the opportunity to comment. The operator shall place in the operating record of the MSWLF documentation of the considerations, public comment, and EA approval and CIWMB concurrence for any alternative frequency. No reduced monitoring frequency shall be approved unless the EA and the CIWMB determine that the alternative monitoring schedule adequately protects the public health and safety and the environment. The Executive Director or the EA may condition, limit, suspend, or terminate an operator's use of an alternative monitoring frequency if s/he or it determines that the alternative frequency may cause harm to public health and safety or the environment.

Authority cited: Sections 40502 and 45020, Public Resources Code.

Reference: Sections 43021 and 43103, Public Resources Code; and Title 40, Code of Federal Regulations, Section 258.23.

Section 20934. CIWMB Reporting

(a) Provided that the results of landfill gas monitoring demonstrate that none of the monitoring wells show gas concentrations in excess of the requirements specified in Section 20921(a), the operator shall submit the results to the EA within a time period specified by the EA but no more than within ninety (90) days of sampling. When compliance requirements are exceeded in any probe at any well, the requirements of Section 20937 shall apply. The monitoring reports shall include:

- (1) the concentrations of methane, as measured at each probe within each well and within each on-site structure;
- (2) the concentrations of specified trace gases, if required by the EA;
- (3) the documentation of date, time, barometric pressure, atmospheric temperatures, general weather conditions, and probe pressures at the time the sample was taken or the probe was monitored;
- (4) the names of sampling personnel, apparatus utilized, and a brief description of the methods used; and
- (5) a numbering system to correlate monitoring results to a corresponding well and probe location.

Authority cited: Sections 40502 and 45020, Public Resources Code.

Reference: Sections 43021 and 43103, Public Resources Code.

Section 20937. CIWMB Reporting and Control of Excessive Gas Concentrations.

(a) When the results of landfill gas monitoring indicate concentrations of methane or trace gases in excess of the compliance requirements specified in Section 20921(a), the operator shall:

- (1) Immediately take all steps necessary to protect public health and safety and the environment and notify the EA by telephone or electronic means.
- (2) Within seven (7) days of detection of excessive landfill gas concentrations.
 - (A) Verify validity of results by reviewing the following:
 - (i) probe readings;
 - (ii) possible liquid interference;
 - (iii) control well influence; and
 - (iv) barometric pressure effects.

(B) Place in the operating record a description of and submit a letter to the EA that describes:

(i) the levels of methane and trace gas detected:

(ii) a brief description of the nature and extent of the problem based on information currently available;

(iii) the steps the operator has taken to protect public health and safety and the environment; and

(iv) a brief description of any further corrective actions that the operator or others need to take to adequately protect public health and safety and the environment prior to the implementation of the remediation plan described in subdivision (a)(3) below.

(3) Within 60 days of detection, implement a remediation plan approved by the EA and CIWMB for the methane gas releases, place a copy of the plan in the operating record, forward a copy of the plan to the EA and CIWMB, and notify the EA that the plan has been implemented. The plan shall describe the nature and extent of the problem and the proposed remedy.

(4) Construct a gas control system that meets the criteria of Section 20939, designed by a registered civil or mechanical engineer, within a period of time specified by the EA. Installation of the system shall be in accordance with a design and in a manner approved for construction by the EA in coordination, if applicable, with the RWQCB.

(b) The EA, with concurrence by the CIWMB, may establish an alternative schedule for demonstrating compliance with subdivisions (a)(2) and (3) pursuant to 40 CFR 258.23(c)(4).

(c) The EA shall forward notifications and approvals made pursuant to (a)(1), (2) and (3) to the CIWMB.

Authority cited: Sections 40502 and 45020, Public Resources Code.

Reference: Sections 43021 and 43103, Public Resources Code and Title 40, Code of Federal Regulations, Section 258.23.

Section 20939. CIWMB Control of Excessive Gas Concentrations

(a) A landfill gas control system shall be designed to:

(1) Prevent methane accumulation in on-site structures from exceeding the level specified in Section 20921(a);

(2) Reduce methane concentrations at the disposal site permitted facility boundary to the level specified in Section 20921(a);

(3) Reduce trace gas concentrations to the requirement specified in Section 20921(a); and

(4) Provide for the collection, treatment, and disposal of landfill gas condensate produced within the disposal site. Condensate generated from landfill gas control systems shall not be recirculated into the landfill unless the landfill has a liner and a properly operating leachate collection and removal system and analysis of the condensate demonstrates, to the satisfaction of the EA, that such recirculation into the landfill will not harm the public health or safety or the environment and the applicable RWQCB has approved such discharge pursuant to Section 20200(d).

(b) Subsurface landfill gas control systems may include, but are not limited to, one or more of the following:

(1) Active perimeter or interior control systems which are designed to accommodate the maximum expected flow rate from the disposal site and provide access for system monitoring and flow rate adjustment. The control system shall be operated to ensure that gas is controlled at a sufficient rate without overpulling, to maximize control and not production, and to ensure adequate control for compliance with Section 20921(a).

(2) Perimeter air injection systems which shall be installed in native soil between the refuse and the area to be protected. Injection wells shall not be located in the refuse. The system shall be designed and operated to prevent air infiltration into the landfill but maintain landfill gas concentrations to compliance levels.

(3) Passive systems, including cutoff trenches, slurry walls, and vent trenches, when used shall be constructed with an impermeable geomembrane liner. The passive systems shall be installed to the depth of permanent low seasonal ground water or keyed into a low permeability layer below the limit of migration.

(c) Landfill gas control measures to protect structures and public health and safety shall include one or more of the following:

(1) Flexible membrane liners,

(2) Active collection systems,

(3) Passive collection systems designed to be upgraded to an active system,

(4) Alarms,

(5) Ignition source control,

(6) Utility collars installed within structures and outside in trenches, and

(7) Ventilation.

(d) To ensure that the landfill gas control system is operating at optimum efficiency to control landfill gas, the operator shall provide for system monitoring and adjustment.

(e) To provide for the safe, efficient operation of the landfill gas control system, the operator shall implement a maintenance program in accordance with the following requirements:

(1) A site-specific operations and maintenance manual shall be maintained and kept current to reflect any expansion or modifications to the gas control system;

(2) An operations and maintenance manual shall provide for periodic inspections and servicing of gas control equipment; and

(3) Operations and maintenance shall be recorded and the records shall be retained by the operator.

(f) Construction Quality Assurance/Quality Control

(1) The operator shall be responsible for providing inspections, as needed, to ensure the integrity of the system.

(2) Prior to construction, the designer shall obtain and review all applicable test reports, shop drawings, and manufacturer's certificates to verify that all equipment used or to be used in the gas control system has been manufactured in accordance with industry standards.

Authority cited: Sections 40502 and 45020, Public Resources Code.

Reference: Sections 43021 and 43103, Public Resources Code.

Section 20945. [Reserved by SWRCB]

Subchapter 5. Closure and Post-Closure Maintenance

Article 1. General Standards for All Waste Management Units

Section 20950. SWRCB General Closure and Post-Closure Maintenance Standards Applicable to Waste Management Units (Units) for Solid Waste. (C15: Section 2580)

[For landfills, see also Section 21790 et seq.]

(a) General.

(1) Applicability Dischargers who are implementing final closure of a new or existing classified solid waste management unit (Unit) or are implementing complete final

closure of a portion of a solid waste landfill [incremental closure under Section 21090(b)(1)(D)] shall comply with the provisions of this article. The discharger shall carry out both mandatory closure (under Section 22190) and normal closure (e.g., at the end of the active life of the Unit) in accordance with a closure and post-closure plan (under Section 21769) which the RWQCB finds meets all applicable requirements that Section and of this Subchapter, including but not limited to applicable performance standards under (a)(2). For the purposes of the RWQCB, the final closure plan the discharger submits under this Section constitutes an amendment to the report of waste discharge (under Section 21750). If a portion of a Unit was completely closed in accordance with an approved closure plan by November 27, 1984, the cover over the closed portion does not need to be modified to conform to the SWRCB's additional closure requirements in these regulations, unless monitoring data indicate impairment of beneficial uses of ground water. Classified Units shall be closed according to an approved closure and post closure maintenance plan which provides for continued compliance with the applicable SWRCB promulgated standards for waste containment and precipitation and drainage controls in Article 4, Subchapter 2, Chapter 3 of this subdivision (Section 20310 et seq.), and the monitoring program requirements in Article 5, Subchapter 2, Chapter 3 of this subdivision (Section 20380 et seq.), throughout the closure period and the post closure maintenance period. Relative to the applicable SWRCB-promulgated requirements of this title, the post closure maintenance period shall extend as long as the wastes pose a threat to water quality; for Units concurrently regulated by the RWQCB and by other state agencies (including the agents of such agencies), the RWQCB's finding that the waste in the Unit no longer poses a threat to water quality shall release the discharger only from the need to comply with the SWRCB-promulgated portions of this title, for that Unit. For land treatment facilities, relative only to the applicable SWRCB promulgated requirements of this title, the post-closure maintenance period shall extend until treatment is complete.

(2) Performance Standards The performance standards applicable to closure of a Unit and, for Units that are not clean-closed, to post-closure maintenance at the Unit are as follows:

(A) Unit Closed as a Landfill for landfills that are not clean-closed and for waste piles and surface impoundments that are closed as a landfill:

1. Closure for landfills and for waste piles and surface impoundments closed as landfills, the goal of closure, including but not limited to the installation of a final cover, is to minimize the infiltration of water into the waste, thereby minimizing the production of leachate and gas. For such Units, after closure, the final cover constitutes the Unit's principal waste containment feature; and
2. Post-Closure Maintenance the goal of post-closure maintenance at such Units is to assure that the Unit continues to comply with the performance standard of (a)(2)(A)1. until such time as the waste in the Unit no longer constitutes a potential threat to water quality;

(B) Unit Clean-Closed for Units that are clean-closed, the goal of closure is to physically remove all waste and contaminated materials from the Unit and from its underlying and surrounding environs, such that the waste in the Unit no longer poses a threat to water quality. Successful completion of clean-closure eliminates the need for any post-closure maintenance period and removes the Unit from being subject to the SWRCB-promulgated requirements of this subdivision; and

(C) LTUs for land treatment units (LTUs):

1. Closure the goal of closure is to initiate the post-closure maintenance period;

2. Post-Closure Maintenance the goal of post-closure maintenance is to continue Unit operations, without discharging additional waste to the Unit, in a manner which maximizes the degradation rate of the waste remaining within the treatment zone.

(b) Closure Supervision Closure shall be under the direct supervision of a registered civil engineer or a certified engineering geologist.

(c) Unit Type Class II Units and Class III landfills shall be closed in accordance with one of the following options:

(1) landfill: pursuant to Section 21090;

(2) surface impoundment: pursuant to Section 21400;

(3) waste pile: pursuant to Section 21410; or

(4) land treatment: pursuant to Section 21420.

(d) Surveying Monuments Closed Units shall be provided with at least two permanent monuments installed by a licensed land surveyor or a registered civil engineer, from which the location and elevation of wastes, containment structures, and monitoring facilities can be determined throughout the post closure maintenance period.

(e) Vegetation For landfills and for waste piles and surface impoundments that are closed as landfills, all vegetation for the closed Unit's vegetative cover layer shall meet the requirements of Section 21090(a)(3)(A)1. [in cases where the Unit does not utilize the mechanically erosion resistant layer of Section 21090(a)(3)(A)2.].

(f) Closure/Post-Closure Financial Assurance The RWQCB shall require the discharger to establish an irrevocable fund (or to provide other means) for closure and post-closure maintenance (see Articles 1 & 2 of Chapter 6 of this subdivision) to ensure closure and post closure maintenance of each classified Unit in accordance with an approved plan. [corrective action financial assurance standards continue to apply throughout closure and post closure maintenance {see Section 20380(b) & Section 22222.}] For landfills required by the CIWMB to have financial assurance mechanisms under Chapter 6, the RWQCB shall assist the CIWMB:

(1) by verifying the amount of coverage proposed by the discharger to meet applicable SWRCB promulgated requirements of this subdivision [the CIWMB is responsible for the review, approval, and management of the financial assurance mechanisms for such Units]; and

(2) by participating in the CIWMB's periodic review of the adequacy of financial assurance mechanisms, and in any enforcement action that such review reveals, as necessary.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, Water Code; Section 43103, Public Resources Code.

**Section 20960. CIWMB General Standards For Disposal Sites and Landfills.
[Reserved]**

Article 2. Closure and Post-Closure Maintenance Standards for Disposal Sites and Landfills

Section 21090. SWRCB Closure and Post-Closure Maintenance Requirements for Solid Waste Landfills. (C15: Section 2581 // T14: Section 17777, Section 17779)

[For SWRCB's final cover performance standard, see Section 20950(a)(2)(A); for related CIWMB requirements, see Section 21790 et seq.]

(a) Final Cover Requirements Final cover slopes shall not be steeper than a horizontal to vertical ratio of one and three quarters to one, and shall have a minimum of one fifteen-foot wide bench for every fifty feet of vertical height. Designs having any slopes steeper than a horizontal to vertical ratio of three to one, or having a geosynthetic component [under(a)(2)], shall have these aspects of their design specifically supported in the slope stability report required under Section 21750(f)(5). The RWQCB can require flatter slopes or more benches where necessary to ensure preservation of the integrity of the final cover under static and dynamic conditions. The cost estimate, under Section 21769, for the final cover shall include a description of the type and estimated volume (or amount, as appropriate) of material needed for each component of the final cover based upon the assumption that all materials will need to be purchased; if on-site materials are to be used, the submittal shall include test results confirming the availability of such on-site materials and their suitability for such use. The RWQCB can allow any alternative final cover design that it finds will continue to isolate the waste in the Unit from precipitation and irrigation waters at least as well as would a final cover built in accordance with applicable prescriptive standards under (a)(1-3).

(1) Foundation Layer Closed landfills shall be provided with not less than two feet of appropriate materials as a foundation layer for the final cover. These materials may be

soil, contaminated soil, incinerator ash, or other waste materials, provided that such materials have appropriate engineering properties to be used for a foundation layer. The foundation layer shall be compacted to the maximum density obtainable at optimum moisture content using methods that are in accordance with accepted civil engineering practice. A lesser thickness may be allowed for Units if the RWQCB finds that differential settlement of waste, and ultimate land use will not affect the structural integrity of the final cover.

(2) Low-Hydraulic-Conductivity Layer In order to protect water quality by minimizing the generation of leachate and landfill gas, closed landfills shall be provided with a low-hydraulic conductivity (or low through-flow rate) layer consisting of not less than one foot of soil containing no waste or leachate, that is placed on top of the foundation layer and compacted to attain an hydraulic conductivity of either 1×10^{-6} cm/sec (i.e., 1 ft/yr) or less, or equal to the hydraulic conductivity of any bottom liner system or underlying natural geologic materials, whichever is less permeable, or another design which provides a correspondingly low through flow rate throughout the post-closure maintenance period. Hydraulic conductivity determinations for cover materials shall be as specified in Article 4, Subchapter 2, Chapter 3 of this subdivision [Section 20310 et seq.], but using water as the permeant, and shall be appended to the closure and post-closure maintenance report. For landfills or portions thereof in which the final cover is installed after July 18, 1997, as part of the final closure plan for the Unit, the discharger shall provide a plan, as necessary [see (a)(4)], for protecting the low-hydraulic-conductivity layer from foreseeable sources of damage that could impair its ability to prevent the throughflow of water (e.g., desiccation, burrowing rodents, or heavy equipment damage).

(3) Erosion-Resistant Layer The low-hydraulic-conductivity layer of (a)(2) shall be directly overlain by an erosion-resistant layer, as follows.

(A) Closed landfills shall be provided with an uppermost cover layer consisting of either:

1. Erosion-Resistance Via a Vegetative Layer a vegetative layer consisting of not less than one foot of soil which:

a. contains no waste (including leachate);

b. is placed on top of all portions of the low-hydraulic-conductivity layer described in (a)(2);

c. is capable of sustaining native, or other suitable, plant growth;

d. is initially planted and is later replanted as needed to provide effective erosion resistance with native or other suitable vegetation having a rooting depth not exceeding the depth to the top of the low-hydraulic-conductivity layer described in (a)(2). For any proposed vegetative cover, the discharger shall propose a species mix which harmonizes with the proposed post-closure land use, and which requires as little long-term maintenance as feasible by virtue of its tolerance of the vegetative layer's soil

conditions (e.g., the presence of landfill gas), its resistant to foreseeable adverse environmental factors (e.g., climate, disease, and pests), its rapidity of germination and growth, its persistence and ease of self-propagation, its high percentage of surface coverage (sufficient to prevent surface erosion), and its minimal need for irrigation and maintenance; and

e. by virtue of its composition, its maintained vegetation density, and its finished-and-maintained grade, will be resistant to foreseeable erosion effects by wind-scour, raindrop impact, and runoff; or

2. Mechanically Erosion-Resistant Layer an erosion and ultraviolet light-resistant layer which, by virtue of its composition and finished-and-maintained grade, resists foreseeable erosion effects by wind-scour, raindrop impact, and runoff (e.g., a 1-foot thick layer of cobbles, the interstices of which are filled with gravel).

(B) The discharger shall maintain all components of the erosion-resistant layer throughout the post-closure maintenance period, and, if closed after July 18, 1997, shall implement such maintenance in accordance with an approved Cover-Integrity Monitoring and Maintenance Program, pursuant to (a)(4).

(4) Cover Maintenance Plan & Annual Cost Estimate The final cover shall be designed and constructed to function with the minimum maintenance possible. For landfills and for other Units closed as landfills, if the closure occurs after July 18, 1997, the preliminary and final closure and post-closure maintenance plan shall incorporate a cover-integrity monitoring and maintenance program which includes at least the following components. The annualized post-closure maintenance plan cost analysis [of Section 21769(c)] shall include an itemized estimate of the annual cost of each component:

(A) Periodic Leak Search a schedule for carrying out periodic monitoring of the integrity of the low-hydraulic-conductivity layer, including a method for effectively identifying and repairing breaches in that layer [for example and where allowed, by temporarily discontinuing active gas extraction and using surface gas probes or inserted soil gas probes to identify locations where landfill gas is emerging];

(B) Periodic Identification of Other Problem Areas a schedule for periodically identifying and addressing other cover problems, including at least:

1. areas of the vegetative cover, if any, requiring replanting;
2. eroded portions of the erosion-resistant layer requiring regrading, repair, or (for areas where the problem persistently reoccurs) increased erosion resistance;
3. eroded portions of the low-hydraulic-conductivity layer needing repair or replacement;
4. areas lacking free drainage;
5. areas damaged by equipment operation;

6. [Reserved]; and

7. localized areas identified in the iso-settlement survey [of (e)(2)] as having sustained repeated or severe differential settlement.

(C) Prompt Cover Repair a plan for repairing, in a timely manner, any breach or other cover problem discovered pursuant to (a)(4)(A or B). For any repairs of the low-hydraulic conductivity layer, this plan shall either contain a Construction Quality Assurance (CQA) plan [under Section 21710(a)(5)], or shall accomplish this goal through the incorporation-by reference of appropriate portions of an approved CQA plan; and

(D) Vegetation Maintenance for a final cover utilizing a vegetated erosion resistant layer [under(a)(3)(A)1.], a plan for maintaining this vegetative cover, including fertilization, irrigation, elimination of species that violate the rooting depth limit [of (a)(3)(A)1.d.], replanting, and irrigation system maintenance.

(5) Discharges of Liquids to Covers.

(A) Leachate and Gas Condensate The discharge of leachate, gas condensate, or other waste liquids to any final-covered portion of an MSW landfill is subject to the restrictions under Section 20200(d). [see also 1) definitions of "leachate" and "landfill gas condensate" in Section 20164, and 2) Section 20705(f), re: daily and intermediate cover.]

(B) Other Liquids The discharger shall moderate the application rate of liquids discharged to the cover for dust control, irrigation of the vegetative layer, or other non-disposal purpose in a manner that minimizes the potential for throughflow to the underlying waste. The RWQCB can establish cover throughflow monitoring requirements (e.g., via intermittent tensiometer measurements of the cover) to ensure compliance with this requirement.

(6) Stability Analysis For any portions of the final cover installed after July 18, 1997, for which the RWQCB has not approved a slope and foundation stability report on or before that date, the discharger shall meet the requirements of Section 21750(f)(5).

(b) Grading Requirements.

(1) Prevent Ponding, Erosion, and Run-On.

(A) General The final drainage plan shall be included as part of the approved final closure plan for the Unit. In spite of differential settlement, the final cover of closed landfills (including waste piles and surface impoundments closed as landfills) shall be designed, graded, and maintained to prevent ponding and to prevent soil erosion due to high run-off velocities. Except as provided in (b)(1)(B), all portions of the final cover shall have a slope of at least three percent. [for additional requirements concerning final grading, see Section 21142.]

- (B) Flatter Areas The RWQCB can allow portions of the final cover to be built with slopes of less than three percent if the discharger proposes an effective system for diverting surface drainage from laterally-adjacent areas and preventing ponding in the allowed flatter portion. Analyses submitted in support of such a proposal shall take into account the design storm intensity for the Unit [under Section 20365].
- (C) Qualified Professional The final grading design shall be designed and approved by a registered civil engineer or certified engineering geologist to meet the performance standards of (b)(1)(A and B), taking into consideration pertinent natural and constructed topographic features (including any related to the proposed post-closure land use), and climate.
- (D) Prompt Incremental Closure This paragraph applies unless the RWQCB has approved, as part of the final closure plan, a waiting period (for installation of the final cover) not to exceed five years after the date a portion of the landfill reaches final elevation, in order to avoid subjecting the final cover to potential damage from the high rate of differential settlement that so often occurs during the first few years following the final receipt of waste. To the extent feasible, based on site-specific factors, the complete closure, including final grading and installation of the final cover, for each portion of the landfill shall be implemented as soon as possible after that portion reaches final elevation. [For additional related requirements, see (d), Section 21110, Section 21120.]
- (E) CQA After July 18, 1997, both the initial construction of the final cover and any later repair work that involves the cover's low-hydraulic-conductivity layer [of (a)(2)] shall be carried out in accordance with an approved CQA plan [see Section 20323 & Section 20324].

(2) Steeper-Sloped Portions Areas with slopes greater than ten percent, areas having surface drainage courses, and areas subject to erosion by water or wind shall be protected from erosion or shall be designed and constructed to prevent erosion.

(3) Precipitation & Drainage Plan The final closure plan for the Unit shall incorporate a precipitation and drainage control plan for the closed landfill, and shall meet the requirements of Section 20365.

(c) General Post-Closure Duties Throughout the post closure maintenance period, the discharger shall:

(1) maintain the structural integrity and effectiveness of all containment structures, and maintain the final cover as necessary to correct the effects of settlement or other adverse factors;

(2) continue to operate the leachate collection and removal system as long as leachate is generated and detected;

(3) maintain monitoring systems and monitor the ground water, surface water, and the unsaturated zone in accordance with applicable requirements of Article 1, Subchapter 3, Chapter 3, Subdivision 1 (Section 20380 et seq.);

(4) prevent erosion and related damage of the final cover due to drainage; and

(5) protect and maintain surveyed monuments [installed under Section 20950(d)].

(d) Landfill Closure Deadline For landfill Units subject to the CIWMB-promulgated provisions of this division, any closure deadline extensions the discharger proposes to the EA (under Section 21110) shall be effective only after concurrence by the RWQCB.

(e) Final Cover Surveys.

This Subsection[i.e., through (e)(3)] applies only to landfills, or portions thereof, that are final closed after July 18, 1997.

(1) Initial Survey and Map For a closed landfill (including a surface impoundments or waste pile closed as a landfill), upon completion of all closure activities for the Unit [or portion thereof, pursuant to(b)(1)(D)], the discharger shall conduct an aerial photographic survey [or alternative survey under(e)(3)] of the closed portions of the Unit and of its immediate surrounding area, including at least the surveying monuments [of Section 20950(d)]. The data so obtained shall be used to produce [or to augment, in the case of incremental closure under (b)(1)(D)] a topographic map of the site at a scale and contour interval sufficient to depict the as-closed topography of each portion of the Unit, and to allow the early identification of any differential settlement, pursuant to (e)(2). For landfills undergoing incremental closure [under (b)(1)(D)], the survey for each closed portion of the landfill shall be carried out immediately following completion of closure activities for that portion of the landfill; such data shall be used to create or augment a map showing the closure date and as-closed topography of each portion of the Unit. The map produced pursuant to this paragraph shall act as a base-line against which to measure the total settlement, through time, of all portions of the final cover since the date when that landfill, or portion thereof, was closed. Upon completion of this topographic map (or, in the case of incremental closure, of each revision thereof), the discharger shall submit a copy to the RWQCB, the CIWMB, and the EA.

(2) Five-Yearly Iso-Settlement Map At least every five years after completing closure of the landfill [or of the last remaining portion, for landfills undergoing incremental closure u under (b)(1)(D)], the discharger shall produce and submit to the RWQCB an iso-settlement map accurately depicting the estimated total change in elevation of each portion of the final cover's low-hydraulic conductivity layer. Therefore, for each portion of the landfill, this map shall show the total lowering of the surface elevation of the final cover, relative to the baseline topographic map [of (e)(1)], and shall indicate all areas where visually noticeable differential settlement [noted under (e)(4)] may have been obscured by grading operations. The map shall be drawn to the same scale and contour interval as the topographic map under (e)(1), but showing the current topography of the final cover and featuring overprinted isopleths indicating the total settlement to-date. The RWQCB shall apply the requirements of this paragraph only to a closed landfill

which the RWQCB finds is likely to undergo differential settlement of such magnitude as to impair either the Unit's containment features (e.g., final cover) or the free drainage of surface flow. [The RWQCB's choosing to forego requiring iso-settlement mapping for the purpose of water quality protection does not preclude the CIWMB/EA from requiring such mapping for other purposes (e.g., structural integrity considerations regarding a building sited on top of the closed landfill); see Section 21142(b).]

(3) Alternative Surveying Techniques The RWQCB can approve the use of any alternative technique (to an aerial survey) for producing the maps required by (e)(1 & 2), so long as the maps so produced meet the performance standards of (e)(1 & 2).

(4) Tracking Differential Settlement Prior to conducting periodic grading operations on the closed landfill [under (b)(1)(A)], the discharger shall note on a map of the landfill the approximate location and outline of any areas where differential settlement is visually obvious. Each five-yearly iteration of the iso-settlement map [under (e)(2)] shall show all areas where differential settlement has been noted (under this paragraph) since the previous map submittal, and shall highlight areas of repeated or severe differential settlement. Map notations and delineations made pursuant to this paragraph need not be surveyed, so long as all areas where differential settlement was visually identifiable prior to regrading can be relocated. Such notation and delineation shall be made by, or under the supervision of, a registered civil engineer or registered geologist.

(f) Optional Clean-Closure Notwithstanding any other SWRCB-promulgated closure or post closure maintenance requirement in this subdivision, a discharger proposing to clean-close a landfill shall submit a clean-closure plan meeting the requirements of this SubSection. [see also CIWMB's additional landfill clean-closure requirements under Section 21810.] The purpose of clean-closure is to render the landfill (including all surrounding environs contaminated by waste released from the landfill) no longer capable of posing a threat to water quality. The purpose of a clean-closure plan is to propose a series of actions, including an accurate estimate of the cost of each such action, that will meet the requirements of this paragraph. Upon the RWQCB's finding that the discharger has successfully completed clean closure under this paragraph, the landfill shall no longer be subject to the SWRCB-promulgated requirements of this title. Nevertheless, if the RWQCB finds that the discharger's attempt to clean-close the landfill does not meet the requirements of this SubSection, the discharger shall close the landfill and carry out post-closure maintenance in the same manner as though the discharger had not attempted clean-closure. For the purpose of this paragraph, the discharger shall have successfully clean-closed a landfill only if:

(1) all waste materials, contaminated components of the containment system, and affected geologic materials including soils and rock beneath and surrounding the Unit, and groundwater polluted by a release from the Unit are either removed and discharged to an appropriate Unit or treated to the extent that the RWQCB finds they no longer pose a threat to water quality; and

(2) all remaining containment features are inspected for contamination and, if contaminated, discharged in accordance with (f)(1).

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, Water Code; Section 43103, Public Resources Code.

Section 21099. CIWMB Purpose. (new)

(a) For purposes of the CIWMB promulgated Sections of this article, "closed" refers to the status of a disposal site that either 1) has received a closure certification pursuant to Section 21880, or 2) has, on or before November 18, 1990, completed all closure activities required pursuant to regulations in effect at the time of the last receipt of waste.

(b) For purposes of the CIWMB promulgated Sections of this article, "closing" means the period that commences when implementation of an approved final closure or partial final closure plan begins, and that ends when implementation of an approved final closure or partial final closure plan is complete.

Authority cited: Sections 40502, 43020, 43021 and 43509, Public Resources Code.

Reference: Sections 43020, 43021, 43509 and 43103, Public Resources Code.

Section 21100. CIWMB Scope and Applicability. (T14:Section 17760)

(a) This article sets forth the performance standards and the minimum substantive requirements for proper closure, postclosure maintenance and ultimate reuse of disposal sites. The EA may require the operator or owner to address site-specific conditions as part of the solid waste facility permit or any plan needed for closure of the site to ensure that public health and safety and the environment are protected. [For water quality aspects of closure and/or postclosure maintenance, refer to requirements set forth in Section 20950.]

(b) The regulations contained in this article apply to:

(1) disposal sites that did not complete closure prior to November 18, 1990, in accordance with all applicable requirements; and

(2) new postclosure activities that may jeopardize the integrity of previously closed disposal sites or pose a potential threat to public health and safety or the environment.

(c) All closure plans submitted after the effective date of the regulations shall conform to the regulations in this article. Closure plans submitted prior to the effective date of this article that have been deemed complete and for which detailed comments have been supplied by the CIWMB and the EA within 12 months of the original submittal date shall not need to be resubmitted. Closure plans submitted prior to the effective date of this article that have been deemed complete but for which detailed comments have not yet been supplied by the CIWMB and the EA may not need to be resubmitted.

(d) Closed sites for which closure plans were not approved pursuant to Section 20164 or Section 21099, and illegal or abandoned disposal sites which pose a threat to public health and safety or the environment shall implement the provisions of these regulations as required by the EA.

(e) [Reserved]

(f) The EA shall apply these regulations to non-MSWLF units, except for disposal sites that have received household or commercial wastes, only as necessary to protect public health and safety, until such time as those non-MSWLF units or disposal sites have been placed into the regulatory tier structure set forth in Subchapter 2 of Chapter 4 (Section 21460 et seq.) The EA shall implement these regulations in coordination with RWQCB or other agencies as applicable.[Subsection(e) (reserved) has been added to address closure of disposal sites which have been or will be slotted by the Board into regulatory tiers (e.g. non-MSWLF construction and demolition landfills and monofills for ash and contaminated soils).]

Authority cited: Section 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code.

Reference: Sections Section 43021 and 43103, Public Resources Code; and Section 66796.22(d), Government Code.

Section 21110. CIWMB Time Frames for Closure. (T14:Section 17763, parts of Section 17258.60 and 17258.61)

(a) Within thirty (30) days of receipt of the final shipment of waste to a discrete unit or if the entire disposal site has reached permitted capacity, the operator shall begin implementation of the closure schedule as specified in the approved closure plan.

(b)

(1) If a solid waste landfill that has remaining permitted capacity is inactive for 12 consecutive months, the operator shall begin closure activities in accordance with the time frames specified in the closure plan unless granted an extension pursuant to (b)(3).

(2) If the average annual waste disposal rate to a solid waste landfill is reduced for two consecutive years to a rate equal to or less than thirty (30) percent of the average annual tonnage rate during the previous ten years (exclusive of the minimum and maximum tonnage years), the operator shall begin closure activities in accordance with the time frames specified in the closure plan unless granted an extension pursuant to (b)(3).

(3) Extensions beyond the deadline for beginning closure may be approved by the EA, for up to five years at a time, if all of the following conditions are met:

(A) The operator demonstrates that the landfill has the capacity to receive additional wastes and is likely to receive additional wastes;

(B) The operator demonstrates that the reduction in disposal tonnage is for a purpose other than the avoidance or delay of closure;

(C) The operator has taken and will continue to take the steps necessary to prevent threats to public health and safety and the environment from the unclosed landfill;

(D) CIWMB concurs with the EA-approved extension.

(4)

(A) The operator applying for an extension shall apply for a closure timeline extension at least 120 days prior to the anticipated date that the landfill waste flow rate will meet the limits specified in (b)(1) or (b)(2) above.

(B) Should the landfill waste flow rate unexpectedly meet the limits specified in (b)(1) or (b)(2) above, the operator shall apply for a closure timeline extension within 60 days of the date that the landfill waste flow rate meets the limits specified in (b)(1) or (b)(2) above.

(C) The application shall include, at a minimum, information that demonstrates compliance with the criteria in (b)(3) and shall contain any additional information required by the EA.

(5)

(A) The EA shall act upon the time extension request by approving, denying, or requesting additional information within 60 days of receipt of the application. If the EA does not act upon the request within 60 days, the request will be deemed to have been approved.

(B) The CIWMB shall act upon the time extension request by concurring, denying, or requesting additional information within 60 days of written notification of the EA's approval. If the CIWMB does not act upon the request within 60 days, the request will be deemed to have been concurred with.

(C) If the EA or CIWMB denies an extension request, such denial shall be based on a written finding that:

(i) One or more of the conditions in Section 21110(b)(3) have not been met; or

(ii) Approval of the extension request would result in significant adverse impacts to public health and safety or the environment in contravention of the CIWMB's statutes and regulations.

(6) Within 30 days of receiving a closure timeline extension, the operator shall submit an application for permit review, pursuant to Section 21640, to the EA. If the EA determines that a revised SWFP is required, the revised SWFP may include additional and/or revised conditions requiring, but not limited to, partial closure,

enhanced intermediate cover, or other operational conditions based on the reduced waste flow rate and in consideration of the need for additional environmental protections beyond the existing permit conditions.

- (7) If a time extension is not approved, the operator shall begin implementation of closure schedule as specified in the approved closure plan within 30 days following receipt of the decision of the EA or CIWMB.
- (8) An operator of a landfill which meets the waste flow levels specified in (b)(1) and (b)(2) does not need to request an extension from closure provided both of the following conditions are met:
 - (A) The operator submits a final closure and postclosure maintenance plan within six (6) months of the effective date of the regulation and
 - (B) The operator permanently ceases accepting waste at the landfill within two (2) years of the effective date of the regulation.
- (9) Subsections(b)(1)-(8) apply to the entire solid waste landfill and not to individual discrete units.
- (c) Closure activities shall adhere to the time frames specified in the approved closure plan.
- (d) In the event that the time frames for completion of specific activities cannot be adhered to due to adverse weather or other factors not in the control of the operator, then the time frames may be lengthened based upon those specific factors.
 - (1) The operator shall notify the EA of any change in schedule due to adverse weather or other factors not in their control. The notification shall be made as soon as the operator becomes aware of a needed change.
 - (2) The EA may deny the change requested pursuant to (d)(1) if the factors justifying the change are in the control of the operator.
- (e) The owner or operator of a solid waste landfill must complete closure activities in accordance with the approved closure plan within 180 days following the beginning of closure. Extensions of the closure period may be granted by the EA and concurred by the CIWMB and RWQCB if the owner or operator demonstrates that closure will, of necessity, take longer than 180 days and the owner or operator has taken and will continue to take all steps to prevent threats to human health and safety and the environment from the unclosed solid waste landfill. Timeline extensions will generally be approved through the approval of the closure and postclosure maintenance plans.

Authority cited: Section 40502 and 43020, Public Resources Code and Section 66796.22(d), Government Code.

Reference: Sections 43021, 43103, and 44004, Public Resources Code and Sections 66796.22(d) and 66796.22(g) Government Code.

Section 21120. CIWMB Partial Final Closure. (T14:Section 17764)

(a) The operator shall to the extent feasible, based on site specific factors, implement partial and/or partial final closure activities as the site operation progresses, consistent with the closure of the entire site.

(b) Partial closure may be accomplished by implementing one or a combination of individual closure activities pursuant to CIWMB and SWRCB requirements including, but not limited to: placement of final cover, final grading, drainage control, revegetation, and installation of environmental monitoring and/or control systems (all of the foregoing) consistent with the approved closure and postclosure maintenance plan.

(c) Partial final closure may be accomplished by closing discrete units in a manner consistent with the approved closure and postclosure maintenance plan.

(d) The approval and implementation of any closure plan for a portion of the landfill shall be subject to the same process and time frames as for the approval and implementation of a closure and postclosure maintenance plan for the entire landfill (see Section 21110 and Section 21860).

Authority cited: Sections 40502 and 43020, Public Resources Code and Section 66796.22(d), Government Code.

Reference: Sections 43021 and 43103, Public Resources Code and Sections 66796.22(d) and 66796.22(g), Government Code.

Section 21125. CIWMB Clean Closure. [Reserved]

Section 21130. CIWMB Emergency Response. (T14:Section 17766)

Water quality protection aspects for emergency response plan are addressed in Section 21132.

(a) The operator shall maintain a written postclosure emergency response plan at the facility or at an alternate location as approved by the EA. The emergency response plan must identify occurrences that may exceed the design of the site and endanger public health or the environment. The plan shall describe specific procedures that minimize these hazards to protect public health and safety. The events that the plan shall address include, but are not limited to: vandalism, fires, explosions, earthquakes, floods, the collapse or failure of artificial or natural dikes, levees or dams; surface drainage problems; and other waste releases.

(b) The emergency response plan shall contain the following:

- (1) identification of events which could require the implementation of emergency response actions. This Section shall not apply to the gas monitoring provisions;
- (2) a description of the actions to be taken, and the sequence and implementation timetable needed to mitigate the conditions; and
- (3) a statement regarding the general availability of equipment required to mitigate each type of emergency.

(c) The operator shall amend the emergency response plan under the following conditions:

- (1) whenever a failure or release occurs for which the plan did not provide an adequate response;
- (2) when the postclosure land use and/or structures on the site change and these changes are not addressed in the existing plan; or
- (3) if the EA notifies the operator in writing that the current emergency response plan is inadequate under the provisions of this Section. The notifying agency shall include within the written notice the items the plan needs to consider for it to comply with this Section. The operator shall submit an amended emergency response plan to the EA within thirty (30) days of notification of an inadequacy.

(d) Whenever the operator amends the emergency response plan pursuant to (c)(1 or 2), the operator shall submit a written copy of the amended plan to the EA.

Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code.

Reference: Sections 43021 and 43103, Public Resources Code; and Sections 66796.22(d) and 66796.22(g) Government Code.

Section 21132. SWRCB Landfill Emergency Response Plan Review. (new)

(a) Review & Notification For landfills, the RWQCB shall review the emergency response plan, in coordination with the Enforcement Agency (EA), to assure that no proposed response to a foreseeable emergency will result in a threat, or increased threat, to beneficial uses of waters of the state.

(b) Submittal For landfills for which the CIWMB requires an emergency response plan (e.g., pursuant to Section 21130), the discharger shall submit a copy of that plan, including any proposed amendments thereto, to the RWQCB. For landfills having an existing emergency response plan that has already been reviewed by the RWQCB, the discharger need not resubmit the plan for review by the RWQCB until such time as the plan is amended. For landfills having an existing emergency response plan (i.e., approved by the EA) that has not as yet been reviewed by the RWQCB, the discharger

shall submit a current copy of the plan for RWQCB review prior to July 18, 1998. For proposed emergency response plans (including proposed amendments to an existing plan), this submittal shall occur at the same time as the discharger submits the proposed plan to the EA.

(c) Coordinate On New Response In the event that the discharger proposes to respond to an emergency in a manner other than specified in the emergency response plan, the RWQCB shall coordinate with the EA to assure that the proposed response does not pose a threat to water quality.

Authority cited: Section 1058, Water Code, Public Resources Code.

Reference: Sections 13172, 13226, 13227, 13263, 13267, Water Code; Section 43103, Public Resources Code.

Section 21135. CIWMB Site Security. (T14:Section 17767)

(a) Sign(s) shall be posted at all points of access to a site sixty (60) days prior to the last receipt of waste at the site and for a period of not less than one hundred eighty (180) days after the facility has received the final shipment of waste stating the intended date of last receipt of waste at the site and the location of alternative permitted solid waste management facilities. A notice shall be placed in a local newspaper(s) thirty (30) days prior to the last receipt of waste which includes the intended date of the last receipt of waste at the site and the location of alternative solid waste management facilities.

(b) Sites which do not allow public disposal and which have not allowed public access to the site for more than one year prior to cessation of acceptance of waste, or are undertaking partial final closure pursuant to Section 21120, shall be exempt from the provisions of this Section.

(c) The EA may require more signs, signs written in additional languages, larger signs, or signs of clearer design, if necessary to protect public health and safety.

(d) The EA may grant variances from the sign provisions of this Section after receiving a written request by the operator.

(e) Sedimentation and detention basins shall be secured and maintained during the closure and postclosure maintenance period to prevent unauthorized access.

(f) The operator shall ensure that all points of access to the site are restricted to protect public health and safety as of the date the final shipment of waste is received. Components of any monitoring, control or recovery systems at the site shall be protected from access other than that allowed in accordance with the approved closure and postclosure maintenance plans.

(g) Once closure activities are complete, site access by the public may be allowed in accordance with the postclosure maintenance plan, as approved by the EA.

Authority cited: Sections 40502 and 43020, Public Resources Code and Section 66796.22(d), Government Code.

Reference: Section 66796.22(d), Government Code; and Section 44100 and 43103, Public Resources Code.

Section 21137. CIWMB Structure Removal. (T14:Section 17771)

(a) the operator shall dismantle and remove site structures at the time of closure to protect public health and safety in accordance with the implementation schedule of the approved final closure plan.

(b) The operator shall ensure that structures and components of landfill gas and leachate control systems not intended for reuse that have come into contact with leachate or landfill gas, and that are dismantled at the time of closure or during the postclosure period are:

- (1) disposed of within the landfill, in accordance with the approved final closure plan; or
- (2) transported to another solid waste facility which is approved for receipt of such materials. Transportation and disposal should be accomplished in a manner to protect public health and safety.

Authority cited: Section 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code.

Reference: Section 66796.22(d), Government Code; and Section 43021 and 43103, Public Resources Code.

Section 21140. CIWMB Final Cover. (T14:Section 17773)

(a) The final cover shall function with minimum maintenance and provide waste containment to protect public health and safety by controlling at a minimum, vectors, fire, odor, litter and landfill gas migration. The final cover shall also be compatible with postclosure land use.

(b) In proposing a final cover design meeting the requirements under Section 21090, the owner or operator shall assure that the proposal meets the requirements of this Section. Alternative final cover designs shall meet the performance requirements of (a) and, for MSWLF units, 40 CFR 258.60(b); shall be approved by the enforcement agency for aspects of (a).

(c) The EA may require additional thickness, quality, and type of final cover depending on, but not limited to the following:

- (1) a need to control landfill gas emissions and fires;

(2) the future reuse of the site; and

(3) provide access to all areas of the site as needed for inspection of monitoring and control facilities, etc.

Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code.

Reference: Section 66796.22(d), Government Code; and Section 43021 and 43103, Public Resources Code.

Section 21142. CIWMB Final Grading. (T14:Section 17776, Section 17777)

(a) Final grades must be designed and maintained to reduce impacts to health and safety and take into consideration any postclosure land use. [for final grading requirements concerning water quality protection, see Section 21090(b).]

(b) Subsequent to the creation and submittal of the initial postclosure topographic map, pursuant to Section 21090(e)(1), the EA shall require the owner and/or operator to produce five-yearly iso settlement maps meeting the requirements of Section 21090(e)(2)and(3) only if:

(1) the RWQCB does not require such maps (for the purpose of water quality protection at the landfill); and

(2) the EA finds that such maps are needed for reasons other than water quality protection.

Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code.

Reference: Sections 43021, 43103 and 44100, Public Resources Code; and Section 66796.22(d), Government Code.

Section 21145. CIWMB Slope Stability. (T14:Section 17777)

(a) The operator shall ensure the integrity of final slopes under both static and dynamic conditions to protect public health and safety and prevent damage to postclosure land uses, roads, structures, utilities, gas monitoring and control systems, leachate collection and control systems to prevent public contact with leachate, and prevent exposure of waste. Slope stability analyses shall be conducted and reported pursuant to the requirements of Division 2, Subdivision 1, Chapter 4, Subchapter 3, Article 4, Section 21750(f)(5).

(b) The operator shall notify the EA, CIWMB, and RWQCB in the event of any slope failure.

Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code.

Reference: Sections 43021, 43103 and 44100, Public Resources Code; and Section 66796.22(d), Government Code.

Section 21150. CIWMB Drainage and Erosion Control. (T14:Section 17778 , 17779)

[Water quality protection aspects for drainage and erosion control are addressed in Section 20365 and Section 21090, and in Table 4.1 (in Article 4, Subchapter 2, Chapter 3 of this subdivision).]

- (a) The drainage and erosion control system shall be designed and maintained to ensure integrity of postclosure land uses, roads, and structures; to prevent public contact with waste and leachate; to ensure integrity of gas monitoring and control systems; to prevent safety hazards; and to prevent exposure of waste.
- (b) In cases where the design precipitation event in Table 4.1, Article 4, Subchapter 2 of Chapter 3, is not adequate for the protection of public health and safety, the EA, in consultation with the RWQCB, may require the implementation of a more stringent design.
- (c) Slopes not underlain by waste shall be stabilized to prevent soil erosion. Methods used to protect slopes and control erosion shall include, but are not limited to, terracing, contour furrows, and trenches.

Authority cited: Sections 40502 and 43020, Public Resources Code.; and Section 66796.22(d), Government Code.

Reference: Sections 43021, 43103 and 44100, Public Resources Code; and Section 66796.22(d), Government Code.

Section 21160. CIWMB Landfill Gas Control and Leachate Contact. (T14:Section 17781, 17783)

- (a) The operator shall implement and maintain landfill gas control and prevent leachate contact with the public or animals according to the requirements of this Section.
- (b) Gas monitoring and control shall be conducted during the closure and postclosure maintenance period pursuant to Article 6, Subchapter 4 of this chapter.
- (c) During the closure/postclosure maintenance period, the owner/operator shall ensure that leachate collection and control is done in a manner which prevents public contact and controls vectors, nuisance and odors.
- (d) In designing the LCRS to meet the requirements under Section 20340, the owner/operator shall also assure that the LCRS neither:

(1) interferes with landfill gas control; nor

(2) promotes landfill gas migration.

Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code.

Reference: Sections 43021, 43103 and 44100, Public Resources Code; and Section 66796.22(d), Government Code.

Section 21170. CIWMB Recording. (T14:Section 17787)

(a) The owner or operator, upon completion of closure of the site, shall file a detailed description of the closed site, including a map, with the Recorder of the County in which the site is located, with the EA and with the local agency that has been selected to maintain the county integrated waste management plan. The site description, upon completion of closure of the site, shall include but not be limited to the following:

(1) the date that closure was completed;

(2) the boundaries including height and depths of the filled area. If the site was closed in increments, the boundaries of each waste management unit;

(3) the location where the closure and postclosure plans can be obtained; and

(4) a statement that the future site use is restricted in accordance with the postclosure maintenance plan.

Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code.

Reference: Sections 43103 and 44100, Public Resources Code; and Section 66796.22(d), Government Code.

Section 21180. CIWMB Postclosure Maintenance. (T14:Section 17788)

[Water quality protection aspects for postclosure maintenance are addressed in Section 21090.]

(a) Postclosure maintenance for the purposes of reducing impacts to health and safety, shall be conducted to ensure the integrity of the final cover and environmental control systems. The landfill shall be maintained and monitored for a period of not less than thirty (30) years after the completion of closure of the entire solid waste landfill. Any areas in which final cover is placed prior to the closure of the entire landfill shall be maintained in accordance with an approved postclosure maintenance plan, but the thirty (30) year monitoring period shall not commence until closure of the entire landfill is complete. Maintenance and monitoring shall include, but not be limited to the following:

(1) site security;

(2) gas monitoring and control system maintenance as specified in the final closure and postclosure maintenance plans.

(b) If nonliquid waste is exposed during postclosure maintenance activities at a solid waste landfill, the waste may be returned to that landfill provided that the integrity of the final cover is maintained.

(c) The operator shall provide to the CIWMB and the EA copies of the maps and reports provided to the RWQCB pursuant to Section 21090(e)(2) describing the amount of differential settlement.

Authority cited: Sections 40502 and 43020, Public Resources Code.; and Section 66796.22(d), Government Code.

Reference: Sections 43021, 43103, Public Resources Code; and Section 66796.22(d), Government Code.

Section 21190. CIWMB Postclosure Land Use. (T14:Section 17796)

(a) Proposed postclosure land uses shall be designed and maintained to:

(1) protect public health and safety and prevent damage to structures, roads, utilities and gas monitoring and control systems;

(2) prevent public contact with waste, landfill gas and leachate; and

(3) prevent landfill gas explosions.

