



**GAIL FARBER  
CHAIR**

**LOS ANGELES COUNTY  
SOLID WASTE MANAGEMENT COMMITTEE/  
INTEGRATED WASTE MANAGEMENT TASK FORCE  
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October 1, 2009

Ms. Margo Reid Brown, Chair  
California Integrated Waste Management Board  
1001 I Street  
Sacramento, CA 95812-2815

Dear Chairperson Brown:

**COMMENTS REGARDING PROPOSED REGULATIONS ON LONG-TERM  
POSTCLOSURE MAINTENANCE AND CORRECTIVE ACTION COST ESTIMATES  
AND FINANCIAL ASSURANCE DEMONSTRATIONS FOR LANDFILLS (RELEASED  
AUGUST 18, 2009)**

On behalf of the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force, I would like to commend the California Integrated Waste Management Board (Waste Board) for its efforts in developing the proposed regulations to strengthen the existing regulations on long-term post-closure maintenance and corrective action cost estimates, and financial assurance mechanisms for landfills. We have reviewed the proposed regulations amending Title 27 of the California Code of Regulations, Division 2, Subdivision 1 and would like to offer the following comments:

1. **Section 21200, CIWMB - Change of Ownership During Closure or Postclosure Maintenance (page 2)**
  - a. Subsection (a) should also require the new owner or operator to notify the director of the agency that oversees local land use planning for the jurisdiction in which the disposal site is located. This notification would further provide transparency by keeping the host jurisdiction abreast of any significant changes with the disposal site.
  - b. Subsections (c)(1) and (c)(2) should be revised to send a written notification to the prior owner and operator, and the new owner and operator.

- c. Subsection (c)(1) should also require the Enforcement Agency (EA) to notify the director of the agency that oversees local land use planning for the jurisdiction in which the disposal site is located. This notification further provides transparency by keeping the host jurisdiction informed that the new owner or operator has complied with all requirements.
  - d. Subsection (c)(2) should also require the EA to notify the director of the agency that oversees local land use planning for the jurisdiction in which the disposal site is located. The proposed regulations require the EA to inform the new owner or operator and the Waste Board of their adverse determination within 30 days of receipt of the notification of transfer of title; however, it does not require the EA to notify the host jurisdiction of this determination. This notification is important to the host jurisdiction in the event the determination affects the outcome of the transfer.
  - e. Subsection (c) should be expanded to read “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, the postclosure maintenance plan, and the corrective action cost estimate and plan. The EA shall also obtain written confirmation from CIWMB...”
  - f. Add Subsection (d) to require the owner or operator of the disposal site to include a statement in the "property title" to be filed with the Registrar-Recorder/County Clerk of the County where the disposal site is located, indicating that the site is and/or has been used as a disposal site and that the new owner/operator must document financial assurance demonstration to the satisfaction of the EA and the Waste Board prior to close of escrow transferring the site ownership. This action ensures both the title and the escrow companies are aware of this important requirement.
- 2. Section 21820, CIWMB - Closure Cost Estimates (page 12)**
- a. Subsection (b)(3) should be expanded to include the estimated cost of maintenance of landscaping and plant vegetation in the closure cost estimate.
- 3. Section 21880, CIWMB - Certification of Closure (page 15)**
- a. Subsection (f) should be expanded to read “Once the certification has been approved by the CIWMB, RWQCB, and the EA, the

CIWMB shall release the owner and operator from the financial mechanism for closure. CIWMB shall notify the local planning agency of this determination.”

**4. Section 22211, CIWMB - Amount of Required Coverage (page 20)**

- a. Subsection (a)(2)(C)(2) needs to be expanded to define the term “proactive monitoring program” and its components to ensure program consistency and expectations.

**5. Section 22234, CIWMB - Disbursements from Financial Mechanisms (page 24)**

- a. Subsections (a)(1) and (a)(2) should be revised. The word “and” should be deleted from the end of Subsection (a)(1) and added to the end of Subsection (a)(2).
- b. Subsection (b) should be expanded to read “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 CIWMB and RWQCB agree to an alternate schedule of less than five years.” This clarification ensures that any discretionary alternative schedule is capped at five years, thereby avoiding a potential escape clause.

**6. Article 2, CIWMB - Financial Assurance Mechanisms (page 25)**

- a. With the exception of a trust fund or pledge of revenue, the proposed regulations and the current financial mechanisms allowed by the Waste Board do not protect local governments and rate payers from financial liability in the event that a private landfill owner/operator shirks its fiduciary and legal responsibility to maintain and/or remediate its site by filing for bankruptcy. As such, it is recommended that the trust fund should be the only financial assurance mechanism allowed for use by a private landfill owner/operator.

Pursuant to Chapter 3.67 of the Los Angeles County Code and the California Integrated Waste Management Act of 1989 (Assembly Bill 939, as amended), the Task Force is responsible for coordinating the development of all major solid waste planning documents prepared for the County of Los Angeles and the 88 cities in the Los Angeles County with a combined population in excess of ten million. Consistent with these responsibilities and to ensure a coordinated and cost-effective and environmentally-sound solid waste management system in Los Angeles County, the Task Force also

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addresses issues impacting the system on a countywide basis. The Task Force membership includes representatives of the League of California Cities-Los Angeles County Division, County of Los Angeles Board of Supervisors, City of Los Angeles, waste management industry, environmental groups, the public, and a number of other governmental agencies.

The Task Force appreciates your consideration and looks forward to our continued collaboration to ensure the effective operation and long-term maintenance of landfills in order to protect public health and safety and the environment. If you have any questions, please contact Mr. Mike Mohajer of the Task Force at (909) 592-1147.

Sincerely,

*Margaret Clark*

Margaret Clark, Vice-Chair  
Los Angeles County Solid Waste Management Committee/  
Integrated Waste Management Task Force and  
Mayor, City of Rosemead

JB:ca

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cc: Each Member of the California Integrated Waste Management Board  
Executive Director, California Integrated Waste Management Board (Mark Leary)  
California Integrated Waste Management Board (Bill Orr, Ted Rauh, Richard  
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Assembly Bill 2296 Consulting Group  
Each Member of the Los Angeles County Board of Supervisors  
Each City Mayor in Los Angeles County  
San Gabriel Valley Council of Governments  
South Bay Cities Council of Governments  
Gateway Cities Council of Governments  
Each Member of the Los Angeles County Integrated Waste Management Task  
Force