

**California Environmental Quality Act (CEQA)
And
Solid Waste Facility Permit Process (SWFP)
Training Manual**

**CIWMB Training
2005**

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Part 1 Introduction

I. INTRODUCTION

The California Environmental Quality Act (CEQA) was enacted in 1970 as a system of checks and balances for land-use development and management decisions in California. The environmental review records the scope of an applicant's proposal and analyzes all of its known environmental effects. Project information is used by state and local permitting agencies in their evaluation of the proposed project.

In 1977, the California Legislature passed the California Permit Streamlining Act (PSA) and established the Office of Permit Assistance (OPA). The creation of both PSA and OPA sought to remedy a complicated and often unresponsive permitting process. The PSA addressed some of CEQA's shortcomings: namely, that it lacked a calendar by which applicants and the public could expect the prompt review of a given project. The PSA added time-lines and deadlines to expedite government review of proposals. While this did not guarantee the approval of projects or their favorable review, it did give applicants and the public an orderly, standardized process for filing reports and actions. (Note: The OPA no longer exists and has been replaced with the Office of Planning and Research.)

In California, the permit process is coordinated with the environmental review process under CEQA. Every project that is not exempt from CEQA must be analyzed by the lead agency to determine the potential environmental effects of the project. This analysis is required by state law. It must be completed within specified time periods that are concurrent with the time periods in which an agency is required to approve or deny the project.

Once the lead agency is identified, all other involved agencies, whether state or local, become responsible or trustee agencies. Responsible and trustee agencies *must* consider the environmental document prepared by the lead agency and *do not*, except in rare instances, prepare their own environmental documents. The procedure for issuing each particular permit is governed by the particular law which establishes the permit authority and by the California Permit Streamlining Act.

The **objectives** of CEQA are: to disclose to decision makers and the public significant environmental effects of proposed activities (i.e., an Initial Study, a Negative Declaration (Neg Dec), or an Environmental Impact Report (EIR)); to identify ways to avoid or reduce environmental damage and to prevent environmental damage by requiring implementation of feasible alternatives, mitigation measures, and/or mitigation monitoring; to disclose to the public their findings and reasons for agency approval of projects with significant environmental effects (statement of overriding considerations); to foster interagency coordination in the review of projects by use of early consultation, scoping meetings, notices of preparation and State Clearinghouse reviews; to enhance public participation and disclosure in the planning process (i.e. public notice requirement, response to comments, availability of documents, and legal enforcement procedures); and to identify environmental impacts and mitigate those impacts.

CEQA authorizes agencies to: require changes in a project to lessen or avoid significant effects, when feasible; disapprove a project to avoid significant effects; approve a project with significant effects if there is no feasible way to lessen or avoid the significant effects and the project benefits outweigh these effects; and impose fees from project applicants for CEQA implementation.

II. THE BASICS

A. What is a "Project"?

Prior to preparing a CEQA document, a determination must be made that the project is defined as a "project" under CEQA. A **project** is an activity that may cause either a direct physical environmental change or a reasonably foreseeable indirect physical environmental change.

Examples of public projects are:

- An activity directly undertaken by a public agency (i.e. public works construction activities, clearing and road grading, improvements to existing public structures, enactment and amendment of zoning ordinances, adoption and amendment of local general plans)
- An activity that is supported, in whole or in part, through public agency contracts, grants, subsidies, loans or other assistance from a public agency
- An activity involving the public agency issuance of a lease, permit, license, certificate, or other entitlement for use by a public agency

Examples of "Nonprojects" are:

- Activities for which "it can be seen with certainty" that no environmental effect will occur
- Any activity specifically exempted by state law
- Proposals for state legislation
- Certain continuing administrative or maintenance activities
- Submissions of proposals to a statewide or local vote, except for CEQA projects requiring later voter ratification
- School closing and student transfer when the only physical changes involved are categorically exempt
- Placing a voter initiative on the ballot
- Government fiscal activities that do not involve any commitment to any specific project

More examples of solid waste management related projects that may or may not always be projects under CEQA are listed below. The list is based on what the CIWMB has seen as projects.