(b) The site design shall consider one or more proposed uses of the site toward which the operator will direct its efforts, or shall show development as open space, graded to harmonize with the setting and landscaped with native shrubbery or low maintenance ground cover.

(c) All proposed postclosure land uses, other than non-irrigated open space, on sites implementing closure or on closed sites shall be submitted to the EA, RWQCB, local air district and local land use agency. The EA shall review and approve proposed postclosure land uses if the project involves structures within 1,000 feet of the disposal area, structures on top of waste, modification of the low permeability layer, or irrigation over waste.

(d) Construction on the site shall maintain the integrity of the final cover, drainage and erosion control systems, and gas monitoring and control systems. The owner or operator shall demonstrate to the satisfaction of the EA that the activities will not pose a threat to public health and safety and the environment. Any proposed modification or replacement of the low permeability layer of the final cover shall begin upon approval by the EA, and the RWQCB.

(e) Construction of structural improvements on top of landfilled areas during the postclosure period shall meet the following conditions:

(1) automatic methane gas sensors, designed to trigger an audible alarm when methane concentrations are detected, shall be installed in all buildings;

(2) enclosed basement construction is prohibited;

(3) buildings shall be constructed to mitigate the effects of gas accumulation, which may include an active gas collection or passive vent systems;

(4) buildings and utilities shall be constructed to mitigate the effects of differential settlement. All utility connections shall be designed with flexible connections and utility collars;

(5) utilities shall not be installed in or below any low permeability layer of final cover;

(6) pilings shall not be installed in or through any bottom liner unless approved by the RWQCB;

(7) if pilings are installed in or through the low permeability layer of final cover, then the low permeability layer must be replaced or repaired; and

(8) periodic methane gas monitoring shall be conducted inside all buildings and underground utilities in accordance with Section 20933 of Article 6, of Subchapter 4 of this Chapter.

(f) The EA may require that an additional soil layer or building pad be placed on the final cover prior to construction to protect the integrity and function of the various layers of final cover.

(g) All on site construction within 1,000 feet of the boundary of any disposal area shall be designed and constructed in accordance with the following, or in accordance with an equivalent design which will prevent gas migration into the building, unless an exemption has been issued:

(1) a geomembrane or equivalent system with low permeability to landfill gas shall be installed between the concrete floor slab of the building and subgrade;

(2) a permeable layer of open graded material of clean aggregate with a minimum thickness of 12 inches shall be installed between the geomembrane and the subgrade or slab;

(3) a geotextile filter shall be utilized to prevent the introduction of fines into the permeable layer;

(4) perforated venting pipes shall be installed within the permeable layer, and shall be designed to operate without clogging;

(5) the venting pipe shall be constructed with the ability to be connected to an induced draft exhaust system;

(6) automatic methane gas sensors shall be installed within the permeable gas layer, and inside the building to trigger an audible alarm when methane gas concentrations are detected; and

(7) periodic methane gas monitoring shall be conducted inside all buildings and underground utilities in accordance with Article 6, of Subchapter 4 of this chapter (Section 20920 et seq.).

Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code.

Reference: Sections 43021, 43103 and 44105, Public Resources Code; and Section 66796.22(d), Government Code.

Section 21194. [Reserved by SWRCB]

Section 21200. CalRecycle Change of Ownership During Closure or Postclosure Maintenance.

(a) An owner or operator of a disposal site who plans to sell, transfer or convey the ownership or operation of the disposal site to a new owner or operator shall notify EA and CalRecycle 45 days prior to the anticipated transfer of title. This notification shall include the name(s), address(es) and phone number(s) of the new owner or operator.

(b) The new owner or operator shall submit the following to EA and CalRecycle as part of the notification under (a).

(1) Documentation of the financial assurance demonstrations of the new owner or operator, in compliance with the requirements of Articles 2 and 4 of Subchapter 2, Chapter 6 of this Title; and

(2) An affidavit from the new owner or operator stating that the new owner or operator has read the governing SWFP (if applicable), closure plan, and postclosure maintenance plan and will comply with all terms and conditions in the SWFP (if applicable), closure plan, and postclosure maintenance plan, and that all new information submitted is correct.

(c) The EA shall review the submitted information to determine if the new owner or operator has provided all required information to comply with the terms and conditions of the SWFP (if applicable), closure plan, and the postclosure maintenance plan. The EA shall also obtain written confirmation from CalRecycle that the new owner or operator has complied with the financial assurance requirements of Articles 2 and 4, Subchapter 2, Chapter 6.

(1) If the EA determines that the new owner or operator has complied with all requirements, the EA shall send written notification to the prior owner and operator, new owner and operator, RWQCB, and CalRecycle within 30 days of receipt of the notification of transfer of title. Within 15 days thereafter, the EA shall send the owner and operator a copy of a changed SWFP, if applicable.

(2) If the EA determines that the new owner or operator has not complied with all requirements, the EA shall send written notification of this determination to the prior owner and operator, new owner and operator, RWQCB, and CalRecycle within 30 days of receipt of the notification of transfer of title. The EA shall include the basis for this determination of inadequacy.

Authority cited: Sections 40502 and 43020, Public Resources Code.

Reference: Sections 43021, 43103 and 44005, Public Resources Code.

Article 3. SWRCB Closure Standards for Units Other Than Landfills

Section 21400. SWRCB Closure Requirements for Surface Impoundments. (C15: Section 2582)

(a) Remove Free Liquids All free liquid remaining in a surface impoundment at the time of closure shall be removed and discharged at an approved waste management unit (Unit). All residual liquid shall be treated to eliminate free liquid.

(b) Options Following removal and treatment of liquid waste, impoundments shall be closed in one of two ways, as approved by the RWQCB.

(1) Mandatory Clean-Closure Attempt Unless the discharger demonstrates, and the RWQCB finds, that it is infeasible to attempt clean-closure of the impoundment, then all residual wastes, including sludges, precipitates, settled solids, and liner materials contaminated by wastes, shall be completely removed from the impoundment and discharged to an approved Unit. Remaining containment features shall be inspected for contamination and, if not contaminated, can be dismantled. Any natural geologic materials beneath or adjacent to the closed impoundment that have been contaminated shall be removed for disposal at an appropriate Unit. For surface impoundments that are successfully clean-closed, as herein described, the RWQCB shall declare the Unit no longer subject to the SWRCB-promulgated requirements of this title. If, after reasonable attempts to remove such contaminated materials, the discharger demonstrates that removal of all remaining contamination is infeasible, the surface impoundment shall be closed as a landfill or land treatment unit, as appropriate, pursuant to (b)(2).

(2) Fallback Closure Options In cases where clean-closure [under (b)(1)] is infeasible, the discharger shall propose for RWQCB approval either:

(A) Closure As a Landfill that all residual wastes, including sludges, precipitates, settled solids, and liner materials, shall be compacted, and the Unit shall be closed as a landfill pursuant to Section 21090, provided that the closed Unit meets applicable standards for landfill Units in Articles 3 and 4 of Subchapter 2, Chapter 3, Subdivision 1 of this division (Section 20240 et seq.), and further provided that the moisture content of residual wastes, including sludges, does not exceed the moisture holding capacity of the waste either before or after closure; or

(B) Closure As an LTU for surface impoundments which contain only decomposable wastes at closure, that the Unit be closed as a land treatment unit under Section 21420(a)(2 4).

Authority cited: Section 1058, Water Code.

Reference: Section 13172, Water Code; Section 43103, Public Resources Code.

Section 21410. SWRCB Closure Requirements for Waste Piles. (C15: Section 2583)

(a) Options Waste piles shall be closed in one of two ways, as approved by the RWQCB.

(1) Mandatory Clean-Closure Attempt Unless the discharger demonstrates, and the RWQCB finds, that it is infeasible to attempt clean-closure of the waste pile, then all waste materials and any components of the containment system which are contaminated by wastes shall be removed from the waste pile and discharged to an appropriate Unit. Remaining containment features shall be inspected for contamination and, if not contaminated, can be dismantled. Any soil or other materials beneath the closed waste pile that have been contaminated shall be removed for disposal at an appropriate Unit. If, after reasonable attempts to achieve clean-closure (as herein described), the discharger demonstrates that removal of all remaining contamination is infeasible, then the remaining portions of the waste pile (including all contaminated portions of the underlying and surrounding geologic materials) shall be closed as a landfill pursuant to (a)(2) and Section 21090.

(2) Fallback Options In cases where clean-closure [under (a)(1)] is infeasible, the discharger shall propose for RWQCB approval either of the following options, as appropriate.

(A) Closure As a Landfill A waste pile can be compacted, covered, and closed as a landfill Section 21090, provided that the discharger has met the requirements of (a)(1), and further provided that the closed Unit either meets applicable standards for landfill Units in Articles 3 and 4 of Subchapter 2, Chapter 3, Subdivision 1 of this division

(Section 20240 et seq.), or contains only dry waste and was not required to have a leachate collection and removal system under Section 20340(a).

(B) Closure As an LTU Waste piles which contain only decomposable wastes may be closed as a land treatment unit under Section 21420(a)(2 4).

Authority cited: Section 1058, Water Code.

Reference: Section 13172, Water Code; Section 43103, Public Resources Code.

**Section 21420. SWRCB Closure Requirements for Land Treatment Units (LTUs).
(C15: Section 2584)**

(a) During the closure and post closure period, the discharger shall:

(1) continue all operations necessary to maximize degradation, transformation, or immobilization of waste constituents within the treatment zone;

(2) continue all ground water and unsaturated zone monitoring in compliance with Article 1, Subchapter 3, Chapter 3, Subdivision 1 of this division (Section 20380 et seq);

(3) continue all operations in the treatment zone to prevent runoff of waste constituents; and

(4) maintain the precipitation and drainage control systems.

Authority cited: Section 1058, Water Code.

Reference: Section 13172, Water Code; Section 43103, Public Resources Code.

Article 4. Standards for Composting Facilities [Reserved]

21430. CIWMB Compost Facility Closure Requirements. [Reserved]

Chapter 4. Documentation and Reporting for Regulatory Tiers, Permits, WDRs, and Plans

Subchapter 1. CIWMB—General

Article Ghost Header for Outline ADA Compliance

Section 21440. Purpose. (non-regulatory) [Reserved]

Section 21450. CIWMB--Scope/Applicability/Coordination. (T14: Section18200)

(a) The CIWMB-promulgated Sections of this chapter set forth the method of application for a Solid Waste Facility Permit (SWFP) and procedures for review and action on the application package. Also dealt with in this chapter are related matters of application for permits, reinstatement of permits after disciplinary actions, periodic revision of permits, exemptions from the application and permit requirements, and updating of certain application information. Related matters of modification, suspension, or revocation of permits upon investigation by the EA are included in PRC Section44001 et seq. and Section44300 et. seq.

(b) Pursuant to Section 20005 the EA shall coordinate all permitting aspects for disposal sites, including review of the JTD, with the RWQCB as appropriate.

Authority cited: Sections 40502 and 43020, Public Resources Code.

Reference: Sections 43020, 43021, and 43000-45802, Public Resources Code.

Subchapter 2. CIWMB Regulatory Tiers [Section 21460 Section 21560 Reserved by CIWMB]

Article Ghost Header for Outline ADA Compliance

Subchapter 3. Development of Waste Discharge Requirements (WDRs) and Solid Waste Facility Permits

Article 1. General

Section 21563. CIWMB-Scope. (T14: Section 18200, Section 18200.1)

(a) This Subchapter sets forth the method of application for a full solid waste facilities permit and procedures for review and action on the application package. This Subchapter also addresses related matters of exemptions from the solid waste facilities permit requirements, application for changes in design or operation, reinstatement of solid waste facilities permits after disciplinary actions, periodic reviews and revisions of solid waste facilities permits, and amending application information. Matters related to EA actions to amend, suspend or revoke solid waste facilities permits are included in Article 2, Chapter 5.

(b) The provisions of this Subchapter shall apply to solid waste facilities or disposal sites and any other operations requiring a full solid waste facilities permit pursuant to this Division. Specific provisions of this Subchapter outlining the different responsibilities of the applicant, EA and the CIWMB may be found below as follows:

(1) Exemption from a solid waste facilities permit Article 1.

(2) Applicant Requirements Article 2.

(3) EA Requirements Article 3.

(4) CIWMB Requirements Article 3.1.

(c) Except as otherwise noted, for purposes of this chapter only, "facility" means solid waste facility, disposal site or any other operation requiring a full solid waste facilities permit pursuant to this division.

(d) For purposes of these articles (Articles 1-3.1), the following definitions apply:

(1) "Complete" means all requirements placed upon the operation of the solid waste facility by statute, regulation, and other agencies with jurisdiction have been addressed in the application package.

(2) "Correct" means all information provided by the applicant regarding the solid waste facility must be accurate, exact, and must fully describe the parameters of the solid waste facility.

(3) "Application Filing" means the enforcement agency has determined the application package is complete and correct and the statutory time limit contained in Public Resources Code Section 44008 commences.

(4) "Informational Meeting" means a meeting where the public is invited to hear and comment on the preliminary determination of the action taken by the EA on an accepted application package. The meeting is strictly informational and no official decision is made at the meeting regarding the formal determination on the solid waste facilities permit application. EA-conducted Informational Meetings fulfill the requirements set forth in Public Resources Code Section 44004 related to holding a "public hearing", unless the EA substitutes another meeting/hearing that meets the provisions in Section 21660.4. The definition used herein, does not apply to public hearings, or hearings before hearing panels or hearing officers set forth in Public Resources Code Section 44300, Chapter 4, Articles 1 and 2, having to do with denial of solid waste facilities permits and related recourses.

(5) "Nonmaterial change" means a change that would require a change to a solid waste facilities permit but would not result in any physical change that would alter the approved design or operation of the facility. The definition is only for purposes of determining when a permit modification is needed as determined by the EA pursuant to Section 21665(d)(1).

(6) "Significant Change in the design or operation of the solid waste facility that is not authorized by the existing permit" means a change in design or operation of a solid waste facility where the EA has determined pursuant to Section 21665 that the change is of such consequence that the solid waste facilities permit needs to include further restrictions, prohibitions, mitigations, terms, conditions or other measures to adequately protect public health, public safety, ensure compliance with State minimum standards or to protect the environment. The definition is only for purposes of determining when a permit needs to be revised and should not be utilized for any other purpose.

Authority cited: Section 40502 and 43020, Public Resources Code.

Reference: Sections 43020, 43021, and 43000-45802, Public Resources Code.

Section 21565. CIWMB-Exemptions from Requirement of a Permit. (T14:Section 18215)

(a) After a public hearing the EA may grant an exemption from the requirement that the operator of a facility or operation obtain a permit or comply with other Regulatory Tier Requirements established in Title 14, California Code of Regulations, Section 18100 et seq. Such an exemption may be granted if the facility falls within one of the classifications in Subsection(b) and all of the following findings are made:

(1) The exemption is not against the public interest.

(2) The quantity of solid wastes is insignificant.

(3) The nature of the solid wastes poses no significant threat to health, safety, or the environment.

(b) Classifications of solid waste facilities that may be exempted are:

(1) Facilities or portions thereof doing research funded primarily by government grants;

(2) Drilling mud disposal sumps for short-term use (less than one year) if significant quantities of hazardous or toxic materials are not present in the mud, fluids and cuttings from drilling and associated operations; [currently, on-site sumps are exempted under T23 Section 2511(g) & in Section 20090(g) of this subdivision]

(3) Unclassified waste management units as defined by the State Water Resources Control Board (SWRCB), except as otherwise provided in CCR, Title 14, Division 7, Chapter 3.0, Article 5.95;

(4) Farm or ranch disposal sites for one or two-family use;

(5) Resource Recovery facilities intended only for demonstration purposes and not for profit;

(6) Disposal sites to be used exclusively for one of the following: for spreading of either cannery wastes or oily wastes, mine tailings, ashes and residues, agricultural wastes, street sweepings, dirt from excavations, slag if disposed of on site, or waste water treatment sludge if disposed of on site or to specified agricultural lands; and

(7) Evaporation ponds for disposing of salts from oil and geothermal drilling operations.

(c) The EA may inspect any exempted facility in accordance with CCR, Title 14, Division 7, Chapter 5, Article 2.2, Section 18083. Where the EA has reason to believe that circumstances have changed and the findings made pursuant to Subsection(a) can no longer be supported, the EA may, after holding a public hearing, rescind the exemption.

(d) All exemptions and rescissions of exemptions shall be forwarded to the CIWMB within seven days after the decision is issued.

[Comment: In exempting facilities, the EA should recognize that only facilities which are solid waste facilities or operations, as defined in Public Resources Code Section 40194, must obtain either a permit or an exemption. The following are examples of facilities that need not apply for an exemption or a permit:

1. A facility solely engaged in purchase or sale of salvaged separated materials.
2. Scrap metal, glass, cardboard and fiber brokers and manufacturing firms, which utilize salvaged materials.
3. Recycling centers that only handle salvaged separated materials for reuse.
4. Salvaged separated material collection, storage, or processing activities.]

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 21565.5. CIWMB--Filing Requirements for Exemptions from Solid Waste Facility Permit (SWFP). (T14:Section 17616)

An applicant must file with the EA information containing applicable Sections of a Report of Facility Information/Joint Technical Document (RFI/JTD) to establish that an exemption should be granted.

Authority cited: Section 40502, 43020 and 43021, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Article 2. CalRecycle--Applicant Requirements

Section 21570. CalRecycle—Filing Requirements.

(a) Any operator of a disposal site who is required to have a full solid waste facilities permit and waste discharge requirements pursuant to Public Resources Code, Division 31 and §20080(f) shall submit an application package for a solid waste facilities permit in duplicate to the EA pursuant to ¶(f). The applicant shall also simultaneously submit one copy of the application form and the Joint Technical Document (JTD) to the Regional Water Quality Control Board (RWQCB) and one copy of the application form to the director of the local agency that oversees local land use planning for the jurisdiction in which the site is located. The applicant shall ensure demonstration of financial assurances to CalRecycle pursuant to Chapter 6 of this Subdivision.

(b) All other applicants who are required to have a full solid waste facilities permit shall submit an application package for a solid waste facilities permit in duplicate to the EA pursuant to ¶(f) and one copy of the application form to the director of the local agency

that oversees local land use planning for the jurisdiction in which the site is located. The applicant shall also simultaneously submit one copy of the application form to the RWQCB.

(c) Any application package submitted to the EA shall be accompanied by the fee specified by the EA pursuant to Public Resources Code §44006(c).

(d) The application package shall require that information be supplied in adequate detail to permit thorough evaluation of the environmental effects of the facility and to permit estimation of the likelihood that the facility will be able to conform to the standards over the useful economic life of the facility. The application package shall require, among other things, that the applicant and the owner give the address at which process may be served upon them.

(e) All information in the application package shall be certified by the applicant and the owner of the site as being true and accurate to the best knowledge and belief of each. The applicant, owner of the facility, or both, shall supply additional information as deemed necessary by the EA.

(f) A complete and correct application package shall include, but not necessarily be limited to, the following items:

(1) Application For Solid Waste Facilities Permit/Waste Discharge Requirements Form CalRecycle E-1-77 (Version 11-15 ~~8-04~~) (Appendix 1); and

(2) Complete and correct Report of Facility Information. In the case of disposal sites, this will be a Report of Disposal Site Information (RDSI) in the format of a JTD or a Disposal Site Facility Plan or Disposal Facility Report in the format of a JTD; and

(3) California Environmental Quality Act (CEQA) compliance information as follows:

(A) Evidence that there has been compliance with the CEQA, Division 13 (commencing with §21000) of the Public Resources Code, regarding the facility; or

(B) Information on the status of the application's compliance with the CEQA regarding the facility, including the proposed project description. Once there has been compliance with the CEQA regarding the facility, evidence of compliance shall be submitted to the EA; and

(4) Any CEQA Mitigation Monitoring Implementation Schedule; and

(5) Conformance finding information, including one of the following:

(A) Until a countywide or regional agency integrated waste management plan has been approved by CalRecycle, the application shall include statements that: the facility is identified and described in or conforms with the County Solid Waste Management Plan, or otherwise complies with Public Resources Code §50000; and that the facility is

consistent with the city or county General Plan and compatible with surrounding land use, in accordance with Public Resources Code §50000.5; or

(B) After a countywide or regional agency integrated waste management plan has been approved by CalRecycle, the application shall include a statement that: the facility is identified in either the countywide siting element, the nondisposal facility element, or in the Source Reduction and Recycling Element for the jurisdiction in which it is located; or, that the facility is not required to be identified in any of these elements pursuant to Public Resources Code §50001; and

(6) For disposal sites, completeness determination of Preliminary or Final Closure/Postclosure Maintenance Plan as specified in §§21780, 21865, and 21890 (Subchapter 4 of this chapter); and

[The operator has the option of submitting the preliminary closure plan with the JTD, in which case the EA, RWQCB, and CalRecycle would review it at the same time. If deemed complete by the reviewing agencies, the solid waste facilities permit application package could then be accepted for filing if all other information in the JTD is accepted by the EA. Or the operator can submit a stand alone preliminary closure plan to be deemed complete by reviewing agencies before the application package is submitted to the EA. For CalRecycle purposes, all final closure/postclosure plans are stand alone documents but can be processed jointly with a proposed solid waste facilities permit revision as long as the final plan is determined complete prior to approval of the proposed solid waste facilities permit. The JTD Index prepared for the EA should show where each closure requirement is addressed in the closure/post-closure plan.]

(7) For disposal sites, a copy of the most recently submitted detailed written estimate or latest approved estimate, whichever identifies the greatest cost, to cover the cost of known or reasonably foreseeable corrective action activities, pursuant to §22101;

(8) For disposal sites, current documentation of acceptable funding levels for required closure, postclosure maintenance, and corrective action Financial Assurance Mechanisms (in accordance with Chapter 6, Division 2); and

(9) For disposal sites, current documentation of compliance with operating liability requirements in accordance with Chapter 6;

(10) For disposal sites permitted for more than 20 tons-per-day, a ground or aerial survey to be completed at least once every five years or more frequently as determined by the EA. For disposal sites permitted for 20 tons-per-day or less, a ground or aerial survey must be completed at least once every ten years. Survey results must be submitted as a CADD or vector graphics data file including at least two strata, i.e., 1) a stratum showing the base and finished ground surfaces, and 2) a stratum showing the existing and finished ground surfaces. For disposal sites where a change in permitted volume is proposed, a third stratum showing the base and proposed finished ground surface must be included. For each stratum the following information shall be included:

site name, stratum name, surface1 name, surface2 name, volume calculation method (grid, composite, section), expansion (cut) factor, compaction (fill) factor, cut volume, fill volume and net volume. All volumes shall be reported in cubic yards. If the base ground surface is uncertain, the operator is allowed to provide the best available information as a substitute for the actual as-built contours. If selecting this substitute method, the operator must provide an explanation of the basis for using the substitute base ground surface. For the purposes of this section the following definitions apply:

(A) "base ground surface" the best available excavation plan surface that existed prior to the placement of any waste;

(B) "CADD" computer aided design and drafting;

(C) "compaction (fill) factor" the factor used to correct for expected compaction of fill material; this factor should normally be unity (one); if the factor is not unity (one), an explanation must be provided for the basis of the volumetric correction;

(D) "cut volume" for any stratum, the volume removed by a cut of a lower surface to achieve the upper surface;

(E) "existing ground surface" the topography that exists at the time of the subject survey;

(F) "expansion (cut) factor" the factor used to correct for expected expansion of a cut surface; this factor should normally be unity (one); if the factor is not unity (one), an explanation must be provided for the basis of the volumetric correction;

(G) "fill volume" for any stratum, the volume bound between the upper and lower surfaces;

(H) "finished ground surface" the final fill plan surface as shown in the approved closure plan for the disposal site;

(I) "net volume" the fill volume less the cut volume;

(J) "site name" the name of the disposal site for which the survey information is being submitted;

(K) "stratum (plural: strata)" a particular volume of a solid waste landfill bound by specified upper and lower surfaces;

(L) "stratum name" a descriptive name for the stratum for which volumetric information is being submitted, e.g., total volume including proposed expansion;

(M) "surface names" names for the pair of surfaces that define a named stratum, e.g., base ground surface and proposed finished ground surface;

(N) "survey" a comprehensive examination of the disposal site under the direction of registered civil engineer or licensed land surveyor for purposes of determining the topography of the base, existing and finished ground surfaces, and the volumes bound by those surfaces;

(O) "vector graphics" computer generated images comprised of lines and shapes of given origin, direction, thickness, color and other attributes;

(P) "volume calculation method" grid, composite, section or other method approved by the enforcement agency.

(11) For disposal sites, one of the following:

(A)

(i) In-place density (pounds of waste per cubic yard of waste). The in-place density is the estimated or measured density of in-place waste material achieved by mechanical or other means in the development of the current lift of the current operating waste cell, and

(ii) Waste-to-cover ratio, estimated, (volume:volume). The waste-to-cover ratio estimate is a unit-less expression of the proportion of the volumes of waste and cover that comprise a volume of compacted fill material, e.g. 4:1. The cover portion of the waste-to-cover ratio estimate should include only soil or approved daily or intermediate alternative cover that is not considered a waste material, i.e., payment of fees to CalRecycle is not required. The waste portion of the waste-to-cover ratio estimate should include only waste material for which payment of fees to CalRecycle is reported, or

(B) Airspace utilization factor (tons of waste per cubic yard of landfill airspace). The airspace utilization factor (AUF) is the effective density of waste material in the landfill. The AUF is recorded as the total weight of waste material passing over the landfill scales that is placed in a known volume of landfill airspace in a given period of time. The waste portion of the AUF should include only waste material for which payment of fees to CalRecycle is reported.

(12) List of all public hearings and other meetings open to the public that have been held or copies of notices distributed that are applicable to the proposed solid waste facilities permit action.

(g) For new or expanded solid waste facilities, hold a public meeting with any affected disadvantaged communities within 180 days of submittal of the permit application package.

(1) Provide copies (hard copy or electronic) of notices distributed to the affected disadvantaged communities.

(2) Provide a summary of the comments received at the public meeting, responses to any public comments, and any other steps taken by the applicant relative to those comments.

(3) For the purposes of this section “affected disadvantaged communities” means communities identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code as disadvantaged that are located within one mile of the facility.

Authority cited: Section 40002, 40502 and 43020, Public Resources Code.

Reference: Sections 43103, 42652.5, 44001-44017, 44100-44101, 44300-44301, 44500-44503 and 44813-44816, Public Resources Code and Section 39730.6, Health and Safety Code.

Section 21580. CIWMB-Submittal of an Incomplete Application Package (T14:Section 18203)

The applicant may request, in writing, that the EA accept an incomplete application package. As a condition of acceptance, the applicant shall waive the statutory time limit contained in Public Resources Code Section 44008. The application package shall conform to Section 21570 within 180 days from the date the EA agrees to accept the package as incomplete or the application package shall be rejected. Upon submittal of an incomplete package, the applicant shall list the deficiencies in the package, reasons for the incomplete submittal, and a proposed schedule as to when the deficiencies will be submitted. For an application for a new or revised solid waste facilities permit, within 30 days after deeming the application complete and correct, the EA shall notice and conduct an informational meeting as required by Section 21660.2 and 21660.3.

Authority cited: Sections 40502 and 43020, Public Resources Code.

Reference: Sections 43103, 44001-44006 and 44007-44010, Public Resources Code.

Section 21585. SWRCB--Joint Technical Document (JTD). (new)

Regulations in this Section were promulgated by the State Water Resources Control Board (SWRCB), are administered by the appropriate Regional Water Quality Control Board (RWQCB) through the issuance of waste discharge requirements (WDRs) or other enforceable orders, and are applicable both to the RWQCB and to the owner or operator of a waste management unit (Unit) for the treatment, storage, or disposal of solid waste, in cases where the Unit is jointly regulated by the RWQCB and by one or more other state agencies.

(a) JTD Addresses All Post-CUP Permitting Agency Requirements--After July 18, 1997, for any Unit jointly regulated by the RWQCB and another state agency (or agencies), the report of waste discharge (ROWD) submitted to the RWQCB in support of the

development or revision of WDRs for that Unit shall be in the form of a joint technical document (JTD) which includes all applicable information required under Article 4 of Subchapter 3 of this chapter (Section 21710 et seq.), in addition to all information necessary to support the development (or modification, as appropriate) and issuance of any state or local agency permits, other than the conditional use permit, that are required to operate the Unit (including but not limited to the lateral expansion of any Unit).

(1) JTD Submittal Date--For new Units for which the ROWD is initially submitted (as part of the application for WDRs) after July 18, 1997, the discharger shall submit the ROWD in the form of a JTD when applying for WDRs for the Unit. For all other new Units and for existing Units, the discharger need not reorganize and resubmit, as a JTD, those portions of the ROWD submitted prior to July 18, 1997. For new and existing Units, after July 18, 1997, except for scheduled monitoring reports, each submittal regarding the Unit, whether initiated by the discharger or requested by RWQCB, shall be made in the form of a separate addendum to the JTD, pursuant to (a)(4).

(2) JTD Scope--The discharger is responsible for identifying all state and local agencies for which the JTD will serve as a joint permitting information document, pursuant to (a). Nevertheless, for a landfill, the list of agencies addressed in the JTD shall include at least the RWQCB, the CIWMB, the EA, and the AQMD or APCD.

(3) Integration--The discharger is free to organize the JTD in any manner that maximizes the readability and compactness of the document. Nevertheless, to the extent feasible, with respect to any portion of the JTD that discusses a subject of regulatory concern to more than one agency, the discharger shall integrate the discussion to satisfy the concerns of all agencies concerned with that subject. Likewise, to the extent feasible, for facilities having more than one Unit, the JTD shall address topics which are germane to all Units at the facility (e.g., the hydrogeology of the facility and surrounding area) in a manner which integrates and incorporates all concerns applicable to each individual Unit and to the facility in general.

(4) JTD Addenda--After July 18, 1997, each submittal made to any permitting agency encompassed by the JTD shall be in the form of a numerically-sequential addendum to the JTD (i.e., Addendum 76 would be followed by Addendum 77). For any given topic being addressed by a given addendum, the discharger shall send a copy of that addendum simultaneously to each permitting agency listing that topic in their agency-specific JTD Index, and shall include an updated JTD page listing for each Water Board JTD index line-item [under (b)] that is addressed by that addendum.

(b) Water Board (JTD) Index--As of July 18, 1997, each RWQCB shall make available to the discharger (both in hard copy and on magnetic media) a JTD index (Water Board Index)listing, by unique line-item number, each topic which the JTD must address to provide the RWQCB information needed to write and adopt or revise WDRs. For each line item (i.e., for each separately listed topic) in the Water Board Index, the discharger shall list all JTD pages (by page number or ranges thereof) addressing that topic. In cases where the preliminary or final closure and post-closure maintenance plan is

submitted as a separable part of the JTD, as allowed by Section 21769(a), the component parts of the plan shall nevertheless be listed as part of the JTD index.

(c) Coordination--Upon the submittal of a new JTD or addendum, the RWQCB shall concentrate the initial review upon those line-items in the Water Board Index which are coded as being of joint interest with other agencies. Regarding all such joint-interest line-items in the Water Board Index, the RWQCB shall coordinate with staff from the other interested agencies, as appropriate, to ensure that WDRs (or proposed changes thereto) do not duplicate or conflict with the requirements of the other agencies.

Authority cited: Section 1058, Water Code.

Reference: Section 13140, 13146, 13172, Water Code; Section 43103, Public Resources Code.

Section 21590. CalRecycle-Joint Technical Document for Disposal Facilities.

Any operator of a disposal site which is required to submit a RDSI, closure/postclosure maintenance plan, and/or a ROWD or any other report that addresses similar regulatory concerns, may address those requirements under one JTD. The JTD will be used in place of the RDSI only if it meets all the requirements set forth in §21600 and lists where each requirement has been satisfied in the document in the form of a JTD index, pursuant to ¶(c).

(a) After July 18, 1997, any operator of an existing facility who submits an application package to the EA, pursuant to §21570, which proposes to change the facility's operations, or to change the SWFP shall do one of the following:

(1) Submit the updated information as an amendment to the existing JTD along with, a JTD index as described in ¶(c), referencing the new or updated information; or

(2) Submit a complete JTD as described in §21600 along with a JTD index as described in subsection (c).

(b) After July 18, 1997, any operator of a new facility that submits an application package to the EA pursuant to §21570, shall submit a complete JTD pursuant to §21600, and an index of the topics addressed in the JTD to be used by the EA as described in ¶(c).

(c) As of July 18, 1997, the operator shall include with the JTD a copy of an index specifically for use by the EA. The page number or the first line number within the JTD which addresses the topic shall be noted next to that topic in the index. The EA shall make available to the operator either in hard copy and/or ~~on magnetic media~~ an electronic copy a JTD index listing, (Index found in Appendix 2) showing each topic which the JTD must address to provide the EA with relevant facility information for writing or revising the facility permit.

(d) These requirements do not apply to those facilities which have filed a ROWD or RDSI and application for SWFP prior to July 18, 1997. In the event the EA determines the application package for an RDSI first submitted prior to the effective date of these regulations to be incomplete, additional information requested shall be submitted as part of the RDSI and/or application for SWFP, as appropriate.

Authority cited: Sections 40502, 43020, and 43021, Public Resources Code.

Reference: Sections 42652.5, 43000-45082, Public Resources Code and Section 39730.6, Health and Safety Code.

Section 21595. Combined CIWMB and SWRCB Joint Technical Document for Federal Subtitle D Research, Development, and Demonstration Permits.

The JTD shall describe how the facility will comply with Section 20070 of Chapter 1 of this Division, if applicable, and include the specific variance(s) in criteria requested; project research goals; environmental monitoring, contingency and mitigation measures to be implemented for the project; and performance measures to determine to what extent the site is progressing in attaining project goals and protection of public health and safety and the environment. The description shall also include a summary and protocols for: 1. project controls to compare project performance with an equivalent or similar operation or activity not authorized by Section 20070; 2. if applicable, processing of materials prior to placement in the MSWLF Unit at the facility; 3. potential accumulation of constituents of concern as defined in Section 20164 of Chapter 1 of this Division; 4. if applicable, energy recovery; and 5. if applicable, impacts to postclosure maintenance. The description shall be incorporated in each applicable Section of the JTD, in addition to a separate Section describing the overall project.

Authority cited: Sections 40502, 43020, and 43021, Public Resources Code.

Reference: Sections 40053, 43020, and 43021, Public Resources Code.

Section 21600. CIWMB-Report of Disposal Site Information (RDSI). (T14:Section 17607, 17616, 17626, 17628, 17629 and 18222)

(a) In order to obtain a solid waste facility permit, each operator of a disposal site must file with the EA a RDSI as required in Section 21600 and Section 21590. The information contained in the RDSI shall be used to determine whether a permit should be issued and to provide information to be included within the permit if applicable. In order to maintain the permit, the operator must file amendments to the RDSI as required in Section 21665. Such amendments or lack thereof may become the basis for changes in the permit or for revocation of the permit. The submittal shall contain only those items listed in Section 21570(f) that have changed or otherwise specified by the enforcement agency.

(b) A RDSI shall contain the following:

(1) General

(A) Facility Overview--Provide a statement including the name of the site, the name of the person who will operate the site, the name of the person who owns the land, and a description of the operation cycle.

(B) Site Plan--Provide facility plan(s), including the pre-disposal topography of the site, the facility boundary of the site (clearly illustrating parcels owned by the operator and/or any parcels leased), the total permitted acreage of the site, the acreage of the disposal area, fill sequencing and excavation plans, the extent of any buffer zones between the disposal area and the permitted property boundaries provided by the facility layout, and the vertical limits of the site. The map required for a ROWD/JTD may be used for the RDSI providing all requirements of this Subsection are met.

(C) Hours--State the hours and days of operation for the site, including but not limited to maintenance, site operation, receipt of waste, and public and commercial access.

(2) Waste Classification and Management

(A) Waste Types/Volumes--Describe the types of wastes accepted or proposed for acceptance. Estimated waste volumes should be presented, including current daily average and peak daily waste flows as well as a five year projected waste flow. Specific mention shall be made concerning the receipt of liquid, designated, special wastes or hazardous waste, if taken.

(3) Waste Management Unit Classification and Siting

(A) Airport Safety--Provide documentation that the Federal Aviation Administration and appropriate airport officials were notified if a new MSWLF unit or lateral expansion will be sited within a five-mile radius of any airport runway end used by turbojet or piston-type aircraft. Include results of the demonstration requirement, if required by Section 20270.

(B) Volumetric Capacity--Provide calculations for volumetric capacity of the site expressed in cubic yards, net permitted capacity available for waste disposal, including the amount of capacity consumed by soils used for liner construction, daily and intermediate cover, and final cover, if included in the total capacity given. Attach topographic maps, including the delineation of the site property boundary and the disposal area used for the volumetric calculations and the date of survey. This information shall be certified by a registered civil engineer or registered geologist.

(C) Site Life Estimate--Provide an estimate of the site life based on the capacity of the site and the waste flow projections, and assumptions regarding the compaction density used in life expectancy calculations. Include any other factors which may effect site life (e.g. local restrictions).

(D) Site Location--Describe the site location, referencing a location map highlighting the legal boundaries, points of access, and major access routes for waste deliveries to the site.

(E) Land Use--Describe and provide a plot plan showing land uses and land use zoning for all properties within 1000 feet of the facility boundary shown on a site plan. The site plan must show structures located on these adjacent properties or distances to the nearest structures. The plot plan shall include specific limits of the existing and planned disposal areas, in relationship to the surrounding land use.

(F) Ancillary Facilities--Describe and provide a plot plan showing all ancillary facilities at the site, including, but not limited to, administration buildings, entrance facilities, scales, maintenance structures, and hazardous materials storage areas.

(4) Design and Construction Standards for all Sites

(A) General Design Parameters--Describe how the site design accommodates or provides for the service area, climatological factors, physical setting, soils, drainage, and other pertinent information. The design shall be developed by a registered civil engineer or registered geologist. If the site is to be used by the general public, show how the design accommodates such use.

(B) Design Responsibility--Design of a new disposal site shall be under the direction of a registered civil engineer. The designer shall utilize expert advice as appropriate from persons competent in soils, hydrology, geology, landscape design, chemistry and other disciplines.

(C) Construction Sequencing Plans--Describe sequencing plans showing the anticipated phases of site development. A map showing the topographical contours prior to filling and the existing topographical contours of the permitted boundary.

(D) Grading Plan--Include a grading plan showing the proposed final elevations of the completed disposal site, and excavation depth, including existing and proposed borrow area.

(E) Gas Management Plan--The gas management plan shall include a description of the facility's gas control and monitoring systems. The site plan shall show locations of monitoring wells. The plan shall describe how the facility will comply with Section 20919 and Section 20919.5. Describe any possible use of landfill decomposition gases. Reference any additional information provided in the closure plans pursuant to Article 6.

(5) Operating Criteria

(A) Records--Describe the procedures for maintaining accurate records as required in Sections 20510 and 20515.

(B) Security--Describe how the operator will discourage unauthorized access by persons or vehicles.

(C) Sanitary Facilities--Describe the sanitary facilities available to site personnel and the public.

(D) Communications Systems--Describe the communications systems utilized and emergency communications procedures followed at the site.

(E) Lighting--Describe the locations, numbers, and types of all permanent and portable lighting to assure safety of employees during nighttime operations, if applicable.

(F) Safety Equipment--List personal safety equipment used by operating and maintenance personnel.

(G) Personnel Requirements--State the minimum numbers and qualifications of personnel required for site operations, maintenance, environmental controls, records, emergency, and health and safety.

(H) Personnel Training--Describe the training required by the various personnel identified above and how that training is to be provided in order to comply with Section 20610.

(I) Supervisory Structure--Describe supervisory structure, including the management organization which will operate the site and the name of supervisor(s).

(J) Spreading and Compaction--Describe the equipment and methods used to spread and compact wastes.

(6) Cover and Beneficial Use

(A) Cover Materials--Provide a plot plan identifying cover material quantities required from on site sources, excavation sequence of the site and stockpile locations if stockpiled for a significant amount of time. Identify or describe off-site sources or types of cover materials needed for a five year duration if not included on plot plan.

(B) Alternative Daily Cover and Beneficial Reuse--Describe alternative daily cover and beneficial reuse waste types, processing methods, alternative processing or grain size specifications if applicable, operations methods, and applicable engineering, or other standard practices that will be used to ensure compliance with Sections 20690 and 20695. Estimate the range in tons of these materials that are anticipated to be used, based on waste types, applicable cover to waste volume ratios, applicable density conversion factors, engineering specifications, methods to minimize contamination, or other pertinent information. Materials accepted at the landfill to be used as alternative daily cover or for beneficial reuse shall be weighed upon receipt at landfills which have scales but need not be weighed again prior to placement at the landfill. Appropriate conversion factors for specific materials based on industry standards are acceptable for tracking materials received at landfills which do not have scales.

(C) Cover Frequency--State the cover frequency proposed or the alternative daily cover proposed for use in lieu of soil as daily cover. Provide information regarding compliance with Sections 20680 and 20695 if applicable.

(D) Intermediate Cover--Describe the operator's methods for placing intermediate cover on all areas of the landfill which have not received waste for an 180 day or more time frame.

(7) Handling

(A) Public Health Design Parameters--Disposal sites shall be designed in such a manner as to minimize the propagation or harborage of flies, rodents or other vectors, and the creation of nuisances by reason of solid wastes being deposited at the site. Other factors which shall be taken into consideration are air and water quality, noise control, odor control, public safety and other pertinent matters related to the protection of public health.

(B) Salvaging Activities--If salvaging activities are proposed, describe types of materials handled, and procedures to ensure that salvaging and other waste activities are conducted in a planned and controlled manner so they do not interfere with other aspects of site operation. Provide an EA approved list of items which the facility is permitted to salvage. Describe the storage area for salvaged materials generated on-site or imported. Describe the procedures to ensure that salvage is removed at a frequency which will prevent health or fire problems.

(C) Volume Reduction Activities--If volume reduction activities such as baling and shredding are proposed, describe procedures to ensure proposed operations are conducted in a controlled manner so that they do not interfere with proper construction and maintenance of the site, and do not create health, safety or environmental problems.

(D) Equipment--Describe the minimum equipment requirements necessary to assure ongoing compliance with the state minimum standards. List on-site equipment designated as standby, or provide an up-to-date list of firms or agencies which can supply replacement units within a period of time short enough to ensure compliance with all regulatory requirements. Describe preventative maintenance activities for the equipment listed above.

(E) Waste Handling--Describe dimensions of unloading area and unloading practices. Include procedures for handling, unloading and disposal of liquid waste, special waste, or hazardous waste, if accepted.

(8) Controls

(A) Nuisance--Describe procedures to prevent or control public nuisances.

(B) Fire--Describe procedures for handling burning waste and preventing landfill fires.

(C) Leachate--Describe methods for controlling surface leachate to prevent contact with the public.

(D) Dust Control--Describe procedures which will be taken to control and minimize the creation of dust and prevent safety hazards due to obscured visibility.

(E) Vectors--Describe measures to be taken to control or prevent the propagation, harborage or attraction of flies, rodents, or other vectors and to minimize bird problems.

(F) Drainage and Erosion--Provide a conceptual design and description of the drainage system as it pertains to roads, structures and gas monitoring systems, preventing safety hazards and preventing the exposure of waste.

(G) Litter--Describe the collection frequency for controlling litter and windblown materials in order to prevent the accumulation of quantities which cause a public nuisance or other problems. Include the litter control method used, i.e. litter fences, litter crews, etc.

(H) Noise--Describe the methods for ensuring that noise from site operations are controlled to prevent nuisance to persons using the site and nearby residents.

(I) Traffic--Describe the traffic control plan, showing that the traffic flow into, on, and out of the site is controlled to minimize interference and safety problems for traffic on-site and adjacent public streets or roads.

(J) Hazardous Waste--Describe in detail the hazardous waste screening program.

(9) Compilation of approvals--Provide a list of all approvals having jurisdiction over the disposal site.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43000 45802, Public Resources Code.

Section 21610. CIWMB--Amendments to Application Package. [T14:Section 18202(a)]

At any time after the application package has been submitted and before issuance or denial of the permit or alteration thereof, the applicant shall promptly notify the EA of any changes in any of the information required in the application package. Such notice shall be given by filing two copies of the amendments to the application within seven days of the applicant's first knowledge of the changes. For processing additions, revisions or amendments to the proposed permit and accompanying documents, refer to Section 21685(d).

Authority cited: Sections 40502 and 43020, Public Resources Code.

Reference: Sections 43103, 44001-44006, Public Resources Code.

Section 21615. CIWMB-Completeness Appeal. [T14: Section 18203(f)]

If an application is determined not to be complete, the applicant may appeal the decision to the EA within fifteen (15) days of the date of notification. Such an appeal must be in writing and specify the grounds for the appeal. A final written determination on the appeal shall be made by the hearing panel or hearing officer designated pursuant to Public Resources Code Sections 44308 or 44309, whichever is applicable, no later than 60 days after the EA's receipt of the applicant's appeal.

Authority cited: Sections 40502 and 43020, Public Resources Code.

Reference: Sections 43000-45802, Public Resources Code.

Section 21620. CIWMB-Change in Design or Operation. (new)

(a) This Section applies to any operator proposing to make a change in the design (as defined in Subsection 21663(a)(1)) or operation (as defined in Subsection 21663(a)(2)) of the facility, where such change is subject to the authority of the EA acting pursuant to the Integrated Waste Management Act or regulations promulgated under such Act and one of the following categories apply: (1) Minor Change the change qualifies as a minor change pursuant to Section 21620(a)(1), in which case the operator shall comply with Section 21620(a)(1)(F); (2) RFI Amendment the EA has determined that an amendment to the RFI is required for the change, in which case the operator shall comply with Section 21620(a)(2); (3) Modified Permit the EA has determined that the solid waste facilities permit requires modification pursuant to Section 21665(d), in which case the operator shall comply with Section 21620(a)(3); or (4) Revised Permit the EA has determined that the solid waste facilities permit requires revision pursuant to Section 21665(e) or Section 21620(a)(4), in which case the operator shall comply with Section 21620(a)(4). This Section does not apply to changes to the facility, where such change is not subject to the authority of the EA acting pursuant to the Integrated Waste Management Act or regulations promulgated under such Act.

(1) Minor Changes

An operator may implement a minor change without EA review and approval if all of the criteria set forth in subdivisions (A) through (D) are met and the operator notifies the EA of the minor change as required under subdivision (F):

(A) the change is subject to the authority of the EA acting pursuant to the Integrated Waste Management Act or regulations promulgated under such Act; and

(B) the change is consistent with State minimum standards pursuant to Chapter 3 of this subdivision or applicable minimum standards in Title 14 (commencing with Section 17200), and including financial assurances and operating liability criteria pursuant to Chapter 6 of this subdivision if applicable; and

(C) the change is consistent with the terms and conditions in the current solid waste facilities permit; and

(D) the change does not conflict with the design and operation of the facility as provided in the current RFI pursuant to Section 21600, 14 CCR Sections 17346.5, 17863, 17863.4, 18221.6, 18221.6.1, 18223.5, or 18227.

(E) Provided that they satisfy the criteria set forth in subdivisions (a)(1)(A D), minor changes include, but are not limited to, the following:

(i) Correction of typographical errors in any documents/documentation submitted by the owner or operator.

(ii) Changes in the training plan that do not affect the type or decrease the amount of training given to employees.

(iii) Changes in any name and phone number, mailing address, or other contact information that does not include a change of the owner or operator.

(iv) Changes in emergency equipment (e.g., used for spill or release response) with the same functionally equivalent equipment at the same or higher level of quality.

(v) Replacing equipment that consists of functionally equivalent components and specifications as the equipment being replaced, which does not cause any change to location or design from the formerly used equipment.

(vi) Changes in procedures for cleaning or decontamination of facility equipment or structures.

(vii) Changes in tanks used for storage of materials utilized as part of the operation of the facility such as fuel, motor oil, and water without a change in location.

(viii) Changes in the rental company or location of where the back-up equipment may be sought.

(ix) Replacement of an existing environmental or operational monitoring point that has been damaged or rendered inoperable, without change to location or design of the monitoring point.

(x) Updated changes to other regulatory agency documents that are included by reference in a RFI only.

(xi) Changes in containers used for temporary storage of materials separated for recycling.

(xii) Change in narrative information (e.g., background information) outside the permitted boundary.

- (xiii) Change to facility signage wording.
- (xiv) Changes to improve personnel protective equipment and other safety procedures.
- (xv) Changes to traffic patterns on site that do not affect off-site traffic, and/or adjacent properties.
- (xvi) Changes to adjacent land use map.
- (xvii) Change in location of facility records.
- (xviii) Changes in name, address, or phone number of contact in post-closure plan.
- (xix) Changes to equipment maintenance operations associated with the operation of the facility.
- (xx) Acquisition of property adjacent to the facility if not used for solid waste activities.
- (xxi) Updated changes to documents that are included by reference in a permit or RFI.
- (xxii) Regulation re-numbering as referenced in RFI.

