

Permits, RFIs and CEQA, Oh My!

When to Approve/Require RFI Amendments and When is CEQA Involved?

**8th LEA/CIWMB Partnership Conference
May 11, 2005**

Presentation Outline

- Introduction
- Timelines
- Operator Requirements
- LEA/EA Processing
- LEA/EA Determination
- Board Role

Introduction

- Report of Facility Information (RFI) is a design and operations plan that describes the solid waste facility and how it will comply with state minimum standards (SMS) for solid waste handling and disposal.
- Operators of solid waste facilities are required to keep this document maintained, updated, and current.

Applicable Regulations

- PRC, Section 44004 prohibits any significant changes in design or operation of a solid waste facility without first revising the permit.
- Title 27, Section 21600(a) requires the operator to maintain the RFI and to submit amendments.
- Title 27, Section 21620 states that any applicant proposing to make a significant change in the design or operation of the facility shall file an amendment to the RFI with the LEA/EA at least 180 days prior to the proposed change unless otherwise determined by the LEA/EA.
- Title 27, Section 21663 provides definitions for "design" and "operation".
- Title 27, Section 21665(a) describes the RFI amendment process. The submittal shall contain only those items listed in Title 27, Section 21570(f) that have changed, are proposed for change or as otherwise specified by the LEA/EA.

Timelines

- At least 180 days prior to the proposed changes submit application to LEA/EA
- 30 days from the receipt of the application package LEA/EA to approve or reject the amendments
- Within 5 days inform the operator, CIWMB and the RWQCB of determination

Events that might trigger the submittal of an RFI amendment application package include:

- The operator proposes or anticipates **any** changes in design or operation
- The operator submits an application for permit review that also contains RFI amendments
- The LEA's permit review report directs the operator to submit additional amendments to the RFI
- Amendments to preliminary or final closure and postclosure maintenance plans
- Other reasons specified by the LEA

Examples of Site Specific LEA Approved RFI Amendments Cont.

- Use of an approved Alternative Daily Cover (unless the previous permit or CEQA document indicated that soil would be used as cover material)
- Improvements to access roads
- Changes to drainage plan
- Updated grading plan
- Updated emergency contact list and phone numbers
- Reflect the current status of other conditioning documents and other referenced permits (such as adopted or amended Waste Discharge Requirements)
- Reduction in operating days or hours

Examples of Site Specific LEA Approved RFI Amendments Cont.

- Increase in average tonnage (without increase in peak tonnage)
- Change in service area
- Relocation of recycling facilities
- Replacement and installation of processing equipment
- Installation of new scales
- Addition of wood grinding operation
- Relocation of household hazardous waste material storage container
- Inclusion of CRT recycling area
- *LEAs were surveyed in September 2002

Examples of Site Specific LEA Approved RFI Amendments Cont.

- Incorporation of procedures and equipment for aerosol can recycling
- Expansion of salvaging operations to include a sorting conveyor
- Updated load check procedures
- Change in gas monitoring well placement
- Update gas management plan information
- Identification of new gas flare location
- Addition of landfill gas power station
- Operation of specified waste module as a full-scale bioreactor

Examples of Site Specific LEA Approved RFI Amendments Cont.

- Updated fill sequence calculations and maps
- New wet weather deck operations and spotter responsibilities
- Addition of new waste oil storage building
- Removal of magnets from sorting lines
- Addition of sorting stations & baler
- Updated load check procedures
- Description of the use of class "A" biosolids as a compost additive/ amendment
- New wet waste handling procedures

Operator Requirements

- Cover letter
- Application form
- JTD Index
- Amended pages of RFI
- Any Supporting Documentation

LEA/EA Processing

All RFI amendments must meet ALL three criteria described in Title 27, Section 21665. If they do not, the LEA shall make one of the following determinations:

- Deny the RFI amendment and request further information
- Deny the RFI amendment and request an application for permit revision and accompanying documentation
- Deny the RFI amendment and not allow the proposed changes in design and operation

LEA/EA Processing

The EA may approve and file the amendment to the RFI without revising the permit if **ALL** of the following criteria are met:

- California Environmental Quality Act (CEQA)
- State Minimum Standards (SMS)
- Solid Waste Facility Permit (SWFP or Permit)

California Environmental Quality Act (CEQA)

Title 27, Section 21665(c)(1) requires the proposed change to be "... consistent with all applicable certified and/or adopted CEQA documents, or has been determined by the EA that the change would not create any adverse environmental impacts and is exempt from the requirements of CEQA."