(F) the operator shall notice the EA at the time of the change or within 30 days after the change has been made, and the following provisions shall apply:

- (i) the notice shall be in writing and delivered to the EA by regular mail, e-mail, or fax;
- (ii) the operator shall identify the minor change in the notice and indicate the effective date of the change;
- (iii) the notice is for informational purposes only and is not subject to EA compliance measures; however, if the EA determines at a later date that the change does not meet the criteria for minor change, the EA shall provide a finding to the operator in writing as to why the change did not qualify as a minor change and the EA shall require the operator to comply with all applicable requirements; and
- (iv) During the regular permit review, the EA shall review the minor change notices and determine which should be incorporated into the RFI.

(2) Amendment to Report of Facility Information

For those changes in design or operation that do not qualify under subdivision (a)(1) and that require an amendment to the RFI, the operator shall file an amendment to the RFI with the EA at least 180 days prior to the proposed change unless otherwise determined by the EA. Notwithstanding, the EA may determine, based on consultation with the applicant and review of the RFI amendment, that the change meets the criteria in Section 21665(c), in which case the applicant may file an application less than 180 days prior to making the proposed change.

Proposed RFIs or amendments to the RFI shall be accompanied by an application

form. All amendments shall be submitted as specified in Section 21570. The applicant shall only submit those items listed in Section 21570(f) that have changed or are proposed to change, unless otherwise specified by the EA. Such amendments or lack thereof may become the basis for changes in the solid waste facilities permit as determined by the EA as described in Section 21665. The operator shall have the right to appeal the EA's decision before the hearing panel or hearing officer.

(3) Modified Permit

If the change in design or operation does not qualify under subdivision (a)(1) or (a)(2), but does meet the requirements of Section 21665(d) for a modified solid waste facilities permit, the operator shall submit an application package for a modified solid waste facilities permit pursuant to Section 21570 which the EA shall process pursuant to Section 21650.

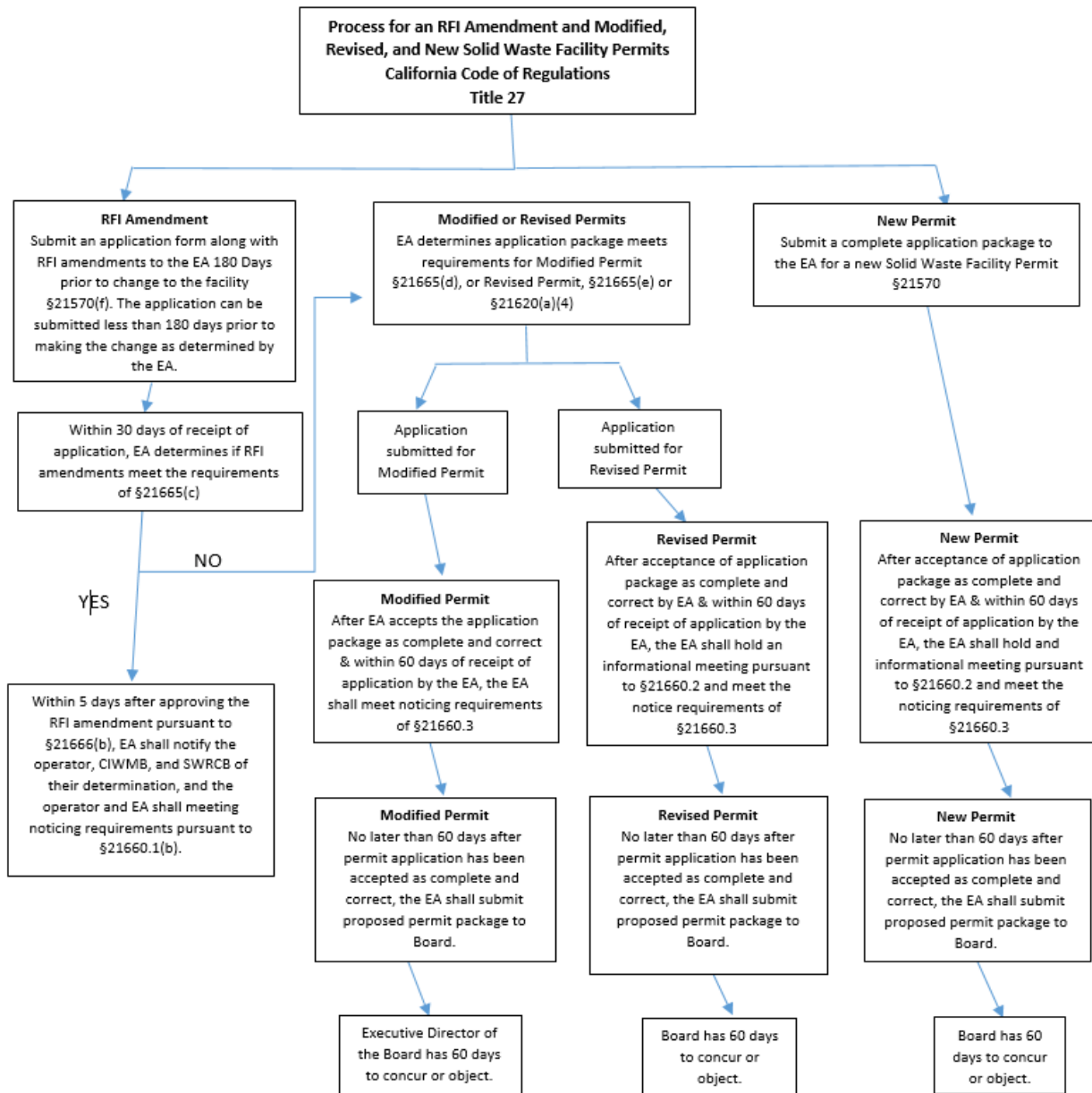
(4) Revised Permit

All other changes in design or operation require a revised solid waste facilities permit pursuant to Section 21665(e). The operator shall submit an application package for a solid waste facilities permit revision pursuant to Section 21570 which shall be processed by the EA pursuant to Section 21650.

Notwithstanding anything to the contrary in Section 21665(e), the following changes in design or operation are considered significant and require an application for a revised permit:

- (A) Increase in maximum amount of permitted tonnage of all waste received.
- (B) Increase in the facility's permitted acreage.
- (C) Increase in the permitted hours of operation.
- (D) For landfills, increase in permitted disposal footprint and/or permitted (final grade) maximum overall height.

changes relative to only those items described in the RFI and not addressed in the current solid waste facilities permit as written by the LEA may be requested, after consultation, through an application pursuant to Section 21666. To help better understand the process for RFI amendment, and modified, revised and new solid waste facilities permits, but not supplant the regulations, a flow diagram is provided below:



Authority cited: Sections 40502, 43020, and 43021, Public Resources Code.

Reference: Sections 43103, 44004 and 44012, Public Resources Code.

Section 21630. CIWMB-Change of Owner, Operator, and/or Address. (T14:Section 18216 & 18217)

(a) Owners and/or operators of a facility who plan to sell, encumber, transfer or convey the ownership or operation of the facility or land to a new owner or operator, or who plan to change their address shall notify the EA and the CIWMB 45 days prior to the anticipated transfer. [Although it is similar to the previous requirement for a change in

owner, this significantly reduces the requirements for incorporating a new operator into the SWFP.] This notification shall include names, address(es), where notice can be sent and phone number(s) of the new owner/operator.

(b) The anticipated owner/operator shall provide the following:

(1) Documentation that the anticipated owner/operator meet the financial assurance and operating liability requirements.

(2) A signed affidavit certifying that the anticipated owner/operator has read the governing permit and conditioning documents and will operate in accordance with the existing SWFP terms and conditions and conditioning documents and that all new information submitted is correct.

(3) Amendments to the RFI which reflect the change in owner/operator or address.

(c) any information provided pursuant to (a) shall not be a matter of public record and shall be considered confidential information until such time as the owner encumbers, sells, transfers, or conveys the property.

(d) Every applicant for a permit, every operator of a solid waste facility, and every owner of property on which a facility is located shall notify the EA and the CIWMB of each change of address. Notice shall be given within seven days after the change is effective and shall be given on a form specified by the CIWMB.

Authority cited: Sections 40502, 43020, and 43021, Public Resources Code.

Reference: Section 6255, Government Code; and Sections 43020, 43021 and 43000-45802, Public Resources Code.

Section 21640. CalRecycle--Review of Permits.

(a) Except as provided in Section 21680, all full SWFPs shall be reviewed and, if necessary, revised, from the date of last issuance at least once every five years.

(b) No less than 150 days before the permit is due for review, the operator shall submit an application for permit review. The application shall be made in the manner specified in Sections 21570 and 21590 and shall contain the following:

(1) Identify the proposed changes in design and operation; and

(2) Updated amendments to the Report of Facility Information (RFI);

(3) For disposal sites only, the updated amendments shall include an estimate of the remaining site life and capacity;

(4) For disposal sites only, an amended closure plan as specified in Sections 21780, 21865, and 21890.

(5) For disposal sites, a copy of the most recently submitted detailed written estimate or latest approved estimate, whichever identifies the greatest cost, to cover the cost of known or reasonably foreseeable corrective action activities, pursuant to Section 22101.

Authority cited: Sections 40502 and 43020, Public Resources Code.

Reference: Section 43103 and 44015, Public Resources Code.

Article 3. CalRecycle Enforcement Agency (EA) Requirements

Section 21650. CIWMB--EA Processing Requirements. (T14:Section 18203)

- (a) Upon its receipt, the EA shall stamp the application package with the date of receipt. The EA shall examine the application package to determine whether it meets the requirements of §21570. If the EA finds the package meets the requirements of §21570, the application package shall be accepted and stamped with the date of acceptance. Notwithstanding any other provision of this division, the application package shall be deemed filed on the date of acceptance.
- (b) The EA shall either accept or reject the application package within thirty days of its receipt.
- (c) Within five days of filing, the EA shall notify CalRecycle, and the RWQCB if applicable, of its determination. The EA shall submit as its notification to CalRecycle a copy of the accepted application form. The EA shall also forward a copy of the application form to the RWQCB if applicable.
- (d) If the EA determines that the application package does not meet the requirements of §21570, it shall reject and not file the application, and it shall, within five days of determination, so notify the applicant, CalRecycle, and the RWQCB if applicable, enumerating the grounds for rejection. The EA shall include in its notification to CalRecycle a copy of the rejected application form. The application package, together with the notice of rejection, shall be kept in the EA's file.
- (e) After acceptance of an application for a new or revised full solid waste facilities permit as complete and correct and within 60 days of receipt of the application by the EA, the EA shall notice and conduct an informational meeting as required by §§21660.2 and 21660.3. For modified solid waste facilities permits, the EA shall provide notice as required by §21660.3 after finding the permit application complete and correct and within 60 days of receipt of the application by the EA.
- (f) Upon request of the applicant, the EA may accept an incomplete application package. As a condition of acceptance, the operator and the EA shall waive the statutory time limit contained in Public Resources Code §44009. [Section 21580 is the

section for processing the applicant's waiver of timeframes and timing for noticing and holding an informational meeting after the EA deems a previously submitted incomplete package to be complete.] The EA shall notify the applicant within 30 days if the applicant's request for review under this subsection has been accepted. If the application package does not conform with the requirements of §21570 within 180 days from the date of the EA agreeing to accept the package as incomplete the EA shall reject the application package, pursuant to ¶(d). If the EA finds the application package meets the requirements of §21570, the application package shall be accepted pursuant to ¶(c).

(g) No later than 60 days after the application package has been accepted as complete and correct and after conducting an informational meeting if required by §§21660.2 and 21660.3, the EA shall mail to CalRecycle the following:

(1) A copy of the proposed solid waste facilities permit;

(2) The accepted application package;

(3) A certification from the EA that the solid waste facilities permit application package is complete and correct, including a statement that the RFI meets the requirements of §21600, 14 CCR §§17863, 17863.4, 17346.5, 18221.6, 18223.5, or 18227.

(4) Documentation, if applicable, of the applicant's compliance with any RWQCB enforcement order or the status of the applicant's WDRs, as described in Public Resources Code §44009;

(5) Any written public comments received on a pending application and a summary of comments received at the informational meeting, responses to any public comments, and, where applicable, any other steps taken by the EA relative to those comments. Subsequent to the transmittal of the proposed solid waste facilities permit, the EA shall, within five (5) days of receipt, provide a copy of any additional written public comments and response to comments to CalRecycle.

(6) A solid waste facilities permit review report which has been prepared pursuant to §21675, within the last five years.

(7) EA finding that the proposed solid waste facilities permit is consistent with and is supported by existing CEQA analysis, or information regarding the progress toward CEQA compliance.

(h) At the time the EA submits the proposed solid waste facilities permit to CalRecycle, the EA shall submit a copy of the proposed solid waste facilities permit to the applicant, the RWQCB if applicable, and any person so requesting in writing. The copy of the proposed solid waste facilities permit provided to the applicant shall also be accompanied by a form for request for hearing, which the applicant may use to obtain a hearing before a hearing panel or hearing officer to challenge any condition in the solid waste facilities permit. In cases where a hearing panel or hearing officer may be

requested, the EA shall notify CalRecycle within seven days of being noticed by the operator.

(i) The proposed solid waste facilities permit shall contain the EA's conditions. The proposed solid waste facilities permit shall not contain conditions pertaining solely to air or water quality, nor shall the conditions conflict with conditions from WDRs issued by the RWQCB.

[The process to obtain a full solid waste facilities permit might not include the RWQCB if the facility is other than a landfill or disposal site. Therefore, EA submittals of forms and documents to the RWQCB will be made if applicable to the type of facility. When writing conditions pursuant to 21650(i) the EA shall take into consideration PRC §44012, which requires the EA to ensure that primary consideration is given to protecting public health and safety and preventing environmental damage, and the long-term protection of the environment. The EA may also take into consideration other permits, entitlements and approvals when writing terms and conditions (e.g., conditional use permit, zoning, Air Pollution Control District/Air Quality Management District permits to construct and operate, Department of Toxic Substances Control hazardous waste facility permit, Department of Fish and Wildlife permits, Coastal Commission approvals, Army Corps of Engineers permit, Federal Aviation Administration notification, and other required local and county ordinances/permits)]

Authority cited: Sections 40502 and 43020, Public Resources Code.

Reference: Sections 40055, 42652.5, and 43000-45802, Public Resources Code and Section 39730.6, Health and Safety Code,

Section 21655. CIWMB-Amendments to Application Package. [T14:Section 18202(b)(c)]

(a) If the EA determines that the amendment submitted pursuant to Section 21610 fundamentally alters the nature of the application, which requires evaluation, within twenty days of the filing of the amendment, the EA may deem the amendment a new application. This amendment will supersede the previous application and incorporating unamended portions of the previous application, in which case the time for the EA to act on the amendment shall be computed from the date of filing of the amendment. Any such determination by the EA shall be documented within five days of the determination by written notice to the applicant.

(b) If the amendment is submitted to the EA eleven days or more after the date the EA has stamped the package as received, the 30 day review period may be extended as long as the EA still complies with (a).

Authority cited: Sections 40502 and 43020, Public Resources Code.

Reference: Sections 43103, 44001-44006, Public Resources Code.

Section 21660. CIWMB-Public Notice and Informational Meeting Requirements

This Section discusses the requirements for giving public notice and conducting informational meetings as defined in Section 21563(d)(4) when an application for an RFI amendment, modified solid waste facilities permit, revised solid waste facilities permit, or new solid waste facilities permit is submitted to an EA for consideration. Because the processing time for RFI amendments is less than it is for permits, the noticing requirements for RFI amendments are addressed separately from modified, revised, and new solid waste facilities permits, which are addressed together. For new and revised full solid waste facilities permits there are additional requirements for conducting an informational meeting. Under (b) below is an index locator of the specific subsections of specific solid waste facilities permit applications.

(a) The following provisions shall be applied to applications for new solid waste facilities permits, revised and modified solid waste facilities permits, and RFI amendments.

(1) The EA shall maintain a current list of all pending applications at its offices. The list shall be publicly available during normal business hours.

(2) Within 5 days after the EA approves the RFI amendment and within 5 days from the EA receiving the application for new, revised, and modified permits, the EA shall mail written notice of the approval of the RFI amendment or written notice of the receipt of an application for a new, revised, or modified permit to every person who has submitted a written request for such notice.

(3) Written public comments on an application shall be retained by the EA.

(b) Specific provisions to the content of notices, distribution and publishing of notices, and informational meetings may be found in subsequent Sections as follows:

Content of Notice for RFI Amendment Applications—Section 21660.1(a)

Publication of Notice for RFI Amendment Applications—Section 21660.1(b)

Informational Meeting for New and Revised Full Solid Waste Facilities Permit Applications—Section 21660.2

Contents of Notice of New, Revised, and Modified Permit Applications and EA Conducted Informational Meeting—Section 21660.3(a)

Notice Distribution for New, Revised, and Modified Permit Applications and EA Conducted Informational Meeting—Section 21660.3(b)

Substitute Meetings in Place of EA-Conducted Informational Meetings—Section 21660.4

Content of Notice of New and Revised Full Permit Applications Using Substitute Meeting or Hearing—Section 21660.4(a)

Notice Distribution of New and Revised Full Permit Application Using Substituted Meeting or Hearing—Section 21660.4(b)

Authority cited: Sections 40502, 43020, and 43021, Public Resources Code.

Reference: Sections 43020, 43021, and 43000-45802, Public Resources Code.

Section 21660.1. Notice for RFI Amendment Applications

(a) Content of Notice for RFI Amendment Applications

At a minimum, the public notice prepared pursuant to Section 21660.1(b) for RFI amendment applications approved by the EA shall include the following information:

- (1) Name and location of facility applying for the RFI amendment.
- (2) Solid waste facilities permit/facility number.
- (3) Date RFI amendment application was received by the EA.
- (4) Description of the change proposed as an RFI amendment.
- (5) Date the EA approved the RFI amendment and the EA findings pursuant to Section 21665(c).
- (6) Information on the availability of appeals to challenge the EA's approval of the RFI amendment pursuant to Public Resources Code Section 44307.
- (7) Statement indicating where additional information about the approved application is available.
- (8) EA and operator contact information.

(b) Publication of Notice for RFI Amendment Applications

In addition to the EA requirements in Section 21660(a), the operator shall prepare within 5 days after the EA approves the application and post for at least 10 days a temporary notice at the facility entrance that meets the requirements of Section 21660.1(a); in addition the EA shall ensure that notices are distributed for RFI amendment applications as specified below that contain information pursuant to Section 21660.1(a). The publication (in hard copy or electronically) shall occur for at least 10 days at one or more of the following locations within 5 days after the EA approves the application:

- (1) Posting of notice prepared and posted by the EA on EA's or the Local Jurisdiction's public notice board, if one exists, or
- (2) Posting of notice prepared by the EA and posted by the operator on facility's web site, if one exists, or
- (3) Posting of notice prepared and posted by the EA on EA's web site, if one exists, or
- (4) Posting of notice prepared by the EA and posted by the Board on the Board's web site, provided that the Board receives a copy of the notice 3 days after the EA approves the application in order to allow the Board time for processing and posting of the notice.

Authority cited: Sections 40502, 43020, and 43021, Public Resources Code.

Reference: Sections 43103, 44004 and 44012, Public Resources Code.

Section 21660.2. Informational Meeting for New and Revised Full Solid Waste Facilities Permit Applications.

- (a) EA shall conduct an informational meeting for all new and revised full solid waste facilities permit applications as determined by §21665. The EA shall hold an informational meeting on an application for a new full solid waste facilities permit or an application for a full solid waste facilities permit revision required under this article. The EA may require the operator(s) of the facility or facilities that are the subject of the informational meeting to pay all costs incurred by the EA in connection with the meeting. The informational meeting may be combined with another public meeting in which the EA participates that meets the criteria as specified in §§21660.2(b) and 21660.2(c).
- (b) The informational meeting shall be held after acceptance of the application package as complete and correct by the EA and within 60 days of receipt of the application by the EA. The EA shall submit to CalRecycle a copy of the informational meeting notice at time of issuance. CalRecycle shall post the notice on its web site as a way to further inform the public.
- (c) The informational meeting shall meet the following criteria:
 - (1) The meeting shall be held in a suitable location not more than one (1) mile from the facility that is the subject of the meeting; if no suitable and available location exists within one (1) mile of the facility, as determined by the EA, the EA may designate an alternative suitable location that is as close to the facility and affected disadvantaged communities as reasonably practical.
 - (2) The meeting shall be held on a day and at a time that the EA determines will enable attendance by residents, especially those of affected disadvantaged communities, living in the vicinity of the facility that is the subject of the meeting.

(3) EAs may undertake additional measures to increase public notice and to encourage attendance by any persons who may be interested in the facility that is the subject of the meeting, which may include, but not be limited to, additional posting at the facility entrance, noticing beyond 300 feet if the nearest residence or business is not within 300 feet of the site, posting in a local newspaper of general circulation, and multilingual notice and translation and, multiple meeting dates, times and locations.

(d) The EA may substitute a previous public meeting or hearing for the requirements in this Section pursuant to §21660.4 if the applicant does not object.

(e) For the purposes of this section “affected disadvantaged communities” means communities identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code as disadvantaged that are located within one mile of the facility.

Authority cited: Sections 40502, 43020 and 43021, Public Resources Code.

Reference: Sections 42652.5, 43103, 43213, 44004, and 44012, Public Resources Code and Section 39730.6, Health and Safety Code.

Section 21660.3. Notice of New, Revised and Modified Permit Applications and EA-Conducted Informational Meeting.

(a) Contents of Notice of New, Revised and Modified Permit Applications and EA-Conducted Informational Meeting. The public notice prepared pursuant to Section 21660.3(b) for new, revised or modified solid waste facilities permit applications shall include the following information:

- (1) Name and location of the facility or proposed facility.
- (2) Solid waste facilities permit/facility number (for existing permits).
- (3) Purpose of the public informational meeting for new and revised full permits.
- (4) Date the EA accepted the solid waste facilities permit modification/revision/new permit application.
- (5) Description of the solid waste facilities permit modification/revision(s)/new permit.
- (6) EA's preliminary determination pursuant to Section 21665 for modified and revised permits.
- (7) Statement indicating where additional information about the application is available (date, time, and location) for public review.
- (8) Date, time location of the public informational meeting for new and revised full permits.

(9) Options for submitting comments.

(10) Information on the availability of appeals to challenge the EA's issuance of denial of a modified, revised, or new permit pursuant to Public Resources Code Section 44307.

(11) EA and operator contact information.

(b) Notice Distribution for New, Revised and Modified Permit Applications and EA-Conducted Informational Meeting. In addition to the requirements in Section 21660(a) the EA shall prepare a meeting notice that contains information pursuant to Section 21660.3(a) and distribute the notice as follows:

(1) Posting of notice prepared and posted by the EA on the EA's or the local jurisdiction's public notice board, if one exists, and

(2)

(A) For new, revised and modified full permits, the EA shall post the notice in the manner set forth in Government Code Section 65091, subdivisions (a)-(c), inclusive and with Public Resources Code Section 44004, subdivisions (h)(1)(A-C). The EA shall post the notice after finding the permit application complete and correct and within 60 days of receipt of the application by the EA pursuant to Section 21650.

(B) For new registration and standardized permits, the EA shall post the notice in the manner set forth in Government Code Section 65091, subdivisions (a)-(c), inclusive and with Public Resources Code Section 44004, subdivisions (h)(1)(A-C), except the EA shall post the notice within 5 days after finding the permit application complete and correct pursuant to Section 18104.2 for registration and Section 18105.2 for standardized.

(3) For new and revised full permits, the EA shall mail or deliver the notice 10 days prior to the date of the informational meeting to the governing body of the jurisdiction within which the facility is located and to the State Assembly Member and the State Senator in whose districts the facility is located.

(4) The EA may undertake additional measures to increase public notice and, for new and revised full permits, to encourage attendance by any persons who may be interested in the facility that is the subject of the informational meeting. These additional measures include but are not limited to additional posting at the facility entrance, noticing beyond 300 feet if the nearest residence or business is not within 300 feet of the site, posting in a local newspaper of general circulation, and multilingual notice and translation, and multiple meeting dates, times and locations.

Authority cited: Sections 40502, 43020, and 43021, Public Resources Code.

Reference: Sections 43103, 44004, and 44012, Public Resources Code.

Section 21660.4. Substitute Meetings in Place of EA-Conducted Informational Meetings.

The EA may substitute the meeting required under Section 21660.2 with a previously held public meeting on the same project, as described in the solid waste facilities permit application package and associated CEQA documents, if the public meeting took place within one year prior to the date the EA accepted the application as complete and correct, and the applicant does not object. In order for this substitution to be valid, the EA must have been involved in the previously held meeting to the degree of being present, recognized by the presider of the meeting, and available to answer questions regarding solid waste facilities permitting specifications from the public, other entities, or officials in attendance at the meeting.

(a) Content of Notice of New and Revised Full Permit Applications Using Substituted Meeting or Hearing

When a previously held public meeting is to be used to substitute for the meeting requirements in Section 21660.2 the EA shall prepare and distribute a notice pursuant to Section 21660.4(b) regarding the application for a new or revised full solid waste facilities permit as follows:

- (1) Name and location of the facility or proposed facility.
- (2) Solid waste facilities permit/facility number (for existing permits).
- (3) Date and purpose of previously held public informational meeting.
- (4) Date the EA accepted the solid waste facilities permit revision/new full permit application.
- (5) Description of the solid waste facilities permit revision(s)/new full permit.
- (6) EA's preliminary determination pursuant to Section 21665.
- (7) Statement indicating where additional information about the application is available (date, time, and location) for public review.
- (8) Options for submitting comments.
- (9) Information on the availability of appeals to challenge the EA's issuance of denial of a revised or new permit pursuant to Public Resources Code Section 44307.
- (10) EA and operator contact information.

(b) Notice Distribution for New and Revised Full Permit Application for Substituted Meeting or Hearing

In addition to the requirements in Section 21660(a) the EA shall prepare a notice that contains information pursuant to Section 21660.4(a) and distribute the notice as follows:

- (1) Posting of notice prepared and posted by the EA on the EA's or the local jurisdiction's public notice board, if one exists, and
- (2) 10 days prior to the EA making a final determination, the EA shall post the notice in the manner set forth in Government Code Section 65091, subdivisions (a)-(c), inclusive and with Public Resources Code Section 44004, subdivisions (h)(1)(A-C), and
- (3) 10 days prior to the EA making a final determination, the EA shall mail or deliver the notice to the governing body of the jurisdiction within which the facility is located and to the State Assembly Member and State Senator in whose districts the facility is located, and
- (4) The EA may undertake additional measures to increase public notice to any persons who may be interested in the application, including but not limited to additional posting at the facility entrance, noticing beyond 300 feet if the nearest residence or business is not within 300 feet of the site, posting in a local newspaper of general circulations, and multilingual notice.

Authority cited: Sections 40502, 43020, and 43021, Public Resources Code.

Reference: Sections 43103, 44004, and 44012, Public Resources Code.

Section 21663. CIWMB--Issuance of Solid Waste Facilities Permit. (T14:Section 18208)

(a) Upon compliance with the CEQA and this article, and upon the concurrence of the CIWMB for new and revised solid waste facilities permits, and the Executive Director of the CIWMB for modified solid waste facilities permits, the EA shall issue the solid waste facilities permit as provided in Public Resources Code Section 44014. The solid waste facilities permit shall specify the person authorized to operate the facility and the boundaries of the facility. The solid waste facilities permit shall contain such conditions as are necessary to specify a design and operation for which the applicant has demonstrated in the proceedings before the EA the ability to control the adverse environmental effects of the facility.

(1) As used herein, "design" means the layout of the facility (including numbers and types of fixed structures), total volumetric capacity of a disposal site [or total throughput rate of a transfer/processing station, transformation facility, or composting facility] vehicular traffic flow, and patterns surrounding and within the facility, proposed contouring, and other factors that may be considered a part of the facility's physical configuration.

(2) As used herein, "operation" means the procedures, personnel, and equipment utilized to receive, handle and dispose of solid wastes and to control the effects of the facility on the environment.

Authority cited: Sections 40502 and 43020, Public Resources Code.

Reference: Sections 43103, 44021, and 44014, Public Resources Code.

**Section 21665. CIWMB--Processing Proposed Changes at Solid Waste Facility.
(new)**

(a) The applicant shall submit an application package pursuant to Sections 21570 and 21600, or 14 CCR Sections 18221.6, 18223.5, 18227, or 17863.4 to the EA. The submittal shall contain only those items listed in Section 21570(f) that have changed, are proposed for change or as otherwise specified by the EA.

(b) The EA shall review the applicant's proposed change to determine if such a change qualifies as an amendment(s) to the RFI or is the basis for changes in the solid waste facilities permit in which case the EA shall determine if the proposed change will require a solid waste facilities permit modification or a solid waste facilities permit revision pursuant to the provisions provided in Section 21665 (c), (d), and (e) as follows:

(1) RFI Amendment(s) ¶ (c)

(2) Modified Solid Waste Facilities Permit ¶ (d)

(3) Revised Solid Waste Facilities Permit ¶ (e)

(c) RFI Amendment(s)--The EA may approve and file the proposed change as an amendment(s) to the RFI without revising or modifying the solid waste facilities permit if all of the following criteria are met:

(1) the EA finds that the proposed change is consistent with all applicable certified and/or adopted CEQA documents in that no subsequent EIR or Negative Declaration or supplemental EIR is warranted pursuant to Title 14, Chapter 3, Article 11, Sections 15162 or 15163, or if the EA finds the change being requested is exempt from the requirements of CEQA pursuant to Title 14, Chapter 3, Article 5, Sections 15060 and 15061;

(2) the EA has deemed the proposed change acceptable and consistent with, but not limited to, State minimum standards pursuant to Chapter 3 of this subdivision or applicable minimum standards in Title 14 (commencing with Section 17200), and including financial assurances and operating liability criteria pursuant to Chapter 6 of this subdivision if applicable; and

(3) the EA finds the changes do not conflict with the terms and conditions in the current solid waste facilities permit.

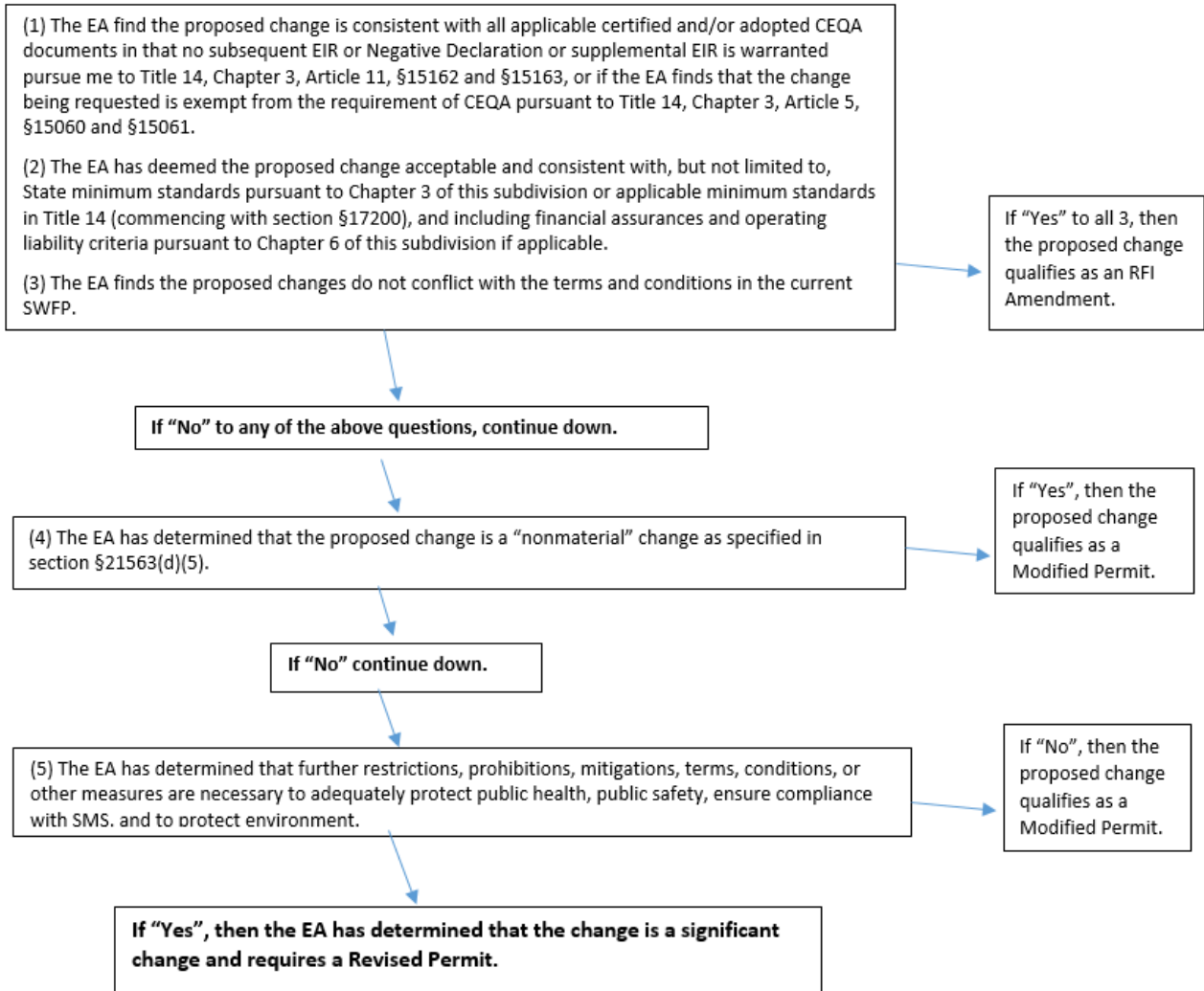
(d) Modified Solid Waste Facilities Permit--The EA may determine that the proposed change qualifies as a modified solid waste facilities permit if the proposed change does not meet all the criteria specified under (c) and meets either of the following criteria:

(1) the EA determines that the proposed change is a nonmaterial change as specified in Section 21563(d)(5), or

(2) the EA determines that the proposed change is such that the solid waste facilities permit does not need to include further restrictions, prohibitions, mitigations, terms, conditions or other measures to adequately protect public health, public safety, ensure compliance with State minimum standards or to protect the environment.

(e) Revised Solid Waste Facilities Permit--The EA shall determine that the proposed change is a significant change as defined in Section 21563(d)(6) and requires a revised solid waste facilities permit if the proposed change does not meet the criteria for an RFI Amendment as specified under (c) or a modified solid waste facilities permit as specified under (d).

To help the affected public more readily understand the process used by the EA to determine whether a proposed change qualifies as an RFI amendment, modified solid waste facilities permit, or revised solid waste facilities permit, a decision tree is provided below; this diagram does not supplant any of these regulations:



Authority cited: Sections 40502, 43020, and 43021, Public Resources Code.

Reference: Sections 43103, 44004 and 44012, Public Resources Code.

Section 21666. CIWMB-Processing Report of Facility Information (RFI) Amendment(s).

(a) The EA shall determine if the RFI amendment(s) meet the requirements of Section 21665(c) within 30 days of receipt and either accept or reject some or all of the amendments(s).

(b) Within 5 days of acceptance for filing of the RFI amendments application package, the EA shall notify the operator, the CIWMB and the RWQCB, if applicable, of its determination. The EA shall include in their notification to the CIWMB, a copy of the accepted RFI amendment(s), and a copy of the application form specified in Section 21570 along with the EA determination specified in (a).

[Submittal of an Application Form in Section 21666 is for tracking purposes.]

(c) In cases where some or all of the amendment(s) do not follow the criteria set in Section 21665(c), the EA may either require the operator to submit an application for a modified or revised solid waste facilities permit pursuant to Section 21570, or deny the proposed amendment(s), in which case the applicant shall have thirty (30) days within which to appeal the decision to the hearing panel.

Authority cited: Sections 40502 and 43200, Public Resources Code.

Reference: Sections 43103, 44012 and 44014, Public Resources Code.

Section 21670. CIWMB--Change of Owner Operator, and/or Address. (T14:Section 18216 and 18217)

(a) The EA shall review the submitted notification prescribed in Section 21630 and any available records to determine if the current and anticipated operators/owners have provided the required information and that the facility is and will be able to operate within the terms and conditions of their permit and RFI. If the anticipated operator/owner has satisfied all of the requirements and the EA has obtained a written confirmation from the CIWMB that the anticipated owner/operator has complied with PRC Section 43040 and Section 43600, the EA shall notify the operator and CIWMB within 30 days of receipt of the notification. Then, the EA has 15 days (from informing the operator and CIWMB that the notification was adequate) to send the operator and CIWMB a copy of the changed permit, to reflect the changes in the name of the owner, operator and / or facility name. This Section does not authorize the EA to change any other aspect of the SWFP, including the issuance date or permit review date.

(b) If the EA determines that the operator/owner has not provided adequate documentation or if the EA has reason to believe that the anticipated operator or owner will be operating outside the terms and conditions of the governing SWFP, the EA shall inform the operator and the CIWMB, in writing, within 30 days of receipt of the notification. The EA shall provide the basis for the notification being determined inadequate.

(c) Any information provided pursuant to (a) shall not be a matter of public record and shall be considered confidential until such time as the owner's encumbering, selling, transferring, or conveying of the property, occurs.

(d) This action will not take the place of a permit review or revision pursuant to Sections 21620 or 21640.

(e) Every operator of a solid waste facility, and every owner of property on which a facility is located shall notify the EA and the CIWMB of each change of address. The EA shall keep this information on file.

Authority cited: Sections 40502, 43020, and 43021, Public Resources Code.

Reference: Sections 6255, Government Code; and Sections 43020, 43021, 43103 and 43000 45802, Public Resources Code.

Section 21675. CIWMB--Review of Solid Waste Facilities Permits. (T14:Section 18213)

(a) Except as provided in Section 21680, all full solid waste facilities permits shall be reviewed and if necessary modified or revised, from the date of last issuance at least once every five years. The EA shall give the operator notice of the five year review no less than 180 days before it is due.

(b) The EA shall review the operator's submittal in accordance with Section 21640 and prepare a solid waste facilities permit review report.

(1) The solid waste facilities permit review report shall include documentation that the following have been reviewed: the operator's submittal pursuant to Section 21640(b), the current solid waste facilities permit and conditioning documents, all RFI amendments since the last solid waste facilities permit review, the CEQA, and any other information in the record to identify any changes.

(2) The solid waste facilities permit review report shall determine any actions required by the operator. A copy of the solid waste facilities permit review report shall be submitted to the CIWMB within 150 days from receipt of the application for solid waste facilities permit review.

Authority cited: Sections 40502 and 43020, Public Resources Code.

Reference: Section 43103 and 44015, Public Resources Code.

Article 3.1. CalRecycle- CalRecycle Requirements

Section 21680. CIWMB-Reinstatement of Suspended and Revoked Permits. (T14:Section 18212)

(a) If a permit has been suspended, it is reinstated without further action on the date specified in the suspension or upon completion of specified acts. A suspended permit shall be due for review five years after its original issuance or last review or revision, including the period of suspension.

(b) If a permit has been revoked, it may be reinstated by application, no less than one year after the effective date of the revocation and no less than one year after any similar application. Such an application shall be made in the manner specified in Section 21570 and shall be handled in the same manner as an application for a new permit; however, nothing in this Section is intended to prevent the EA, hearing panel or hearing officer, or CIWMB from considering the revocation and grounds therefor in reviewing the

application. A permit reinstated after revocation shall be due for review five years after its reinstatement.

(c) No less than one year after the effective date of the revocation and no less than one year after any similar petition, a person whose permit has been revoked may petition the EA for reduction of the penalty. If the petition is denied, the person is entitled to a hearing before the hearing panel or hearing officer.

[Comment: Suspension of a permit is a punitive or remedial action not intended to deprive the permit holder indefinitely of the right to operate. Revocation of a permit, a more severe action, closes the facility for at least one year, at the end of which the holder of the revoked permit may apply for reinstatement in the same manner as one applies for a permit for a new facility.]

Authority cited: Sections 40502 and 43020, Public Resources Code.

Reference: Sections 43103, 44500-44503 and 44817, Public Resources Code.

Section 21685. CalRecycle--Proposed Solid Waste Facilities Permit; CalRecycle Processing Requirements.

(a) CalRecycle shall stamp the proposed solid waste facilities permit with the date of receipt at the time the envelope is opened. CalRecycle shall consider each proposed solid waste facilities permit, any public testimony, and comments. Written comments may be submitted to CalRecycle and will become part of CalRecycle record. Such written comments shall be made available to the EA.

(b) CalRecycle shall not concur in issuance of the proposed solid waste facilities permit for new and revised solid waste facilities permits, and the Executive Director of CalRecycle for modified solid waste facilities permits, if the following information, if applicable, has not been submitted to the EA and CalRecycle pursuant to Public Resources Code Section 44009:

- (1) Complete and correct Report of Facility Information as certified by the EA,
- (2) EA's Solid Waste Facilities Permit Review Report pursuant to Section 21675,
- (3) EA's proposed solid waste facilities permit written pursuant to this Subchapter.
- (4)

(A) Information that the facility is identified and described in or conforms with the County Solid Waste Management Plan (Public Resources Code Section 50000); and that the facility is consistent with the city or county General Plan and compatible with surrounding land use, in accordance with Public Resources Code Section 50000.5; or

(B) After a countywide or regional agency integrated waste management plan has been approved by CalRecycle, the EA's finding that the facility has met the requirements of Public Resources Code Section 50001.

(5) Documentation sufficient for CalRecycle to deem that a Preliminary or Final Closure/Postclosure Maintenance Plan is consistent with closure and postclosure maintenance state minimum standards (including, but not limited to, Chapters 3 and 4) for those portions of the plan subject to CalRecycle jurisdiction, if applicable;

(6) For disposal sites, a copy of the most recently submitted detailed written estimate or latest approved estimate, whichever identifies the greatest cost, to cover the cost of known or reasonably foreseeable corrective action activities, pursuant to Section 22101.

(i) For closure plans submitted as part of a JTD, the determination whether the plans are consistent with state minimum standards shall be made within 60 days of the plans being considered complete pursuant to Section 21860(c).

(ii) This preliminary determination shall constitute the staff recommendation for the Board consideration of concurrence with a solid waste facilities permit unless the application package, of which the JTD was a part, is amended or modified.

(iii) This determination is solely for the Board consideration of concurrence with a solid waste facilities permit and does not constitute any final determination for the closure plans review process pursuant to Section 21860.

(7)

(A) Current documentation of acceptable funding levels for required closure, postclosure maintenance, and corrective action Financial Assurances Documentation in accordance with Chapter 6, if applicable; and

(B) Current documentation of compliance with Operating Liability Requirements, if applicable (Chapter 6).

(8) CalRecycle shall ensure the facility is operating consistent with State Minimum Standards, pursuant to Subchapter 4 of Chapter 3 of this subdivision or applicable minimum standards in Title 14 (Section 17200 et seq.),

(9) The EA finding that existing CEQA documentation is consistent with and supports the proposed solid waste facilities permit and RFI or supporting information indicating the EA has found that approval of the proposed solid waste facilities permit would not lead to any adverse environmental impacts and is exempt from the requirements of CEQA.

(c) CalRecycle, with respect to new and revised solid waste facilities permits, and the Executive Director of CalRecycle, with respect to modified solid waste facilities permits, shall either concur or object to the issuance of the proposed solid waste facilities permit within sixty days of receipt, except as authorized by Public Resources Code Section

44009, or by operator's consent. If CalRecycle or Executive Director objects to a proposed solid waste facilities permit, it shall accompany its objection with an explanation of its action, which may suggest conditions or other amendments that may render the proposed solid waste facilities permit unobjectionable; however, such suggestions do not constitute approval of the proposed permit subject to incorporation of the suggestions. The Executive Director shall report to CalRecycle on his or her concurrence or denial of modified permits at its next regularly scheduled meeting or via a memo, and post this information on CalRecycle's web site.

(d) For the purposes of CalRecycle's determination to concur in or to object to a proposed permit pursuant to (c) above, a facility that has landfill decomposition gases exceeding the compliance levels in Section 20919.5 or 20921, or at which a hazard or nuisance may exist pursuant to Section 20919, shall be considered to be consistent with State Minimum Standards specified in Sections 20919, 20919.5, and 20921 for purposes of (b)(8) of this Section if all of the following requirements have been satisfied with respect to the facility (for the purpose of this SubSection, "facility" includes "disposal site"):

(1) The operator shall have delivered all notices to the EA and owner as required by Sections 20919, 20919.5, and 20937 as applicable.

(A) The site-specific compliance level applicable to the facility shall be lesser of that specified in (i) the facility's JTD/RFI, closure and postclosure maintenance plans, or the permit for the facility, or (ii) shall be the levels specified in Sections 20919.5 or 20921, as applicable.

(B) The facility's compliance boundary for landfill decomposition gas migration shall be the permitted facility boundary or other alternate boundary within the permitted facility boundary approved by the EA.

(2) The EA shall have forwarded to CalRecycle all notifications received pursuant to (d)(1) above.

(3) Landfill gas monitoring has been and is being conducted at least monthly, at a minimum, after notice to the EA and shall continue until the operator has complied with the enforcement order issued pursuant to (d)(6) below.

(4) The EA has determined that landfill gas decomposition gas generated by the facility does not constitute an imminent and substantial threat to public health and safety or the environment.

(A) For purposes of this Section, an imminent and substantial threat to public health and safety or the environment is defined as a condition which is creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate the harm to persons, property, natural resources, or the public health or safety.

(5) The EA has determined that to come into compliance with Sections 20919, 20919.5, and 20921 it will take the operator longer than 90 days due to the time it takes to plan and implement appropriate corrective measures.

(6) The facility is operating under an enforcement order issued to the operator and which meets all of the following requirements:

(A) The order was issued pursuant to 14 CCR Section 18304.1(a)(3) and includes a compliance schedule for bringing the facility into compliance with Sections 20919, 20919.5, and 20921.

(B) A final order has been issued pursuant to 14 CCR Section 18304.2.

(C) A copy of the proposed order and any amended order proposed by the EA was provided to CalRecycle for review and comment prior to its issuance.

(7) The EA has reviewed and approved and CalRecycle has reviewed all investigation reports or results, proposed workplans, or proposed gas mitigation measures submitted pursuant to the enforcement order issued pursuant to (d)(6).

(A) If possible, all parties shall mutually agree to time frames for EA and CalRecycle review of the submitted documents so that all reviews can be completed expeditiously. In the event agreement cannot be reached, the EA and CalRecycle shall determine the schedules for their review.

(8) The operator is in compliance with the approved gas mitigation measures or workplan approved by the EA and specified in the enforcement order.

(A) If the operator fails to comply with the enforcement order, the EA shall, as necessary and appropriate:

(i) Take additional enforcement action, which may include the imposition of administrative civil penalties in an amount from one hundred dollars (\$100) up to five thousand dollars (\$5,000) for each day on which a violation occurs pursuant to Section 45011 of the Public Resources Code, or

(ii) Take direct cleanup action pursuant to an appropriate enforcement order.

(B) If the EA fails to take appropriate enforcement action as specified in 14 CCR Section 18084(d), CalRecycle may take enforcement action pursuant to 14 CCR Section 18350.

(C) If CalRecycle takes enforcement action in lieu of the EA, any required public hearing shall be conducted by CalRecycle Executive Director or his/her designee.

(9) For facilities that propose a facility property boundary expansion, a footprint expansion, or any other increase in facility capacity as part of the permit application, investigations or analyses respecting and fill decomposition gases at the facility must have been conducted by the operator prior to the submittal of the permit application to

the EA and the results of such investigations and analyses shall be submitted to the EA, CalRecycle, RWQCB, APCD/AQMD, and any other appropriate agency prior to or concurrent with the permit application:

(A) The investigations or analyses shall evaluate:

(i) Whether the proposed expansion may increase the magnitude or complexity of the noncompliance with Sections 20919, 20919.5, and 20921.

(ii) Whether the proposed expansion may cause potential impacts to water quality and air quality or other impacts outside the jurisdiction of the EA.

(B) If the results of the investigations and analyses conducted pursuant to (d)(9)(A)(i) warrant, the operator shall include an analysis and additional feasible control measures as part of the gas mitigation measures or workplan specified in the order required by (d)(6)

(e) If an applicant or enforcement agency requests that revisions, additions or amendments be considered, these will be considered in accordance with the conditions specified in Section 21580 and (f) of Section 21650 respectively.

Authority cited: Sections 40502 and 43020, Public Resources Code.

Reference: Sections 43103, 44007-44010, and 44014, Public Resources Code.

Section 21686. CIWMB-Change in Owner/Operator and/or Address. (new)

Within 20 days of receipt of the notification pursuant to Section 21630, the CIWMB shall provide a written determination of the adequacy of the financial assurances and operating liability.

Authority cited: Sections 40502 and 43020, Public Resources Code.

Reference: Sections 43103, 44007-44010, and 44014, Public Resources Code.

Article 3.2. CIWMB-Other Requirements

Section 21690. CIWMB-Report of Woodwaste Disposal Site Information.

Section 21695. CalRecycle-Organic Disposal Reduction Status Impact Report.

(a) Operators of a solid waste landfills shall submit a Status Impact Report (SIR) to CalRecycle that provides an analysis of the potential impacts to the landfill resulting from the implementation of the organic disposal reduction requirements of Public Resources Code §Section 42652.5.

(b) The SIR shall be prepared by a California licensed civil engineer or licensed engineering geologist.

(c) The SIR shall describe the potential impacts to the landfill including the expected timing of the impacts. The analysis shall include, but not be limited to, changes to the following:

(1) Site development;

(2) Waste types/volumes;

(3) Daily and intermediate cover and beneficial use:

(A) For intermediate cover the analysis shall also include:

1. A description and/or map of the area(s) that have or will have intermediate cover.

2. The length of time that the intermediate cover has been used and expected time that it will be used for each defined area.

3. A description of how the intermediate cover will be maintained to continue to meet the control criteria of Section 20700(a).

4. Information on all instantaneous surface readings for methane of 500 ppmv or greater in the area(s) of intermediate cover that has or will be in place for more than 12 months.

i. This information shall be as reflected in the most recent annual report filed pursuant to 17 CCR Section 95470(b)(3).

ii. The location of each such exceedance shall be identified consistent with the monitoring requirements of 17 CCR Section 95469(a)(1)(A).

(4) Volumetric capacity based on the disposal site experiencing a reduction of organic waste disposal of 50 percent by 2020 and 75 percent by 2025;

(5) Waste handling methods;

(6) Gas control and monitoring systems;

(7) Gas generation;

(8) Operation and closure design (individual cells and overall site geometry);

(9) Final grading plan;

(10) Site life estimate;

(11) Ancillary facilities;

(12) Cost estimates for closure and postclosure; and

(13) Financial assurance mechanisms for closure, postclosure, and non-water corrective action requirements.

(d) The SIR shall be submitted to CalRecycle no later than one year (365 days) from the effective date of this regulation.

(e) Within 30 days of receipt of a SIR, CalRecycle shall make a determination as to the completeness of the SIR based on the requirements of Subdivisions (b) and (c). If a SIR is determined to be incomplete, CalRecycle shall provide to the operator, in writing, the reasons for the determination.

(f) For a SIR determined to be incomplete, the operator shall submit a revised SIR addressing any enumerated deficiencies within 30 days of receipt of notice from CalRecycle of an incomplete SIR.

(g) Within 60 days of a determination of completeness, CalRecycle shall submit its findings to the EA regarding amendments, if any, to the Joint Technical Document as a result of the SIR.

(1) If amendments are required, the EA shall direct the operator to submit an updated Joint Technical Document including updated closure and postclosure maintenance plans that includes the information from the SIR.

(2) The EA shall notify the operator within 30 days of receipt of CalRecycle's findings.

(h) Within 120 days of being directed by the EA, pursuant to Subdivision (g), the operator shall submit to the EA an updated Joint Technical Document including updated closure and postclosure maintenance plans that includes the information from the SIR.

Authority cited: Sections 40002, 40502 and 43020, Public Resources Code.

Reference: Sections 42652.5, 43103 and 44015, Public Resources Code, and Section 39730.6, Health and Safety Code.

Article 4. SWRCB Development of Waste Discharge Requirements (WDRs)

Section 21710. SWRCB Report Of Waste Discharge (ROWD) and Other Reporting Requirements. [C15: Section 2590]

(a) General Any person discharging or proposing to discharge solid waste to land where water quality could be affected as a result of such discharge shall submit to the RWQCB a report of waste discharge (ROWD), unless the report is waived by the RWQCB;

nevertheless, the RWQCB shall not waive the report for any MSW landfill subject to regulation under SWRCB Resolution No. 93-62. After July 18, 1997, any person proposing to discharge solid waste at a waste management unit (Unit) that is subject to regulation by both the CIWMB/EA and the RWQCB shall make all ROWD submittals (including updates to a previously submitted ROWD) in the form of a Joint Technical Document (JTD), as provided in Section 21585. After July 18, 1997, this reporting requirement also applies to the expansion of the RWQCB-Permitted Area of a new or existing Unit and to the development of new Units at an existing facility. Dischargers shall submit any applicable information required by this article to the RWQCB upon request. Dischargers shall provide information on waste characteristics, geologic and climatologic characteristics of the Unit and the surrounding region, installed features, operation plans for waste containment, precipitation and drainage controls, and closure and post closure maintenance plans as set forth in Sections 21740, 21750, 21760, and 21769. For non-MSW Class III landfills, the RWQCB can waive the submittal of information it deems unnecessary to rendering a decision on the issuance of appropriate WDRs.

(1) [Reserved.]

(2) Final Closure/Post-Closure Plan For Class II and III Units, a Final Closure and Post Closure Maintenance Plan shall be submitted with the closure notice required by (c)(5), unless, for landfill Units, the CIWMB requires submittal at an earlier date.

(3) Waiving Post-Closure Maintenance The RWQCB can waive the post closure portion of the report if the discharger successfully completes clean-closure pursuant to Section 21090(f) [for landfills], Section 21400(b)(1) [for surface impoundments], or Section 21410(a)(1) [for waste piles], or if the RWQCB finds that post closure maintenance is not necessary to prevent adverse impacts on waters of the state; provided that the RWQCB shall not waive post-closure maintenance for an MSW landfill subject to SWRCB Resolution No. 93-62 unless the Unit has been clean-closed. [see also Section 21900 for corresponding CIWMB requirements.]

(4) Notification of Change —The discharger shall notify the RWQCB of changes in information submitted under the applicable SWRCB-promulgated requirements of this division, including any material change in: the types, quantities, or concentrations of wastes discharged; site operations and features; or proposed closure procedures, including changes in cost estimates. The discharger shall notify the RWQCB a reasonable time before the changes are made or become effective. No changes shall be made without RWQCB approval following authorization for closure pursuant to the site closure notice required by (c)(5).

(5) Construction Quality Assurance Plan (CQA Plan).

(A) Submittal (new Units) For Units constructed (or reconstructed) after July 18, 1997, the discharger shall submit a preliminary CQA Plan as an integral or separable part of the initial ROWD/JTD under (a). The discharger shall make such changes to the CQA Plan as may be necessary to maintain continued compliance with Sections 20323 and

20324 (e.g., in the event of design changes, or as directed by the RWQCB). For a revised CQA Plan, the discharger shall submit the revised portions of the plan at least two weeks before beginning construction of any liner system or cover system.

(B) Submittal (existing Units) For existing Units that do not have a CQA Plan meeting all the foregoing requirements, the discharger shall submit such a plan, or submit suitable modifications to an existing plan, prior to constructing, installing, or modifying any engineered feature at the Unit. In the absence of such construction, installation, or modification, the discharger shall make this submittal as part of whichever of the following documents is submitted first:

(i) the final closure and post-closure plan under (a)(2); or

(ii) in the event that a release is discovered, as part of the proposed corrective action program under Section 20425(d).

(b) ROWD/WDR Out-Of-Date or Nonexistent Dischargers who own or operate a new or existing Unit which has not been classified under previous versions of these regulations, or for which the discharger has not submitted a report of waste discharge (ROWD) before July 18, 1997, shall notify the RWQCB of the existence of their Unit prior to July 18, 1998, and shall submit a ROWD which complies with (a) before July 18, 1999, together with the appropriate filing fee. Dischargers who own or operate an existing Unit for which WDRs were last revised before November 27, 1984, shall submit a ROWD which complies with (a) to the RWQCB, together with the appropriate filing fee, on request.

(c) Notification.

(1) Change of Ownership The discharger shall notify the RWQCB in writing of any proposed change of ownership or responsibility for construction, operation, closure, or post closure maintenance of a Unit. This notification shall be given prior to the effective date of the change and shall include a statement by the new discharger that construction, operation, closure, and post closure maintenance will be in compliance with any existing WDRs and any revisions thereof. The RWQCB shall amend the existing WDRs to name the new discharger.

(2) Response to Failure The discharger shall promptly notify the RWQCB of any slope failure, occurring at the Unit. The discharger shall promptly correct any failure which threatens the integrity of containment features or the Unit, after approval of the method, in accordance with a schedule established by the RWQCB.

(3) Leachate Production Change Notification The discharger shall notify the RWQCB within seven days if fluid is detected in a previously dry leachate collection and removal system or unsaturated zone monitoring system, or if a progressive increase is detected in the volume of fluid in a leachate collection and removal system.

(4) Monitoring Reports and Notifications The discharger shall comply with the notification (and other submittal) requirements in Article 1, Subchapter 3, Chapter 3 of this division (Section 20380 et seq.).

(5) Notification of Closure.

(A) Landfills For landfills subject to the CIWMB-promulgated regulations of this division, the discharger shall notify the RWQCB that the Unit is to be closed, and shall provide such notice either at the same time as for the CIWMB, under Section 21110, or 180 days prior to beginning any final closure activities (for the entire Unit or portion thereof), whichever is sooner.

(B) Other Units For Units not subject to the CIWMB-promulgated regulations of this division, the discharger shall notify the RWQCB of Units to be closed at least 180 days prior to beginning any final closure activities, unless the RWQCB specifies a shorter interval in the WDRs for such a Unit.

(C) Affirmation The notice provided pursuant to (c)(5)(A or B) shall include a statement that all closure activities will conform to the most recently approved closure plan and that the plan provides for site closure in compliance with all applicable federal and state regulations.

(6) Closure Completion Notice The owner or operator of a Unit shall notify the RWQCB within 30 days after the completion of all closure activities for a Unit [or portion thereof, in the case of a landfill undergoing incremental closure under Section 21090(b)(1)(D)]. The discharger shall certify under penalty of perjury that all closure activities were performed in accordance with the most recently approved final closure plan and in accordance with all applicable regulations. The discharger shall certify that closed Units shall be maintained in accordance with an approved post closure maintenance plan unless post closure maintenance has been waived pursuant to (a)(3).

(d) Appropriate Professional Any report submitted under this Section or any amendment or revision thereto which proposes a design or design change (or which notes occurrences) that might affect a Unit's containment features or monitoring systems shall be approved by a registered civil engineer or a certified engineering geologist.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, 13260 and 13267, Water Code; Section 43103, Public Resources Code.

Section 21720. SWRCB Waste Discharge Requirements (WDRs). (C15: Section 2591)

(a) WDR Scope & Purpose The RWQCB shall adopt waste discharge requirements (WDRs) that implement the applicable provisions of this title.

(b) WDR Revision The RWQCB shall revise WDRs as necessary to implement the provisions of this title.

(c) Reclassification Unit classifications and WDRs for existing Units shall be fully reviewed in accordance with schedules established by the RWQCB. The WDRs shall be revised to incorporate reclassification and retrofitting requirements as provided in Section 20080(e) and Section 20310, and to comply with applicable monitoring and response programs required under Article 1, Subchapter 3, Chapter 3 of this division (Section 20380 et seq.). The RWQCB shall specify in WDRs the schedule for retrofitting of existing Units. All retrofitting shall be complete within five years from the issuance of the revised WDRs.

(d) Local Agencies WDRs for new Units or for expansion of Units beyond the RWQCB Permitted Area on July 18, 1997, shall not be effective until the RWQCB is notified that all local agencies with jurisdiction to regulate land use, solid waste disposal, air pollution, and to protect public health have approved use of the site for discharges of waste to land.

(e) Consolidation of Requirements at Multi-Unit Facilities At the discretion of the RWQCB, WDRs for all Units in a single facility can be combined into a single set of WDRs applicable to the facility as a whole and to each respective Unit within the facility, but only if the requirements that apply to each respective Unit are clearly identified. Likewise, the RWQCB can consolidate the requirements relating to precipitation and drainage control systems for two or more adjacent Units, provided that such consolidated requirements reflect standards for the highest classification of Unit involved. Each solid waste Unit at a facility shall have its own respective monitoring program(s) under Article 1, Subchapter 3, Chapter 3 of this division (Section 20380 et seq.); nevertheless, Units can share Monitoring Points, Background Monitoring Points, sampling efforts, and reporting periods to the degree that the RWQCB concurs that such sharing does not interfere with achieving the goal of the monitoring program(s) at each respective Unit.

(f) Records The discharger shall be required to maintain legible records of the volume and type of each waste discharged at each Unit and the manner and (for Units other than surface impoundments) location of discharge. Such records shall be on forms approved by the SWRCB or RWQCB and shall be maintained at the waste management facility until the beginning of the post closure maintenance period. These records shall be available for review by representatives of the SWRCB and RWQCB at any time during normal business hours. At the beginning of the post closure maintenance period, copies of these records shall be sent to the RWQCB.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172 and 13263, Water Code; Section 43103, Public Resources Code.

Section 21730. SWRCB Public Participation. (C15: Section 2592)

(a) Notification Of Interested Parties To ensure adequate public participation in any RWQCB proceeding relating to land disposal of wastes, the following persons and entities shall receive individual notice of any public hearing or board meeting either involving the classification of Units or involving the issuance or revision of WDRs for classified Units subject to this division:

- (1) the discharger and responsible public agencies;
- (2) news media serving the county as well as communities within five miles of the Unit;
- (3) citizens groups representing local residents;
- (4) environmental organizations in affected counties;
- (5) interested industrial organizations; and
- (6) for an MSW landfill at which a release has migrated beyond the facility boundary, any persons requiring notification pursuant to SWRCB Resolution No. 93 62 [see 40 CFR 258.55(g)(1)(iii)].

(b) Notice Requirements Notice of hearings or meetings related to Units, or to discharges subject to this division, shall be given not less than 45 days before the meeting at which such actions will be taken, and copies of the agenda package shall be available not less than 30 days before the meeting. Nevertheless:

- (1) enforcement actions involving releases of hazardous wastes can be taken at meetings which comply only with the shorter (10-day) notice requirements of the California State Body Open Meetings Act; and
- (2) emergency actions [as described in Section 647.2(d) Government Code]] taken by the RWQCB are exempt from public participation and notice requirements.

(c) Public Input Regarding a Proposed Corrective Action Program Regarding the adoption of corrective action measures for an MSW landfill, including any hearing preparatory to such adoption, the RWQCB shall meet the federal requirements incorporated by reference into SWRCB Resolution No. 93-62 [i.e., see Section 258.56(c & d) and Section 258.57 of 40CFR258].

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, 13260 and 13302, Water Code; Section 43103, Public Resources Code.

Section 21740. SWRCB Waste Characteristics. (C15: Section 2594)

(a) ROWD To Include Dischargers shall provide in the report of waste discharge ("ROWD," including any such report that is integrated into a Joint Technical Document, pursuant to Section 21750) the following information about the characteristics of wastes to be discharged at each waste management unit (Unit) addressed by the ROWD.

(1) Constituents & Reference Numbers A list of the types, quantities, and concentrations of wastes proposed to be discharged at each Unit. Wastes and known waste constituents shall be specifically identified according to the most descriptive nomenclature. A listing of all anticipated hazardous constituents that could be discharged to the Unit (e.g., household hazardous waste discharged to an MSW landfill might include constituents listed in Appendix II to 40CFR258); where available, this listing shall include constituent (or waste) reference numbers from listings established by DTSC or USEPA (e.g., Appendix IX to Section 66264 of Title 22 of this code).

(2) TSD Methods A description of proposed treatment, storage, and disposal methods.

(3) Expected Decomposition Products/Rate An analysis of projected waste decomposition processes for each Unit indicating intermediate and final decomposition products and the period during which decomposition will continue following discharge.

Authority cited: Section 1058, Water Code.

Reference: Sections 13301 and 13304, Water Code; Section 43103, Public Resources Code.

Section 21750. SWRCB Waste Management Unit (Unit) Characteristics and Attributes to be Described in the ROWD. [C15: Section 2595 & Section 2547(a) // T14: Section 17777, Section 18260, Section 18263 & Section 18264]

(a) Identify Potential Impairment Dischargers shall provide in the report of waste discharge ("ROWD", including any such report integrated into a Joint Technical Document (JTD), pursuant to Section 21585) an analysis describing how the ground and surface water could affect the Unit and how the Unit, including how any waste, if it escapes from the Unit, could affect the beneficial uses of ground water bodies (including, but not limited to, any aquifers underlying the facility) and surface water bodies. The RWQCB shall use this information to determine the suitability of the Unit with respect to ground water protection and avoidance of geologic hazards and to demonstrate that the Unit meets the classification criteria set forth in Article 3, Subchapter 2, Chapter 3, Subdivision 1 of this division (Section 20240 et seq.).

(b) Support Proposed Classification Dischargers shall provide the data required by this Section regarding the physical characteristics of the Unit and the surrounding region in order to demonstrate suitability for the appropriate Unit classification. The ROWD shall present this information in understandable written, tabular, and graphic format, as

appropriate, and this information shall be at a level of detail appropriate to support the RWQCB's approving the Unit's proposed classification. Maps, plans, diagrams, and other graphics shall be prepared to appropriate scale and each shall include a legend identifying the information presented. All sources of data shall be identified.

(c) Restate, Where Appropriate If a report submitted by a discharger refers to another source, the relevant information from that source shall be restated in the report. If the source is not generally available, the relevant portion(s) of the source shall be included verbatim in the report as an appendix.

(d) Topography.

(1) Topographic Map A map of the Unit and its surrounding region within one mile of the perimeter of the Unit, showing elevation contours, natural ground slopes, drainage patterns, and other topographic features.

(2) Floodplain Identification of whether the facility is located within a 100-year floodplain. This identification must indicate the source of data for such determination and include a copy of the relevant Federal Emergency Management Agency (FEMA) flood map, if used, or the calculations and maps used where a FEMA map is not available. The submittal shall also identify the 100 year floodplain and any other special flooding factors (e.g. wave action) which must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a 100-year flood. Dischargers having facilities located in the 100-year floodplain shall provide the following information:

(A) engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as consequence of a 100 year flood;

(B) structural or other engineering studies showing the design of Units and flood protection devices (e.g., floodwalls, dikes) at the facility and how these will prevent washout; and

(C) landfills accepting municipal solid waste shall demonstrate that:

(i) for Class II landfills, the Unit meets the flooding requirements of Section 20250(c); or

(ii) for Class III landfills, the Unit meets the requirements of Section 20260(c).

(e) Climatology Dischargers shall calculate required climatologic values for Units from measurements made at a nearby climatologically similar station. In addition to the required calculations for each Unit, dischargers shall provide the source data from which such values were calculated, together with the name, location, and period of record of the measuring station.

(1) Isohyetal Map A map showing isohyetal contours for the proposed Unit and its surrounding region within ten miles of the facility perimeter, based on data provided by

the National Weather Service or other recognized federal, state, local, or private agencies.

(2) Precipitation Estimated maximum and minimum annual precipitation at the proposed Unit.

(3) Design Storm Maximum expected 24 hour precipitation for the Unit's design storm [i.e., for storm conditions specified as design criteria for the particular class of Unit as prescribed in Table 4.1 of Article 4, Subchapter 2, Chapter 3, Subdivision 1 of this division].

(4) Evapotranspiration Estimated mean, minimum, and maximum evaporation, with the months of occurrence of maximum and minimum evaporation, for the Unit.

(5) Runoff Volume/Pattern Projected volume and pattern of runoff for the Unit including peak stream discharges associated with the storm conditions specified as design criteria for the particular class of Unit, as prescribed in Table 4.1 of Article 4, Subchapter 2, Chapter 3, Subdivision 1 of this division.

(6) Wind Rose An estimated wind rose for the Unit showing wind direction, velocity, and percentage of time for the indicated direction.

(f) Geology.

(1) Map and Cross-Sections A comprehensive geologic map and geologic cross-Sections of the Unit showing lithology and structural features. Cross-Sections shall be indexed to the geologic map and shall be located to best portray geologic features relevant to discharge operations.

(2) Materials A description of natural geologic materials in and underlying the location of both the Unit and its surroundings, including identification of each rock's type, relative age, distribution and dimension features, physical characteristics, special physical or chemical features (e.g., alteration other than weathering), distribution, the extent of any weathered zones, susceptibility to natural surface/near-surface processes, and all other pertinent lithologic data, all in accordance with current industry-wide practice [e.g., California Division of Mines and Geology's (CDMG's) Note 44 "Guidelines for Preparing Engineering Geologic Reports" (April, 1986)].

(3) Geologic Structure A description of the natural geologic structure of materials underlying the location of the Unit and its surroundings, including: the attitude of bedding (if any); thickness of beds (if any); the location, attitude, and condition (tight, open, clay or gypsum-filled, etc.) of any fractures; the nature, type (anticlinal, synclinal, etc.) and orientation of any folds; the location (surface and subsurface), age, type of surface displacement, attitude, and nature [e.g., aperture, amount of brecciation, degree of alteration and type of alteration products (tight, gouge-filled, etc.)] of any faults; and all other pertinent, related structural data, (all of the foregoing) in accordance with current industry-wide practices [e.g., CDMG's Note 42 "Guidelines to Geologic/Seismic

Reports" (May, 1986), and CDMG Note 49 "Guidelines for Evaluating the Hazard of Surface Fault Rupture" (May, 1986)]

(4) Engineering and Chemical Properties The results of a testing and estimation program, carried out by a registered civil engineer or certified engineering geologist, as needed to formulate and support detailed site design criteria, including:

(A) determination of engineering and chemical properties of geologic materials underlying and surrounding the Unit, and of the Unit's containment structure components (i.e., liner, LCRS, and final cover components);

(B) determination, or estimation, of the engineering and chemical properties of the waste and other layers placed, or to be placed, within the Unit.

(5) Stability Analysis A stability analysis, including a determination of the expected peak ground acceleration at the Unit associated with the maximum credible earthquake (for Class II waste management units) or the maximum probable earthquake (for Class III landfills). This stability analysis shall be included as part of the ROWD (or JTD) for the proposed Unit, and an updated stability analysis (if the original analysis no longer reflects the conditions at the Unit) shall be included as part of the final closure and post-closure maintenance plan. The methodology used in the stability analysis shall consider regional and local seismic conditions and faulting. Data and procedures shall be consistent with current practice and shall be based on an identified procedure or publication. The stability analyses shall include modifications to allow for site specific surface and subsurface conditions. The peak ground acceleration so determined shall be the stability and factors of safety for all embankments, cut slopes, and associated landfills during the design life of the unit. For landfills and for waste piles and surface impoundments closed as landfills, final cover slopes shall be designed in compliance with the slope requirements of Section 21090.

(A) The stability analysis shall ensure the integrity of the Unit, including its foundation, final slopes, and containment systems under both static and dynamic conditions throughout the Unit's life, closure period, and post-closure maintenance period. The stability analysis shall include:

(i) the method used to calculate the factors of safety (e.g., Bishop's modified method of slices, Fellinius circle method, etc.);

(ii) the name of any computer program used to determine the factors of safety; and

(iii) a description of the various assumptions used in the stability analyses (height of fill, slope and bench configuration, etc.).

(B) The stability analysis shall address all portions of the Unit and its immediate surroundings that are located in areas subject to liquefaction or unstable areas with poor foundation conditions, as identified either in the ROWD or in the Seismic Safety Element of the County General Plan, and shall address all portions of the Unit that

incorporate geomembranes as part of the Unit foundation or containment system (including the final cover).

(C) The stability analysis shall be prepared by a registered civil engineer or certified engineering geologist. Except as otherwise provided in (f)(5)(D), the report must indicate a factor of safety for the critical slope of at least 1.5 under dynamic conditions. Regardless of the analysis method used, the stability analysis report shall include at least the following elements:

(i) report preparation shall be in accordance with CDMG Note Number 42, "Guidelines for Geologic/Seismic Reports," May 1986, and CDMG Note Number 44, "Guidelines for Preparing Engineering Geologic Reports," April 1986, [both available from the California Division of Mines and Geology (CDMG), 801 K Street, MS14-34, Sacramento, CA 95814-3532, phone 916-445-5716] which are both incorporated by reference, and shall include the following seismicity elements:

- (a) a review of earthquakes during historic times;
- (b) location of active major faults; and
- (c) surface investigation of the site and surrounding area;

(ii) the location of the critical slope and other slopes analyzed to determine the critical slope shall be shown in map view;

(iii) calculations used to determine the critical slope;

(iv) a profile of the critical slope geometry showing the various layers including the proposed fill surface, final cover, mitigation berms, lifts or cells of waste, fluid levels, or any feature that may serve to reduce the stability of the slope or may represent a potential failure surface; and the proposed ground surface, soil or rock layers and structural features;

(v) the engineering properties of the refuse and other layers making up the site, shall be analyzed when determining the critical slope. These properties shall include a site specific assessment of the strength parameters, the unit weight and, if using (f)(5)(D), the shear wave velocity of each of these layers;

(vi) an assessment of the engineering properties of the underlying foundation materials under both static and dynamic conditions based on field and laboratory tests as determined necessary by a registered civil engineer or certified engineering geologist;

(vii) the maximum expected horizontal acceleration in rock at the site determined for the design earthquake for the Unit under Section 20370 [i.e., for Class II Units, the maximum credible earthquake (MCE), and for Class III Units, at least the maximum probable earthquake (MPE)], as supported by data and analysis. For Class III landfills, the maximum expected acceleration in rock from the MCE can be used instead of the MPE;

(viii) seismic shaking parameters other than acceleration shall also be included in any assessment of dynamic slope stability. These parameters shall include at least earthquake magnitude and duration;

(ix) documentation of any peer reviewed reduction factor for acceleration applied to attenuate the acceleration through the soil column or fill materials; and

(x) documentation, as part of the dynamic stability determination, of any peer reviewed amplification factor used for acceleration in loose saturated soils, if the Unit is located in an area subject to liquefaction, poor foundation conditions, or seismic amplification.

(D) In lieu of achieving a factor of safety of 1.5 under dynamic conditions, pursuant to (f)(5)(C), the discharger can utilize a more rigorous analytical method that provides a quantified estimate of the magnitude of movement. In this case, the report shall demonstrate that this amount of movement can be accommodated without jeopardizing the integrity of the Unit's foundation or the structures which control leachate, surface drainage, erosion, or gas.

(6) [Reserved.]

(7) Fault Identification & Proximity Dischargers who own or operate new Class II Units [including expansions (of new or existing Units) built after November 27, 1984] shall identify any known Holocene fault within 200 feet of the facility (including any portions of such a fault underlying the Unit) in accordance with a procedure approved by the RWQCB. Dischargers who own or operate new Class III landfills [including expansions (of new or existing) landfills] shall identify any known Holocene fault underlying the landfill according to a procedure approved by the RWQCB. After July 18, 1997, dischargers required to submit a slope stability report, under (f)(5), shall provide a review of historical seismicity within a 100 km (62 mile) radius of the facility, including the name of the fault, type of faulting, activity on the fault, design event for the fault (for Class II Units, the fault's MCE, for Class III Units, the fault's MPE), distance from the facility, the expected ground motions (horizontal and vertical) at the facility resulting from the fault's design event, the expected duration of strong motion at the site resulting from the fault's design event, and an estimation of the cumulative duration of strong motion from aftershocks.

(g) Hydrogeology.

(1) General An evaluation of the water bearing characteristics of the natural geologic materials identified under (f)(2) including determination of hydraulic conductivity, delineation of all ground water zones and basic data used to determine the above.

(2) Hydraulic Conductivity An evaluation of the in-place hydraulic conductivity of soils immediately underlying the Unit. This evaluation shall include:

(A) hydraulic conductivity data, in tabular form, for selected locations within the perimeter of the Unit;

(B) a map of the unit showing test locations where these hydraulic conductivity data were obtained; and

(C) an evaluation of the test procedures and rationale used to obtain these hydraulic conductivity data.

(3) Flow Direction(s) An evaluation of the perennial direction(s) of ground water movement within the uppermost ground water zone(s) within one mile of the waste management facility 's perimeter.

(4) Capillary Rise Estimates of the height to which water rises due to capillary forces above the uppermost ground water zone(s) beneath and within one mile of the waste management facility perimeter. These estimates shall include an evaluation of the methods and rationale used in their development.

(5) Springs A map showing the location of all springs within the waste management facility and within one mile of its perimeter. The map shall be accompanied by tabular data indicating the flow and the mineral quality of the water from each spring.

(6) Water Quality An evaluation, supported by water quality analyses, of the quality of water known to exist under or within one mile of the waste management facility's perimeter, including all data necessary to establish the water quality protection standard (Water Standard) for the Unit, under Section 20390.

(7) Background A tabulation of background water quality for all applicable Monitoring Parameters and indicator parameters identified for each applicable monitoring program under Sections 20420-20435 and for all Constituent of Concern (COCs) identified under Section 20395.

(A) Background water quality for an indicator parameter, Monitoring Parameter or COC in ground water shall be based on data from quarterly sampling of wells upgradient from the Unit for one year. These analyses shall:

(i) account for measurement errors in sampling and analysis; and

(ii) account for seasonal fluctuations in background water quality, if such fluctuations are expected to affect the concentration of the waste constituent.

(B) In case an evaluation monitoring program is initiated prior to fulfilling the requirements of (g)(7)(A), the discharger shall, where feasible, establish background water quality based on a combination of all background data then available including (1) all background data so far taken to satisfy (g)(7)(A), (2) all background data obtained during accelerated sampling efforts under Section 20425(b), and (3) all appropriate water quality data from before WDRs were issued in lieu of the one-year monitoring program under (g)(7)(A).

(C) Background water quality of ground water shall be based on sampling of wells that are not upgradient from the Unit only where:

(i) hydrogeologic conditions do not allow the determination of the upgradient direction;
or

(ii) sampling at other wells will provide a representative indication of background water quality.

(D) In developing the data base used to determine a background value for each indicator parameter or waste constituent in ground water, the discharger shall take a minimum of one sample from each well used to determine background. A minimum of four samples shall be taken from the entire system used to determine background water quality, each time the system is sampled. In a case where there is only one background well, the four measurements per quarter shall be obtained by taking four independent samples, pursuant to Section 20415(e)(12)(B), and conducting separate analyses for each such sample.

(h) Land and Water Use

(1) Well Map A map showing the locations of all water wells, oil wells, and geothermal wells within the facility boundary and showing the locations of all such wells within one mile outside of the facility boundary.

(2) Well Owner Name and address of the owner of each well indicated in (h)(1).

(3) Well Information Well information, where available, for each water well indicated in (h)(1) including, but not limited to:

(A) total depth of well;

(B) diameter of casing at ground surface and at total depth;

(C) type of well construction (cable tool, rotary, etc.);

(D) depth and type of perforations;

(E) name and address of well driller;

(F) year of well construction;

(G) use of well (agricultural, domestic, stock watering, etc.);

(H) depth and type of seals;

(I) lithologic, geophysical, and other types of well logs, if available; and

(J) water levels, pump tests, water quality, and other well data, if available.

(4) Land Use Current land use within one mile of the perimeter of the Unit, including:

(A) types of land use (e.g., residential, commercial, industrial, agricultural, recreational, etc.);

(B) types of crops;

(C) types of livestock; and

(D) number and location of dwelling units.

(5) G.W. Use Current and estimated future use of ground water within one mile of the facility perimeter.

(i) Preliminary Closure Plan For any proposed Unit (including a proposed lateral expansion of a Unit's RWQCB-Permitted Area) and for any Unit not yet required to undergo final closure, the ROWD shall contain a preliminary closure and post-closure maintenance plan, under Section 21769, containing a generalized cost estimate for closure costs and for annualized post-closure costs, supported by sufficient detail to validate the plausibility of the estimate. For any Unit (or portion thereof, in the case of a landfill undergoing complete final closure of a portion of the Unit) that is closing (or that is required to close), the ROWD shall be amended to contain a final closure plan, under Section 21769, containing sufficient detail for the RWQCB to validate that the closed Unit will meet all applicable SWRCB-promulgated closure-related requirements of this title, and containing an updated, itemized closure cost estimate.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172 and 13267, Water Code; Section 43103, Public Resources Code.

Section 21760. SWRCB Design Report and Operations Plan. (C15: Section 2596)

(a) Design Report.

(1) Preliminary and As-Built Plans As part of the report of waste discharge ("ROWD", including any such report integrated into a Joint Technical Document, pursuant to Section 21585), dischargers who own or operate classified waste management units (Units) shall submit, for each such Unit, detailed preliminary and (later, after completion) as built plans, specifications, and descriptions for all liners (under Section 20330) and other containment structures (e.g., final cover, under Section 21090), leachate collection and removal system components (under Section 20340), leak detection system components [under Section 20415(b d)], precipitation and drainage control facilities (under Section 20365), and interim covers installed or to be installed or used (under Section 20705). In addition, the ROWD shall contain a description of, and location data for, ancillary facilities including roads, waste handling areas, buildings, and equipment cleaning facilities, only insofar as the location and operation of these ancillary facilities could have an effect upon water quality.

(2) [Reserved.]

(3) Monitoring System Plans and Rationale Dischargers shall submit detailed plans and equipment specifications for compliance with the ground water and unsaturated zone monitoring requirements of Article 1, Subchapter 3, Chapter 3, Subdivision 1 of this division (Section 20380 et seq.). Dischargers shall provide a technical report which includes rationale for the spatial distribution of ground water and unsaturated zone monitoring facilities, [e.g., the location and design of Monitoring Points and Background Monitoring Points for each monitored medium under Section 20415(b-e)], and for the selection of other monitoring equipment. This report shall be accompanied by the following information, which shall be updated throughout the Unit's active life, closure period, and post-closure maintenance period as needed to reflect the as-built system:

(A) Map a map showing the locations of proposed monitoring facility components; and

(B) Plans & Specifications drawings and data showing construction details of proposed monitoring facilities. These data shall include:

(i) casing and test hole diameter;

(ii) casing materials (PVC, stainless steel, etc.);

(iii) depth of each test hole;

(iv) the means by which the size and position of perforations shall be determined, or verified, in the field;

(v) method of joining Sections of casing;

(vi) nature of filter material;

(vii) depth and composition of seals;

(viii) method and length of time of development; and

(C) Unsaturated Zone Monitoring specifications, drawings, and data for location and installation of unsaturated zone monitoring equipment.

(4) Inspection Procedures Dischargers shall submit proposed construction and inspection procedures for the Unit [including, after July 18, 1997, a CQA Plan under Section 21710(a)(5)] to the RWQCB for approval.

(b) Operation Plans Dischargers shall submit operation plans describing those Unit operations which could affect water quality, including but not limited to:

(1) a description of proposed treatment, storage, and disposal methods;

(2) contingency plans for the failure or breakdown of waste handling facilities or containment systems, including notice of any such failure, or any detection of waste or

leachate in monitoring facilities, to the RWQCB, local governments, and water users downgradient of Units; and

(3) a description of inspection and maintenance programs which will be undertaken regularly during disposal operations and the post closure maintenance period.

Authority cited: Section 1058, Water Code.

Reference: Section 13360, Water Code; Section 43103, Public Resources Code.

Subchapter 4. Development of Closure/Postclosure Maintenance Plans

Article Ghost Header for Outline ADA Compliance

Section 21769. SWRCB Closure and Post-Closure Maintenance Plan Requirements. [C15: Section 2597 // T14: Section 17776, Section 17778(g), Section 18260, Section 18261.3(a)(2 & 7), Section 18262, Section 18263, Section 18264]

[see also Section 21790 et seq.]

(a) Scope, Applicability, & Purpose--The SWRCB-promulgated Sections in this subchapter set forth the requirements for the discharger's development and implementation of the preliminary and final closure and post-closure maintenance plans and for the RWQCB's review and approval of such plans. The SWRCB-promulgated Sections of this Subchapter apply to all dischargers who own or operate a Class II or Class III Unit that is subject to the SWRCB-promulgated requirements of this subdivision. The purpose of such plans is to ensure that:

(1) Performance Standards--the discharger will close the Unit, and will maintain the Unit during the post-closure maintenance period, in a manner that achieves applicable performance standards under Section 20950(a)(2); and

(2) Funding--the discharger provides funds, through an acceptable financial mechanism, to achieve the goals of (a)(1).

(b) Preliminary Closure/Post-Closure Maintenance Plan.

(1) Purpose--The preliminary closure and post-closure maintenance plan for a Unit shall provide a reasonable estimate of the maximum expected cost that would be incurred at any time during the Unit's projected life for a third party both to close the Unit and to carry out the first thirty years of post-closure maintenance, pursuant to all applicable SWRCB-promulgated requirements of this subdivision, including but not limited to the closure and post-closure requirements under Subchapter 5 of Chapter 3 (Section 20950 et seq.).

(2) Contents--For Units not jointly regulated by the RWQCB and the CIWMB/EA, this information shall be included as an integrated or separable [e.g., separately bound] part of the ROWD under Section 21710. For Units jointly regulated by both the RWQCB and the CIWMB/EA, this information shall be included as an integral or separable part of the JTD under Section 21585. At a minimum, the plan shall include:

(A) Cost Analysis--a lump sum estimate of the cost of carrying out all actions necessary to close the Unit, to prepare detailed design specifications, to develop the final closure and post-closure maintenance plan, and to carry out the first thirty years of post-closure maintenance, pursuant to all applicable SWRCB-promulgated requirements of Subchapter 5 of Chapter 3 (Section 20950 et seq.); and

(B) Map--a topographic map, drawn at appropriate scale and contour interval, and drawn to an appropriate level of detail, showing:

(i) the boundaries of the Unit to be closed, including the proposed final limits of waste placement;

(ii) the boundaries of the facility; and

(iii) the boundaries of the waste received, if any, as of the date of the plan submittal;

(iv) the proposed final contours of the Unit and of its surrounding area; and

(v) any changes in surface drainage patterns caused by the proposed final contours of the Unit and of its surrounding area, as compared to the preexisting natural drainage patterns.

(c) Final Closure/Post-Closure Maintenance Plan.

(1) Purpose--The purpose of the final closure and post-closure maintenance plan is:

(A) to provide, for review by the RWQCB, an accurate, detailed list and schedule of all actions necessary to close the Unit and to carry out post-closure maintenance in accordance with all applicable SWRCB-promulgated requirements of this subdivision, including but not limited to the closure and post-closure requirements under Subchapter 5 of Chapter 3 (Section 20950 et seq.);

(B) to provide, for review by the RWQCB, an accurate estimate of the cost of achieving each action listed in the plan; and

(C) upon the plan's being approved by the RWQCB, to provide an enforceable list and schedule of actions necessary for providing water quality protection at the Unit during the closure and post-closure maintenance periods.

(2) Contents--The final closure and post-closure maintenance plan for the Unit shall include at least the following information. For Units not jointly regulated by the RWQCB and the CIWMB/EA, this information shall be included as an integrated or separable

[e.g., separately bound] part of the ROWD under Section 21710. For Units jointly regulated by both the RWQCB and the CIWMB/EA, this information shall be included as an integral or separable part of the JTD under Section 21585. Minimum plan contents shall include:

(A) Itemized Cost Analysis--a detailed itemized listing of all actions, and their associated costs, necessary to close the Unit and to carry out the first thirty years of post-closure maintenance, pursuant to all applicable SWRCB-promulgated requirements of Subchapter 5 of Chapter 3 (Section 20950 et seq.);

(B) Closure Schedule--a proposed schedule for final closure including, where appropriate, for incremental closure (complete closure of successive portions of the landfill);

(C) Final Treatment Procedures--a description of any final treatment procedures which the discharger proposes to use for the wastes in each Unit, including methods for total removal and decontamination, if applicable. If the discharger is proposing alternative treatment or disposal procedures for particular Units (or, as appropriate, for the entire facility), the plan shall include a description of the alternatives;

(D) Map--a topographic map, drawn at appropriate scale and contour interval, and drawn to an appropriate level of detail, showing:

(i) the boundaries of the Unit(s) to be closed and of the facility;

(ii) the projected final contours of the Unit and its surrounding area;

(iii) any changes in surface drainage patterns, as compared to the preexisting natural drainage patterns; and

(iv) the final limits of waste placement;

(E) Changes To Description Under Section 21750--a revised and updated submittal of any Unit characteristics of the closed Unit to the extent that they differ from the description provided by the discharger in the existing ROWD (under Section 21750);

(F) Changes To Description Under Section 21760--a description of the following aspects of the closed Unit, to the extent that they differ from the description provided by the discharger under the Design Report and Operations Plan submitted pursuant to Section 21760:

(i) the design and the location of all features and systems which will provide waste containment during the post closure maintenance period;

(ii) the precipitation, drainage, and erosion control features;

(iii) the leachate control features and procedures at closed Units, including the design and operation of the LCRS;

(iv) a discussion, including a map, of ground water and unsaturated zone monitoring programs for the closure and post-closure maintenance periods, addressing the location, construction details, and rationale of all monitoring facilities;

(G) MSW--for MSW landfills only, all additional federal requirements incorporated by reference in SWRCB Resolution No. 93-62 for the protection of water quality [see Sections 258.60(c-j), and Sections 258.61(c)(3) and (e) of 40CFR258]; and

(H) Land Use of Closed Unit--the proposed post-closure land use of the disposal site and the surrounding area. If the Unit is to be used for purposes other than nonirrigated open space during the post closure maintenance period, the discharger shall submit a map showing all proposed structures, landscaping, and related features to be installed and maintained over the final landfill cover. This map shall be at a scale of 1" = 100', unless the RWQCB allows use of another scale that is more appropriate to a given Unit, and shall be accompanied by:

(i) Water Balance Analysis--a description and quantification of water entering, leaving, and remaining on site from all sources to determine potential adverse impacts due to the proposed use, and corresponding mitigative design features and monitoring schemes that will ensure the physical and hydraulic integrity of the final cover in spite of the proposed post-closure land use;

(ii) Water Penetration Detection Method--detailed design plans and description(s) of the monitoring schemes, including any associated monitoring system(s), that will effectively detect penetration of the final cover by precipitation or applied irrigation waters; and

(iii) Final Cover Protection--for Units to be closed after July 18, 1997, a description of how the features described in (c)(2)(H) will be installed, operated, and maintained in a manner that does not jeopardize the performance of the final cover [see Section 20950(a)(2)(A)].

(d) Plan Review and Approval--The RWQCB shall review and approve all preliminary and final closure and post-closure maintenance plans for all portions of the plans which are related to the protection of the waters of the state, including the associated CQA plan, for Class II Units and Class III landfills. For landfill Units jointly regulated by the RWQCB and the CIWMB/EA, the RWQCB's review and approval of preliminary and final closure and post-closure maintenance plans shall follow the same schedule as for the development or revision of WDRs (see PRC Section 43506). For landfills, the RWQCB shall review final closure and post-closure maintenance plans in coordination with the EA, pursuant to Section 21585(b & c).

Authority cited: Section 1058, Water Code.

Reference: Section 13360, Water Code, and Sections 43103, 43506, 43509, and 43601, Public Resources Code.

Section 21770. CIWMB Scope and Applicability. (T14: Section 18250)

The CIWMB-promulgated Sections in this Subchapter set forth requirements that are additional to the water quality protection requirements set forth in SWRCB-promulgated Sections 20950, 21090, and 21769. Pursuant to Section 20005, closure plan review should be coordinated as appropriate with other reviewing agencies.

(a) The CIWMB-promulgated Sections of this Subchapter set forth the requirements for the development and approval of closure and postclosure maintenance plans and their implementation. The development of such plans is to ensure that a solid waste landfill will be closed in such a manner as to protect the public health, safety and the environment and to ensure that adequate resources will be available to properly accomplish closure and to maintain the landfill during postclosure maintenance period.

(b) The regulations contained in this Subchapter apply to all solid waste landfills required to be permitted pursuant to PRC Section 44001 et seq. that were operating on or after January 1, 1988.

(c) The plans required by the CIWMB promulgated Sections within this Subchapter shall include other pertinent facilities other than surface impoundments, waste piles, and LTUs regulated by the RWQCB located at the site of the solid waste landfill which are related to the disposal activities at the solid waste landfill.

(d) Closure and Postclosure Maintenance Plans shall be written plans to describe the closure of the entire landfill and maintenance requirements after closure in accordance with the requirements of the closure/postclosure standards of Article 2, Subchapter 5, Chapter 3 (Section 21100 et seq.). The plan shall:

(1) Identify the steps necessary to close a solid waste landfill at the point in its active life when the extent and manner of operation would make closure the most expensive;

(2) Propose a closure that minimizes the extent of postclosure maintenance necessary while ensuring protection of public health and safety and the environment; and

(3) Provide a third party with specific tasks and cost estimates for the closure and postclosure of a solid waste landfill in the event that a third party must assume the responsibility for closure and/or postclosure maintenance.

Authority cited: Sections 40502 and 40509, Public Resources Code.

Reference: Sections 43020, 43021, 43103, 43501, 43509, 44001, 44002, Public Resources Code; and Title 40, Code of Federal Regulations, Sections 258.60 and 258.61.

Section 21780. CIWMB Submittal of Closure and Postclosure Maintenance Plans.

(a) Each submittal shall be certified by a registered civil engineer or a certified engineering geologist. Each submittal shall include:

(1) The preliminary or final closure and postclosure maintenance plans containing all of the elements specified under Section 21790 through Section 21840, as applicable.

(2) Updated or initial cost estimates for closure and postclosure activities to reflect the components and requirements under Sections 21815, 21820 and 21840. Cost estimates shall be based on the current costs on a unit basis (unit costs) for closure and postclosure maintenance. Cost estimate adjustments based only on inflation factors are not acceptable.

(3) An updated demonstration of financial responsibility in accordance with Subchapter 2 of Chapter 6 (Section 22205 et seq). This demonstration shall reflect the updated cost estimates for closure and postclosure activities required under (a)(2).

(b) The operator shall submit two copies of each document to the EA, the RWQCB, the CIWMB and the local air district. All drawings shall be submitted at an appropriate scale that clearly shows all pertinent features. The closure and postclosure maintenance plans shall be clearly marked "preliminary" or "final", depending on the status. For partial final closure, those Sections submitted pursuant to Section 21800, shall be clearly marked "partial final."

(c) Plans for complete site closure of a solid waste landfill shall be submitted in accordance with the following schedule:

(1) Preliminary closure and postclosure maintenance plans for existing solid waste landfills shall be submitted at the time of application for each SWFP review or revision. The plans shall be submitted as part of the JTD or as a separate document in the form of a distinct component of a JTD;

(2) Preliminary closure and postclosure maintenance plans for new landfills not operating prior to the effective date of the regulations shall be submitted as part of the JTD or as a separate document in the form of a distinct component of a JTD at or before the time of application for a SWFP. For the purposes of this Subchapter, lateral expansions of landfills are considered new municipal solid waste landfills.

(3) Final closure and postclosure maintenance plans for solid waste landfills shall be submitted two years prior to the anticipated date of closure. Within five years of the anticipated date of closure, the operator may submit the final closure and postclosure maintenance plans in lieu of submitting new or updated preliminary closure and postclosure maintenance plans.

(d) Partial final closure of a solid waste landfill shall be allowed in accordance with the following:

(1) For the complete closure of discrete units, partial final closure and postclosure maintenance plans shall be submitted for each unit 2 years prior to the anticipated date of closure of that discrete unit in accordance with Section 21800 and 21830. Closure of such a discrete unit shall not commence until approval of the partial final closure and postclosure maintenance plans for that discrete unit. The specific closure details for each discrete unit shall be compatible with closure of the entire landfill; and

(2) For the implementation of any one or a combination of individual final closure activities, partial final closure and postclosure maintenance plans for the activities shall be approved before implementation of such closure activities.

(e) If immediate closure of a disposal site is necessary to protect public health and safety and the environment, closure plans shall be submitted in accordance with a schedule specified by the EA and concurred with by the RWQCB and CIWMB. If the RWQCB or CIWMB does not object to the schedule within 30 days of written notification by the EA, the schedule is deemed concurred with by that agency. An emergency corrective action plan may be required by the EA, to be submitted for approval by the EA. The emergency corrective action plan may be implemented prior to the submittal of the closure plan.

(f) If, at its own motion, an operator ceases accepting waste at a landfill prior to the anticipated closure date specified in the currently effective Solid Waste Facility Permit, and the operator does not intend to receive additional waste at the landfill, the operator shall submit final closure and postclosure maintenance plans in accordance with a schedule specified by the EA and concurred with by the RWQCB and CIWMB. If the RWQCB or CIWMB does not object to the schedule within 30 days of written notification by the EA, the schedule is deemed concurred with by that agency. In no case shall the schedule be longer than six (6) months from the date the operator ceased accepting waste at the landfill.