California Environmental Quality Act (CEQA)

Questions to ask in making this determination include:

- Will the change cause any adverse environmental impacts?
- Is the change consistent with the certified or adopted environmental document for the last permit issuance? Is the document and page number cited?
- Does this change have any cumulative impacts when taken into considerations with other recent on-site or nearby changes?
- Is the change exempt from the requirements of CEQA?
- If yes, did the Lead Agency file a Notice of Exemption (NOE)?
- If so, is the CEQA exemption and NOE included?

State Minimum Standards (SMS)

Title 27, Section 21665(c)(2) requires the LEA to make a finding that "...the proposed change is 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."

The term "state minimum standards" or SMS refers to the siting, design, and operating standards that apply to each type of facility:

- Landfill SMS: Title 27, Chapter 3, Subchapter 4
- Transfer/Processing SMS: Title 14, Chapter 13, Articles 6.1 – 6.4
- Compost SMS: Title 14, Chapter 3.1, Articles 5, 6, and 7
- Construction and Demolition Debris SMS: Title 14, Chapter 3, Articles 5.9, 5.95, and 6.1 – 6.4

State Minimum Standards (SMS)

Questions to ask when making this determination include:

- Does the change conflict with any State Minimum Standards?
- If the facility is a landfill, would the change conflict (and cause a violation) with Financial Assurance or Operating Liability standards or with the Closure/Postclosure Maintenance Plans?
- Are there any ongoing or long-term violations at the site?
- Could the change potentially cause a violation of any other State Minimum Standard?
- Does the change require any new monitoring requirements?

State Minimum Standards (SMS) Cont.

- Will the change exacerbate any compliance problems?
- Is the change consistent with any outstanding compliance orders?
- Is the site listed on the Inventory?
- Does the change impact any environmental control systems? Such as landfill gas control, litter control, etc.?
- Are there any changes that might also require an amendment to the preliminary or final closure and postclosure maintenance plan?

Solid Waste Facility Permit (SWFP or Permit)

Title 27, Section 21665(c)(3)

requires the LEA to make a finding that "...the changes do not conflict with the terms and conditions in the current SWFP."

Solid Waste Facility Permit (SWFP or Permit)

Questions to ask when making this determination include:

- Does the change affect any of the site design parameters identified in the SWFP? Such as daily tonnage, hours of operation, acreage, etc.
- Does the change conflict with any terms, conditions, specifications, prohibitions, or monitoring requirements identified in the SWFP?
- Does the change require any new or changed terms, conditions, specifications, prohibitions, or monitoring requirements?
- Are there any outstanding permit or RFI violations?
- Did the most recent Permit Review Report identify any other potential changes?

RFI Amendment Determination Checklist (27 CCR 21665)

For LEA/EA

use only

Attached are the following items:

- JTD Index
- Application form
- A copy of the RFI Amendment
- New CEQA documentation and/or exemptions since the last permit was issued (if applicable)
- Other _____

Date of LEA received package:

Date LEA denied RFI Amendment:

Date LEA accept RFI Amendment:

The LEA/EA determination should answer the following questions:

1) What are the changes covered by the RFI Amendment?

2) Is the proposed change(s) consistent with CEQA?

YES / NO

What CEQA documents were used to determine this?

Has the LEA determined that the change would not create any adverse environmental impacts and is exempt from CEQA?

YES / NO

If yes, what exemption classification did the LEA or other lead agency use? _____

Checklist Cont.

3) Does the proposed change impact the facility's ability to comply with financial assurances and operating liability?

YES / NO

4) Is the proposed change consistent with state minimum standards?

YES / NO

Will the change exacerbate any current compliance problems at the facility?

YES / NO

Would implementation of the change effect compliance with any enforcement order?

YES / NO

5) Does this change conflict with any part of the governing permit?