(g) The owner or operator of a MSWLF unit shall notify the EA that closure and postclosure maintenance plans have been prepared and placed in the operating record in accordance with 40 CFR 258.60(d) and 258.61(d).

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021, 43022 and 43103, Public Resources Code.

Section 21785. CIWMB Labor Transition Plan.

(a) Each submittal of a final plan pursuant to Section 21780(c)(3), (e), or (f) shall also include the submittal of a Labor Transition Plan (LTP) that includes all of the following:

(1) Provisions that ensure, subject to any requirements already established pursuant to a collective bargaining agreement, preferential reemployment and transfer rights of displaced employees to comparable available employment with the same employer for a period of no less than one year following the closure of the solid waste facility.

(2) Provisions to provide displaced employees assistance in finding comparable employment with other employers.

(3) Provisions to ensure compliance with all applicable provisions of Chapter 4 (commencing with Section 1400) of Part 4 of Division 2 of the Labor Code.

(b) Each submittal of a LTP shall also include a certification that the provisions described in paragraphs (1) to (3), inclusive, of subdivision (a), will be implemented, subject to any requirements already established under a collective bargaining agreement.

(c) The LTP shall be submitted to the EA.

(d) The certification shall be submitted to the CIWMB and the EA.

(e) For the purposes of this Section, "comparable employment" means the same or a substantially similar job classification at equal or greater wage and benefit levels in the same geographic region of the state.

(f) The provisions of this Section do not apply to submittal of preliminary plans, partial final plans, revised final plans in the review process that have been accepted for filing prior to January 1, 2004, or to revisions of previously approved final plans. Cost estimates or financial assurances for implementation of the LTP are not required.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43501.5, Public Resources Code.

Section 21790. CIWMB Preliminary Closure Plan Contents.

(a) The purpose of the preliminary plan is to provide a basis for the operator to establish a preliminary estimate of closure costs certified for accuracy by a registered civil engineer or certified engineering geologist, and enable the CIWMB to assess the reasonableness of the cost estimate for non-water quality aspects of closure.

(b) The plan shall identify the steps necessary to perform either partial final closure, in accordance with Section 21120, or complete landfill closure and shall include, but is not limited to, the following information:

(1) a closure cost estimate pursuant to Sections 21815 and 21820;

(2) location maps indicating property boundaries and the existing, permitted, and proposed final limits of waste placement; entry roads; and structures outside the property boundary but within 1000 feet of the property boundary. A location map shall also be included showing the general location of the landfill;

(3) [Reserved];

- (4) a location map of the current monitoring and control systems including: leachate control and drainage and erosion control systems as required pursuant to chapter 3 (Section 20180 et seq.); landfill gas monitoring and control systems as required pursuant to chapter 3 (Section 20180 et seq.);
- (5) a description of proposed postclosure land uses;
- (6) an estimate of the maximum extent of the landfill that will ever require closure at any given time during the life of the landfill;
- (7) an estimate of the closure date based on volumetric calculations, including supporting documentation. The estimate shall account for the effects of settlement and for volume occupied by daily cover material; and
- (8) a preliminary description of closure activities including schedules for implementation. The activities described shall include, but are not limited to:
 - (A) site security and structure removal pursuant to Sections 21135 and 21137;
 - (B) final cover and grading pursuant to Sections 21140 and 21142. The description shall include type of materials and estimate of the volume or amount needed of each type of material. If on site materials are planned for use in the final cover for the low permeability layer, test results confirming the suitability of such materials shall be included;
 - (C) construction quality assurance methods pursuant to Sections 20323 & 20324;
 - (D) drainage and erosion control systems pursuant to Section 21150;
 - (E) landfill gas monitoring and control systems pursuant to Article 6, Subchapter 4, Chapter 3 (Section 20920 et seq.);
 - (F) leachate monitoring and control measures pursuant to Section 21160.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 21800. CIWMB Final Closure Plan Contents.

- (a) The purpose of the final closure plan is to provide a basis for the operator to establish an accurate detailed estimate of closure costs certified for accuracy by a registered civil engineer or certified engineering geologist, enable the CIWMB to assess the reasonableness of the cost estimate for non-water quality aspects of closure, provide a detailed plan and schedule for the operator to implement upon closure of the landfill, and allow monitoring of closure activities to determine that all requirements of landfill closure have been implemented in accordance with the appropriate plan.

(b) Final closure plans for partial final closure (i.e. the complete closure of discrete units) shall conform to the requirements of this Section. Final closure plans for partial closure (i.e. implementation of any one or a combination of individual final closure activities) shall conform to the requirements of this Section as applicable.

(c) The final closure plan shall include, but is not limited to, a detailed description of each item contained in Section 21790(b)(1) through (b)(8). In addition, the final closure plan shall include a detailed description of the sequence of closure stages, giving tentative implementation dates.

(d) The final closure plan shall also include a detailed schedule for disbursement of funds for closure activities.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 21805. Combined CIWMB and SWRCB Final Closure Plan Contents for Federal Subtitle D Research, Development, and Demonstration Permits.

The final closure plan shall describe how the facility will comply with Section 20070 of Chapter 1 of this Division, if applicable, and include the specific variance(s) in criteria requested; project research goals; environmental monitoring, contingency and mitigation measures to be implemented for the project; and performance measures to determine to what extent the site is progressing in attaining project goals and protection of public health and safety and the environment. The description shall also include a summary and protocols for: 1. project controls to compare project performance with an equivalent or similar operation or activity not authorized by Section 20070; 2. if applicable, processing of materials prior to placement in the MSWLF Unit at the facility; 3. potential accumulation of constituents of concern as defined in Section 20164 of Chapter 1 of this Division; 4. if applicable, energy recovery; and 5. if applicable, impacts to postclosure maintenance. The description shall be incorporated in each applicable Section of the final closure plan, in addition to a separate Section describing the overall project.

Authority cited: Sections 40502, 43020, and 43021, Public Resources Code.

Reference: Sections 40053, 43020 and 43021, Public Resources Code.

Section 21810. CIWMB Final Closure Plan Contents for Clean Closure.

[see also the SWRCB's clean closure requirements under Section 21090(f)]

(a) The operator of a solid waste landfill may submit a closure plan for solid waste landfills that will be closed by removing solid wastes and contaminated soils (clean closure).

(b) The purpose of the plan for clean closure is to:

(1) establish a closure method for a disposal site that will partially or completely remove solid wastes and contaminated soils to provide remediation of a threat to public health and safety, reduce or eliminate the need for postclosure maintenance, prepare the site for postclosure land uses, or recover materials for recycling or reuse;

(2) provide a basis for the operator to establish an accurate detailed cost estimate for clean closure of the site; and

(3) provide a plan and schedule for the operator to implement at the time of closure.

(c) Each submittal shall be certified by a registered civil engineer or a certified engineering geologist. The minimum components of a plan for clean closure shall include, but not be limited to:

(1) a detailed implementation schedule for clean closure activities;

(2) a characterization of the site conditions to define the extent and character of wastes present and the levels and extent of any soil contamination;

(3) a description of the excavation and material management procedures to be followed;

(4) a description of health and safety procedures to be followed and specific measures to protect public health and safety during clean closure activities; and

(5) [Reserved].

(d) The plan for clean closure shall also include a detailed schedule for disbursement of funds for closure activities in accordance with Section 21800(d).

(e) After clean closure activities are completed, a verification report confirming that waste and residual contaminated soils have been removed shall be prepared by a registered civil engineer or a certified engineering geologist and submitted for approval to the EA and the CIWMB. The report shall include the following information as appropriate:

(1) if the plan for clean closure was part of a remedial action, a description of any postclosure maintenance activities needed to comply with the implementation of the remedial action plan. In such cases the unit will not be deemed clean closed until completion of the corrective action.

(2) if all solid waste and contaminated soils are not removed, closure and postclosure maintenance plans and a financial assurances mechanism for closure and postclosure maintenance. Such a unit shall not be regarded as having been clean closed, see Section 21090(f).

Authority cited: Section 40502, Public Resources Code; and Section 66796.22(d), Government Code.

Reference: Section 66796.22(b) and 66796.22(d), Government Code; and Sections 43020, 43021 and 43103, Public Resources Code.

Section 21815. CIWMB General Criteria for Cost Estimates.

(a) Cost estimates shall be based on costs the state may incur if the state would have to assume responsibility for the closure or postclosure maintenance due to the failure of the operator to properly and adequately perform any or all of those activities.

(b) Cost estimates shall include, but not be limited to:

(1) Estimates in compliance with Sections 1770, 1773, and 1773.1 of the Labor Code;

(2) California Department of Transportation (Caltrans) Labor Surcharge and Equipment Rental Rates; and

(3) Caltrans "Force Account Payment" included in Section 9-1.03 of the Caltrans Standard Specifications (May 2006).

(c) An operator may propose and the CIWMB may accept alternative costs for those included in (b)(2) and (3) if the operator provides adequate justification for the use of alternative costs.

(d) Cost estimates shall be supported by adequate documentation to justify the estimates. This documentation shall be submitted with the estimate(s).

(e) Prior to the initiation of closure activities, the operator shall submit one of the following:

(1) a statement that the expected cost for closure construction (based on submitted contractor bids or other appropriate documentation) will be equal to or less than the cost estimate included in the approved final closure plan or

(2) a revised cost estimate that reflects the expected costs (based on submitted contractor bids or other appropriate documentation).

Authority cited: Section 40502 and 43501, Public Resources Code.

Reference: Sections 43020, 43021, 43103, and 4350, Public Resources Code.

Section 21820. CalRecycle--Closure Cost Estimates

(a) The operator shall provide a written cost estimate, in current dollars, of the cost of hiring a third party to close the landfill in accordance with the submitted closure plan. Cost estimates shall meet the following criteria:

(1) Cost estimates shall equal the cost of closing the landfill at the point in its active life when the extent and manner of operation would make closure the most expensive, as indicated by the closure plan;

(A) When closing units in phases, according to the requirements of partial closure, the estimate may account for closing only the maximum area or unit of a landfill open at any time, or

(B) If not closing units in phases pursuant to (a)(1)(A), the estimate shall account for the entire permitted landfill except for those areas certified closed by CalRecycle, RWQCB, and EA pursuant to Section 21880.

(2) Cost estimates shall include the cost of activities necessary to close the site pursuant to (b). Closure cost estimates shall always be high enough to ensure that, if, at any time, the landfill had to begin to close, the cost of activities for closure would not exceed the cost estimate. To reflect the potential for premature closure, each cost estimate shall include all activities required for closure yet to be completed at the time of preparation of the estimate;

(3) Cost estimates shall include or reflect the design, materials, equipment, labor, administration and quality assurance necessary for closure;

(4) The total closure cost estimate shall be increased by a factor of 20% to account for cost over runs due to unforeseen circumstances, such as adverse weather conditions and inadequate site characterization, which would result in increased closure costs. The operator may apply to CalRecycle for, and CalRecycle may approve, a contingency percentage of less than 20% at the time that the final closure plan is approved, provided that CalRecycle finds that a lesser percentage will provide acceptable coverage of potential cost overruns;

(5) The operator shall increase the closure cost estimate when changes to the plan or at the landfill increase the cost of closure; and

(6) The operator may reduce the closure cost estimate when changes to the plan or at the landfill decrease the costs of closure. The request for reduction shall be submitted to CalRecycle for approval.

(b) Closure cost estimates shall include, but are not limited to, the following information:

(1) If the documents are preliminary closure and postclosure maintenance plans, an estimate of the cost of developing final closure and postclosure maintenance plans;

(2) an estimate of the cost to prepare plans and specifications, bidding documents, and other construction related documents; and

(3) an estimate of the cost of closure activities including schedules for implementation activities. The activities described shall include, but are not limited to, an estimate of the cost:

(A) to install or upgrade site security;

(B) for structure removal;

(C) to install or upgrade the monitoring and control systems, including landfill gas, leachate, and ground water systems if one or more of these systems is required by CalRecycle, RWQCB, or EA.

(D) to install the final cover; and

(E) to install or upgrade drainage and erosion control systems.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 21825. CIWMB Preliminary Postclosure Maintenance Plan Contents.

(a) The purpose of the preliminary postclosure maintenance plan is to provide a basis for the operator to establish a preliminary estimate of postclosure monitoring, maintenance, and inspection costs certified for accuracy by a registered civil engineer or certified engineering geologist, and enable the CIWMB to assess the reasonableness of the cost estimate.

(b) The preliminary postclosure maintenance plan shall include, but is not limited to the following information:

(1) a description of the planned uses of the property during the postclosure maintenance period in accordance with Section 21190;

(2) a preliminary description of the methods, procedures, and processes that will be used to maintain, monitor and inspect the closed landfill during the postclosure maintenance period to comply with Section 21180; and

(3) a postclosure maintenance cost estimate pursuant to Section 21815 and 21840.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 21830. CIWMB Final Postclosure Maintenance Plan Contents.

(a) The purpose of the final postclosure maintenance plan is to provide a basis for the operator to establish an accurate detailed cost estimate certified for accuracy by a registered civil engineer or certified engineering geologist, enable the CIWMB to assess the reasonableness of the cost estimate, and provide a detailed plan for the

inspection, maintenance, and monitoring of the landfill during the postclosure maintenance period.

(b) The final postclosure maintenance plan shall include, but is not limited to, the following information:

(1) the emergency response plan as required by Section 21130 of Chapter 3, Subchapter 5;

(2) the persons or companies responsible for each aspect of postclosure maintenance, and their addresses and telephone numbers;

(3) a description of the planned uses of the property during the postclosure maintenance period in accordance with Section 21190 of Chapter 3, Subchapter 5;

(4) an as built description of the current monitoring and control systems at the landfill including a detailed description of any proposed changes to be implemented as part of closure. This description shall be kept current throughout the postclosure maintenance period;

(5) a detailed description of the methods, procedures and processes that will be used to maintain, monitor and inspect the closed landfill during the postclosure maintenance period to comply with Section 21180 of Chapter 3, Subchapter 5;

(6) an operations and maintenance plan for the gas control system;

(7) a summary of the requirements for reporting the results of monitoring and collection, pursuant to Section 21180 of chapter 3, Subchapter 5; and

(8) the postclosure maintenance cost estimates pursuant to Sections 21815 and 21840 of this Subchapter.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021 and 43103, Public Resources Code.

Section 21835. Combined CIWMB and SWRCB Final Postclosure Maintenance Plan Contents for Federal Subtitle D Research, Development, and Demonstration Permits.

The final postclosure maintenance plan shall describe how the facility will comply with Section 20070 of Chapter 1 of this Division, if applicable, and include the specific variance(s) in criteria requested; project research goals; environmental monitoring, contingency and mitigation measures to be implemented for the project; and performance measures to determine to what extent the site is progressing in attaining project goals and protection of public health and safety and the environment. The description shall also include a summary and protocols for: 1. project controls to compare project performance with an equivalent or similar operation or activity not

authorized by Section 20070; 2. if applicable, processing of materials prior to placement in the MSWLF Unit at the facility; 3. potential accumulation of constituents of concern as defined in Section 20164 of Chapter 1 of this Division; 4. if applicable, energy recovery; and 5. if applicable, impacts to postclosure maintenance. The description shall be incorporated in each applicable Section of the JTD, in addition to a separate Section describing the overall project.

Authority cited: Sections 40502, 43020, and 43021, Public Resources Code.

Reference: Sections 40053, 43020 and 43021, Public Resources Code.

Section 21840. CalRecycle Postclosure Maintenance Cost Estimates.

(a) The operator shall provide a written estimate, in current dollars, of the cost of hiring a third party to maintain, monitor, and inspect the closed landfill in accordance with the postclosure maintenance plan requirements. Cost estimates shall be subject to the following requirements:

(1) Cost estimates shall be based on the activities described in the postclosure maintenance plan and account for postclosure maintenance of the entire landfill;

(A) Cost estimates shall be based on the current monitoring and maintenance requirements. Cost estimates shall not anticipate future reductions in maintenance and/or monitoring.

(2) Cost estimates shall be of sufficient detail to identify the maintenance costs, repair costs, and replacement costs throughout the postclosure maintenance of the landfill;

(3) The cost estimate shall be the annualized cost of maintenance and monitoring during the postclosure period as delineated in the postclosure maintenance plan; and

(A) Cost estimates for those maintenance and monitoring activities which occur less frequently than annually shall be prorated to an annual cost. The expected recurrence period shall be specified in the postclosure maintenance plan; and

(i) Cost estimates for those maintenance and monitoring activities which occur less frequently than every 30 years shall be calculated as occurring every 30 years;

(4) The operator shall modify the postclosure cost estimate, in accordance with Section 21865 of this Subchapter, when changes in the plan or landfill conditions indicate an increase or decrease in postclosure maintenance costs. Requests for modifications shall be submitted to CalRecycle for approval.

(b) Postclosure maintenance plans shall include a detailed estimate of the annual costs for postclosure monitoring and maintenance, including the following:

(1) site security pursuant to Section 21135;

(2) maintenance and integrity of the final cover including material acquisition, labor, and placement for repair of the final cover as required due to the effects of settlement, slope failure, or erosion;

(3) maintenance of vegetation including fertilization, irrigation and irrigation system maintenance;

(4) monitoring, operation and maintenance of the environmental monitoring and control systems, including, but not limited to, the landfill gas, leachate, and ground water systems;

(5) maintenance of the drainage and erosion control systems including clearing materials blocking drainage conveyances and repairing drains, levees, dikes and protective berms.

Authority cited: Section 40502, 40508, Public Resources Code.

Reference: Sections 40508, 43020, 43021, 43103, 43501 and 43509, Public Resources Code; and Title 40, Code of Federal Regulations, Sections 258.72.

Section 21860. CIWMB Schedules for Review and Approval of Closure and Postclosure Maintenance Plans. (T14: Section 18271)

(a) The schedule for review and approval must conform to provisions of this Section. An alternative schedule may be proposed by the operator provided it complies with applicable statute and the EA, RWQCB, and CIWMB concur.

(b) The CIWMB shall coordinate the review of the closure and postclosure maintenance plans unless, on an individual plan basis, the EA or RWQCB requests to be the coordinating agency and the other reviewing agencies concur. The operator shall be notified in writing of the alternate coordinating agency. The coordinating agency shall coordinate all phases of the plan review and perform the duties as delineated in this Section. The coordinating agency shall be responsible for coordinating the resolution of any conflicts among the reviewing agencies and to coordinate with the operator to facilitate approval of the plans.

(c) Within 30 days of receipt, closure and postclosure maintenance plans shall be deemed complete by default unless the RWQCB, the EA, or the CIWMB determines and informs the operator that the plan is incomplete pursuant to applicable CIWMB and SWRCB requirements. If determined to be incomplete, the EA, the RWQCB, and the CIWMB shall provide to each other and to the operator a list of specific items missing from the submittal.

(d) If the closure and postclosure maintenance plans are determined by the RWQCB, the EA, or the CIWMB to be incomplete, the operator shall resubmit revised closure and postclosure maintenance plans incorporating all items deemed to be missing from the

prior submittal within 60 days following such determination, unless the EA, the RWQCB, and CIWMB approve an alternate schedule.

(e) Within 120 days of receipt of complete closure and postclosure maintenance plans, the EA, RWQCB, and CIWMB shall complete a detailed review of the submittal, and the reviewing agencies shall submit their comments to the coordinating agency. The complete closure and postclosure maintenance plans shall be deemed approved by that agency unless, within the specified timeframes (120 days for a reviewing agency, 130 days for the coordinating agency), a reviewing or coordinating agency determines and informs the operator that the plans cannot be approved because of lack of compliance with applicable CIWMB or SWRCB requirements. Within 10 days of receipt of the comments, the coordinating agency shall compile all comments and forward them to the operator.

[As required by Water Code Sections 13263(f) and 13264(a) and (a)(2), unless concurring without comment, the RWQCB must also convey the rejection or acceptance of the proposal directly to the owner/operator by the end of the 120-day review period.]

(f) If the closure and postclosure maintenance plans are disapproved by the EA, the RWQCB, or the CIWMB, the operator shall resubmit revised closure and postclosure maintenance plans that ensure compliance with applicable requirements, within 60 days following such determination, unless the EA, the RWQCB, and the CIWMB approve an alternate schedule.

(g) The procedures of Subsections(e) and (f) shall be repeated until all comments by the EA, RWQCB, and CIWMB have been adequately addressed, except the review period specified in (e) shall be the greater of 60 days or the alternative schedule approved in (f), but in no case shall be more than 120 days.

(h) Within 10 days after determining that the closure and postclosure plans are in compliance with applicable requirements, the EA and the RWQCB shall inform the CIWMB by letter that they have approved the closure and postclosure maintenance plans. The RWQCB shall provide copies of any WDR adopted or revised as a result of the review and approval process.

(i) Within 10 days of receipt of the approval letters from the EA and the RWQCB, the CIWMB shall determine if an approval letter for the plans can be issued by the CIWMB. The CIWMB shall not approve the plans if the CIWMB determines that the closure and postclosure maintenance plans are not consistent with state minimum standards, inadequate due to substantive deficiencies in the plan or in the financial assurance mechanism, or the mechanism is not adequately funded for that point in the landfill's life.

(j) If the CIWMB does not approve the closure and postclosure maintenance plans, it shall provide to the operator an explanation of its action and reasons for disapproval and shall provide notice to the EA and the RWQCB.

Authority cited: Section 40502, Public Resources Code; and Section 66796.22(d), Government Code.

Reference: Section 66796.22(b) and 66796.22(d), Government Code; and Sections 21080.5 and 43103, Public Resources Code.

Section 21865. CalRecycle Amendment of Closure and Postclosure Maintenance Plans

(a) Closure and postclosure maintenance plans shall be submitted every time a review or revision of the SWFP is conducted. If there have been no changes requiring an amendment under the (c) criteria, a statement certified by a registered civil engineer or certified engineering geologist that there have been no changes may be submitted in lieu of submitting plans.

(1) For disposal sites without a solid waste facilities permit, the operator shall initially submit updated plans in accordance with the following schedule;

(A) If the approval of Certification of Closure pursuant to Section 21880 occurred on or after January 1, 1988 but prior to January 1, 1997, the operator shall submit updated plans on or before July 1, 2012;

(B) If the approval of Certification of Closure pursuant to Section 21880 occurred on or after January 1, 1997 but prior to January 1, 2001, the operator shall submit updated plans on or before July 1, 2013;

(C) If the approval of Certification of Closure pursuant to Section 21880 occurred on or after January 1, 2001 or if the operator has initiated closure activities on or before February 25, 2003, but has not received approval of Certification of Closure pursuant to Section 21880, the operator shall submit updated plans on or before July 1, 2014.

(2) After complying with (1), the operator shall submit updated plans at least once every five years.

(b) The plans shall be submitted as part of the JTD or a separate document in the form of a distinct component of a JTD. The form of submittal shall be as amendments to the existing plans as necessary. Submittal shall be in accordance with Section 21780. The evaluation and approval of the plans shall be as specified under Section 21860.

(c) The plans shall be amended to reflect the following:

(1) Any change in

(A) Operation or solid waste landfill design which would affect the implementation of the closure and/or postclosure maintenance plans;

(B) The anticipated year of closure;

(C) The financial mechanism required pursuant to Section 22227, "Substitution of Mechanisms" or Section 22231, "Cancellation or Nonrenewal by a Provider of Financial Assurance"; and

(2) Updates of the cost estimates shall be based on the current costs on a unit basis (unit costs) for closure and postclosure maintenance. Cost estimate adjustments based only on inflation are not acceptable.

Authority cited: Section 40502, Public Resources Code.

Reference: Section 43103, 43505 and 43509, Public Resources Code.

Section 21870. CIWMB Implementation of Closure Plan. (new)

(a) Closure Plan implementation shall adhere to the schedules specified in Sections 21800 and 21810.

(b) Closure, partial final closure, and partial closure activities shall not commence until there is an approved closure and postclosure maintenance plan for the solid waste landfill.

(c) Closure, partial final closure, and partial closure activities shall be conducted pursuant to the approved closure and postclosure maintenance plan.

(d) The EA shall be responsible for ongoing inspections of closure activities and for approval of minor changes from the specifications contained in the approved closure plan. The EA inspections shall be no less than quarterly pursuant to 14 CCR Section 18083. The CIWMB shall inspect closure activities as necessary to authorize release of financial assurances and shall upon concurrence with the EA and RWQCB approve significant changes from the specifications contained in the approved closure plan. If the RWQCB or EA does not object to the change(s) within 30 days of notification by the CIWMB and the change does not conflict with WDRs or any other order issued by the RWQCB, the change is deemed concurred with by that agency.

(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.

(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.

Authority cited: Section 40502, Public Resources Code; and Section 66796.22(d), Government Code.

Reference: Section 66796.22(d), Government Code; and Section 43103, Public Resources Code.

Section 21880. CalRecycle Certification of Closure.

(a) The operator shall submit to CalRecycle, the EA, and the RWQCB for approval a certification, under penalty of perjury, that the solid waste landfill has been closed in accordance with the approved final closure plan.

(1) The certification submittal shall also include the as-built costs of closure in the same arrangement and sequence as the estimated costs of closure included in the approved final closure plan.

(b) The certification shall be completed by a registered civil engineer or certified engineering geologist and include a report with supporting documentation. The report shall include a Final Construction Quality Assurance (CQA) report pursuant to Section 20323 and Section 20324 et seq. and any other documentation as necessary to support the certification. The certification, Final CQA report and any other documentation as necessary to support the certification shall be incorporated into the approved postclosure maintenance plan.

(c) The certification shall be submitted within 180 days of the completion of closure construction activities unless CalRecycle, EA, and RWQCB approve an alternate schedule.

(d) Within 120 days of receipt of the certification, CalRecycle, RWQCB, and EA shall complete a detailed review of the submittal and submit their comments to the operator.

(e) If the certification is not approved by CalRecycle, RWQCB, or EA, the operator shall submit a revised certification within 60 days following such determination unless CalRecycle, RWQCB, and EA approve an alternate schedule.

(f) Once the certification has been approved by CalRecycle, RWQCB, and the EA, CalRecycle shall release the operator from the financial mechanism for closure. CalRecycle shall notify the local planning agency of this determination.

(g) On the day that the certification of closure is approved, the solid waste landfill shall be considered closed and in postclosure maintenance.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43020, 43021, 43103 and 44006, Public Resources Code.

Section 21890. CIWMB Revision of Approved Plans For Closure and Postclosure Maintenance. (T14: Section 18276)

(a) The operator shall adhere to the final closure and postclosure maintenance plans approved pursuant to Section 21860. Significant changes to the closure and postclosure maintenance plans, after approval of the final plan, shall upon concurrence with the EA be approved by the CIWMB, and the RWQCB.

(b) Postclosure maintenance plans may be revised during the postclosure maintenance period upon concurrence with the EA and approval by the CIWMB, and the RWQCB.

Authority cited: Section 40502, Public Resources Code; and Section 66796.22(d), Government Code.

Reference: Section 66796.22(d), Government Code; and Sections 43020, 43021, 43103 and 44006, Public Resources Code.

Section 21900. CIWMB Release From Postclosure Maintenance. (T14: Section 18277)

(a) The operator of a solid waste landfill may be released from postclosure, after a minimum period of thirty (30) years upon demonstration to and approval by the CIWMB, the EA, and the RWQCB that the solid waste landfill no longer poses a threat to the public health and safety and the environment.

Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code.

Reference: Section 66796.22(d), Government Code; and Sections 43103, Public Resources Code.

Subchapter 5. CalRecycle-Corrective Action Cost Estimate and Plan Requirements

Article Ghost Header for Outline ADA Compliance

Section 22100. CalRecycle Scope and Applicability.

(a) This subchapter applies to owners and operators of all disposal facilities that were or are required to be permitted as solid waste landfills and have been or will be operated on or after July 1, 1991.

(b) The operator shall provide cost estimate(s) and a plan, as appropriate, for initiating and completing known or reasonably foreseeable corrective action pursuant to Section 22101.

(c) For the purpose of this subchapter, the following definitions apply:

(1) "Corrective action" means an activity, including restoring the integrity or establishing the adequacy of a damaged or inadequate containment structure or environmental monitoring or control system, to: bring a landfill into compliance with the applicable requirements, prevent a reasonably foreseeable release, or remediate a known release to the environment. Corrective action does not include routine maintenance.

(2) "Causal event" means an occurrence that could result in a non-water release corrective action. Causal events include, but are not limited to, earthquakes, flooding, tsunami, seiche, fire, precipitation, and degradation of or otherwise inadequate containment structure or environmental monitoring or control system.

Authority cited: Section 40502, 43020, 43021, 43050 and 43103, Public Resources Code.

Reference: Section 40052, 43020, 43021 and 43101, Public Resources Code.

Section 22101. CalRecycle Corrective Action Estimate Requirements.

(a) Water release corrective action estimate. The operator shall provide a cost estimate for initiating and completing corrective action for all known or reasonably foreseeable releases from the solid waste landfill to water in accordance with the program required by the SWRCB pursuant to Section 20380(b).

(b) Non-water release corrective action cost estimate

(1) Effective July 1, 2011, on or before the date of the first permit review or revision or plan review as determined by the schedule in Section 21865, the operator shall also provide a cost estimate for the complete replacement of the final cover. The operator shall calculate this cost in one of the following two ways:

(A) By providing a new estimate of the cost of complete replacement of the final cover, including, but not limited to, the cost of removing the existing cover and preparing for and installing the new cover, as necessary, depending on the replacement final cover system design: or,

(B) By providing the greater of either the most recently approved or most recently submitted closure cost estimate, adjusted, as necessary, to reflect closure of the entire solid waste landfill and current unit costs.

(2) The operator, in lieu of providing a separate corrective action cost estimate pursuant to (b)(1)(A) or (B), may provide a site-specific corrective action plan, as described in Section 22102.

(c) A cost estimate prepared pursuant (a) or (b) must be a detailed written estimate, in current dollars, of the cost of hiring a third party to perform all applicable corrective action activities for the entire corrective action period.

(d) The operator shall prepare the cost estimates in accordance with the requirements of Section 21815.

(e) The operator shall increase the cost estimate if changes in the corrective action program, corrective action plan, or landfill conditions increase the maximum cost of corrective action.

(f) The operator may only reduce the amount of the cost estimate if the cost estimate exceeds the maximum remaining corrective action costs and the reduction is approved pursuant to (g).

(g)

(i) The operator shall provide the cost estimate prepared pursuant to (a) to RWQCB for review and approval and shall provide a copy of this estimate to CalRecycle.

(ii) The operator shall provide the estimate prepared pursuant to (b) to RWQCB, EA, and CalRecycle for review and approval in accordance with the schedule in Section 21860.

Authority cited: Sections 40502, 43020, 43021, 43050 and 43103, Public Resources Code.

Reference: Sections 43020, 43021 and 43101, Public Resources Code.

Section 22102. CalRecycle Corrective Action Plan Requirements.

(a) A corrective action plan submitted to comply with Section 22101(b)(2) must include:

(1) An evaluation of the know or reasonably foreseeable non-water release corrective action needed as a result of each known or reasonably foreseeable causal event;

(2) Cost estimates, prepared pursuant to Section 22101(c)-(f), for all know or reasonably foreseeable corrective actions described in the plan. The cost estimate with the highest amount must be used to determine the amount of financial assurance required pursuant to Section 22221(b)(2); and

(3) An evaluation of the long-term performance of the final cover system to ensure that it will continue to meet the requirements of Section 21140 without the need for corrective action.

(b) The operator shall submit the plan to RWQCB, EA, and CalRecycle for review and approval in accordance with the schedule in Section 21860.

(c)

(1) The corrective action plan shall be prepared and certified by a third party who meets all of the following conditions;

(A) Is a registered civil engineer or certified engineering geologist;

(B) Is not employed by the current entity responsible for the design of the solid waste landfill;

(C) Is not the current professional in responsible charge of work for the design of the solid waste landfill; and

(D) Is not employed by an entity or its subsidiary, parent, or other similarly related entity under common control that owns or operates the solid waste landfill.

(2) For the purposes of (c)(1)(B) and (C), the current entity responsible for the design and the current professional in responsible charge of design work are the entity and registered civil engineer or certified engineering geologist responsible for the design pursuant to Section 21600(b)(4)(B) in the conditioning JTD/RDSI, including all subsequent RFI amendments as applicable and approved, listed in the most recently issued solid waste facility permit and pursuant to Section 21780 in the approved final closure plan.

Authority cited: Section 40502, 43020, 43021, 43050 and 43103, Public Resources Code.

Reference: Sections 43020, 43021 and 43101, Public Resources Code.

Section 22103. CalRecycle Updated Corrective Action Cost Estimate.

(a) The operator shall submit an updated corrective action estimate prepared pursuant to Section 22101(a) and an updated corrective action estimate or corrective action plan prepared pursuant to Section 22101(b) each time closure and postclosure maintenance plans are required to be submitted pursuant to Section 21865.

(1) The updated cost estimate shall be based on the current unit costs. Cost estimate adjustments based only on inflation factors are not acceptable.

Authority cited: Section 40502, 43020, 43021, 43050 and 43103, Public Resources Code.

Reference: Sections 43020, 43021, 43101, 43103, 44004 and 44015, Public Resources Code.

Chapter 5. Enforcement

SubChapter Ghost Header for Outline ADA Compliance

Articles 1-3. (Reserved CIWMB)

Article 4. Enforcement by Regional Water Quality Control Board (RWQCB)

Section 22190. SWRCB Mandatory Closure (Cease and Desist Orders).

(b) Source Control If the RWQCB finds that early closure of a waste management unit (Unit) is necessary to prevent (or curtail) violation of waste discharge requirements [e.g., as a source control measure in corrective action, under Section 20430(c)], it shall adopt a Cease and Desist Order, pursuant to Section 13302 of the Water Code, which requires closure according to a closure and post closure maintenance plan approved by the RWQCB.

(A) New/Updated Plan Any time a Unit is subjected to early closure, under (a), the discharger shall, in accordance with a schedule of compliance issued by the RWQCB, submit to the RWQCB a report including an appropriate closure and post closure maintenance plan (under Section 21769), if such a plan applicable to the early-closed configuration of the Unit was not submitted with the report of waste discharge and including a revised schedule for immediate termination of operations and closure.

Authority cited: Section 1058, Water Code.

Reference: Sections 13301 and 13304, Water Code; Section 43103, Public Resources Code.

Chapter 6. Financial Assurances at Solid Waste Facilities and at Waste Management Units for Solid Waste

Subchapter 1. Definitions for Financial Assurance Demonstrations and Requirements

Article Ghost Header for Outline ADA Compliance

Section 22200. CIWMB Definitions. (T14:Section 18281)

When used in this Chapter, the following terms shall have the meanings given below:

(a) "Accidental occurrence" means an event, including pollution exposures, which occurs during the operation of a disposal facility prior to closure, that results in bodily injury and/or property damage, and includes continuous or repeated exposure to conditions, neither expected nor intended from the standpoint of the facility operator.

(b) "Admitted carrier" means an insurance company entitled to transact the business of insurance in this state, having complied with the laws imposing conditions precedent to transactions of such business.

(c) "Annual capacity filled" means the portion of a solid waste landfill's total permitted capacity that was filled during the following period:

(1) From August 18, 1989 until 60 days prior to the anniversary date of the establishment of a trust fund or an enterprise fund; and

(2) From 60 days prior to each anniversary date of the establishment of a trust fund or an enterprise fund that occurs before the subsequent anniversary date.

(d) "Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

(e) "Auto" means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment," as defined in (dd).

(f) "Bodily injury" means any injury to the body, sickness or disease sustained by a person, including death resulting from any of these at any time. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury." "Bodily injury" excludes:

(1) "Bodily injury" expected or intended from the standpoint of the operator. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

(2) "Bodily injury" for which the operator is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the operator would have in the absence of the contract or agreement.

(3) Any obligation of the operator under a workers compensation, disability benefits or unemployment compensation law or any similar law.

(4) "Bodily injury" to:

(A) An employee of the operator arising out of and in the course of employment by the operator; or

(B) The spouse, child, parent, brother or sister of that employee as a consequence of (A) above. This exclusion applies:

(i) Whether the operator may be liable as an employer or in any other capacity; and

(ii) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

(5) "Bodily injury" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any operator. Use includes operation and loading or unloading. This exclusion does not apply to:

(A) Parking an "auto" on, or on the ways next to, premises the operator owns or rents, provided the "auto" is not owned by or rented or loaned to the operator;

(B) "Bodily injury" arising out of the operation of any of the equipment listed in(6)(A) or (6)(B) of the definition of "mobile equipment", found in (aa) below.

(g) "Captive Insurance Company" means an insurance carrier established by a solid waste facility operator to meet the financial assurance obligations of the operator.

(h) "Cash plus marketable securities" means all the cash plus marketable securities held by the local government on the last day of the fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions. Cash plus marketable securities form the numerator of the liquidity ratio.

(1) Cash and cash equivalents means bank deposits, very short-term debt securities, and money market funds.

(2) Marketable securities means interest or dividend bearing securities in the General Fund, Special Revenue Funds, Debt Service Fund, Enterprise Funds and Internal Service Funds, as reported on the comprehensive annual financial report's (CAFR's) Combined Balance Sheet and that are expected to be held for less than one year.

(3) Excluded from this definition are accounts receivable, retirement assets, real property, fixed assets, and other non-current assets, as well as any assets (including cash) in Capital Projects Funds.

(i) "Comprehensive Annual Financial Report (CAFR)" means annual financial report prepared by local governments.

(j) "Cumulative capacity filled" means the sum of the annual capacities filled since August 18, 1989.

(k) "Current assets" means cash or other assets or resources commonly identified as those that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(l) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with Section 21820.

(m) "Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

(n) "Current postclosure cost estimate" means the most recent of the estimates prepared in accordance with Section 21840.

(o) "Debt service" means the amount of principal and interest due on a loan in the latest completed fiscal year. Annual debt service is the numerator of the debt service ratio. The debt service ratio provides an indicator of ability to meet financial obligations in a timely manner.

(1) Sum of amounts in any debt service category including bond principal, other debt principal, interest on bonds, interest on other debt in the General Fund, Special Revenue Funds, Debt Service Fund, and Capital Projects Funds.

(2) Debt service amounts are reported in the comprehensive annual financial report's (CAFR's) Combined Statement of Revenues, Expenditures and Changes in Fund Balances/Equity.

(3) Interest expense in Enterprise Funds and Internal Service Funds are reported on comprehensive annual financial report's (CAFR's) Combined Statement of Revenues, Expenses and Changes in Retained Earnings/Fund Balances.

(p) "Enterprise fund" means a fund meeting the requirements of Section 22241, of Article 2, of Subchapter 3, of this Chapter, that is established to account for the

financing of self-supporting activities of a government unit that renders services on a user-fee basis.

(q) "Excess coverage" means assurance for third party bodily injury and property damage costs that are above a specified level (i.e., above the primary coverage level or a limit of lower excess coverage) but up to a specified limit.

(r) "Federal entity" means the United States Government, or any department, agency, or instrumentality thereof.

(s) "Financial means test" means the financial assurance mechanism specified in Section 22246 of Article 2 of Subchapter 3 of this Chapter by which an operator demonstrates his or her ability to pay third party claims for bodily injury and property damage caused by accidental occurrences and/or to pay future postclosure maintenance costs by satisfying the prescribed set of financial criteria.

(t) "Financial reporting year" means the twelve-month period for which financial statements that are used to support the financial means test are prepared.

(u) "Fully funded" means the value of a closure and/or postclosure maintenance and/or corrective action fund is equal to, or greater than, the total current closure and/or postclosure maintenance and/or corrective action cost estimate(s) for the facility(ies) covered.

(v) "Government securities" means financial obligations meeting the requirements of Section 22242 of Article 2 of Subchapter 3 of this Chapter that are issued by a federal, state, or local government, including but not limited to, general obligation bonds, revenue bonds, and certificates of participation.

(w) "Guarantee" means a contract meeting the requirements of Section 22247, of Article 2 of Subchapter 3 of this Chapter, by which a guarantor promises that, if the operator fails to perform postclosure maintenance, or to adequately compensate legitimate third party claimants for bodily injury and/or property damage caused by an accidental occurrence, the guarantor will perform postclosure maintenance, compensate the third party for damages, or will establish and fund a trust fund in the name of the operator to pay for such activities.

(x) "Guarantor" means a parent corporation, or a corporation with a substantial business relationship to the operator who guarantees payment of a present or future obligation(s) of an operator.

(y) "Insurance" means a contract meeting the requirements of Section 22248 or Section 22251 of Article 2 of Subchapter 3 of this Chapter by which an insurer promises to pay for closure, postclosure maintenance or corrective action, or a claim by a third party for bodily injury and property damage caused by an accidental occurrence.

(z) "Legal defense costs" means expenses that an operator or a provider of financial assurance incurs in defending claims brought:

(1) By or on behalf of a third party for bodily injury and/or property damage caused by an accidental occurrence; or

(2) By any person to enforce the terms of a financial assurance mechanism.

(aa) "Letter of credit" means a contract meeting the requirements of Section 22243, of Article 2 of Subchapter 3 of this Chapter, by which the issuing institution promises to extend credit on behalf of an operator to the CIWMB upon the presentation of the mechanism in accordance with its terms.

(bb) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future, as a result of past transactions or events.

(cc) "Minimum fund balance" means the required minimum balance maintained in a trust fund or enterprise fund in compliance with the formula(s) in Section 22225 or Section 22226 of Article 1 of Subchapter 3 of this Chapter.

(dd) "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

(1) Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

(2) Vehicles maintained for use solely on or next to premises the operator owns or rents;

(3) Vehicles that travel on crawler treads;

(4) Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:

(A) Power cranes, shovels, loaders, diggers or drills; or

(B) Road construction or resurfacing equipment such as graders, scrapers or rollers;

(5) Vehicles not described in (1), (2), (3) or (4) above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

(A) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or

(B) Cherry pickers and similar devices used to raise or lower workers;

(6) Vehicles not described in (1), (2), (3) or (4) above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

(A) Equipment designed primarily for:

- (i) Snow removal;
- (ii) Road maintenance, but not construction or resurfacing;
- (iii) Street cleaning;

(B) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(C) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

(ee) "Net working capital" means current assets minus current liabilities.

(ff) "Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

(gg) "Operating deficit" means total expenditures minus total revenues.

(hh) "Parent corporation" means a corporation that owns directly or through its subsidiaries at least 50 percent of the voting stock of another corporation.

(ii) [Reserved]

(jj) "Pledge of revenue" means a financial assurance mechanism meeting the requirements of Section 22245, of Article 2 of Subchapter 3 of this Chapter, by which a government unit promises to make specific, identified future revenue available to pay future postclosure maintenance costs.

(kk) "Primary coverage" means the first priority coverage for third party bodily injury and property damage costs, and closure and/or postclosure maintenance costs, up to a specified limit when used in combination with other coverage.

(ll) "Property damage" means physical injury to tangible property, including all resulting loss of use of that property, or loss of use of tangible property that is not physically injured. "Property damage" excludes:

(1) "Property damage" expected or intended from the standpoint of the operator.

(2) "Property damage" for which the operator is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the operator would have in the absence of the contract or agreement.

(3) An obligation of the operator under a workers' compensation, disability benefits, or unemployment compensation law or similar law.

(4) "Property damages" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any operator. Use includes operation and loading and unloading. This exclusion does not apply to:

(A) Parking an "auto" on, or on the ways next to, premises the operator owns or rents, provided the "auto" is not owned by or rented or loaned to the operator;

(B) "Property damage" arising out of the operation of any of the equipment listed in (6)(A) or (6)(B) of the definition of "mobile equipment," found in (dd) above.

(5) "Property damage" to:

(A) Any property owned, rented, or occupied by the operator;

(B) Premises that are sold, given away, or abandoned by the operator if the "property damage" arises out of any part of those premises;

(C) Property loaned to the operator;

(D) Personal property in the care, custody, or control of the operator; and

(E) That particular part of real property on which the operator or any contractors or subcontractors working directly or indirectly on behalf of the operator are performing operations, if the "property damage" arises out of those operations, or

(F) That particular part of any property that must be restored, repaired or replaced because the operator's work was incorrectly performed on it.

(mm) "Provider of financial assurance" means an entity, other than the operator of a disposal facility, that provides financial assurance to the operator including, but not limited to, a trustee, an institution issuing a letter of credit, a surety company, an insurer, a guarantor, or an institution providing a financial assurance mechanism used in conjunction with an enterprise fund, government securities, or pledge of revenue.

(nn) "Remaining cost estimate" means the value remaining when the current value of a closure and/or postclosure maintenance fund is subtracted from the current closure and/or postclosure maintenance cost estimate(s).

(oo) "Remaining permitted capacity" means the total permitted capacity at the disposal facility less the cumulative capacity filled at the disposal facility since August 18, 1989.

(pp) "Substantial business relationship" means a business relationship that arises from a pattern of recent or ongoing business transactions.

(qq) "Surety bond" means a contract meeting the requirements of Section 22244, of Article 2, of Subchapter 3, of this Chapter, by which a surety company promises that, if the operator fails to perform required closure and/or postclosure maintenance and/or

corrective action, the surety company will be liable for the operator's responsibilities as specified by the bond.

(rr) "Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets do not include intangibles such as goodwill and rights to patents or royalties.

(ss) "Total expenditures" means the sum of the six items listed in Subsections(1) and (2) below.

(1) Items 1-3 reported on the comprehensive annual financial report's (CAFR's) Combined Statement of Revenues, Expenses and Changes in Fund Balances/Equity:

(A) Total Expenditures of the General Fund

(B) Total Expenditures of Special Revenue Funds.

(C) Total Expenditures of the Debt Service Fund.

(2) Items 4-6 reported on the comprehensive annual financial report's (CAFR's) Combined Statement of Revenues, Expenses and Changes in Retained Earnings/Fund Balances:

(A) Total Operating Expenses Before Depreciation of Enterprise Funds

(B) If negative, Total Non-Operating Revenues (Net) of Enterprise Funds.

(C) If negative, Total Non-Operating Revenues (Net) of Internal Service Funds.

(3) Total expenditures is used in the liquidity and debt service ratios, and operating deficit limit.

(4) Include routine capital outlays that are accounted for in the General Fund, e.g. outlays for police vehicles, copy equipment; any capital outlays that are funded on a "pay-as-you-go" basis.

(5) Exclude non-routine capital outlays, which are generally accounted for in Capital Projects Funds.

(tt) "Total permitted capacity" means the capacity approved by the disposal facility permit, including any changes in capacity approved by a new permit or a permit modification; but excluding any capacity filled prior to August 18, 1989.

(uu) "Total revenues" means the sum of the seven items listed in Subsections(1) and (2) below, and is used in the calculation of costs which can be assured by the local government financial test.

(1) Items 1-4 reported on the comprehensive annual financial report's (CAFR's) Combined Statement of Revenues, Expenses and Changes in Fund Balances/Equity:

(A) Total Revenues of the General Fund.

(B) Total Revenues of Special Revenue Funds.

(C) Total Revenues of the Debt Service Fund.

(D) Total Revenues of Capital Projects Funds.

(2) Items 5-7 reported on the comprehensive annual financial report's (CAFR's) Combined Statement of Revenues, Expenses and Changes in Retained Earnings/Fund Balances:

(A) Total Operating Revenues of Enterprise Funds.

(B) If positive, Total Non-Operating Revenues (Net) of Enterprise Funds.

(C) If positive, Total Non-Operating Revenues (Net) of Internal Service Funds.

(3) Total revenues is used in calculation of operating deficit and the limit on costs.

(vv) "Trust fund" means a contract meeting the requirements of Section 22240, of Article 2, of Subchapter 3 of this Chapter, by which the operator transfers assets to a trustee to hold on behalf of the CIWMB or its designee to pay closure costs and/or postclosure maintenance costs and/or corrective action costs and/or third party operating liability claims.

Authority cited: Sections 40502, 43040, and 43601.5, Public Resources Code.

Reference: Sections 43040, 43103, and 43500 through 43610.1, Public Resources Code Part 258.74(f) and (h), Title 40 Code of Federal Regulations.

Subchapter 2. Financial Assurance Requirements

Article 1. Financial Assurance for Closure

Section 22205. CIWMB Scope and Applicability. (T14:Section 18280)

(a) This article requires operators of solid waste landfills to demonstrate the availability of financial resources to conduct closure activities.

(b) The requirements of this article apply to operators of all disposal facilities that are required to be permitted as solid waste landfills pursuant to Chapter 4 of this Division and have been or will be operated on or after January 1, 1988.

(c) Operators of all disposal facilities shall comply with the requirements of this Article upon application for issuance, amendment, modification, revision or review of a SWFP, commencing the effective date of this Article.

Authority cited: Sections 40502 and 43509, Public Resources Code.

Reference: Sections 43103, 43500, 43600, 43602 and 43603, Public Resources Code.

Section 22206. CIWMB Amount of Required Coverage. (T14:Section 18282)

(a) Except as otherwise Noted in Section 22228 of Article 1 of Subchapter 3 of this Chapter, the operator of each solid waste landfill shall demonstrate financial responsibility to the CIWMB for closure in at least the amount of the current closure cost estimate.

Authority cited: Section 40502, Public Resources Code.

Reference: Section 43103 and 43501, Public Resources Code.

Section 22207. SWRCB Closure Funding Requirements. [C15: Sections 2574(f&g) and 2580(f)]

The requirements of this Section apply to dischargers who own or operate a Class II, or Class III waste management unit (Unit) or a mining waste management unit (mining Unit).

(a) Unit Closure Funding At Class II and Class III Units for which the CIWMB does not require a closure fund, the RWQCB shall require the discharger to establish an irrevocable closure fund (or to provide other means) pursuant to the CIWMB-promulgated Sections of this chapter but with the RWQCB named as beneficiary, to ensure closure of each classified Unit in accordance with an approved plan meeting all applicable SWRCB-promulgated requirements of this subdivision. For solid waste disposal sites, the RWQCB shall coordinate with the CIWMB, pursuant to Section 20950(f).

(b) Mining Unit Closure Funding For mining Units only, the discharger shall provide for adequate funding to pay for the costs of closure as required by the mining regulations of Article 1, Subchapter 1, Chapter 7 of this division (Section 22470 et seq.). The discharger shall provide assurance of financial responsibility acceptable to the RWQCB. The RWQCB shall periodically review financial assurances for mining Units and shall modify the financial assurances as necessary to provide continued compliance with this Section. If a lead agency acting under the authority of Section 2774(a) of the Public Resources Code requires assurances of financial responsibility for a mining Unit, these assurances can be used to fulfill the requirement under this paragraph, provided that:

- (1) the RWQCB approves the assurance; and
- (2) the RWQCB is named as alternate payee.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, 13226, 13263, and 13267, Water Code; Section 43103, Public Resources Code.

Article 2. Financial Assurance for Postclosure Maintenance

Section 22210. CIWMB Scope and Applicability. (T14:Section 18280)

(A) This article requires operators of solid waste landfills to demonstrate the availability of financial resources to conduct postclosure maintenance activities.

(B) The requirements of this article apply to operators of all disposal facilities that are required to be permitted as solid waste landfills pursuant to Chapter 4 of this Division and have been or will be operated on or after January 1, 1988.

(C) Operators of all disposal facilities shall comply with the requirements of this Article upon application for issuance, amendment, modification, revision or review of a SWFP, commencing the effective date of this Article.

Authority cited: Sections 40502 and 43509, Public Resources Code.

Reference: Sections 43103, 43500, 43600, 43602 and 43603, Public Resources Code.

Section 22211. CalRecycle--Amount of Required Coverage.

(a) The operator of each solid waste landfill shall demonstrate financial responsibility to CalRecycle for postclosure maintenance until released from postclosure maintenance pursuant to Section 21900. Except as otherwise provided in (b) and Section 22225, the amount of the financial demonstration must be at least the amount of the greater of either the most recently approved or most recently submitted postclosure maintenance cost estimate, prepared pursuant to Section 21840 multiplied by a factor as identified below.

(1) For each solid waste landfill without approved final closure and postclosure maintenance plans on or before July 1, 2010, the postclosure maintenance cost estimate must be calculated with a multiplier equal to thirty (30) from the time the postclosure maintenance cost estimate is initially prepared and continuing throughout the certification of closure of the entire solid waste landfill pursuant to Section 21880, which will initiate the postclosure maintenance period of the closed landfill.

(2) After five (5) years of completed postclosure maintenance activities, at each postclosure maintenance plan review conducted pursuant to Section 21865, the operator may submit a request to CalRecycle for approval to use a reduced multiplier. CalRecycle shall approve the use of a reduced multiplier if CalRecycle determines all the following criteria have been satisfied:

(A) The operator may only request a reduced multiplier once every five (5) years, the first request occurring no earlier than the end of the fifth (5) year of postclosure maintenance,

(B) The operator request shall be for a reduction in the multiplier in increments of five (5), but in no instance shall the multiplier be reduced below fifteen (15) until the operator is released from postclosure maintenance pursuant to Section 21900, and

(C) During the five (5) year interval, the operator shall meet all of the following conditions:

(i) The operator has not been subject to an enforcement order issued for the closed solid waste landfill by EA, CalRecycle, or RWQCB, including but not limited to, a Notice and Order, Cleanup and Abatement Order, Cease and Desist Order, Time Schedule Order, or similar controlling order within the current Waste Discharge Requirements of the RWQCB or SWFP and CalRecycle has not placed the closed solid waste landfill on the Inventory of Facilities Violating State Minimum Standards, except if:

(a) The agency that issued the enforcement order has determined that:

(I) Any required capital improvements have been satisfactorily constructed, and

(II) The activities required by the enforcement order either:

(i) Are in the operation and maintenance phase, or

(ii) Have been satisfactorily completed, and

(III) The activities required by the enforcement order are effectively remedying the subject(s) of the enforcement order, and

(b) The remaining costs of the activities required by the enforcement order are addressed in the postclosure maintenance and/or the corrective action financial assurance demonstrations.

(c) If the multiplier was previously approved for reduction pursuant to a. and b., CalRecycle shall require the multiplier to be increased in increments of five (5), limited to one (1) incremental increase within a five (5) year period, to a maximum multiplier of thirty (30), if at any time subsequent to the approved reduction the operator fails to continue to meet the conditions specified in a. and b.

(ii) The operator has consistently performed a proactive monitoring program that has been described in the operator's postclosure maintenance plan that has been approved by EA, CalRecycle and RWQCB. The proactive monitoring program shall include, but not be limited to the following: leachate quality and quantity; landfill gas generation and migration; groundwater quality; and final cover settlement, stability, integrity, and maintenance history including repair and replacement. If the operator is already monitoring one of more of the items identified in this Section due to other requirements,

these may be included within the proactive monitoring program. The proactive monitoring program shall ensure that the operator is obtaining information in order to determine the characteristics and trends of leachate, landfill gas, groundwater and final cover both individually and as they interact with each other in the landfill. The operator shall analyze the data to determine if postclosure maintenance activities have been and will be effective in meeting the requirements of Sections 21090 and 21180. The monitoring data and evaluation shall be made available to EA, CalRecycle, and RWQCB upon request,

(iii) There has not been a disbursement for corrective action in accordance with Section 22234, and

(iv) The postclosure maintenance activities and costs are consistent with the estimated postclosure maintenance activities and costs in the approved postclosure maintenance plan.

(3) At each postclosure maintenance plan review conducted pursuant to Section 21865, if the multiplier was previously approved for reduction pursuant to (a)(2), CalRecycle shall require the multiplier to be increased in increments of five (5), limited to one (1) incremental increase within a five (5) period, to a maximum multiplier of thirty (30), if, during the five (5) year interval since the previous plan review, either

(A) The operator fails to meet conditions specified in (a)(2)(C)1 or 2 except:

(i) if the enforcement order issued pursuant to (a)(2)(C)1 was issued due to an exceptional event unrelated to the design, operation, closure, or maintenance of the closed solid waste landfill, including, but not limited to, a wildfire or act of terrorism, and the operator petitions CalRecycle and CalRecycle determines that;

(a) the enforcement order meets the conditions of 1., and

(b) the operator is in compliance with the terms and conditions of that enforcement order, or

(B) The operator fails to meet the schedule to repay any disbursement for corrective action pursuant to Section 22234(b).

(4) If an operator does not qualify for a reduction in the multiplier pursuant to (a)(2)(C) and is not required to increase the multiplier pursuant to (a)(3), CalRecycle shall require the multiplier to be maintained at the current multiplier.

(b) For each solid waste landfill with approved final closure and postclosure maintenance plans on or before July 1, 2010, the postclosure maintenance cost estimate multiplier must be equal to thirty (30), except that:

(1) Upon request by the operator and verification by CalRecycle, the operator may reduce the multiplier to an amount corresponding to the number of years of postclosure maintenance completed since the approval of the certification of closure of the entire

solid waste landfill pursuant to Section 21880, but shall not reduce the multiplier to less than fifteen (15).

(2) Upon request by the operator and verification by CalRecycle, at the end of each year of postclosure maintenance, the operator may reduce the multiplier on a one-for-one basis with the number years of postclosure maintenance completed, but shall not reduce the multiplier to less than fifteen (15).

(c) Upon transfer of ownership or operation of a closed solid waste disposal site,

(1) The new operator shall provide a financial assurance demonstration using a multiplier of thirty (30), and

(2) The new operator may submit a request to CalRecycle for approval to reduce the multiplier to the current level of financial assurances provided by the previous operator. CalRecycle shall approve the request if CalRecycle determines that all of the following criteria are met:

(A) The new operator has operated and maintained solid waste disposal sites for at least ten (10) years, is not currently in violation of an enforcement order and has not exhibited a pattern and practice of violations of applicable standards;

(B) The new operator has submitted the affidavit required by Section 21200(b)(2); and

(C) The new operator has submitted satisfactory evidence that it is able to obtain a financial assurance demonstration, pursuant to Section 22228 at a thirty (30) multiplier level.

Authority cited: Section 40502 and 43050, Public Resources Code.

Reference: Section 43103, 43501, 43509(a), 43600, 43601, 43602 and 43604, Public Resources Code.

Section 22212. SWRCB Post-Closure Funding Requirements. [C15:Sections 2574(f&g) and 2580(f)]

The requirements of this Section apply to dischargers who own or operate a Class II or Class III waste management unit (Unit) or a mining waste management unit (mining Unit).

(a) Non-Mining Units At Class II and Class III Units for which the CIWMB does not require a closure fund, the RWQCB shall require the discharger to establish an irrevocable fund (or to provide other means) pursuant to the CIWMB-promulgated Sections of this chapter but with the RWQCB named as beneficiary, to ensure post closure maintenance of each classified Unit in accordance with an approved plan meeting all applicable requirements of this subdivision. For solid waste landfills, the RWQCB shall coordinate with the CIWMB, pursuant to Section 20950(f).

(b) Mining Units The discharger shall provide for adequate funding to pay for the costs of closure post closure maintenance at mining Units, as required by the mining regulations of Article 1, Subchapter 1, Chapter 7 of this division (Section 22470 et seq.). The discharger shall provide assurance of financial responsibility acceptable to the RWQCB. The RWQCB shall periodically review financial assurances for mining Units and shall modify the financial assurances as necessary to provide continued compliance with this Section. If a lead agency acting under the authority of Section 2774(a) of the Public Resources Code requires assurances of financial responsibility for a mining Unit, these assurances can be used to fulfill the requirement under this paragraph, provided that:

- (1) the RWQCB approves the assurance; and
- (2) the RWQCB is named as alternate payee.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, 13226, 13263, and 13267, Water Code; Section 43103, Public Resources Code.

Article 3. CIWMB Financial Assurance Requirements for Operating Liability

Section 22215. CIWMB Scope and Applicability. (T14:Section 18230)

(a) This article requires operators of disposal facilities to demonstrate adequate financial ability to compensate third parties for bodily injury and property damage caused by facility operation prior to closure.

(b) Operators of all disposal facilities, except state and federal operators, shall comply with the requirements of this Article upon application for issuance, amendment, modification, revision or review of a SWFP, commencing July 1, 1992.

Authority cited: Section 40502 and 43040, Public Resources Code.

Reference: Sections 43040 and 43103, Public Resources Code.

Section 22216. CIWMB Amount of Required Coverage. (T14:Section 18232)

(a) An operator of one or more disposal facilities shall demonstrate financial responsibility for compensating third parties for bodily injury and property damage caused by any accidental occurrences, including exposures to pollution, in at least the amount of:

- (1) One million dollars (\$1,000,000) per occurrence; and

- (2) One million dollars (\$1,000,000) annual aggregate for 1 facility.
 - (3) Two million dollars (\$2,000,000) annual aggregate for 2 facilities.
 - (4) Three million dollars (\$3,000,000) annual aggregate for 3 facilities.
 - (5) Four million dollars (\$4,000,000) annual aggregate for 4 facilities.
 - (6) Five million dollars (\$5,000,000) annual aggregate for 5 or more facilities, which is the maximum coverage required.
- (b) The required amounts of coverage shall be exclusive of legal defense costs, deductibles and any self-insured retention.
 - (c) The required amounts of coverage shall apply exclusively to an operator's facility or facilities located in the State of California.
 - (d) An operator may use one or more mechanisms to provide proof of financial assurance.
 - (e) If a trust fund or government securities is depleted to compensate third parties for bodily injuries and/or property damages caused by accidental occurrences, the operator shall, within one year of the depletion, demonstrate financial responsibility for the full amount of coverage required by (a) by replenishing the depleted mechanism(s) and/or acquiring additional financial assurance mechanism(s).
 - (f) If an environmental liability fund is depleted to compensate third parties for bodily injuries and/or property damages caused by an accidental occurrence, the operator shall, within one year of the depletion, demonstrate financial responsibility for the full amount of coverage required by Section 22253, as if no depletion had occurred.

Authority cited: Section 40502 and 43040, Public Resources Code.

Reference: Section 43040 and 43103, Public Resources Code.

Article 4. Financial Assurance Requirements for Corrective Action

Section 22220. CalRecycle--Scope and Applicability.

- (a) This article requires operators of disposal facilities to demonstrate the availability of financial resources to conduct corrective action activities as required under Sections 20380(b) and 22100.

(b) The requirements of this article apply to operators of all disposal facilities that were or are required to be permitted as solid waste landfills and have been or will be operated on or after July 1, 1991.

Authority cited: Sections 40502 and 40508, Public Resources Code.

Reference: Sections 40508, and 43103, Public Resources Code; Section 258.73, Title 40 Code of Federal Regulations.

Section 22221. CalRecycle Amount of Required Coverage.

(a) Except as otherwise provided in (b) and in Sections 22225 and 22226, the operator of each disposal facility shall demonstrate financial responsibility to CalRecycle for initiating and completing known or reasonably foreseeable corrective action in at least the amount of the greater of either the most recently approved or most recently submitted corrective action cost estimate prepared pursuant to Section 22101(a) [Water Release Corrective Action Estimate]. Effective July 1, 2011, this paragraph does not apply to an operator that is required to comply with (b).

(b) Except as otherwise provided in Sections 22225 and 22226, effective July 1, 2011, on or before the date of the first permit review or revision or plan review as determined by the schedule in Section 21865, the operator of each disposal facility shall demonstrate financial responsibility to CalRecycle for initiating and completing known or reasonably foreseeable corrective action in at least the amount of the greater of:

(1) The greater of either the most recently approved or most recently submitted corrective action cost estimate, prepared pursuant to Section 22101(a). [Water Release Corrective Action Estimate], or

(2) The greater of the most recently approved or most recently submitted corrective action cost estimate, prepared pursuant to Section 22101(b), [Non-Water Release Corrective Action Estimate].

(c) Except as otherwise provided in Sections 22225 and 22226, in determining the required amount of financial assurances under (a) and (b), if a disposal facility is subject to both known and reasonably foreseeable corrective actions, the operator must compare the amounts of the applicable known and reasonably foreseeable corrective action cost estimates and use the estimate with the greatest amount.

(d) The operator must annually adjust the estimate for inflation until the corrective action program is completed in accordance with Section 20380 and Section 22100.

(e) The operator must receive authorization from CalRecycle before reducing the financial mechanism used to demonstrate coverage.

Authority cited: Sections 40502 and 40508, Public Resources Code.

Reference: Sections 40508 and 43103, Public Resources Code; Section 258.73, Title 40, Code of Federal Regulations.

Section 22222. SWRCB Corrective Action Funding Requirements. [C15: Section 2550.0(b) and Section 2580(f)]

The requirements of this Section apply to dischargers who own or operate a Class II or Class III waste management unit (Unit). This Section does not apply to discharges of mining waste to mining waste management units (mining Units). [The requirements of this paragraph do not preclude the RWQCB (under authority other than this subdivision) from requiring financial assurance for a known or reasonably foreseeable release at a mining Unit.] At Units for which the CIWMB does not require financial assurances for corrective action, the RWQCB shall require the discharger to establish an irrevocable fund (or to provide other means) pursuant to the CIWMB-promulgated Sections of this chapter but with the RWQCB named as beneficiary, to ensure funds are available to address a known or reasonably foreseeable release from the Unit, pursuant to Section 20380(b). For addressing a known or reasonably foreseeable release at a solid waste landfill, the RWQCB shall coordinate with the CIWMB, pursuant to Section 20380(b) and in a manner consistent with Section 20950(f).

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, 13226, 13263, and 13267, Water Code; Section 43103, Public Resources Code.

Subchapter 3. Allowable Mechanisms

Article 1. CalRecycle General Requirements for Mechanisms

Section 22225. Minimum Closure and/or Postclosure Maintenance and/or Reasonably Foreseeable Corrective Action Fund Balance Calculation. (T14:Section 18282)

(a) Except as provided in (b), and Section 22228, an operator using a trust fund or an enterprise fund to demonstrate financial responsibility for closure and/or postclosure maintenance and/or reasonably foreseeable corrective action costs shall maintain a fund balance equal to or exceeding the amount specified by the following provisions:

(1) By each anniversary date of the establishment of the fund, the operator shall submit the following information to the CIWMB. The estimates shall be consistent with the information in the solid waste landfill's current Report of Disposal Site Information specified in Section 21680, and/or the most recently submitted closure plan, or postclosure maintenance plan, and/or reasonably foreseeable corrective action cost

estimate. A demonstration of the minimum fund balance calculation as required in (a)(2);

(A) The annual capacity filled during the past year;

(B) The cumulative capacity filled;

(C) The remaining cost estimate;

(D) The remaining permitted capacity; and

(E) The total permitted capacity.

(2) On each anniversary date of the establishment of the fund, the minimum fund balance shall be increased by the quantity determined by the following formulas:

(A) For anniversary dates that occur before December 31, 1993, the minimum deposit is calculated by, $(C_f/C_t) \times E = \text{minimum deposit}$, where C_f is the annual capacity filled, C_t is the total permitted capacity, and E is the current closure and/or postclosure cost and/or reasonably foreseeable corrective action costs estimate(s) covered by the fund; and

(B) For anniversary dates that occur on or after December 31, 1993, the minimum deposit is calculated by, $(C_f/C_r) \times E_r = \text{minimum deposit}$, where C_f is the annual capacity filled, C_r is the remaining permitted capacity, E_r is the remaining closure and/or postclosure cost and/or reasonably foreseeable corrective action costs estimate(s) to be funded.

(3) The fund must be fully funded by the time the last shipment of waste has been received at the disposal facility.

(4) The CIWMB may approve a change of the anniversary date of the establishment of the fund only once, and at the written request of the operator. The operator may execute the anniversary date change only after the CIWMB has approved the change.

(b) If an operator establishes a trust fund or enterprise fund after using one or more alternate mechanisms specified in this Article, the initial payment into the fund must be at least the amount that the fund would contain if the trust fund or enterprise fund were established initially and annual payments were made according to the formula(s) specified in this Section.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43103 and 43501, Public Resources Code.

Section 22226. CIWMB Minimum Fund Balance Calculation for Known Corrective Action. (T14:Section 17258.74)

(a) An operator using a trust fund or an enterprise fund to demonstrate financial responsibility for known corrective action costs shall maintain a fund balance equal to or exceeding the amount specified by the following provisions:

(1) Payments into the known corrective action fund must be made annually by the operator over one-half of the estimated length of the known corrective action program. This period is referred to as the pay-in period.

(2) For a trust fund or enterprise fund used to demonstrate financial assurance for corrective action, the first payment into the fund must be at least equal to one-half of the current cost estimate for corrective action, divided by the number of years in the corrective action pay-in period as defined in (a)(1). The amount of subsequent payments must be determined by the following formula:

Next Payment: $\frac{\text{RB}-\text{CV}}{Y}$,

where RB is the most recent estimate of the required fund balance for corrective action (i.e., the total costs that will be incurred during the second half of the corrective action period), CV is the current value of the fund, and Y is the number of years remaining in the pay-in period.

(3) The initial payment into the fund must be made no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of Article 1, Subchapter 3, Chapter 3 (Section 20380 et seq.).

(4) If the operator establishes a fund after having used one or more alternate mechanisms specified in this Subchapter, the initial payment into the fund must be at least the amount that the fund would contain if the fund were established initially and annual payments made according to the specifications of this Section.

(5) The fund may be terminated by the operator only if the operator substitutes alternate financial assurance as specified in this Subchapter or is no longer required to demonstrate financial responsibility in accordance with the requirements of Article 4 of Subchapter 2 of this Chapter.

Authority cited: Sections 40502 and 40508, Public Resources Code.

Reference: Sections 40508 and 43103, Public Resources Code; Section 258.74 Title 40 Code of Federal Regulations.

Section 22227. CIWMB Substitution of Mechanisms. (T14:Section 18241, 18293)

(a) An operator may substitute any alternate financial assurance mechanism(s) acceptable to the CIWMB as specified in this Subchapter, provided that at all times the

operator maintains an effective mechanism or a combination of effective mechanisms that satisfies the applicable requirements of this Subchapter.

(b) After obtaining alternate financial assurance, an operator may request that the CIWMB terminate or authorize the termination of a financial assurance mechanism. The operator shall submit such a request in writing with evidence of alternate financial assurance.

(c) Following approval by the CIWMB, the operator may cancel a financial assurance mechanism by giving notice to the provider of financial assurance.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43103, 43500-43610, Public Resources Code.

Section 22228. CIWMB Acceptable Mechanisms and Combination of Mechanisms. (T14:Section 17258.74, 18233, 18283)

(a) Subject to the limitations and conditions of (b) through (j), an operator shall use any one, or any combination of mechanisms as described in Article 2 of this Subchapter:

- (1) Section 22240, Trust Fund;
- (2) Section 22241, Enterprise Fund;
- (3) Section 22242, Government Securities;
- (4) Section 22243, Letter of Credit;
- (5) Section 22244, Surety Bond;
- (6) Section 22245, Pledge of Revenue;
- (7) Section 22246, Financial Means Test;
- (8) Section 22247, Guarantee;
- (9) Section 22248, Closure and/or Postclosure Maintenance and/or Reasonably Foreseeable Corrective Action Costs Insurance;
- (10) Section 22249, Local Government Financial Test;
- (11) Section 22249.5, Local Government Guarantee;
- (12) Section 22250, Federal Certification;
- (13) Section 22251, Liability Insurance;

(14) Section 22252, Self-Insurance and Risk Management;

(15) Section 22253, Insurance and Environmental Fund; and

(16) Section 22254, State Approved Mechanism.

(b) Any mechanism(s) used to demonstrate financial responsibility shall be updated within 60 days after changes are made in the amount of any current closure or postclosure cost estimate or third party liability coverage requirement or corrective action cost estimate covered by the mechanism(s).

(c) If a combination of mechanisms as described in Article 2 of this Subchapter are chosen, the operator shall designate one mechanism as "primary" and all others as "excess" coverage.

(d) If an operator combines a trust fund and/or an enterprise fund with any other mechanism to cover closure costs and/or postclosure maintenance costs and/or third party operating liability coverage requirements and/or corrective action costs, the operator may only use the fund buildup authorized by Section 22225 and/or Section 22226, for the portion of closure and/or postclosure maintenance costs and/or corrective action costs covered by the trust fund and/or enterprise fund.

(e) The enterprise fund, government securities, local government financial test, and self insurance and risk management mechanisms are acceptable only for disposal facilities operated by government agencies. A local government guarantee and a pledge of revenue may be used by an operator or provider of financial assurances that is a government agency for a disposal facility to demonstrate financial responsibility for postclosure maintenance and/or corrective actions.

(f) An operator shall not combine a performance bond or a local government guarantee with any other mechanism(s) for closure, for postclosure maintenance, or for corrective action.

(g) The financial means test and guarantee mechanisms are acceptable only for disposal facilities operated by private firms. A private operator may combine a financial means test with a guarantee only if, for the purpose of meeting the requirements of the financial means test, the financial statements of the operator are not consolidated with the financial statements of the guarantor.

(h) The insurance and environmental fund mechanism shall not be combined with any other mechanisms identified in (a).

(i) The Federal Certification mechanism provided in Section 22250 shall only be used by federal entities.

(j) A government agency may act as a provider of financial assurance for a disposal facility by using a pledge of revenue to demonstrate financial responsibility for postclosure maintenance on behalf of a private operator, if either:

(1) The agency owns the facility; or

(2) The agency is the rate setting authority and has control of the waste stream in the jurisdiction where the disposal facility is located.

(k) A government agency may provide a local government guarantee for a disposal facility of another government agency or private company.

Authority cited: Sections 40502, 43040, and 43601.5, Public Resources Code.

Reference: Sections 43040, 43103, and 43500 43610.1, Public Resources Code, Part 258.74(f) and (h), Title 40 Code of Federal Regulations.

Section 22229. CIWMB Use of Multiple Mechanisms. (T14:Section 17258.74)

(a) An operator may satisfy the requirements of this Chapter by establishing more than one financial mechanism per disposal facility. The mechanisms must be as specified in Article 2 of this Subchapter, except that it is the combination of mechanisms, rather than the single mechanism, which must provide financial assurance for an amount at least equal to the current coverage requirement of Subchapter 2.

Authority cited: Sections 40502, Public Resources Code.

Reference: Sections 43103 and 43500 43610, Public Resources Code.

Section 22230. CIWMB Use of Mechanism(s) for Multiple Facilities. (new)

(a) An operator may use one or more of the financial assurance mechanisms specified in Article 2 of this Subchapter, to provide financial assurance for more than one disposal facility. The amount of funds provided shall be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each disposal facility. In directing funds for designated activities of any of the disposal facilities covered by the mechanism(s), only the amount of funds designated for that activity at that disposal facility may be used.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43103 and 43500 43610, Public Resources Code.

Section 22231. CalRecycle--Cancellation or Nonrenewal by a Provider of Financial Assurance.

(a) Except as otherwise provided in Section 22232, a provider of financial assurance may cancel or not renew a financial assurance mechanism by sending a notice of termination by certified mail to the operator, and CalRecycle.

(1) Termination of a letter of credit, a surety bond, an insurance policy, or a guarantee shall not occur until 120 days after the date on which the operator and CalRecycle have received the notice of termination, as evidenced by the return receipts.

(2) If a provider of financial assurance cancels or fails to renew a mechanism for reasons other than its bankruptcy or incapacity, the operator shall obtain alternate coverage within 60 days after receiving the notice of termination. If the operator fails to obtain alternate coverage within the 60 days, the operator shall notify CalRecycle of such failure.

(b) The closure and/or postclosure maintenance and/or reasonably foreseeable corrective action costs insurance policy, issued in accordance with Section 22248, shall provide that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy shall, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may cancel the policy by sending notice of cancellation by certified mail to the operator, and CalRecycle 120 days in advance of cancellation. If the insurer cancels the policy, the operator must obtain alternate financial assurance as specified in Section 22228. If the operator fails to demonstrate alternate financial assurance as specified in Section 22228 within 60 days after receiving the notice of termination, CalRecycle may allow the insurer an extension to the term of the insurance policy for a period of time shorter than one year. Cancellation, termination, or failure to renew will not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

(1) CalRecycle or EA deems the disposal facility abandoned; or

(2) The permit is terminated or revoked or a new permit is denied by CalRecycle or EA; or

(3) Partial or complete closure, postclosure maintenance, or corrective action is ordered by CalRecycle, EA, RWQCB, other government entity, or court of competent jurisdiction; or

(4) The operator is named as a debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy) U.S. Code; or

(5) All delinquent premium payments have been brought current.

(c) Cancellation or nonrenewal of third party operating liability insurance or self-insurance and risk management for third party operating liability coverage shall occur no less than 60 days after the date on which the operator, and CalRecycle have received the notice of termination, as evidenced by the return receipts; except in the case of non-payment of insurance premiums, in which case cancellation shall occur no less than 10 days after the date on which the operator, and CalRecycle have received the notice of termination.

Authority cited: Sections 40502 and 43040, Public Resources Code.

Reference: Sections 43040, 43103 and 43500-43610, Public Resources Code.

Section 22232. CIWMB Bankruptcy or Other Incapacity of Operator or Provider of Financial Assurance. (T14:Sections 18243, 18295)

(a) Within 10 days after commencement of a voluntary or involuntary proceeding under the Bankruptcy Code, Title 11 U.S.C. Sections 101-1330 in which:

(1) The operator is named as debtor, the operator shall notify the CIWMB by certified mail of such commencement.

(2) A provider of financial assurance is named as debtor, such provider shall notify the operator, and the CIWMB certified mail of such commencement.

(b) An operator shall be deemed to be without the required financial assurance in the event of bankruptcy of its provider of financial assurance, or in the event of a suspension or revocation of the authority of the provider of financial assurance to issue a mechanism. If such an event occurs, the operator shall demonstrate alternate financial assurance as specified in this Article within 60 days after receiving notice of the event. If the operator fails to obtain alternate financial assurance within 60 days, the operator shall notify the CIWMB within 10 days of such failure.

Authority cited: Sections 40502 and 43040, Public Resources Code.

Reference: Sections 43040, 43103 and 43500-43610, Public Resources Code.

Section 22233. CIWMB Record Keeping and Reporting. (T14:Sections 18244, 18297)

(a) An operator shall maintain evidence of all financial assurance mechanisms until the operator is released from the requirements as specified in Section 22235. This evidence shall be maintained at each disposal facility, whenever possible, or at an alternate, designated location approved by the CIWMB and which is accessible to the operator, and available for CIWMB staff review.

(b) An operator shall maintain the following types of evidence, and an original or copy of each mechanism used to demonstrate financial responsibility under this Chapter and documentation of the estimated total permitted capacity of the solid waste landfill.

(1) Trust Fund. An operator using a trust fund shall maintain documentation of the remaining capacity filled during the past year for each disposal facility covered by the fund for each year of the buildup period and a copy of the trust agreement and statements verifying the current balance of the fund.

(2) Enterprise Fund. An operator using an enterprise fund shall maintain documentation of the remaining capacity filled during the past year for each disposal facility covered by the fund for each year of the buildup period and a copy of the following:

(A) All official resolutions, forms, letters, or other pertinent documents generated to establish the fund;

(B) The annual financial statements of the fund; and

(C) With respect to the financial assurance mechanism into which enterprise fund revenue is deposited:

(i) Identify the disposal facilities and the current closure and/or postclosure costs estimate(s) and/or third party operating liability coverage requirement and/or corrective action cost estimate(s) covered by the mechanism;

(ii) Include a letter from an authorized officer of the institution maintaining the mechanism identifying the amount of coverage provided by the mechanism as of the date of its establishment and each anniversary date of establishment; and

(iii) Include a copy of the evidence documenting that the mechanism meets the requirements of Section 22241.

(3) Government Securities. An operator using government securities shall maintain a copy of the following:

(A) All official resolutions, forms, letters, or other pertinent documents generated to issue the securities;

(B) The terms of issuance of the securities; and

(C) With respect to the mechanism into which the funds generated by the issuance are deposited, the information listed in Section 22233(b)(2)(C)1, 2 and 3.

(4) Pledge of Revenue Agreement. An operator using a pledge of revenue shall do both of the following:

(A) Maintain a copy of the following:

(i) All official resolutions, forms, letters, and other pertinent documentation generated to authorize the pledge of revenue;

(ii) The agreement between the CIWMB and the operator or provider of financial assurance as specified in Section 22245; and

(iii) Documentation that the pledged revenue will be available in a timely manner to pay postclosure maintenance costs.

(B) Submit to the CIWMB, at least annually in conjunction with the adjustment of cost estimates pursuant to Section 22236, a demonstration that the pledge is still in effect.

(5) Financial Means Test. An operator using a financial means test shall maintain a copy of the information specified in Section 22246.

(6) Guarantee. An operator using a guarantee shall maintain documentation of the guarantor's qualifications for providing a guarantee under Section 22246 and Section 22247.

(7) Closure and/or Postclosure Maintenance and/or Reasonably Foreseeable Corrective Action Costs Insurance. An operator using closure and/or postclosure maintenance and/or reasonably foreseeable corrective action costs insurance shall maintain a copy of the insurance certificate submitted to the CIWMB, the insurance policy and any endorsements thereon.

(8) Operating Liability Insurance. An operator using third party operating liability insurance shall maintain the original or a copy of the insurance policy in addition to the original or a copy of the liability insurance endorsement or the certificate of liability insurance.

(9) Self-Insurance and Risk Management. An operator using self-insurance and risk management shall maintain:

(A) The name and qualifications of the currently employed risk manager;

(B) Pertinent documents verifying the ongoing activity of the operator's safety and loss prevention program; and

(C) Pertinent documents showing procedures for timely investigation and resolution of any claims for third party damages caused by accidental occurrences and other self-insured losses.

(10) Insurance and Environmental Fund. An operator using the insurance and environmental fund shall maintain the original or a copy of the comprehensive general liability insurance coverage certification and a copy of the environmental liability fund agreement and statements verifying the current balance of the environmental liability fund. If self-insurance and risk management is utilized for the insurance coverage, documentation shall be maintained as identified in (9).

(11) Local Government Financial Test. An operator using a local government financial test shall maintain a copy of the information specified in Section 22249.

(12) Local Government Guarantee. An operator using a guarantee shall maintain documentation of the guarantor's qualifications for providing a guarantee under Section 22249 and Section 22249.5.

(c) An operator shall submit the documentation of current evidence of financial responsibility listed in (b) to the CIWMB whenever a financial assurance mechanism is established or amended or canceled or not renewed for any reason:

(1) In the case of a trust fund such documentation shall include the original mechanism and a copy of the current statement verifying the balance of the account;

(2) In the case of government securities such documentation shall include the information as specified in (b)(3);

(3) In the case of a letter of credit, surety bond, financial means test, or guarantee, such documentation shall include the original mechanism and all amendments;

(4) In the case of closure and/or postclosure maintenance and/or reasonably foreseeable corrective action costs insurance, or insurance or self-insurance and risk management for third party operating liability coverage, such documentation shall include the original insurance endorsement, certificate of insurance, certificate of self-insurance and risk management, and any endorsements thereon;

(5) In the case of the insurance and environmental liability fund, the insurance or self-insurance and risk management documentation shall include the original certification of comprehensive general liability insurance, or certification of self-insurance and risk management. The documentation for the environmental liability fund shall include the original environmental liability fund agreement and a copy of the current statement verifying the balance of the account, as specified in Section 22253.

(d) An operator shall annually submit written notice to the CIWMB of the number of claims paid and the total dollar amount paid as a result of any accidental occurrences at the disposal facility. This information shall be compiled for the previous calendar year and submitted to the CIWMB by March 1st of each year.

Authority cited: Sections 40502, 43040, and 43601.5, Public Resources Code.

Reference: Sections 43040, 43103, and 43500 through 43610.1, Public Resources Code, Part 258.74(f) and (h), Title 40 Code of Federal Regulations.

Section 22234. CalRecycle Disbursements from Financial Mechanisms.

(a) The operator, or other person authorized to conduct closure, postclosure maintenance, or corrective action activities may request disbursements from CalRecycle for these expenditures in advance of the activities or as reimbursement for activities completed. Requests for disbursement will be granted by CalRecycle only if:

(1) Sufficient funds are remaining in the financial mechanism(s) to cover the remaining costs of closure, postclosure maintenance, or corrective action; and

(2) Justification and documentation of the cost is presented to CalRecycle for review and approval in conjunction with approved final closure and postclosure maintenance plans, or an approved corrective action plan.

(3) For a corrective action financial mechanism, the owner and operator have provided documentation satisfactory to CalRecycle that they are financially unable to conduct the corrective action activities without receiving a disbursement or disbursements from the financial mechanism.

(b) The operator shall replenish the corrective action financial mechanism(s) to the level prescribed by Section 22221 within five (5) years of the initial disbursement unless CalRecycle and RWQCB agree to an alternate schedule.

(c) CalRecycle shall authorize disbursements from an established closure or postclosure maintenance financial assurance mechanism to the RWQCB for the costs of closure or postclosure maintenance if the RWQCB finds that the operator has failed to perform closure or postclosure maintenance as required by the closure plan or postclosure maintenance plan as approved by the RWQCB and CalRecycle, or as required by an Order issued by the RWQCB, including Waste Discharge Requirements (WDRs), Cease and Desist Orders (CDOs), and/or Cleanup and Abatement Orders (CAOs).

(d) CalRecycle shall authorize disbursements from an established corrective action financial assurance mechanism to the RWQCB for the costs of corrective action if the RWQCB finds that the operator has failed to perform corrective action as required by the corrective action workplan as approved by the RWQCB and CalRecycle or as required by an Order issued by the RWQCB, including WDRs, CDOs, and/or CAOs.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43103, 43500 43610, Public Resources Code; Title 40, Code of Federal Regulations, Section 258.74(a)(7).

**Section 22235. CIWMB Release of Financial Assurance Requirements.
(T14:Sections 18245, 18298)**

(a) After receiving and approving certification of closure from the operator as specified by Section 21880, the CIWMB shall notify the operator and the provider of financial assurance in writing, that he or she is no longer required to demonstrate financial responsibility for closure and third party operating liability claims, pursuant to this Chapter, at the particular disposal facility pursuant to this Article.

(b) When operational control of a disposal facility is transferred, the existing operator shall remain subject to the requirements of this Chapter until the new operator provides acceptable financial assurances to the CIWMB.

(c) When the CIWMB determines that an operator has completed postclosure maintenance in accordance with the applicable postclosure plan, the CIWMB shall notify the operator in writing that it is no longer required to maintain financial assurance for postclosure maintenance of the particular solid waste landfill pursuant to this Chapter.

(d) When the CIWMB releases an operator that is using a trust fund or a similar financial assurance mechanism in conjunction with an enterprise fund or government securities from the requirements of this Chapter, the CIWMB shall authorize the termination of the trust fund or the similar mechanism.

Authority cited: Section 40502 and 43040, Public Resources Code.

Reference: Sections 43040, 43103 and 43500-43610, Public Resources Code.

Section 22236. CIWMB Annual Inflation Factor. (T14:Section 18272)

The operator shall submit, by June 1 of each year, a report calculating the increase in the cost estimates for closure and/or postclosure maintenance and/or corrective action due to the inflation factor for the previous calendar year. The inflation factor is derived from the annual Implicit Price Deflator for Gross National Product as published annually by the U.S. Department of Commerce in its Survey of Current Business, which is incorporated by reference. The inflation factor is the result of dividing the latest annual published deflator by the deflator for the previous year. The operator shall increase the monetary amount of the financial mechanism required under this Chapter based upon this inflation factor. The mechanism may not be decreased other than as a result of the closure and/or postclosure maintenance and/or corrective action plan amendment process.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43103 and 43501, Public Resources Code.

Section 22237. CIWMB Depository Trust Fund. (T14:Section 18296)

(a) The CIWMB may require an operator using a letter of credit, a surety bond, or, as applicable, a financial assurance mechanism used in conjunction with an enterprise fund or with government securities, to establish a depository trust fund meeting the requirements of (c) if:

(1) The operator fails to demonstrate alternate financial assurance within 60 days after receiving notice of cancellation of the mechanism; or

(2) The operator fails to perform closure or postclosure maintenance or corrective action in accordance with the applicable approved closure or postclosure maintenance plan and permit requirements or corrective action requirements of Article 1, Subchapter 3, Chapter 3 (Section 20380 et seq.), when required to do so by the CIWMB or RWQCB and, in the case of a performance bond, the surety company fails to perform such activities on behalf of the operator.

(b) The CIWMB may require an institution issuing a letter of credit, a surety company, or, as applicable, a provider of a financial assurance mechanism used in conjunction with an enterprise fund or government securities to:

(1) Establish a depository trust fund meeting the requirements of (c) if the operator fails to establish a depository trust fund as required by (a); and

(2) Place into the depository trust fund an amount of funds, stipulated by the CIWMB, up to the limit of funds provided by the financial assurance mechanism.

(c) The depository trust fund shall meet the requirements of Section 22240.

(d) The CIWMB may draw on the depository trust fund as specified by the trust agreement.

(e) If, at any time, due to interest earned or over deposit, the value of the depository trust fund is greater than the required amount of coverage minus the amount of coverage demonstrated by other mechanisms, the provider of financial assurance that established the depository trust fund may request in writing that the CIWMB authorize the release of the excess funds. No later than 60 days after receiving such a request, the CIWMB will review the request and, if any excess funds are verified, will instruct the trustee to release the funds.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43103, 43500-43610, Public Resources Code.

Article 2. CalRecycle Financial Assurance Mechanisms

Section 22240. CIWMB Trust Fund.

(a) The trust fund shall have a trustee that is authorized to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(b) The trust agreement shall be worded as specified by and established by using Form CIWMB 100 (11/06) which is incorporated by reference, with appropriate amendments to identify that the mechanism is utilized for closure and/or postclosure maintenance and/or third party operating liability and/or corrective action.

(c) If, at any time, the value of the trust fund is greater than the required amount of coverage minus the amount of coverage demonstrated by another mechanism, the operator may request in writing that the CIWMB authorize the release of the excess funds. The CIWMB shall review the request within 90 days of receipt of the request. If any excess funds are verified, the CIWMB shall instruct the trustee to release the funds.

Authority cited: Section 40502 and 43040, Public Resources Code.

Reference: Section 43040, 43103 and 43500-43610, Public Resources Code.

Section 22241. CIWMB Enterprise Fund. (T14:Section 18285)

(a) The enterprise fund shall dedicate its revenue exclusively or with exclusive first priority to financing closure and/or postclosure maintenance and/or corrective action.

(b) Revenue generated by an enterprise fund shall be deposited into a financial assurance mechanism that the operator demonstrates, to the satisfaction of the CIWMB, meets the following requirements:

(1) The mechanism will provide equivalent protection to a trust fund in ensuring that the assured amount of funds shall be available in a timely manner for closure and/or postclosure maintenance and/or corrective action;

(2) The revenue deposited into the mechanism will be used exclusively to finance closure and/or postclosure maintenance and/or corrective action, as applicable, and will remain inviolate against all other claims, including any claims by the operator, the operator's governing body, and the creditors of the operator and its governing body;

(3) The mechanism authorizes the CIWMB to direct the provider of financial assurance to pay closure or postclosure maintenance or corrective action costs if the CIWMB determines that the operator has failed or is failing to perform closure or postclosure maintenance or corrective action activities, as applicable, as covered by the mechanism;

(4) The financial operations of the provider of the financial assurance are regulated by a federal or state agency, or the provider is otherwise certain to maintain and disburse the assured funds properly;

(5) If the provider of financial assurance has authority to invest revenue deposited into the mechanism, the provider shall exercise investment discretion similar to a trustee; and

(6) The mechanism meets other requirements that the CIWMB determines are needed to ensure that the assured amount of funds shall be available in a timely manner for closure and/or postclosure maintenance and/or corrective action.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43103, 43500-43610, Public Resources Code.

Section 22242. CIWMB Government Securities. (T14:Sections 18235, 18286)

(a) The terms of issuance of government securities shall specify that proceeds from the sale of the securities shall be deposited into a financial assurance mechanism that meets the requirements of Section (b).

(b) The securities shall have been issued and the proceeds already deposited into the financial assurance mechanism that provides equivalent protection to a trust fund by meeting the following requirements:

(1) Proceeds from the sale of securities shall be used exclusively and only as applicable, to:

(A) Pay costs of closure activities identified in the most recently approved closure plan; and/or

(B) Pay costs of postclosure maintenance identified in the most recently approved postclosure maintenance plan; and/or

(C) Pay claims by third parties for bodily injury and property damage caused by accidental occurrences; and/or

(D) Pay costs of corrective action activities in the most recently approved corrective action plan; and

(E) All funds shall remain inviolate against all other claims, including any claims by the operator, the operator's governing body, and the creditors of the operator and its governing body;

(2) The financial operations of the provider of the financial assurance shall be regulated by a federal or state agency, or the provider shall be otherwise certain to maintain and disburse the assured funds properly;

(3) If the provider of financial assurance has authority to invest revenue deposited into the mechanism, the provider shall exercise investment discretion similar to a trustee; and

(4) The mechanism meets other reasonable requirements that the CIWMB determines are necessary to ensure that the assured funds shall be available in a timely manner.

Authority cited: Section 40502 and 43040, Public Resources Code.

Reference: Section 43040, 43103 and 43500-43610, Public Resources Code.

Section 22243. CIWMB Letter of Credit.

(a) The institution issuing a letter of credit shall have the authority to issue letters of credit and its letter-of-credit operations shall be regulated and examined by a federal or state agency.

(b) The letter of credit shall be worded and completed, with appropriate amendments to identify that the mechanism is utilized for closure and/or postclosure maintenance and/or corrective action costs, as specified by form CIWMB 101 (12/01) which is incorporated by reference. The original mechanism must be submitted to the CIWMB.

(c) The letter of credit shall be accompanied by a letter from the operator identifying the number, issuing institution, and date of issuance of the letter of credit and the name, address, solid waste information system number, and amount of funds assured by the letter of credit for closure and/or postclosure maintenance and/or corrective action for each solid waste landfill. If the letter of credit is for more than one coverage requirement

and/or for more than one solid waste landfill, appropriate sublimits must also be clearly identified within the letter of credit.

(d) The letter of credit shall be irrevocable and shall be issued for a period of at least one year, except as Noted in (d)(2).

(1) The letter of credit shall provide that the expiration date will be automatically extended for a period of at least one year, unless the issuing institution provides notice of termination as specified in Section 22231.

(2) If an operator fails to demonstrate alternate coverage within 60 days after receiving a notice of termination, the CIWMB may allow an issuing institution an extension to the term of a letter of credit for a period of time shorter than one year.

(e) The issuing institution shall become liable under the terms of the letter of credit if the CIWMB determines that the operator has failed or is failing to perform closure or postclosure maintenance or corrective action activities as guaranteed by the mechanism.

(f) The operator may cancel the letter of credit only if alternate financial assurance is substituted as specified in Section 22227 or if the operator is released from the requirements of this Section in accordance with Section 22235.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43103, 43500-43610, Public Resources Code.

Section 22244. CIWMB Surety Bond.

(a) The status of the surety company issuing a surety bond shall be among those listed as holding certificates of authority as acceptable sureties on Federal bonds and as acceptable reinsuring companies in Circular 570 of the U.S. Department of the Treasury which is published on July 1 of each year in the Federal Register.

(b) The penal sum of the bond must be in an amount at least equal to the closure and/or postclosure and/or the corrective action cost estimate, except as provided in Section 22228.

(c) The surety bond shall be worded and completed as specified by one of the following forms, which shall be supplied by the CIWMB. The original mechanism must be submitted to the CIWMB:

(1) Form CIWMB 102(a) (12/01) which is incorporated by reference, for a surety bond guaranteeing performance of closure; or

(2) Form CIWMB 102(b) (12/01) which is incorporated by reference, for a surety bond guaranteeing performance of postclosure maintenance; or

(3) Form CIWMB 102(c) (4/96) which is incorporated by reference, for a surety bond guaranteeing performance of reasonably foreseeable and/or known corrective action activities; or

(4) Form CIWMB 103(a) (12/01) which is incorporated by reference, for a surety bond guaranteeing payment of closure costs; or

(5) Form CIWMB 103(b) (12/01) which is incorporated by reference, for a surety bond guaranteeing payment of postclosure maintenance costs; or

(6) Form CIWMB 103(c) (12/01) which is incorporated by reference, for a surety bond guaranteeing payment of reasonably foreseeable and/or known corrective action costs.

(d) The surety company shall become liable under the terms of the bond if the CIWMB determines that the operator has failed or is failing to perform closure or postclosure maintenance or corrective action as guaranteed by the bond.

(e) Payments made under the terms of the bond will be deposited by the surety directly into the depository trust fund, as identified in Section 22237.

(f) The operator may cancel the bond only if alternate financial assurance is substituted as specified in Section 22227 or if the operator is no longer required to demonstrate financial responsibility in accordance with Section 22235.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43103, 43500-43610, Public Resources Code.

Section 22245. CalRecycle--Pledge of Revenue.

(a) A pledge of revenue shall consist of a resolution by the governing body of the operator or provider of financial assurance authorizing an agreement between the operator or provider of financial assurance and CalRecycle to establish the pledge. The resolution and the agreement shall remain effective continuously throughout the period in which the pledge of revenue is used to satisfy the requirements of Subchapter 2 of this Chapter.

(b) The agreement establishing the pledge of revenue shall contain the following items:

(1) The types and sources of pledged revenue;

(2) The amount of revenue pledged from each source;

(3) The period of time that each source of revenue is pledged to be available; and

(4) The solid waste landfill(s) and the current postclosure and/or corrective action cost estimate(s) that are covered by the pledge.

(5) The authorization for CalRecycle to direct payment for postclosure maintenance and/or corrective action if CalRecycle determines that the operator has failed or is failing to perform postclosure maintenance or corrective action activities covered by the mechanism.