YES / NO

7) Will the proposed change in the RFI Amendment require the operator to amend the closure post closure plan?

YES / NO

8) Any additional information required by the operator.

Additional Comments:

LEA/EA Approval Package to CIWMB

- Cover letter with approval notice
- Amended pages or amended RFI
- Copy of the application form and all attachments
- Any comments received from the public

Approval cover letter should include the following:

- Introduction paragraph that identifies the date the application package was received and the date the RFI amendments were approved. Also include a statement identifying all documents attached to the approval letter.
- A summary identifying the RFI amendments. This could be a list of all changes page by page or a general statement. Ask you CIWMB permit staff person which way they would prefer.
- A statement that “the amendment application package is complete and correct pursuant to CCR T27, Section 21570.”
- A statement that “the amendments are consistent with state minimum standards, the terms and conditions of the current SWFP issued on _____, and its supporting documents, and no permit action is required.”
- A statement that “the amendments are consistent with the Mitigated Negative Declaration/Negative Declaration/Environmental Impact Report dated _____.”

Additional cover letter contents:

- If the facility is a landfill, a statement that “pursuant to T27 Section 21570(f)(7) and (8), proof of liability insurance was deemed adequate by _____ of the CIWMB in a letter dated _____. The financial assurances are not affected by these RDSI amendments.” If the financial assurances are affected and have been updated, then a statement that “the financial assurances were deemed adequate by _____ of the CIWMB in a letter dated _____.”
- A statement that “the facility and amendments are consistent with the _____ County Integrated Waste Management Plan (_date_), the county General Plan, and the Land Use Permit.”
- If the facility is a landfill, a statement that “the Closure/Postclosure Plans for the _____ were approved by the CIWMB, LEA and Regional Water Quality Control Board on _____.”

Should the LEA/EA deny the RFI Amendments, outline applicant's options:

Submit an application for a permit revision

- Change in the project
- List necessary additional information needed

The applicant should also be notified of their right to appeal the determination. (Have 30 days from rejection to appeal)

The LEA/EA should send a copy of the denial to the CIWMB for tracking purposes.

REQUEST FOR HEARING

Before the Local Solid Waste Hearing Panel

[Public Resources Code \(PRC\) 44310 et. seq.](#)

Enforcement Agency:			
Facility Name:		SWIS No:	
Facility Address:		City:	Zip Code:

Name of Petitioner:		
	Requests a Hearing in the matter of (check one):	
<p><input type="checkbox"/> Challenge terms and/or conditions of the <input type="checkbox"/> proposed (PRC 44307) or <input type="checkbox"/> issued (CCR 21650(g)) Solid Waste Facility Permit (SWFP)</p> <p><input type="checkbox"/> Appeal an enforcement order (PRC 44307, 45017(b))</p> <p><input type="checkbox"/> Alleged failure of the EA to act as required by law or regulation (PRC 44307)</p> <p><input type="checkbox"/> Appeal completeness review of <input type="checkbox"/> Registration (CCR 18104.4) or <input type="checkbox"/> Standardized (CCR 18105.4) SWFP.</p> <p><input type="checkbox"/> Denial of the SWFP (PRC 44300)</p> <p><input type="checkbox"/> Suspension of the SWFP (PRC 44305)</p> <p><input type="checkbox"/> Revocation of the SWFP (PRC 44306)</p> <p><input type="checkbox"/> Administrative Civil Penalty (PRC 45011(c))</p>		

LEA/EA Determination

Possible LEA/EA determinations include:

- Accept the application and approve the RFI amendment(s).
- Deny the RFI amendment and request further information.
- Deny the RFI amendment and request an application for permit revision and any additional documentation.
- Deny the RFI amendment and not allow the proposed changes in design and operation.
- Partial acceptance of some of the RFI amendments with direction to the operator to submit an application for permit revision for the other proposed changes.

CIWMB Role

While RFI amendments do not require concurrence by the CIWMB, Board staff still have a role in the RFI amendment process:

- Provide guidance, tools, and resources.
- Review LEA approvals and findings.
- Monitor and document the process for facility files.
- Tracks RFI's and amendments in the SWIS database.
- Update amended RFI's located in Board's file room.

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