(c) An operator or provider of financial assurance shall pledge the following types of revenue that the operator or provider of financial assurance controls and that will be available in a timely manner to pay for postclosure maintenance or corrective action:

(1) User fees, rents, or other guaranteed revenue from existing or planned solid waste facilities;

(2) Tax increases within statutory limitations; and/or

(3) Other guaranteed revenues that are acceptable to CalRecycle.

(d) If an operator or provider of financial assurance ceases at any time to retain control of its ability to allocate any pledged revenue to pay postclosure maintenance or corrective action costs, the operator or provider of financial assurance shall notify CalRecycle and shall obtain alternate coverage within 60 days after control lapses.

(e) Each resolution and agreement shall be submitted with a completed pledge of revenue form CalRecycle 114 (02/2010), which is incorporated by reference.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43103, 43500-43610, Public Resources Code.

Section 22246. CIWMB Financial Means Test.

(a) To pass the financial means test, an operator or a guarantor shall be a private entity and shall meet the criteria of (d), (e), (f) or (g) based on independently audited year-end financial statements for the latest completed fiscal year.

(b) The phrase "amount of liability coverage to be demonstrated by the test" as used in (d) and (e) refers to the amount of liability coverage required by Section 22216.

(c) The phrase "current cost estimates covered by the test" as used in (f) and (g) refers to the current postclosure cost estimate required by (h)(1) to be shown in paragraphs 1 and 2 of the letter from the chief financial officer.

(d) To cover operating liability the operator or guarantor shall have:

(1) Net working capital and tangible net worth each at least six times the amount of liability coverage to be demonstrated by the test; and

(2) Tangible net worth of at least \$15 million; and

(3) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the amount of liability coverage to be demonstrated by the test.

(e) To cover operating liability the operator or guarantor shall have:

(1) A current rating for its most recent bond issuance of AAA, AA, A, or BBB issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

(2) Tangible net worth of at least six times the amount of liability coverage to be demonstrated by the test; and

(3) Tangible net worth of at least \$15 million; and

(4) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the amount of liability coverage to be demonstrated by the test.

(f) To cover postclosure maintenance the operator or guarantor shall have:

(1) Two of the following three ratios: a ratio of total liabilities to net worth that is less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities that is greater than 0.1; and a ratio of current assets to current liabilities that is greater than 1.5; and

(2) Net working capital and tangible net worth each at least six times the sum of the current cost estimate covered by the test; and

(3) Tangible net worth of at least \$15 million; and

(4) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the sum of the current cost estimate covered by the test.

(g) To cover postclosure maintenance the operator or guarantor shall have:

(1) A current rating for its most recent bond issuance of AAA, AA, A, or BBB issued by Standard and Poor or Aaa, Aa, A, or Baa as issued by Moody's; and

(2) Tangible net worth at least six times the sum of the current cost estimate covered by the test, and

(3) Tangible net worth of at least \$15 million and

(4) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the sum of the current cost estimate covered by the test.

(h) Within 90 days after the close of each financial reporting year, the operator or the guarantor shall submit the following items to the CIWMB and, in the case of a guarantor, to the operator;

(1) A letter on the operator's or guarantor's official letterhead stationary that is worded and completed as specified in form CIWMB 104 (11/06) which contains an original signature of the operator's or guarantor's chief financial officer.

(A) An operator or guarantor shall use form CIWMB 104 (11/06) to demonstrate or guarantee financial responsibility for liability coverage only or postclosure costs only or both liability and postclosure maintenance. If the operator or guarantor is using a similar financial means test to demonstrate liability coverage and/or postclosure maintenance for facilities in other states, the operator shall list those out-of state facilities, as well as the California facilities on this test.

(2) A copy of an independent certified public accountant's report on examination of the operator's or guarantor's financial statements for the latest completed fiscal year, with a copy of the operator's or guarantor's financial statements for the latest completed fiscal year.

(3) A letter from an independent certified public accountant stating that:

(A) He or she has compared the data in the letter in (h)(1), from the chief financial officer specified as having been derived from the financial statements for the latest completed fiscal year of the operator or the guarantor, with the amounts in the financial statements; and

(B) Based on the comparison, no matters came to his or her attention that caused him or her to believe that the specified data should be adjusted.

(4) If the operator or the guarantor is required to make such a filing, a copy of the operator's or guarantor's most recent form 10-K filed with the U.S. Securities and Exchange Commission.

(i) The CIWMB may require updated financial statements at any time from the operator or guarantor. If the CIWMB finds that the operator or guarantor no longer meets the financial means test requirements of (d),(e),(f), or (g) based on such reports or other information, including but not limited to, credit reports and reports from other state agencies, the operator shall obtain alternate coverage within 60 days after receiving the notification of such a finding.

(j) If, at the time of its annual filing, an operator using the financial means test fails to meet the requirements of the financial means test under (d),(e),(f), or (g), the operator shall obtain alternate coverage within 60 days after the determination of such failure.

(k) If the operator fails to obtain alternate coverage within the times specified in (i) or (j), the operator shall notify the CIWMB by certified mail within 10 days of such failure.

Authority cited: Section 40502 and 43040, Public Resources Code.

Reference: Sections 43040 and 43103, Public Resources Code.

Section 22247. CIWMB Guarantee.

(a) The guarantor shall be:

(1) A parent corporation of the operator;

(2) A firm whose parent corporation is also the parent corporation of the operator; or

(3) A firm engaged in a substantial business relationship with the operator and issuing the guarantee as an act incident to that business relationship.

(b) The guarantor shall meet the requirements of the financial means test under Section 22246 of this Article based on the guarantor's audited year-end financial statements.

(c) The guarantee shall be worded and completed as specified by form CIWMB 105 (12/01), which is incorporated by reference.

(d) The terms of the guarantee shall specify that if:

(1) The operator fails or is failing to perform postclosure maintenance in accordance with the applicable approved postclosure maintenance plan when required to do so, the guarantor shall either:

(A) Perform postclosure maintenance in accordance with the applicable approved postclosure maintenance plan; or

(B) Establish and fund a trust fund, as specified in Section 22240, in the name of the operator in the amount of the applicable current postclosure maintenance cost estimate covered by the guarantee.

(2) The operator fails to satisfy a judgment or an award for bodily injury and property damage to third parties caused by accidental occurrences, or fails to pay an amount agreed in settlement of a claim arising from or alleged to arise from such injury and damage, the guarantor shall satisfy such judgment, award, or settlement agreement up to the limits of the guarantee.

(e) If the guarantor fails to meet the requirements of the financial means test under Section 22246 or wishes to terminate the guarantee, the guarantor shall send notice of such failure or termination by certified mail to the operator and the CIWMB within 90 days after the end of that financial reporting year. The guarantee shall terminate no less than 60 days after the date that the operator and the CIWMB have received the notice of such failure or termination, as evidenced by the return receipts. The guarantor shall establish alternate coverage as specified in Section 22228 on behalf of the operator within 60 days after such notice, unless the operator has done so.

(f) The CIWMB may require updated financial statements at any time from a guarantor. If the CIWMB finds, on the basis of such reports or information from other sources, including but not limited to, credit reports and reports from other state agencies, that the

guarantor no longer meets the financial means test requirements of Section 22246 or any requirements of Section 22247, the CIWMB shall notify the guarantor and operator of such finding by certified mail. The guarantor shall establish alternate coverage as specified in Section 22228 on behalf of the operator within 60 days after such notice, unless the operator has done so.

Authority cited: Section 40502 and 43040, Public Resources Code.

Reference: Sections 43040, 43103 and 43500-43610, Public Resources Code.

Section 22248. CalRecycle Closure and/or Postclosure Maintenance and/or Reasonably Foreseeable Corrective Action Insurance.

(a) The issuer of the insurance policy shall be an insurer, including a captive insurance company that, at a minimum, is licensed by the California Department of Insurance to transact the business of insurance in the State of California as an admitted carrier.

(b) If coverage is not available as specified in (a), the operator may seek coverage from an insurer, including a captive insurance company that, at a minimum, shall be eligible to provide insurance as an excess or surplus lines insurer in California.

(c) If coverage is obtained as described in (b), the insurance shall be transacted by and through a surplus lines broker currently licensed under the regulations of the California Department of Insurance [California Insurance Code (CIC), Division 1, Part 2, Chapter 6] and upon the terms and conditions prescribed by the California Department of Insurance.

(d) CalRecycle or its designee may object to the use of any insurer at anytime, whether before or after placement of coverage based on information obtained from, but not limited to, the Surplus Line Association of California, Best's Insurance Reports, and/or the Non-Admitted Insurers Quarterly List.

(e) The closure or postclosure maintenance insurance or reasonably foreseeable corrective action policy shall guarantee that funds will be available to close the solid waste landfill whenever final closure occurs or to provide postclosure maintenance for the solid waste landfill whenever the postclosure maintenance period begins or provide for corrective action for the solid waste landfill if corrective action is deemed necessary, whichever is applicable. The policy shall also guarantee that once the closure or postclosure maintenance or corrective action program begins, the insurer will be responsible for the paying out of funds to the operator or person authorized to conduct closure or postclosure maintenance or corrective action, up to an amount equal to the face amount of the policy.

(f) The insurance policy shall be issued for a face amount at least equal to the most recently approved closure and/or postclosure maintenance and/or reasonably foreseeable corrective action cost estimate(s) whichever is applicable, unless the policy is being used in combination with another acceptable mechanism. The term "face

amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability may be lowered by the amount of the payments.

(g) An operator, or any other person authorized to conduct closure or postclosure maintenance or corrective action, may receive disbursements for closure or postclosure maintenance or corrective action expenditures, whichever is applicable. Requests for disbursements will be granted by the insurer only if the expenditures have been reviewed and approved in writing by CalRecycle or its designee.

(h) Notwithstanding any other provisions of this Section, if either partial or complete closure, postclosure maintenance or corrective action activities are ordered by CalRecycle, EA, RWQCB or other government entity or court of competent jurisdiction as a result of failure by the operator or other authorized person to conduct such activities, the policy shall also guarantee that the insurer shall be responsible for paying out funds to CalRecycle for deposit into a special account established by CalRecycle for closure, postclosure maintenance or corrective action activities of the facility. The policy shall further guarantee that the insurer shall, without delay, pay to CalRecycle the amount CalRecycle requests, up to an amount equal to the face amount of the policy, regardless of an remaining premiums to be paid. CalRecycle requests for payment will be based on current estimated expenses as determined by CalRecycle for closure, postclosure maintenance or corrective action activities. Any payments made by the insurer that exceed the actual expenses incurred in performing the insured activity will be repaid to the insurer at the completion of the insured activity

(i) Each policy shall contain a provision allowing assignment of the policy to a successor operator. Such assignment may be conditional upon consent of the insurer, provided that such consent is not unreasonably refused.

(j) Except as provided in Section 22231, the insurer may not cancel, terminate, or fail to renew the policy.

(k) For insurance policies providing coverage for postclosure maintenance, commencing on the date that liability to make payments pursuant to the policy accrues, the insurer shall thereafter annually increase the face amount of the policy. Such increases must be equivalent to the face amount of the policy, less any payments made, multiplied by an amount equivalent to 85 percent of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for 26-week Treasury securities.

(l) The operator may cancel the insurance policy only if alternate financial assurance is substituted as specified in Section 22227, or if the operator is no longer required to demonstrate financial responsibility in accordance with the requirements of Subchapter 2 of this Chapter.

(m) Each closure and/or postclosure maintenance and/or reasonably foreseeable corrective action insurance policy shall be evidenced by a certificate of insurance established by using form CalRecycle 106 (02/2010). Each certificate of insurance shall

contain the insurer's warranty that the policy conforms in all respects with the requirements of this Subdivision, as applicable, and as such regulations were constituted on the date the policy is certified to on an annual basis. In addition, the insurer shall agree that any provision of the policy inconsistent with these regulations is amended to eliminate such inconsistency by submittal of the certification for closure and/or postclosure maintenance and/or reasonably foreseeable corrective action insurance.

Authority cited: Sections 40502, Public Resources Code.

Reference: Sections 43103, 43500-43610, Public Resources Code.

Section 22249. CIWMB Local Government Financial Test.

(a) To pass the local government financial test, and to demonstrate financial responsibility for postclosure maintenance and/or corrective action costs, an operator or a guarantor shall be a local government agency and shall meet the criteria of (e), (f), (i) and (j) based on financial statements prepared in conformity with Generally Accepted Accounting Principles for governments and have its financial statements audited by an independent certified public accountant.

(b) A local government is not eligible to assure its obligations under Section 22249 if it:

(1) Is currently in default on any outstanding general obligation bonds, or

(2) Has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's, or

(3) Has operated at a deficit equal to five percent or more of total annual revenue in each of the past two fiscal years, or

(4) Receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant auditing its financial statement as required by (a).

(c) The phrase "current postclosure maintenance cost estimates covered by the test" refers to the current postclosure maintenance cost estimate required by (j)(1) to be shown in paragraphs 1 and 2 of the letter from the chief financial officer.

(d) The phrase "current corrective action cost estimates covered by the test" refers to the current corrective action cost estimate required by (j)(1) to be shown in paragraphs 1 and 2 of the letter from the chief financial officer.

(e) The total amount of postclosure maintenance costs and corrective action costs which can be assured under this local government financial test is determined as follows:

(1) If the local government operator or guarantor does not assure other environmental obligations through a financial test, it may assure postclosure maintenance costs and/or corrective action costs that equal up to 43 percent of the local government's total annual revenue.

(2) If the local government operator or guarantor assures other environmental obligations through a financial test, including but not limited to those associated with underground injection control wells, petroleum underground storage tank facilities, PCB storage facilities, and hazardous waste treatment, storage, and disposal facilities, it must add those costs to the postclosure maintenance costs and/or corrective action costs it seeks to assure. The total that may be assured must not exceed 43 percent of the local government's or guarantor's total annual revenue.

(3) The operator or guarantor must obtain an alternate financial assurance instrument for those costs that exceed the limits set in (1) and (2).

(f) The operator or guarantor shall meet the criteria of either (g) or (h) based on the operator's or guarantor's most recent audited annual financial statements prepared in conformity with Generally Accepted Accounting Principles for governments.

(g) The operator or guarantor shall satisfy each of the following financial ratios based on the operator's or guarantor's most recent audited annual financial statements prepared in conformity with Generally Accepted Accounting Principles for governments:

(1) Liquidity ratio: a ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and

(2) Debt service ratio: a ratio of annual debt service to total expenditures less than or equal to 0.20; or

(h) An operator or guarantor with outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee must have such bonds with current investment grade rating as follows:

(1) Aaa, Aa, A or Baa, as issued by Moody's on all such general obligation bonds; or

(2) AAA, AA, A, or BBB, as issued by Standard and Poor's on all such general obligation bonds.

(i) The operator or guarantor shall provide public notice of the local government's assured obligations by placing a reference to the postclosure maintenance costs and/or corrective action costs assured through the financial test into its next comprehensive annual financial report (CAFR). If timing does not permit the reference to be incorporated into the most recently issued CAFR or budget prior to the first year the financial test is used to assure local government solid waste facility obligations, the reference may instead be placed in the operating record until issuance of the next available CAFR. The operator shall certify that the reference to the postclosure maintenance costs and/or corrective action costs assured through the financial test is

provided. The operator's certification shall be submitted with the chief financial officer letter as specified in (j)(2).

(1) For postclosure maintenance costs, conformance with Government Accounting Standards Board (GASB) Statement 18 assures compliance with this public notice requirement.

(2) The following, including the GASB requirements, shall be disclosed:

(A) The nature and source of requirements for those obligations assured by the local government financial test including postclosure maintenance costs and/or corrective action costs; and

(B) Postclosure maintenance costs recognized at the balance sheet date; and

(C) Estimated postclosure maintenance costs remaining to be recognized; and

(D) Percentage of landfill capacity used to date, as of the end of the latest completed fiscal year; and

(E) Remaining landfill capacity reported in cubic yards or tons as of the end of the latest completed fiscal year; and

(F) Estimated remaining useful landfill life in years; and

(G) Corrective action costs. The reference shall be placed in the CAFR not later than 120 days after the corrective action remedy has been selected as required under Article 1, Subchapter 3, Chapter 3 (Section 20380 et seq.).

(j) Within 180 days after the close of each financial reporting year, the operator or guarantor shall submit the following items to the CIWMB and, in the case of a guarantor also, to the operator.

(1) A letter on the local government's letterhead stationary that is worded and completed as specified in Form CIWMB 112(7/98), which is incorporated by reference, which contains an original signature of the local government's chief financial officer. An operator or guarantor shall use Form CIWMB 112(7/98) to demonstrate or guarantee financial responsibility for postclosure maintenance costs and/or corrective action costs.

(A) If the operator or guarantor is using a similar financial test to demonstrate postclosure maintenance costs and/or corrective action costs for other environmental obligations including but not limited to those associated with underground injection control wells, petroleum underground storage tank facilities, PCB storage facilities, and hazardous waste treatment, storage, and disposal facilities, the operator or guarantor shall list those facilities, as well as the solid waste facility obligations it seeks to assure.

(2) A letter from the local government's treasurer or auditor-controller certifying the relative size (43%) threshold as specified in (e), and the public notice requirement as specified in (i) have been satisfied.

(3) A copy of an independent certified public accountant's report on examination of the operator's or guarantor's financial statements for the latest completed fiscal year, with a copy of the operator's or guarantor's financial statements for the latest completed fiscal year.

(A) An unqualified opinion of the independent certified public accountant is required.

(B) Local governments that have audits conducted only once every two years due to state law, may use the latest annual statement, audited or unaudited, provided that the most recent audit resulted in an unqualified opinion from the auditor.

(4) A letter from an independent certified public accountant that performed the audit:

(A) Stating that he or she has reviewed the letter required by (j)(1) from the chief financial officer including data derived from the financial statements for the latest completed fiscal year of the operator or the guarantor, and compared the data with the amounts in the financial statements; and

(B) Describing the procedures performed and related findings, including whether or not there were discrepancies found in the comparison, based on an agreed-upon procedures engagement performed in accordance with American Institute of Certified Public Accountants, Inc.'s (AICPA's) Statement on Auditing Standards No. 75, Engagements to Apply Agreed-Upon Procedures to Specified Elements, Accounts or Items of a Financial Statement.

(5) A copy of the comprehensive annual financial report (CAFR) used to comply with (i) or certification by the local government's treasurer or auditor-controller that the requirements of General Accounting Standards Board Statement 18 have been met.

(6) A copy of the bond rating on the bond rating service's letterhead stationery.

(k) The CIWMB may require updated financial statements at any time from the operator or guarantor. If the CIWMB finds that the operator or guarantor no longer meets the local government financial test requirements of (g) or (h), the operator shall obtain alternate coverage within 60 days after receiving the notification of such a finding.

(l) If, when preparing its annual update, an operator using the local government financial test fails to meet the requirements of the financial test under (g) or (h), the operator shall obtain alternate coverage within 210 days after the close of the financial reporting year.

(m) If the operator fails to obtain alternate coverage within the times specified in (k) or (l), the operator shall notify the CIWMB by certified mail within 10 business days of such failure.

(n) A local government financial test may be combined with another payment mechanism to assure the amount of required coverage specified in Sections 22211 and 22221 of Subchapter 2.

Authority cited: Sections 40502 and 43601.5, Public Resources Code.

Reference: Sections 43500 through 43610.1, Public Resources Code, Part 258.74(f) and (h), Title 40 Code of Federal Regulations.

Section 22249.5. CIWMB Local Government Guarantee.

(a) The guarantor shall be a local government which meets the requirements of the Local Government Financial Test under Section 22249 of this Article based on the guarantor's audited year-end financial statements.

(b) The guarantee shall be worded and completed as specified by form CIWMB 113(7/98), which is incorporated by reference.

(c) When the guarantee specifies coverage for postclosure maintenance costs, the terms shall also specify:

(1) If the operator fails to perform postclosure maintenance in accordance with the applicable approved postclosure maintenance plan when required to do so, the guarantor shall either:

(A) Perform, or pay a third party to perform, postclosure maintenance in accordance with the applicable approved postclosure maintenance plan; or

(B) Establish and fund a trust fund as specified in Section 22240 of this Article, in the name of the operator in the amount of the applicable current postclosure maintenance cost estimate covered by the guarantee; and/or

(d) When the guarantee specifies coverage for corrective action costs, the terms shall also specify:

(1) If the operator fails to perform corrective action in accordance with the applicable approved corrective action plan when required to do so, the guarantor shall either:

(A) Perform, or pay a third party to perform, corrective action in accordance with the applicable approved corrective action plan; or

(B) Establish and fund a trust fund as specified in Section 22240 of this Article, in the name of the operator in the amount of the applicable current corrective action cost estimate covered by the guarantee; and/or

(e) The guarantee will remain in force unless the guarantor fails to meet the requirements of Sections 22249 and/or 22249.5 of this Article, or wishes to terminate the guarantee. Cancellation may not occur, however, during the 120 days beginning on

the date of receipt of the notice of cancellation by both the operator and the CIWMB, as evidenced by return receipts.

(1) The guarantor shall send a notice of cancellation by certified mail to the operator, and the CIWMB, within 180 days after the end of that financial reporting year. The guarantee shall terminate no less than 120 days after the date that the operator and the CIWMB received the notice of cancellation, as evidenced by the return receipts.

(2) If the guarantee is cancelled, the operator shall establish alternate assurance as specified in Section 22228 of Article 1 of this Subchapter within 60 days after such notice.

(3) If the operator fails to provide alternate financial assurance:

(A) The operator shall send notice of such failure by certified mail to the guarantor, and the CIWMB, within the same 60 day period; and

(B) The guarantor must provide alternate assurance as specified in Section 22228 of Article 1 of this Subchapter within 60 days after the date of the operator's notice.

(f) The CIWMB may require updated financial statements at any time from a guarantor. If the CIWMB finds that the guarantor no longer meets the local government financial test or guarantee requirements of Sections 22249 and/or 22249.5 of this Article, the CIWMB shall notify the guarantor and operator of such finding by certified mail. If the CIWMB notifies the guarantor and the operator that the guarantee is no longer acceptable, the operator and guarantor shall comply with Section 22249.5 (e) (2) and (3) of this Article.

(g) Only a guarantee for payment, rather than performance of work, may be combined with another payment mechanism to assure the amount of required coverage specified in Sections 22206, 22211, 22216, and/or 22221 of Subchapter 2.

Authority cited: Sections 40502 and 43601.5, Public Resources Code.

Reference: Sections 43500 through 43610.1, Public Resources Code, Part 258.74(f) and (h), Title 40 Code of Federal Regulations.

Section 22250. CIWMB Federal Certification. (T14:Section 18292)

(a) A federal entity which is responsible for closure or postclosure maintenance of one or more solid waste landfills located in California may, in lieu of using the other financial mechanisms provided in this Article, provide a Federal Certification for each solid waste landfill, in accordance with this Section.

(b) Each Federal Certification shall include the following:

(1) A commitment by the federal entity to make a timely request for the funds needed to complete the closure and postclosure maintenance activities described in the most

recently approved final closure and postclosure maintenance plans in accordance with Executive Order 12088 dated October 13, 1978 and OMB Circular A-106 dated December 31, 1974, which are incorporated by reference, or any pertinent amendments to those requirements;

(2) Copies of the initial closure and postclosure maintenance cost estimates and any amendments thereto, prepared pursuant to Section 21820 and Section 21840, respectively; and

(3) A commitment by the federal entity not to restructure the closure and postclosure funding in a manner that would interfere with timely completion of closure or postclosure maintenance activities.

(c) Should Congress fail to appropriate the necessary funding for closure and postclosure maintenance of a disposal facility, the federal entity shall advise the CIWMB within 90 days of such failure, and shall provide to the CIWMB, documentation of all measures it will undertake to ensure that closure and postclosure activities are completed in accordance with the most recently approved closure and postclosure maintenance plans.

(d) Nothing in this Section shall be deemed to require any federal entity, or employees, agents, or representative thereof, to violate the federal Anti-Deficiency Act, 31 U.S.C. Section 1341.

(e) Each federal entity owning or operating a solid waste landfill in California on or after January 1, 1989, and choosing to provide assurance by using the Federal Certification, shall file the necessary documents with the CIWMB not later than 120 days after the effective date of these amendments or, for new disposal facilities, at the time of application for a solid waste facility permit.

(f) A federal entity may choose to act as a provider of financial assurance for closure or postclosure maintenance on behalf of private or other entities operating solid waste landfills, if either:

(1) The solid waste landfill is located on federal land; or

(2) The operator operates or manages the solid waste landfill pursuant to a contract with the federal entity or an applicable subcontract.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 43103, 43500 through 43610, Public Resources Code.

Section 22251. CIWMB Liability Insurance.

(a) The issuer of the insurance policy shall be an insurer that, at a minimum, is licensed by the California Department of Insurance to transact the business of insurance in the State of California as an admitted carrier.

(b) If coverage is not available as specified in (a), the operator may seek coverage by an insurer which, at a minimum, shall be eligible to provide insurance as an excess or surplus lines insurer in California.

(c) If coverage is obtained as described in (b), the insurance shall be transacted by and through a surplus line broker currently licensed under the regulations of the California Department of Insurance and upon the terms and conditions prescribed in the California Insurance Code (CIC), Division 1, Part 2, Chapter 6.

(d) The CIWMB or its designee may object to the use of any insurer at anytime, whether before or after placement of coverage based on information obtained from, but not limited to, the Surplus Line Association of California, Best's Insurance Reports, and/or the Non-Admitted Insurers Quarterly List.

(e) Each insurance policy shall be either:

(1) Evidenced by a certificate of liability insurance established by using form CIWMB 107 (12/01), which is incorporated by reference; or

(2) Amended and evidenced by a liability insurance endorsement established by using form CIWMB 108 (12/01), which is incorporated by reference.

Authority cited: Section 40502 and 43040, Public Resources Code.

Reference: Sections 43040 and 43103, Public Resources Code.

Section 22252. CIWMB Self-Insurance and Risk Management.

(a) To use the self-insurance and risk management mechanism an operator shall:

(1) Be a public entity;

(2) Be self-insured;

(3) Employ a risk manager;

(4) Have an active safety and loss prevention program that seeks to minimize the frequency and magnitude of third party damages caused by accidental occurrences and other self-insured losses;

(5) Have procedures for and a recent history of timely investigation and resolution of any claims for third party damages caused by accidental occurrences and other self-insured losses; and

(6) Satisfy any other reasonable conditions that the CIWMB determines are needed to ensure that the assured amount of funds shall be available in a timely manner.

(b) This coverage shall be demonstrated by using form CIWMB 109 (12/01), which is incorporated by reference.

Authority cited: Section 40502 and 43040, Public Resources Code.

Reference: Sections 43040 and 43103, Public Resources Code.

Section 22253. CIWMB Insurance and Environmental Fund.

(a) To be eligible to use this mechanism to demonstrate financial responsibility for compensating third parties for bodily injury and property damage, the operator shall fulfill the requirements of (a) through (e) of this Section no later than July 2, 1992.

(b) The operator shall submit a signed certification to the CIWMB on form CIWMB 110 (12/01), which is incorporated by reference; and

(c) The operator shall submit certification of coverage to demonstrate the establishment and maintenance of comprehensive general liability insurance coverage with limits in at least the amounts specified in Article 3 of Subchapter 2 of this Chapter. This insurance must conform to the requirements of Section 22251(a d) and/or Section 22252(a); and

(d) The operator shall demonstrate the establishment of an environmental liability fund, which shall be fully funded, as described before July 2, 1997. This means that the operator shall make the initial payment as described in (d)(3) by July 2, 1992 and subsequent payments as described in (d)(4) on July 1st of the following years: 1993, 1994, 1995, 1996, and 1997.

(1) The environmental liability fund shall have a trustee that is authorized to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(2) The environmental liability fund shall be established by using form CIWMB 111 (4/96), which is incorporated by reference.

(3) The funding of the environmental liability fund shall be initiated with a payment of \$200,000 or a payment that is at least equal to the applicable aggregate liability coverage amount specified in Article 3 of Subchapter 2 of this Chapter, divided by 5, which is the maximum number of years in the pay-in period.

(4) On each anniversary date of July 1, the minimum payment shall be determined by this formula:

$$\text{Minimum Payment} = \frac{\text{AC CV}}{Y + 1},$$

where AC is the aggregate coverage required, CV is the current value of the trust fund and Y is the number of years remaining in the pay-in period.

(5) The operator may accelerate payments into the environmental liability fund. However, the value of the environmental liability fund shall be maintained at no less than the value that the environmental fund would have, if payments were made as specified in (d)(3) and (d)(4).

(6) If the value of the environmental liability fund becomes greater than the total amount of the applicable aggregate liability coverage, the operator may request in writing that the CIWMB authorize the release of the excess funds. The CIWMB shall review the request within 90 days of receipt of the request. If any excess funds are verified, the CIWMB shall instruct the trustee to release the funds.

(e) The operator may substitute any alternate financial assurance mechanism(s), as identified in Section 22227, for the Insurance and Environmental Fund mechanism.

Authority cited: Section 40502 and 43040, Public Resources Code.

Reference: Sections 43040 and 43103, Public Resources Code.

Section 22254. CIWMB State Approved Mechanism. (T14:Section 17258.74)

(a) An operator may satisfy the requirements of this Chapter by obtaining any other mechanism that meets the following criteria, and that is approved by the CIWMB.

(1) The financial assurance mechanisms must ensure that the amount of funds assured is sufficient to cover the costs assured when needed;

(2) The financial assurance mechanisms must ensure that funds will be available in a timely fashion when needed;

(3) The financial assurance mechanism(s) must be obtained by the operator before the first waste is received at a new facility and before any other financial mechanism is cancelled at existing facilities. The financial mechanism must be maintained until the operator is released from the financial assurance requirements under this Chapter.

(4) The financial assurance mechanisms must be legally valid, binding and enforceable under State and Federal law.

Authority cited: Sections 40502 and 40508, Public Resources Code.

Reference: Sections 40508 and 43103, Public Resources Code; Section 258.74, Title 40, Code of Federal Regulations.

Subchapter 4. Financial Assurances Enforcement Procedures

Article 1. Solid Waste Facilities

Section 22270. Scope and Applicability.

All operators of disposal facilities shall be subject to the requirements of this article, except state and federal operators.

Authority cited: Sections 40502, 43040 and 43601.5, Public Resources Code.

Reference: Sections 43040, 43500 through 43610.1, Public Resources Code, and Title 40 Code of Federal Regulations, Section 258.70.

Section 22271. Definitions.

(a) "Degree of non-compliance" means the status of compliance of a an operator with the financial assurance requirements. An operator is either: (1) partially out of compliance with the requirements ("Minor"); or (2) completely out of compliance with the requirements ("Major").

(b) "Potential for harm" means the degree to which operator's actions adversely affect the public health, safety and the environment. This potential is based on the anticipated closure date for a facility. If the anticipated closure date is:

(1) 2 years or less the potential for harm is "Major."

(2) more than 2 years and up to 10 years, the potential for harm is "Moderate."

(3) over 10 years the potential for harm is "Minor."

Authority cited: Sections 40502, 43040 and 43601.5, Public Resources Code.

Reference: Sections 43040, 43500 through 43610.1, Public Resources Code.

Section 22272. Notice of Violation.

(a) The CIWMB shall send a written Notice of Violation to an operator violating the requirements of Articles 1, 2 and 3 of Subchapter 2 of this Chapter (commencing with Section 22205).

(b) The CIWMB shall send a copy of the Notice of Violation to the respective enforcement agency.

(c) The Notice of Violation shall:

- (1) describe the violation which CIWMB staff believe is occurring; and
- (2) describe the consequences of continued failure to comply or respond.

(d) An operator shall submit a response to a Notice of Violation within 10 working days from receipt of the Notice of Violation.

(e) The CIWMB may consider all contacts with an operator as "good faith" efforts to comply with the regulations, and the CIWMB may extend the timeframe for an operator to respond and/or comply, as the CIWMB deems necessary to assure adequate financing for closure and postclosure maintenance activities.

Authority cited: Sections 40502, 43040 and 43601.5, Public Resources Code.

Reference: Sections 43040, 43500 through 43610.1, Public Resources Code.

Section 22273. Issuance of Notice and Order and Stipulated Notice and Order.

(a) If an operator fails to respond to the Notice of Violation within the specified timeframe, the CIWMB shall draft and send a Notice and Order, as defined in Title 14, California Code of Regulations Section 18304, to the operator, and notify the local enforcement agency of the enforcement action.

(b) An operator shall respond to the CIWMB with evidence of compliance, or request an alternate schedule for compliance, within 10 working days from receipt of the Notice and Order.

(c) If an operator responds to the Notice and Order by offering partial compliance immediately, and full compliance over a period of time, which is acceptable to the CIWMB, the CIWMB may enter into a Stipulated Notice and Order with the operator.

(d) If an operator fails to conform with the compliance schedule within the specified timeframe as provided in the Notice and Order or Stipulated Notice and Order, further enforcement action may be taken by the CIWMB, as specified in the Notice and Order or Stipulated Notice and Order.

Authority cited: Sections 40502, 43040 and 43601.5, Public Resources Code.

Reference: Sections 43040, 43500 through 43610.1, Public Resources Code.

Section 22274. Compliance Options.

(a) The CIWMB may consider compliance options other than imposing penalties to assure adequate financing for closure and postclosure maintenance activities. The CIWMB may consider options that include, but are not limited to:

(1) Placing restrictions on current financial assurance mechanism(s) being used by the operator such as, requiring more frequent reporting requirements.

(2) Prohibiting use of current financial assurance mechanism(s) being used by the operator, and requiring the operator to establish an alternate mechanism as prescribed in Section 22228 of this Title.

Authority cited: Sections 40502, 43040 and 43601.5, Public Resources Code.

Reference: Sections 43040, 43500 through 43610.1, Public Resources Code.

Section 22275. Penalty Calculations.

(a) If the CIWMB chooses to impose a penalty, the daily penalty shall equal an amount determined by the gravity-based matrix, in Table 1 using the degree of non-compliance and the potential for harm as the deciding factors, added to the economic benefit an operator receives from noncompliance with the regulations.

Table 1:

Potential for Harm	Degree of Non-Compliance MAJOR	Degree of Non-Compliance MINOR
MAJOR	\$10,000-\$8,000	\$7,999-\$5,000
MODERATE	\$4,999-\$2,000	\$1,999-\$800
MINOR	\$799-\$500	\$499-\$0

(1) The economic benefit portion of a penalty, for lack of liability coverage, shall be based on a minimum annual premium for liability insurance, as identified by a CIWMB survey of the insurance industry. The premium is multiplied by the number of years an operator is out of compliance (rounded up to the next whole year if a partial year of noncompliance exists).

(2) The economic benefit portion of a penalty, for lack of coverage for closure and/or postclosure maintenance costs shall be based on the current cost of a letter of credit or bond, as identified by a CIWMB survey of the banking industry or insurance industry, respectively. The cost for a letter of credit or bond is multiplied by a pro-rata factor for the length of time of non-compliance.

(b) Determinations of penalty amounts may be modified by the CIWMB for one or more of the following reasons:

(1) Evidence that adequate coverage has been subsequently provided, such as bank statements, letter from county treasurer verifying balance of fund, certificate demonstrating adequate coverage, etc.

(2) Evidence of a payment schedule, if applicable, detailing the operator's good faith efforts has been subsequently provided, such as past deposits to the financial assurance mechanism, etc.

(3) An operator's good faith efforts to comply or lack of good faith.

(4) An operator's degree of willingness to comply.

(5) An operator's history of compliance.

(6) Other unique factors such as size of operation, threat to public health and safety and the environment.

(c) Penalties shall be pursued by the CIWMB administratively or through superior court based on the following criteria.

(1) If the total initial civil penalty assessment is \$15,000 or less, the CIWMB may pursue penalties administratively pursuant to Public Resources Code, Section 45011.

(2) If the total initial civil penalty assessment exceeds \$15,000, the CIWMB may pursue penalties through superior court, pursuant to Public Resources Code, Section 45023.

Authority cited: Sections 40502, 43040 and 43601.5, Public Resources Code.

Reference: Sections 43040, 43500 through 43610.1, Public Resources Code.

Section 22276. Processing and Collection of Civil Penalty

Processing and collection of civil penalties shall be made by the CIWMB as provided in Public Resources Code, Division 30, Part 5, Article 3.(commencing with Section 45010).

Authority cited: Sections 40502, 43040 and 43601.5, Public Resources Code.

Reference: Sections 43040, 43500 through 43610.1, Public Resources Code.

Section 22277. Appeals Process.

Any aggrieved person may appeal a Notice and Order by the CIWMB, according to Public Resources Code, Sections 45017 and 45030.

Authority cited: Sections 40502, 43040 and 43601.5, Public Resources Code.

Reference: Sections 43040, 43500 through 43610.1, Public Resources Code.

Section 22278. Continued or Recurring Violations.

(a) If an operator pays an initial penalty but fails to correct the violation pursuant to Notice and Order, or has recurring violations within a three year period from the date of the preceding Notice of Violation:

(1) the CIWMB may re-initiate the enforcement process;

(2) the CIWMB may pursue action to revoke a permit, according to Public Resources Code Section 44306, and/or pursue closure of the facility;

(3) the CIWMB may pursue both 1 and 2 above.

Authority cited: Section 40502, 43040 and 43601.5, Public Resources Code.

Reference: Sections 43040, 43500 through 43610.1, Public Resources Code.

Chapter 7. Special Treatment, Storage, and Disposal Units

Subchapter 1. Mining Waste Management

Article 1. SWRCB Mining Waste Management Regulations

(C15: Article 7)

Section 22470. SWRCB Applicability. (C15: Section 2570)

(a) General This article applies to all discharges of mining wastes. No SWRCB-promulgated parts of this subdivision except those in this article, Article 1 of Chapter 1 (i.e., Section 20080 et seq.), and such provisions of the other articles of this subdivision as specifically are referenced in this article shall apply to discharges of "mining wastes" as that term is defined in Section 22480. Mining Units (including surface impoundments, waste piles, and tailings ponds) which receive WDRs after November 27, 1984, shall comply with the siting and construction standards in this article. Existing active and inactive Mining Units shall comply with the siting and construction requirements of this article as required by the RWQCB. Dischargers shall submit a report of waste discharge in compliance with Article 4, Subchapter 3, Chapter 4 of this subdivision (Section 21710 et seq.), and shall have WDRs which implement the appropriate provisions of this article unless requirements are waived by the RWQCB. Requirements for new and existing

Mining Units are summarized on Table 1.1 of this article. The RWQCB can impose more stringent requirements to accommodate regional and site specific conditions.

(b) Dry Unit Liner/LCRS Exemption A RWQCB can exempt a mining waste pile from the liners and leachate collection and removal systems required in this article if the discharger clearly demonstrates to the RWQCB that leachate will not form in or escape from that Mining Unit. The RWQCB can require extensive monitoring procedures in lieu of certain containment features. Contingency plans shall be developed and shall be implemented if monitoring indicates that the disposal procedures are inadequate.

(c) Exemptions Based On No/Little/Poor G.W. The RWQCB can exempt a Group A or B (see Section 22480 of this article) Mining Unit from certain provisions of this article if a comprehensive hydrogeologic investigation demonstrates that:

(1) there are only very minor amounts of groundwater underlying the area; or

(2) the discharge is in compliance with the applicable water quality control plan; and

(3) either natural conditions or containment structures will prevent lateral hydraulic interconnection with natural geologic materials containing ground water suitable for agricultural, domestic, or municipal beneficial uses. There is no detectable vertical hydraulic interconnection between the natural geologic materials underlying the Unit and natural geologic materials containing such ground water. If the above demonstration is acceptable to the RWQCB, the discharger can be exempted from requirements for liners and leachate collection and removal systems (see Section 22490 of this article). However, the discharger shall comply with the requirements of this article relative to siting, precipitation and drainage controls, and surface water quality monitoring. Closure and post closure maintenance periods shall be designed to protect surface water quality. Ground water monitoring, and unsaturated zone monitoring as feasible, shall be conducted during the active life, closure, and post closure maintenance period to verify that the Unit is not affecting ground water suitable for agricultural, domestic, or municipal beneficial uses.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, 13226, 13260, and 13263, Water Code; Section 43103, Public Resources Code.

Section 22480. SWRCB Groups of Mining Waste. (C15: Section 2571)

(a) Definition Mining waste is waste from the mining and processing of ores and mineral commodities. Mining waste includes:

(1) overburden;

(2) natural geologic material which have been removed or relocated but have not been processed (waste rock); and

(3) the solid residues, sludges, and liquids from the processing of ores and mineral commodities.

(b) Waste Group Classification Mining wastes shall be classified as Group A, Group B, or Group C mining wastes based on an assessment of the potential risk of water quality degradation posed by each waste. In setting requirements for each mining waste discharge under this article, the RWQCB shall assign the waste to Group A, Group B, or Group C according to the following criteria:

(1) Group A mining wastes of Group A are wastes that must be managed as hazardous waste pursuant to Chapter 11 of Division 4.5, of Title 22 of this code, provided the RWQCB finds that such mining wastes pose a significant threat to water quality;

(2) Group B mining waste of Group B are either:

(A) mining wastes that consist of or contain hazardous wastes, that qualify for a variance under Chapter 11 of Division 4.5, of Title 22 of this code, provided that the RWQCB finds that such mining wastes pose a low risk to water quality; or

(B) mining wastes that consist of or contain nonhazardous soluble pollutants of concentrations which exceed water quality objectives for, or could cause, degradation of waters of the state; or

(C) Group C mining wastes from Group C are wastes from which any discharge would be in compliance with the applicable water quality control plan, including water quality objectives other than turbidity.

(c) Classification Considerations In reaching decisions regarding classification of a mining waste as a Group B or Group C waste, the RWQCB can consider the following factors:

(1) whether the waste contains hazardous constituents only at low concentrations;

(2) whether the waste has no or low acid generating potential; and

(3) whether, because of its intrinsic properties, the waste is readily containable by less stringent measures.

(d) Treatment Mining waste shall be treated or neutralized whenever feasible to minimize the threat to water quality and minimize the need to install waste containment structures.

Table 1.1. Summary of Requirements for New and Existing Mining Units

Type of Requirement Siting	New Units	Existing Units	Exemptions
Siting	(1) Not on Holocene faults; (2) Outside of areas of rapid geologic change; containment structures designed (3) Peak streamflow protection as and constructed to preclude failure in Table 1.2	Peak streamflow protection as in Table 1.2, as required by RWQCBs.	New Units may be sited in areas of rapid geologic change if containment structures designed and constructed to preclude failure.
Construction	(1) Liners or maximum natural permeability as in Table 1.2; removal systems required for Group C Units. (2) Leachate collection and removal (2) new waste piles may be exempted system as in Table 1.3; from liners and leachate collection, and (3) Precipitation and drainage controls removal systems if it can be demonstrated that leachate will not form or escape -contingency plan required, and additional monitoring may be required.	Precipitation and drainage controls.	(1) No liners or leachate collection and removal systems require 3d for Group C Units. (2) New waste piles may be exempted from liners and leachate collection and removal systems if it can be demonstrated that leachate will not form or escape contingency plan required, and additional monitoring may be required.
Monitoring	(1) Ground water and surface water; None. (2) Unsaturated zone monitoring as feasible.	No Data Identified	No Data Identified
Closure and Post Closure Maintenance	Closed and maintained in accordance with Section 22510.	No Data Identified	No Data Identified

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, Water Code; Section 43103, Public Resources Code.

Section 22490. SWRCB Mining Unit Siting and Construction Standards. (C15: Section 2572)

(a) Proximity to Faults New Mining Units:

(1) for Group A and B wastes, shall not be located on Holocene faults. Units for Group C wastes may be located on Holocene faults if displacement will not allow escape of wastes or cause irreparable damage to containment structures;

(2) shall be outside of areas of rapid geologic change. Exemptions may be allowed by the RWQCB if containment structures are designed and constructed to preclude failure.

(b) Flooding All Mining Units shall be protected from flooding as shown on Table 1.2 of this article.

(c) Construction & Discharge Standards General construction standards are given on Table 1.3 of this article. Procedures for determining appropriate methods for discharges of Groups A and B mining wastes are outlined in Figures 1.1 and 1.2 of this article.

(d) Registered Professionals Containment structures shall be designed by a registered civil engineer, and construction shall be supervised and certified by a registered civil engineer or a certified engineering geologist.

(e) General Containment Structure Criteria Dischargers shall comply with general criteria for containment structures in Section 20320.

(f) Liners.

(1) FMLs Synthetic liners (40 mil minimum thickness) can be used for waste piles where the discharger can demonstrate that the liner will function adequately during the active life of the waste pile and provided that the waste pile is closed in accordance with Section 21410.

(2) Relative Permeability Permeabilities shall be relative to the fluids, including waste or leachate, to be contained.

(3) Clay Liners Clay liners shall be of a minimum of two feet thick and shall be installed at relative compaction of at least 90 percent.

(4) Replaceable Clay-Liners Single clay liners may be used for Group B surface impoundments if replaced as specified in Section 20330(e).

(5) Contingency Plan If the RWQCB exempts a discharger from liner requirements for a waste pile, a contingency plan for alternative waste containment shall be developed. The plan shall be implemented if there is failure of the waste pile containment system.

(6) Dischargers shall comply with the liner criteria given in Section 20330(a & d).

(g) Leachate Collection and Removal Systems (LCRSs) for Group A and B Wastes.

(1) All LCRSs shall be of the blanket type.

(2) Dischargers shall comply with leachate collection and removal system (LCRS) requirements given in Section 20340(b e).

(h) Precipitation and Drainage Controls.

(1) Design Storm Diversion and drainage facilities shall be designed and constructed to accommodate the anticipated volume of precipitation and peak flows from surface runoff as follows:

(A) Group A one 25 year, 24 hour storm;

(B) Group B one 10 year, 24 hour storm; and

(C) Group C one 10 year, 24 hour storm.

(2) Excess Runoff Precipitation on Group A and B waste piles that is not diverted by containment structures shall be collected and managed through the LCRS. The RWQCB can make exemptions to this requirement if the collected fluid does not contain indicator parameters or waste constituents in excess of applicable water quality objectives.

(3) Precipitation/Drainage Controls Dischargers shall comply with precipitation and drainage control requirements given in Section 20365(d & e).

(i) Incorporated Impoundment Requirements Dischargers shall comply with special requirements for surface impoundments given in Section 20375. Nevertheless, for Mining Units, dischargers shall use the precipitation conditions in (h)(1).

Table 1.2 Floodplain Siting Criteria

Waste Group	Waste Management Unit	Existing Units¹	New Units
A	Waste Pile Surface Impoundment Tailing Pond	Protect from 100-year peak streamflow	Outside 100-Year floodplain
B	Waste Pile Surface Impoundment Tailing Pond	Protect from 100-year peak	streamflow
C	Waste Pile Surface Impoundment Tailing Pond	Retrofit as need to protect water quality	Preclude increased sediment in surface water ²

¹ As required by the RWQCB pursuant to Section 22470(a).

² Mining waste shall not be placed in perennial, intermittent, or ephemeral stream channels unless provision is made to diver the runoff around the waste in a non-erosive manner. Waste shall not be placed where they can be eroded by streamflows or where they can cause accelerated streambank erosion. Waste generated during seasonal mining operations may be exempted from these requirements provided that increased sediment in surface water is precluded.

Table 1.3 Natural and Artificial Containment Features for Mining Units

Waste Group	Waste Management Unit	Geologic Setting	Liner(s) Hydr. Cond. Values (Units: cm/sec)	Leachate Collection and Removal System
A	Waste Pile	Per Section 2531(b)(1) of Title required 23, OR single clay liner ¹ <1x10 ⁻⁷	No Data Identified	Required
No Data Identified	Surface Impoundment or Tailing Pond	Not applicable	double liner, both <1x10 ⁻⁷ outer: clay; Inner: clay or synthetic <1x10 ⁻⁶ (1)	Required(2)
B	Waste Pile	Per Section 20250(b)(1) OR single clay liner	No Data Identified	Required
No Data Identified	Surface Impoundment or Tailings Pond outer: clay or natural permeability ³	Not applicable	No Data Identified	No Data Identified
C	Waste Pile, Surface Impoundment or Tailings Pond	Not applicable	Not applicable	Not applicable

¹ Synthetic liner may be used for short-term containment [see s22490(f)(1)].

² Liner and leachate collection and removal system for tailings pond must be able to withstand the ultimate weight of wastes.

³ Permeability of $<1 \times 10^{-6}$ cm/sec or natural geologic materials may replace outer liner of double liner system.

⁴ Single clay liner $< (1 \times 10^{-6}$ cm/sec) for surface impoundment, to be removed before last 25 percent (minimum 1 foot thickness) of liner is penetrated by fluid, including waste and leachate.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, 13226, and 13263, Water Code; Section 43103, Public Resources Code.

Section 22500. SWRCB Water Quality Monitoring for Mining Units. (C15: Section 2573)

(a) General New and existing Group A and B Mining Units shall comply with the monitoring provisions contained in Section 20385 through Section 20430.

(b) Monitoring Mandatory If a waste pile containing Group A or B mining wastes is granted exemption from construction requirements pursuant to Section 22470(b), monitoring of the waste moisture content shall be required.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172, 13226, 13263, and 13267, Water Code; Section 43103, Public Resources Code.

Section 22510. SWRCB Closure and Post Closure Maintenance of Mining Units. (C15: Section 2574)

(a) Closure Performance Standard New and existing Mining Units shall be closed so that they no longer pose a threat to water quality. No post closure land uses shall be permitted that might impair the integrity of containment structures.

(b) Plan Mining Units shall be closed according to an approved closure and post closure maintenance plan which implements this Section and provides for continued compliance with the applicable standards in this article for waste containment, precipitation and drainage controls, and monitoring throughout closure and the post closure maintenance period.

(c) Reclamation The RWQCB shall issue WDRs which incorporate the relevant provisions of an approved mining and reclamation plan (see California Surface Mining and Reclamation Act, Public Resources Code, Section 2770, et seq.), prescribe additional conditions as necessary to prevent water quality degradation, and ensure that there will be no significant increase in the concentration of indicator parameters or waste constituents in ground or surface water, unless requirements are waived.

(d) Oversight & Monuments Dischargers shall comply with the closure requirements given in Section 20950(b & d).

(e) Inactive Units Containment structures at inactive Mining Units shall be subject to the same standards as apply to an active Mining Unit under this article.

(f) Closure and Post-Closure Funding The discharger shall provide for adequate funding to pay for the costs of closure and post closure maintenance as required by this article. The discharger shall provide assurance of financial responsibility, acceptable to the RWQCB, pursuant to Chapter 6 of this title. The RWQCB shall periodically review financial assurances and shall modified them as necessary.

(g) Alternate Financial Assurance If a lead agency acting under the authority of Section 2774(a) of the Public Resources Code requires assurances of financial responsibility, these assurances can be used to fulfill all comparable requirements under (f), provided that:

(1) the RWQCB approves the assurance; and

(2) the RWQCB is named as alternate payee.

(h) Ending Post-Closure The post closure maintenance period shall end when the RWQCB determines that water quality aspects of reclamation are complete and waste no longer poses a threat to water quality.

(i) Vegetation Vegetation for closed Mining Units shall not impair the integrity of containment features. Irrigation of vegetation shall be managed to assure that it does not cause nor increase the production of leachate.

(j) Waste Pile Closure Standards New and existing Group A and B waste piles shall be closed in accordance with the provisions of Section 21090(a c).

(k) Surface Impoundment Closure Standards New and existing Group A and B surface impoundments shall be closed in accordance with the provisions of paragraphs (a) and (b)(1) of Section 21400. A surface impoundment can be closed in place if provided with a cover as in Section 21090(a) and if the liner (or, in the case of a double liner system, the outer liner) is clay.

(l) Tailings Pond Closure Standards New and existing Group A and B tailings ponds shall be closed in accordance with the provisions of Section 21090(a c) and Section 21400(a).

(m) Erosion & Sedimentation Protection New and existing Group C Mining Units shall be closed in a manner that will minimize erosion and the threat of water quality degradation from sedimentation.

Figure 1.1, Disposal Alternatives for Group A Waste

Figure 1.1
DISPOSAL ALTERNATIVES FOR GROUP A WASTES

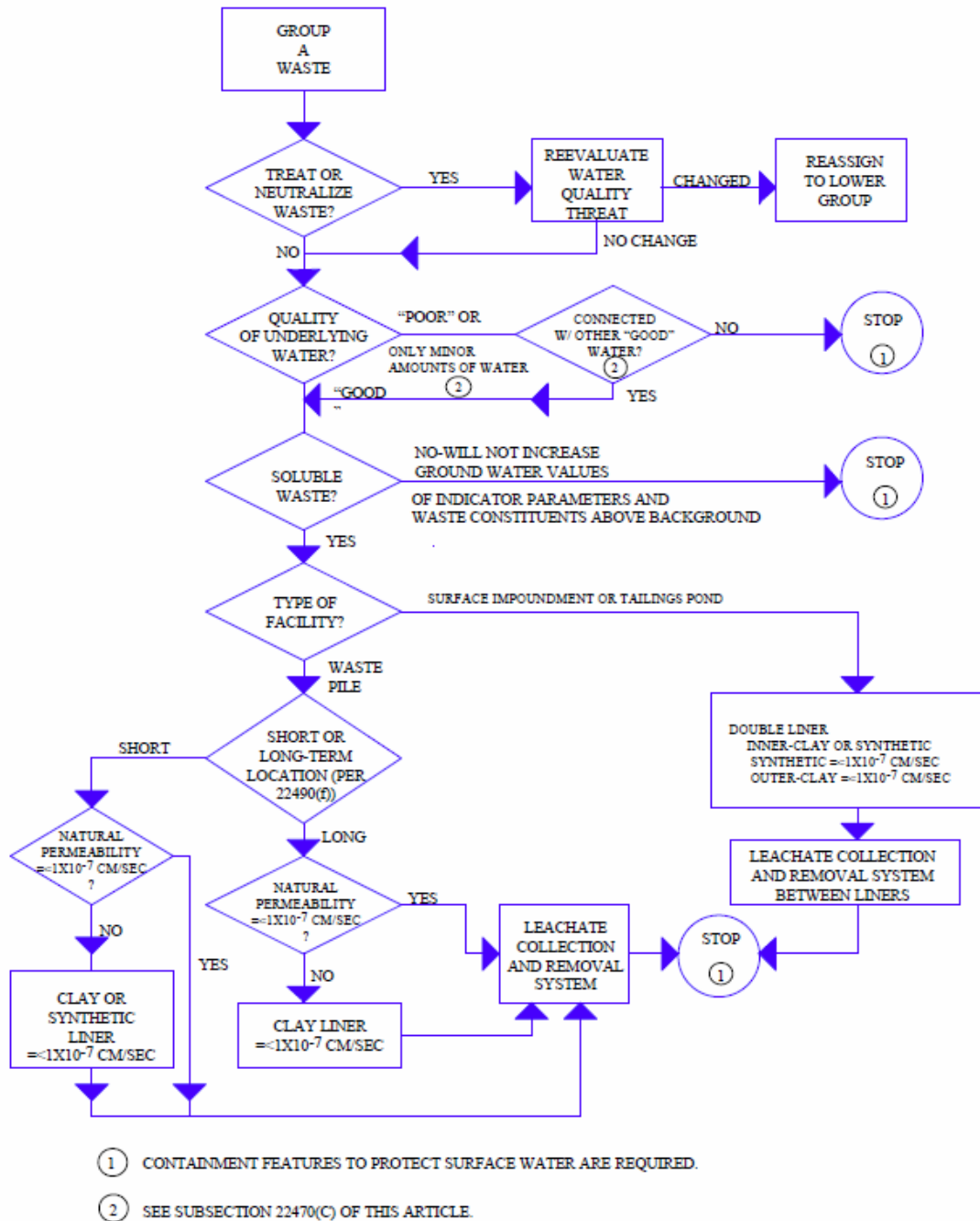
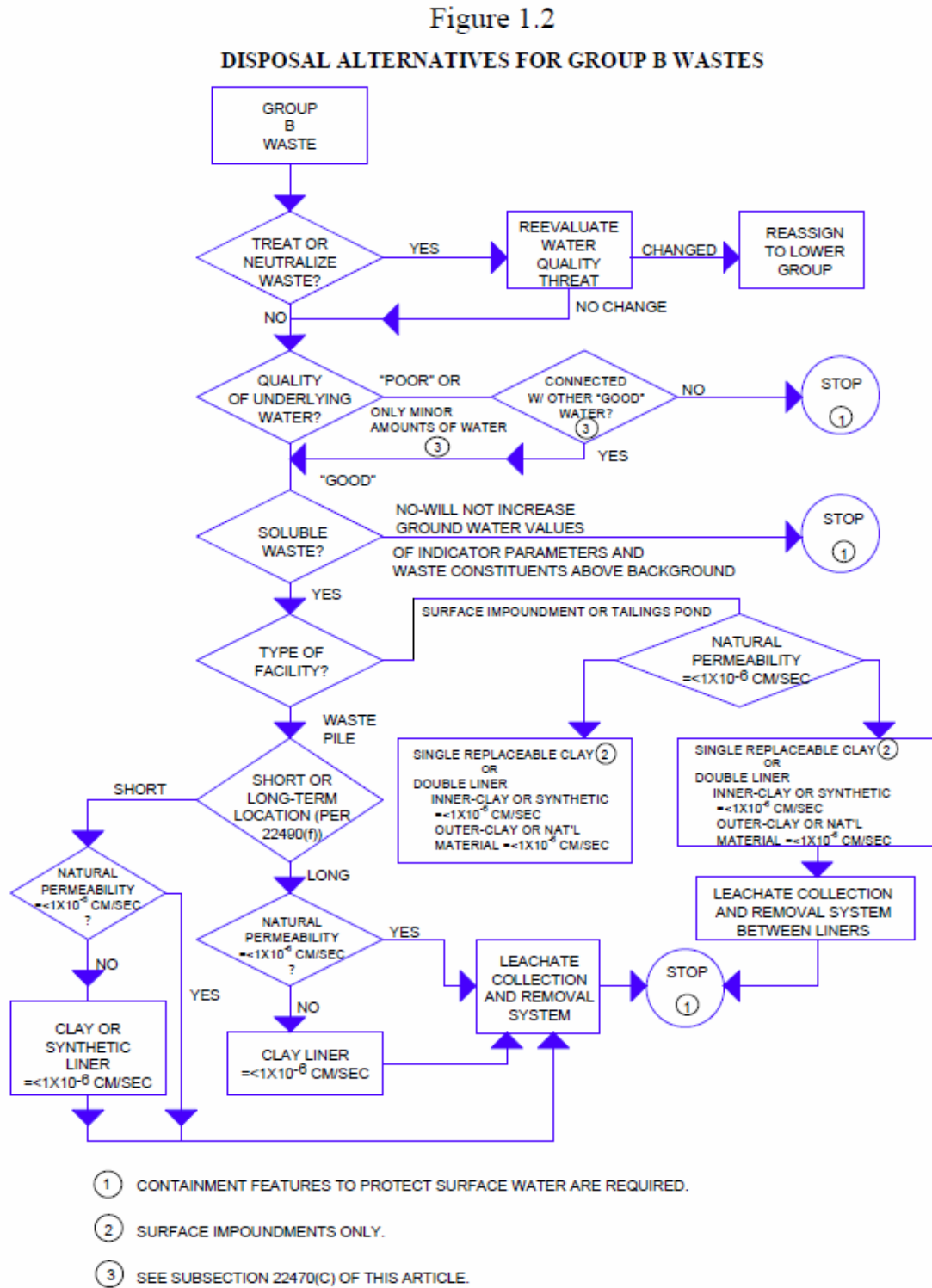


Figure 1.2, Disposal Alternatives for Group B Waste



Authority cited: Section 1058, Water Code.

Reference: Sections 13172, 13226, and 13263, Water Code; Section 43103, Public Resources Code.

Subchapter 2. Confined Animals

Article 1. SWRCB Confined Animal Facilities

Section 22560. SWRCB Applicability. (Ch-15: S2560)

(a) General This article prescribes statewide minimum standards for discharges of animal waste at confined animal facilities. These standards shall either be implemented in any WDRs issued for a particular animal waste facility or shall be made a condition to the waiver of such requirements.

(b) ROWD A discharger required to submit a report of waste discharge shall provide the following general information and shall report any material changes as defined in Section 2210 of Title 23 of this code:

- (1) average daily volume of facility wastewater and volume or weight of manure;
- (2) total animal population at the facility, and types of animals;
- (3) location and size of use or disposal fields and retention ponds, including animal capacity; and
- (4) animal capacity of the facility.

(c) Regulations Are Minimum Standards The RWQCB shall impose additional requirements, if such additional requirements are necessary to prevent degradation of water quality or impairment of beneficial uses of waters of the state.

Authority cited: Section 1058, Water Code.

Reference: Sections 13140-13147, 13260 and 13263, Water Code; Section 43103, Public Resources Code.

Section 22561. SWRCB General Standard For Surface Water. (Ch-15: Section 2561)

The discharger shall prevent animals at a confined animal facility from entering any surface water within the confined area.

Authority cited: Section 1058, Water Code.

Reference: Sections 13140-13147, 13260 and 13263, Water Code; Section 43103, Public Resources Code.

Section 22562. SWRCB Wastewater Management. (Ch-15: Section 2562)

(a) Design Storm (for Run-On/Run-Off Control) Confined animal facilities shall be designed and constructed to retain all facility wastewater generated, together with all precipitation on, and drainage through, manured areas during a 25-year, 24-hour storm.

(b) Manured Area Run-On Exclusion All precipitation and surface drainage outside of manured areas, including that collected from roofed areas, and runoff from tributary areas during the storm events described in (a), shall be diverted away from manured areas, unless such drainage is fully retained. RWQCBs can waive application of such requirements only in specific instances where upstream land use changes have altered surface drainage patterns such that retention of flood flows is not feasible.

(c) Design Storm (for Flood Protection).

(1) Retention ponds and manured areas at confined animal facilities in operation on or after November 27, 1984, shall be protected from inundation or washout by overflow from any stream channel during 20-year peak stream flows.

(2) Existing facilities that were in operation on-or-before November 27, 1984, and that are protected against 100-year peak stream flows must continue to provide such protection. Facilities, or portions thereof, which begin operating after November 27, 1984, shall be protected against 100-year peak stream flows.

(3) The determination of peak stream flows shall be from data provided by a recognized federal, state, local, or other agency.

(d) Retention Pond Design Retention ponds shall be lined with, or underlain by, soils which contain at least 10 percent clay and not more than 10 percent gravel or artificial materials of equivalent impermeability.

(e) Discharge To Disposal/Use Fields The RWQCB shall allow the discharge of facility wastewater and of collected precipitation and drainage waters to use or disposal fields only if such discharge is in accordance with Section 22563. Absent an NPDES permit for discharge to surface waters, the only other allowable discharge is to wastewater treatment facilities approved by the RWQCB.

Authority cited: Section 1058, Water Code, Public Resources Code.

Reference: Sections 13172, Water Code; Section 43103, Public Resources Code.

Section 22563. SWRCB Use or Disposal Field Management. (Ch-15: Section 2563)

(a) Reasonable Soil Amendment Rate Application of manure and wastewater to disposal fields or crop lands shall be at rates which are reasonable for the crop, soil, climate, special local situations, management system, and type of manure.

(b) Run-Off & Percolation Discharges of facility wastewater to disposal fields shall not result in surface runoff from disposal fields and shall be managed to minimize percolation to ground water.

Authority cited: Section 1058, Water Code.

Reference: Section 13172, Water Code; Section 43103, Public Resources Code.

Section 22564. SWRCB Management of Manured Areas. (Ch-15: Section 2564)

Manured areas shall be managed to minimize infiltration of water into underlying soils.

Authority cited: Section 1058, Water Code, Public Resources Code.

Reference: Section 13172, Water Code; Section 43103, Public Resources Code.

Section 22565. SWRCB Monitoring. (Ch-15: Section 2565)

The RWQCB can require confined animal facility operations to undertake a monitoring program as a condition to the issuance or waiver of WDRs.

Authority cited: Section 1058, Water Code.

Reference: Sections 13172 and 13267, Water Code.

Subchapter 3. Composting Facilities

[Reserved by CIWMB]

Subchapter 4. Waste Tire Facilities

[Reserved by CIWMB]

Subchapter 5. Transfer and Processing Stations

[Reserved by CIWMB]

Subchapter 6. Solar Evaporators

Article 1. Solar Evaporator Regulations [Regulations in this Article Were Promulgated by the State Water Resources Control Board (SWRCB), Are Administered by the Appropriate Regional Water Quality Control Board (RWQCB), and Are Applicable to the Owner or Operator of a Solar Evaporator for the Management of Agricultural Drainage Water Discharges from an Integrated on-Farm Drainage Management System (IFDM).]

Section 22900. SWRCB Applicability.

(a) General This article applies to the discharge of agricultural drainage water from Integrated On-Farm Drainage Management (IFDM) systems to solar evaporators as defined in Section 22910. No SWRCB-promulgated parts of the Division 2 of Title 27 and Division 3, Chapter 15 of Title 23 of the California Code of Regulations (CCR) shall apply to the discharge of agricultural drainage water from IFDM systems to solar evaporators unless those Sections are specifically referenced in this article. Any person who intends to operate a solar evaporator after November 22, 2004 shall comply with the requirements of this article before a Notice of Plan Compliance and Notice of Authority to Operate (Section 25209.13 of Article 9.7 of the Health and Safety Code) will be issued by a Regional Water Quality Control Board (RWQCB).

Authority cited: Section 25209.12, Health and Safety Code.

Reference: Sections 25209.12, 25209.13 and 25209.17, Health and Safety Code.

Section 22910. SWRCB Definitions.

For purposes of this article, the following terms have the following meanings:

(a) "Adequately protected" means that:

- (1) Avian wildlife have no access to standing water in a water catchment basin.
- (2) Standing water does not occur in a solar evaporator outside of a water catchment basin, under reasonably foreseeable operating conditions.

(3) The solar evaporator, including the water catchment basin, does not become a medium for the growth of aquatic and semi-aquatic macro invertebrates that could become a harmful food source for avian wildlife, under reasonably foreseeable operating conditions.

(b) "Agricultural drainage water" means surface drainage water or percolated irrigation water that is collected by subsurface drainage tiles placed beneath an agricultural field.

(c) "Avian Wildlife Biologist" means any State or federal agency biologist, ecologist, environmental specialist (or equivalent title) with relevant avian wildlife monitoring experience (as determined by the RWQCB), or any professional biologist, ecologist, environmental specialist (or equivalent title) possessing valid unexpired State and federal collecting permits for avian wildlife eggs.

(d) "Boundaries of the solar evaporator" or "boundaries of a solar evaporator" means the outer edge of the solar evaporator or any component of the solar evaporator, including, but not limited to, berms, liners, water catchment basins, windscreens, and deflectors.

(e) "Certified Engineering Geologist" means a registered geologist, certified by the State of California, pursuant to Section 7842 of the Business and Professions Code.

(f) "Hydraulic conductivity" means the ability of natural and artificial materials to transmit water. The term is expressed as a measure of the rate of flow through a unit area cross-section of material. The unit of measure is cm/sec.

(g) "Integrated on-farm drainage management system" means a facility for the on-farm management of agricultural drainage water that does all of the following:

(1) Reduces levels of salt and selenium in soil by the application of irrigation water to agricultural fields.

(2) Collects agricultural drainage water from irrigated fields and sequentially reuses that water to irrigate successive crops until the volume of residual agricultural drainage water is substantially decreased and its salt content significantly increased.

(3) Discharges the residual agricultural drainage water to an on-farm solar evaporator for evaporation and appropriate salt management.

(4) Eliminates discharge of agricultural drainage water outside the boundaries of the property or properties that produces the agricultural drainage water and that is served by the integrated on farm drainage management system and the solar evaporator.

(h) "Liner" means:

(1) a continuous layer of natural or artificial material, or a continuous membrane of flexible and durable artificial material, or a continuous composite layer consisting of a membrane of flexible artificial material directly overlying a layer of engineered natural

material, which is installed beneath a solar evaporator, and which acts as a barrier to vertical water movement, and

(2) a material that has appropriate chemical and physical properties to ensure that the liner does not fail to contain agricultural drainage water because of pressure gradients, physical contact with the agricultural drainage water, chemical reactions with soil, climatic conditions, ultraviolet radiation (if uncovered), the stress of installation, and the stress of daily operation, and

(3) a material that has a minimum thickness of 40 mils (0.040 inches) for flexible artificial membranes or synthetic liners.

(4) The requirements of this definition are applicable only if a liner is used to meet the requirements of Section 22920(c).

(i) "Nuisance" means anything which meets all of the following requirements:

(1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

(2) Affects at the same time an entire community or neighborhood, or a considerable number of persons, although the extent of the annoyance or damage inflicted on individuals may be unequal.

(3) Occurs during, or as a result of, the treatment or disposal of wastes.

(j) "On-farm" means within the boundaries of a property, geographically contiguous properties, or a portion of the property or properties, owned or under the control of a single owner or operator, that is used for the commercial production of agricultural commodities and that contains an IFDM system and a solar evaporator.

(k) "Pollution" means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following:

(1) The waters for beneficial uses.

(2) Facilities which serve these beneficial uses.

(l) "Reasonably foreseeable operating conditions" means:

(1) within the range of the design discharge capacity of the IFDM system and the authorized solar evaporator system as specified in the Notice of Plan Compliance and Notice of Authority to Operate (Section 25209.13 of Article 9.7 of the Health and Safety Code),

(2) precipitation up to and including the local 25-year, 24-hour storm, and

(3) floods with a 100-year return period. Operation of a solar evaporator in exceedance of design specifications is not covered by “reasonably foreseeable operating conditions,” and therefore would constitute a violation of the Notice of Authority to Operate.

(m) “Regional Board” and “RWQCB” means a California Regional Water Quality Control Board.

(n) “Registered Agricultural Engineer” means an agricultural engineer registered by the State of California, pursuant to Section 6732 of the Business and Professions Code.

(o) “Registered Civil Engineer” means a civil engineer registered by the State of California, pursuant to Section 6762 of the Business and Professions Code.

(p) “Registered Geologist” means a geologist registered by the State of California, pursuant to Section 7842 of the Business and Professions Code.

(q) “Solar evaporator” means an on-farm area of land and its associated equipment that meets all of the following conditions:

(1) It is designed and operated to manage agricultural drainage water discharged from the IFDM system.

(2) The area of the land that makes up the solar evaporator is equal to, or less than, 2 percent of the area of the land that is managed by the IFDM system.

(3) Agricultural drainage water from the IFDM system is discharged to the solar evaporator by timed sprinklers or other equipment that allows the discharge rate to be set and adjusted as necessary to avoid standing water within the solar evaporator or, if a water catchment basin is part of the solar evaporator, within that portion of the solar evaporator that is outside the basin.

(4) The combination of the rate of discharge of agricultural drainage water to the solar evaporator and subsurface tile drainage under the solar evaporator provides adequate assurance that constituents in the agricultural drainage water will not migrate from the solar evaporator into the vadose zone or waters of the state in concentrations that pollute or threaten to pollute the waters of the state.

(r) “Standing water” means water occurring under all of the following conditions:

(1) to a depth greater than one centimeter,

(2) for a continuous duration in excess of 48 hours,

(3) as a body of any areal extent, not an average depth, and

(4) under reasonably foreseeable operating conditions.

(s) "Subsurface drainage tiles" or "subsurface tile drainage" means any system of subsurface drainage collection utilizing drainage tiles, perforated pipe, or comparable conveyance, placed below the surface of any IFDM system area including the solar evaporator.

(t) "Unreasonable threat" to avian wildlife means that avian wildlife is not adequately protected.

(u) "Vadose zone" means the unsaturated zone between the soil surface and the permanent groundwater table.

(v) "Water catchment basin" means an area within the boundaries of a solar evaporator that is designated to receive and hold any water that might otherwise be standing water within the solar evaporator. The entire area of a water catchment basin shall be permanently and continuously covered with netting, or otherwise designed, constructed, and operated to prevent access by avian wildlife to standing water within the basin. A water catchment basin may include an enclosed solar still, greenhouse or other fully contained drainage storage unit. For the purposes of this definition, the term "within the boundaries of a solar evaporator" shall include a solar still, greenhouse, or other fully contained drainage storage unit adjacent to or near the portion of the solar evaporator that is outside the catchment basin.

(w) "Waters of the state" means any surface water or groundwater, including saline water, within the boundaries of the state.

Authority cited: Section 25209.12, Health and Safety Code.

Reference: Sections 25209.11(a), 25209.11(b), 25209.11(c), 25209.11(d), 25209.11(e), 25209.11(g) and 25209.13, Health and Safety Code.

Section 22920. SWRCB Solar Evaporator Design Requirements.

(a) Registered Professionals Solar evaporators shall be designed by a registered civil or agricultural engineer, or a registered geologist or certified engineering geologist.

(b) Flooding A solar evaporator shall be located outside the 100-year floodplain, or shall be constructed with protective berms/levees sufficient to protect the solar evaporator from overflow and inundation by 100-year floodwaters, or shall be elevated above the maximum elevation of a 100-year flood.

(c) Protection of Groundwater Quality Solar evaporators shall be immediately underlain by at least 1 meter of soil with a hydraulic conductivity of not more than 1×10^{-6} cm/sec above the zone of shallow groundwater at any time during the year. The surface of the solar evaporator shall be a minimum of five-feet (5 ft.) above the highest anticipated elevation of underlying groundwater. A solar evaporator may be constructed on a site with soils that do not meet the above requirement, with subsurface tile drainage under or directly adjacent to the solar evaporator, a liner, or other engineered alternative,

sufficient to provide assurance of the equivalent level of groundwater quality protection of the above soil requirement.

(d) Discharge to the Facility All discharge to the solar evaporator shall be agricultural drainage water collected from the IFDM system or recirculated from the solar evaporator as a component of the IFDM system. No agricultural drainage water from the IFDM system or the solar evaporator may be discharged outside the boundaries of the solar evaporator

(e) Facility Size The area of land that makes up the solar evaporator may not exceed 2 percent of the area of land that is managed by the IFDM system.

(f) Means of Discharge to the Facility Discharge of agricultural drainage water from the IFDM system to the solar evaporator shall be by timed sprinklers or other equipment that allows the discharge rate to be set and adjusted as necessary to avoid standing water in the solar evaporator, outside a water catchment basin. The sprinklers shall be equipped with screens or shields or other devices as necessary to prevent the drift of agricultural drainage water spray outside the boundaries of the solar evaporator.

(g) Water Catchment Basin A water catchment basin may be required:

(1) As a component of a solar evaporator if standing water would otherwise occur within the solar evaporator under reasonably foreseeable operating conditions, or

(2) If a solar evaporator is constructed with a liner. In this case, a water catchment basin shall be designed with the capacity to contain the maximum volume of water that the solar evaporator would collect under reasonably foreseeable operating conditions. A water catchment basin is not required for a solar evaporator that does not have a liner, if it is demonstrated that standing water will not occur under reasonably foreseeable operating conditions.

(h) Avian Wildlife Protection The solar evaporator shall be designed to ensure that avian wildlife is adequately protected as set forth in Section 22910(a) and (v).

Authority cited: Section 25209.12, Health and Safety Code.

Reference: Sections 25209.12(a), 25209.12(b), 25209.12(c) and 25209.12(d), Health and Safety Code.

Section 22930. SWRCB Solar Evaporator Construction Requirements.

(a) Registered Professionals Construction of solar evaporators shall be supervised and certified, by a registered civil or agricultural engineer, or a registered geologist or certified engineering geologist, as built according to the design requirements and Notice of Plan Compliance (Section 25209.13 of Article 9.7 of the Health and Safety Code).

Authority cited: Section 25209.12, Health and Safety Code.

Reference: Sections 25209.12 and 25209.13, Health and Safety Code.

Section 22940. SWRCB Solar Evaporator Operation Requirements.

(a) **Limitation on Standing Water** The solar evaporator shall be operated so that, under reasonably foreseeable operating conditions, the discharge of agricultural drainage water to the solar evaporator will not result in standing water, outside of a water catchment basin. Agricultural drainage water from the IFDM system shall be discharged to the solar evaporator by timed sprinklers or other equipment that allows the discharge rate to be set and adjusted as necessary to avoid standing water in the solar evaporator.

(b) **Prevention of Nuisance** The solar evaporator shall be operated so that, under reasonably foreseeable operating conditions, the discharge of agricultural drainage water to the solar evaporator does not result in:

(1) The drift of salt spray, mist, or particles outside of the boundaries of the solar evaporator, or

(2) Any other nuisance condition.

(c) **Prohibition of Outside Discharge** The operation of a solar evaporator shall not result in any discharge of agricultural drainage water outside the boundaries the solar evaporator.

(d) **Salt Management** For solar evaporators in continuous operation under a Notice of Authority to Operate issued by a Regional Water Quality Control Board, evaporite salt accumulated in the solar evaporator shall be collected and removed from the solar evaporator if and when the accumulation is sufficient to interfere with the effectiveness of the operation standards of the solar evaporator as specified in this Section. One of the following three requirements shall be selected and implemented by the owner or operator:

(1) Evaporite salt accumulated in the solar evaporator may be harvested and removed from the solar evaporator and sold or utilized for commercial, industrial, or other beneficial purposes.

(2) Evaporite salt accumulated in the solar evaporator may be stored for a period of one-year, renewable subject to an annual inspection, in a fully contained storage unit inaccessible to wind, water, and wildlife, until sold, utilized in a beneficial manner, or disposed in accordance with (3).

(3) Evaporite salt accumulated in the solar evaporator may be collected and removed from the solar evaporator, and disposed permanently as a waste in a facility authorized to accept such waste in compliance with the requirements of Titles 22, 23, 27 and future amendments of the CCR, or Division 30 (commencing with Section 40000) of the Public Resources Code.

(e) Monitoring and record keeping, including a groundwater monitoring schedule, data, and any other information or reporting necessary to ensure compliance with this article, shall be established by the RWQCB in accord with Section 25209.14 of Article 9.7 of the Health and Safety Code.

(f) Avian Wildlife Protection The solar evaporator shall be operated to ensure that avian wildlife is adequately protected as set forth in Section 22910(a) and (v). The following Best Management Practices are required:

(1) Solar evaporators (excluding water catchment basins) shall be kept free of all vegetation.

(2) Grit-sized gravel (<5 mm in diameter) shall not be used as a surface substrate within the solar evaporator.

(3) Netting or other physical barriers for excluding avian wildlife from water catchment basins shall not be allowed to sag into any standing water within the catchment basin.

(4) The emergence and dispersal of aquatic and semi-aquatic macro invertebrates or aquatic plants outside of the boundary of the water catchment basin shall be prevented.

(5) The emergence of the pupae of aquatic and semi-aquatic macro invertebrates from the water catchment basin onto the netting, for use as a pupation substrate, shall be prevented.

(g) Inspection The RWQCB issuing a Notice of Authority to Operate a solar evaporator shall conduct authorized inspections in accord with Section 25209.15 of Article 9.7 of the Health and Safety Code to ensure continued compliance with the requirements of this article. The RWQCB shall request an avian wildlife biologist to assist the RWQCB in its inspection of each authorized solar evaporator at least once annually during the month of May. If an avian wildlife biologist is not available, the RWQCB shall nevertheless conduct the inspection. During the inspection, observations shall be made for compliance with Section 22910(a) and (v), and the following conditions that indicate an unreasonable threat to avian wildlife:

(1) Presence of vegetation within the boundaries of the solar evaporator;

(2) Standing water or other mediums within the solar evaporator that support the growth and dispersal of aquatic or semi-aquatic macro invertebrates or aquatic plants;

(3) Abundant sustained avian presence within the solar evaporator that could result in nesting activity;

(4) An apparent avian die-off or disabling event within the solar evaporator;

(5) Presence of active avian nests with eggs within the boundaries of the solar evaporator. If active avian nests with eggs are found within the boundaries of the solar evaporator, the RWQCB shall report the occurrence to the USFWS and DFG within 24

hours, and seek guidance with respect to applicable wildlife laws and implementing regulations. Upon observation of active avian nests with eggs within the boundaries of the solar evaporator, all discharge of agricultural drainage water to the solar evaporator shall cease until (a) the nests are no longer active, or (b) written notification is received by the owner or operator, from the RWQCB, waiving the prohibition of discharge in compliance with all applicable state and federal wildlife laws and implementing regulations (i.e., as per applicable exemptions and allowable take provisions of such laws and implementing regulations.)

Authority cited: Section 25209.12, Health and Safety Code.

Reference: Sections 25209.12(a), 25209.12(b), 25209.12(c), 25209.12(d), 25209.12(e), 25209.12(f), 25209.14(a) and 25209.15(a), Health and Safety Code.

Section 22950. SWRCB Solar Evaporator Closure Requirements.

(a) For solar evaporators ceasing operation through discontinuance of operation or non-renewal of a Notice of Authority to Operate issued by a RWQCB, closure and post-closure plans shall be prepared and submitted to the RWQCB and approved by the RWQCB prior to closure. Closure plans shall conform to one of the following three requirements to be selected and implemented by the owner or operator:

(1) Evaporite salt accumulated in the solar evaporator may be harvested and removed from the solar evaporator and sold or utilized for commercial, industrial, or other beneficial purposes or stored for a period of one-year, renewable subject to an annual inspection, in a fully contained storage unit inaccessible to wind, water, and wildlife, until sold, utilized in a beneficial manner, or disposed in accordance with (3). After the removal of accumulated salt, the area within the boundaries of the solar evaporator shall be restored to a condition that does not pollute or threaten to pollute the waters of the state, that does not constitute an unreasonable threat to avian wildlife, and that does not constitute a nuisance condition. Clean closure may be accomplished in accord with Section 21090(f) and Section 21400 of CCR Title 27.

(2) The solar evaporator may be closed in-place, with installation of a final cover with foundation, low-hydraulic conductivity, and erosion-resistant layers, as specified in Section 21090 and Section 21400 of CCR Title 27. Closure in-place shall include a closure plan and post-closure cover maintenance plan in accord with Section 21090 and Section 21769 of CCR Title 27.

(3) Evaporite salt accumulated in the solar evaporator may be collected and removed from the solar evaporator, and disposed permanently as a waste in a facility authorized to accept such waste in compliance with the requirements of Titles 22, 23, 27 and future amendments of the CCR, or Division 30 (commencing with Section 40000) of the Public Resources Code. After the removal of accumulated salt, the area within the boundaries of the solar evaporator shall be restored to a condition that does not pollute or threaten to pollute the waters of the state, that does not constitute an unreasonable threat to avian wildlife, and that does not constitute a nuisance condition.

Authority cited: Section 25209.12, Health and Safety Code.

Reference: Section 25209.12(f), Health and Safety Code; and Sections 21090, 21400 and 21769, Title 27, California Code of Regulations.

Chapter 8. Other Provisions

Subchapter 1. Financial Assistance Programs

Article 1. Landfill Closure Loan Program

Section 23001. Purpose of the Landfill Closure Loan Program

The purpose of the Landfill Closure Loan Program (Program) is to provide loans to operators of older-technology, unlined landfills who desire to close their landfills in order to avoid or to mitigate potential environmental problems being caused or threatened by continued operation of the landfill.

Authority cited: Sections 40502 and 48206, Public Resources Code.

Reference: Sections 48202(a) and (b), Public Resources Code.

Section 23002. Definitions

Unless the context requires another construction, the definitions set forth in this chapter, Section 20164 and Division 30 of the Public Resources Code shall govern the construction of this Article. No definitions that are present in Division 30 of the Public Resources Code are repeated herein. Consequently, those definitions should be read in conjunction with the ones set forth herein:

- (a) "Applicant" means the entity applying for a loan.
- (b) "Application" means the information an applicant must provide the Board when applying for a loan.
- (c) "Board" means California Integrated Waste Management Board.
- (d) "Borrower" means an applicant who has received a Program loan.
- (e) "Early Closure" means the process during which a landfill is no longer receiving waste and is undergoing all operations necessary to prepare the landfill for closure in

accordance with an approved closure and postclosure plan prior to reaching final capacity.

(f) "Loan" means a loan from the Landfill Closure Loan Program.

(g) "Older Technology" means an unlined landfill as defined in (h) below.

(h) "Unlined Landfill" means a landfill that does not have a liner as defined in Section 20164.

(i) "Rural Area" means any of the following:

(1) An incorporated city that has a population density of less than 1,500 people per square mile;

(2) Any county that has a population of 200,000 or less;

(3) Counties and cities located in agricultural, desert, or mountainous areas of the state and located outside the Department of Finance's Primary Metropolitan Statistical Areas.

(j) "Serious Potential Threat" means a serious threat to the public health and safety, or the environment as determined by the Board.

(k) "Small" means a landfill that has received an average of less than 100 tons of municipal solid waste per day during its operating life.

Authority cited: Sections 40502 and 48206, Public Resources Code.

Reference: Sections 40000, 40001, and 48202, Public Resources Code.

Section 23003. Use of Loan Proceeds

Loan proceeds may be used for any and all purposes related to the closure of an eligible landfill as approved by the Board, including, without limitation, construction costs consistent with the landfill's approved final closure plan, planning and design costs necessary to prepare the final closure and postclosure maintenance plans, costs of preparing environmental documents associated with the final closure and postclosure maintenance plans or closure, and governmental fees associated with the final closure and postclosure maintenance plans or closure.

Authority cited: Sections 40502, 43020, and 48206, Public Resources Code.

Reference: Sections 48202(a) and (b), Public Resources Code.

Section 23004. Landfill Eligibility

Criteria To be eligible for a loan the landfill must:

- (a) Be a solid waste landfill, as defined in PRC Section 40195.1(a);
- (b) Have a current solid waste facilities permit issued by the applicable enforcement agency;
- (c) Be unlined; and
- (d) Be using a trust fund(s) or enterprise fund(s) as financial assurance mechanism(s) to fund landfill closure and such mechanisms shall be in compliance with the current required level of funding and meet all other requirements provided in Section 22200 et seq.

Authority cited: Sections 40502 and 48206, Public Resources Code.

Reference: Sections 48202(a) and (b), and 48204(b) and (c), Public Resources Code.

Section 23005. Operator Eligibility Criteria

To be eligible for a loan, the operator must demonstrate the ability to:

- (a) Repay the loan in a timely manner and to satisfy all other requirements imposed on the operator in the loan agreement;
- (b) Promptly and properly close the site with monetary assistance from the Program; and
- (c) Adequately maintain the closed site (i.e., a currently acceptable postclosure maintenance financial assurance mechanism).

Authority cited: Sections 40502 and 48206, Public Resources Code.

Reference: Sections 48202(a) and 48204(b) and (c), Public Resources Code.

Section 23006. Loan Priorities

The Board shall give priority to loans to close those landfills which: Demonstrate the highest degree of risk to public health and safety or the environment which can be prevented or mitigated by closure of the landfill;

- (a) Are small landfills;
- (b) Are located in rural areas;
- (c) Have approved Closure and Postclosure Maintenance Plans; and
- (d) Propose complete closure of the site.

Authority cited: Sections 40502 and 48206, Public Resources Code.

Reference: Sections 48202(b), Public Resources Code.

Section 23007. Loan Amount, Length of Term, and Interest Rate

- (a) The Board shall determine the loan amount for each loan not to exceed \$500,000.
- (b) The Board shall determine the term of each loan not to exceed 10 years.
- (c) The Board shall determine the interest rate set for each loan. The interest rate may be set at zero (0) percent per year.

Authority cited: Sections 40502 and 48206, Public Resources Code.

Reference: Section 48204 (d)-(f), Public Resources Code.

Section 23008. Application Submittal

- (a) Provided that loan funds are available for disbursement, the Board shall solicit loan applications from eligible operators at least once per year.
- (b) Applicants may submit applications to the Board during open application cycles only.
- (c) The applicant must submit an original application and five copies including all required attachment.

Authority cited: Sections 40502 and 48206, Public Resources Code.

Reference: Sections 48202(b), Public Resources Code.

Section 23009. Application Content

- (a) Each applicant must submit an application that includes, but is not limited to facility, project and financial information. Applicants must provide documentation deemed necessary by the Board, on a case-by-case basis, to determine the need for the loan, the ability to complete the project in a timely manner, and the Applicant's ability to secure and repay the loan.
- (b) Required attachments to accompany each application shall include, but are not limited to:
 - (1) A detailed work plan, and
 - (2) For local governments, an approved resolution of the local governing authority to make an application to the Board for a loan commitment.

Authority cited: Sections 40502 and 48206, Public Resources Code.

Reference: Sections 48202(a) and (b), and 48204(b), Public Resources Code.

Section 23010. Application Review

(A) Board staff shall review all applications for eligibility based on the criteria specified in Sections 23004 and 23005 of this article.

(B) Board staff shall rank all eligible projects based on the criteria for priority consideration specified in Section 23006 of this article. If no eligible projects meet the requirements for priority consideration, Board staff will rank eligible projects on the basis of the criteria contained in Section 23005.

Authority cited: Sections 40502 and 48206, Public Resources Code.

Reference: Sections 48202(a) and (b), Public Resources Code.

Section 23011. Board Approval

(a) After determining eligibility and project ranking, Board staff shall submit recommendations for funding to the Board.

(b) If the Board approves a loan, the Applicant and the Board shall enter into a Loan Agreement as specified in Section 23012. Funds shall be disbursed according to the terms of the Loan Agreement.

(c) The Board may delegate to the Executive Director the approval of loans.

Authority cited: Sections 40502 and 48206, Public Resources Code.

Reference: Sections 48204(a), Public Resources Code.

Section 23012. Loan Agreement

Each loan agreement shall include, but not be limited to, the following terms and conditions:

(a) The interest rate of the loan.

(b) The term of the loan.

(c) A description of the security, if any, given to assure repayment of the loan.

(d) Timeframes for complying with the conditions of loan closing and any special conditions that must be satisfied prior to, or covenants which must be complied with after, the disbursement of funds.

(e) Identification of what is considered an event of default, including a provision that, upon failure to comply with the loan agreement, or if any information provided by the applicant is found to be untrue, any remaining unpaid amount of the loan will be immediately due and payable upon determination of default by the Board.

(f) A provision that the Borrower agrees to waive any claims against and to indemnify and hold harmless the State of California, including the California Integrated Waste Management Board, from and against any and all claims, liabilities, costs, and expenses stemming from operation, maintenance, or environmental degradation at the landfill or arising from or in conjunction with any activity funded by the loan.

(g) Proof of adequate insurance for the Borrower, naming the Board as loss payee, and when appropriate, naming the Board as additional insured, up to the amount of the loan.

(h) The Borrower shall establish a Landfill Closure Loan Account into which all loan amounts received shall be deposited and from which funds are disbursed. Expenditures from this account shall be made only for eligible project costs as defined in the Loan Agreement.

(i) For Borrowers without approved final closure and postclosure maintenance plans for their landfill(s):

(1) Timeframes for submittal and approval of closure and postclosure maintenance plans, and

(2) Provision requiring approval of final closure and post closure maintenance plans prior to commencing closure activities.

(j) Any other provisions that the Board determines are necessary or appropriate.

Authority cited: Sections 40502 and 48206, Public Resources Code.

Reference: Sections 48204(a), Public Resources Code.

Section 23013. Auditing of Expenditure of Loan Proceeds

(a) The Board, or the Department of Finance, may audit the expenditure of the proceeds of any loan made pursuant to this Article.

(b) The Borrower shall maintain records in accordance with accepted government accounting standards. Records shall be retained at least three (3) years after expiration of the Agreement, or until completion of actions and resolution of all issues which may arise as a result of any litigation, claim, negotiation or audit, whichever is later.

Authority cited: Sections 40502 and 48206, Public Resources Code.

Reference: Sections 48204(g), Public Resources Code.

Section 23014. Review of Records and Site Reviews.

Board staff and the Local Enforcement Agency (LEA) may inspect the Borrower's records and may conduct on-site reviews during the project to verify compliance with the specifications and terms of the Loan Agreement.

Authority cited: Sections 40502 and 48206, Public Resources Code.

Reference: Section 48202(c), Public Resources Code.

Appendix 1--Joint Permit Application Form and Instructions Form, CalRecycle E-1-77 & Instructions

[Form, CalRecycle E-1-77](#)

[Instructions](#)

Appendix 2--Sample Index for Joint Technical Document

[Joint Technical Document Index CIWMB Requirements](#)

Appendix 3--Financial Assurances Forms

[CalRecycle 100 Trust Agreement CalRecycle 101 Irrevocable Letter of Credit](#)

[CalRecycle 102\(a\) Performance Bond for Closure CalRecycle 102\(b\) Performance Bond for Postclosure CalRecycle 102\(c\) Performance Bond for Corrective Action](#)

[CalRecycle 103\(a\) Financial Guarantee Bond for Closure Costs CalRecycle 103\(b\) Financial Guarantee Bond for Postclosure Costs CalRecycle 103\(c\) Financial Guarantee Bond for Corrective Action Costs](#)

[CalRecycle 104 Letter from the Chief Financial Officer Financial Means Test for Postclosure Maintenance and/or Operating Liability](#)

[CalRecycle 105 Guarantee](#)

[CalRecycle 106 Certificate of Insurance for Closure/Postclosure Maintenance Reasonably Foreseeable Corrective Action](#)

[CalRecycle 107 Certificate of Liability Insurance CalRecycle 108 Liability Insurance Endorsement](#)

[CalRecycle 109 Certificate of Self-Insurance and Risk Management](#)

[CalRecycle 110 Operator Certification of Comprehensive General Liability Insurance Coverage and Establishment and Funding of the Environmental Liability Fund](#)

[CalRecycle 111 Environmental Liability Fund Agreement](#)

[CalRecycle 112 Letter From the Chief Financial Officer Means Test for Postclosure Maintenance and/or Operating Liability](#)

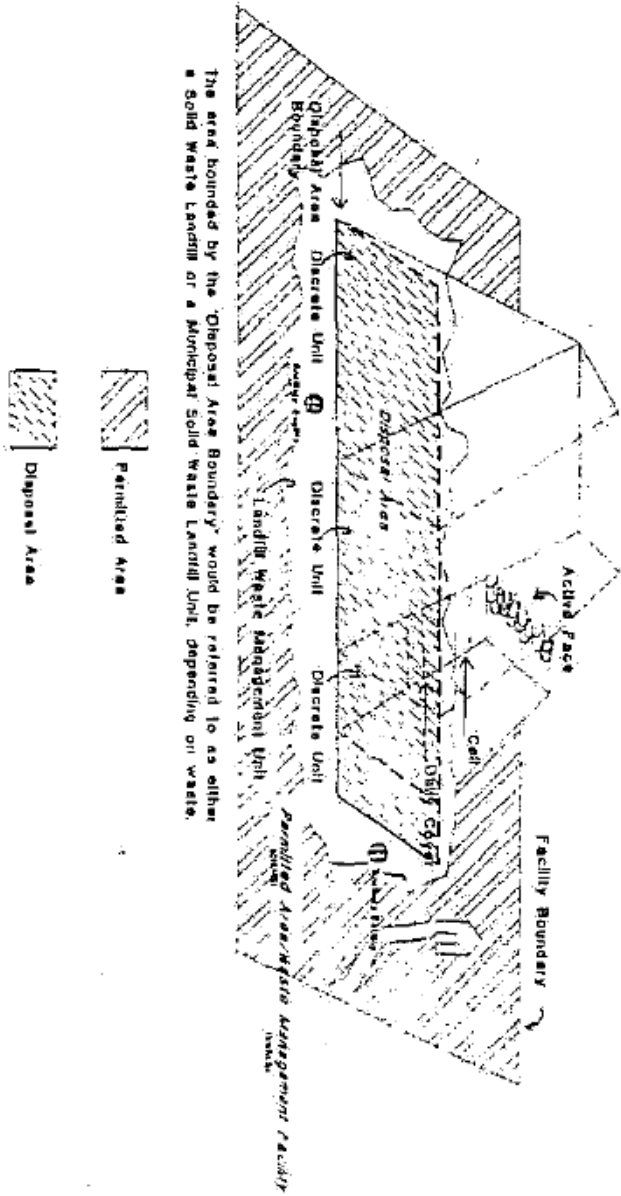
[CalRecycle 113 Guarantee for Postclosure Maintenance and/or Corrective Action](#)

[CalRecycle 114 Pledge of Revenue Requirements for Postclosure Maintenance and/or Corrective Action.](#)

Appendix 4 - Landfill Terminology

[Temporary The timeline for Closure is contained herein, and is provided as guidance only. This graphic has no regulatory effect.]

Landfill Terminology
7/1/96



Appendix 5 - Terms Describing Stages of Landfill Life

[Temporary The timeline for Closure is contained herein, and is provided as guidance only. This timeline has no regulatory effect.]

Terms Describing Stages of Landfill Life
7/1/96

Operating					Non-Operating	Closing	Closed
Active	Inactive	Active	Inactive	Active	30 days	180 days	

First Receipt of Waste

Last Receipt of Waste to a Discrete Unit or Entire Disposal Site has Reached Permitted Capacity

Begin Implementation of Approved Final Closure Plan

Complete Implementation of Approved Final Closure Plan

1. "Active". "Inactive". "Operating" – See Section 20164. Combined Technical Definitions
2. "Non Operating" - Not specifically defined. For 30 day time frame and triggers. See Section 21110(a). Time Frames for Closure.
3. "Closing" – See Section 251099(b). Purpose. For 180 day time frame. See Section 21110(d). Time Frames for Closure
4. "Closed" – See Section 21099(a). Purpose