- | | |
|--|--|
| ▶ New full solid waste facility permits | ▶ Planning documents |
| ▶ Revised solid waste facility permits | ▶ General plans |
| ▶ Amendments to Report of Facility Information | ▶ County Integrated Waste Management Plan |
| ▶ New tire facility permits | ▶ Redevelopment plans |
| ▶ Closure and Postclosure Maintenance Plans | ▶ Zoning changes |
| ▶ Grading permits | ▶ Conditional Use Permits , Land Use Permits |
| ▶ Permits to construct | ▶ Enterprise zones |
| ▶ Regulations | ▶ Diversion activities |
| ▶ Remediation/clean ups | ▶ Recycling facilities |
| ▶ New environmental controls | ▶ Recycling Market Development Zones |
| ▶ Waste Discharge Requirements | ▶ Major development projects |
| ▶ Air Permits | ▶ Local ordinances |
| ▶ Air District Rules | ▶ Grants/Loans |

B. Key Participants in the CEQA Process

Lead Agency - Section 15367 of the CEQA Guidelines identifies who the lead agency is in regards to preparing the CEQA document.

The lead agency is usually the first agency that needs to make a discretionary decision on a project. A public agency is the lead agency for its own projects, even if the project will be located within the jurisdiction of another agency. An agency with general governmental powers (e.g., city or county) prevails over an agency with a single or limited purpose. The city rezoning an area prior to annexation will be the lead agency rather than the Local Agency Formation Commission (LAFCO). When criteria are equal, the agency that acts first becomes the lead agency. Agencies may designate a lead agency by mutual agreement. An example of when a mutual agreement may be appropriate is when a project is located in the jurisdiction of the city planning department and the county planning agency and requires land use permits from both.

The **responsibilities** of the lead agency are as follows:

- Preliminary review of the project to determine if it is a project as described by CEQA and may require additional information from the applicant for environmental evaluation even after the application is deemed complete.
- Conduct pre-application consultations with the applicant and responsible and trustee agencies to ensure all necessary information is provided.

- Decide what type of CEQA document is required for the requested project. This includes reviewing for an exemption (categorical or statutory), and/or preparing an initial study to determine if there are any significant effects from the project (determines if a Neg Dec or an EIR is required).
- Must produce a “comprehensive” environmental document that will be of use to the responsible agencies; must consult with responsible and trustee agencies throughout the CEQA process by soliciting comments/recommendations on the type of CEQA document to prepare, appropriate mitigation, etc.
- The lead agency may not refuse to exercise its police power to try to mitigate significant effects simply because another agency has the power to do so.

See Appendix A of this manual for a list of LEA responsibilities as a Lead Agency.

Responsible Agencies - Section 15381 of the CEQA Guidelines identifies who the responsible agencies are in regards to preparing the CEQA document. The responsible agencies are all public agencies other than the lead agency that have discretionary approval power over a project. They typically have permitting authority or approval power over some aspect of the overall project. Solid Waste responsible agencies include: LEA, CIWMB, RWQCB, APCD/AQMD, DTSC. See Appendix B of the CEQA Guidelines for more agencies. (Also see Appendix B of this manual.)

The **responsibilities** of the responsible agencies are as follows:

- Must actively participate in the CEQA process and review the environmental document (includes attending scoping meetings, consulting with lead agency, etc.).
- Comments must address only activities within its area of expertise or that are required to be carried out or approved by the agency.
- Must use the document in its approval process and make own findings regarding the project.
- May assume the lead agency role under certain conditions. According to CEQA Guidelines Section 15052, this may occur when: 1) the lead agency did not prepare any environmental documents for the project, and the statute of limitations has expired for a challenge to the action of the appropriate lead agency; 2) the lead agency prepared environmental documents for the project, the following conditions occur: subsequent EIR is required, the lead agency has granted final approval for the project, and the statute of limitations for challenging the lead agency action under CEQA has expired; or 3) the lead agency prepared inadequate environmental documents without consulting the responsible agency as required by Sections 15072 or 15082, and the statute of limitations has expired for a challenge to the action of the appropriate lead agency.

See Appendix C of this manual for a list of LEA responsibilities as a Responsible Agency.

Trustee Agencies - Section 15386 of the CEQA Guidelines identifies trustee agencies as a State agency having jurisdiction by law over natural resources affected by a project which are held in trust.

The trustee agencies are the California Department of Fish and Game, State Lands Commission, State Department of Parks and Recreation, and the University of California (has authority over Natural Land & Water Reserves System). Their responsibilities are the same as for the responsible agencies.

Project Applicants begin the process by contacting the permitting agencies. They are responsible for describing the project and providing any information requested by the lead agency in determining if it is a project under CEQA and for preparing the environmental document.

Environmental Consultants are usually hired to assist the lead agency and applicant in preparing the environmental documents.

Concerned Citizens and Organizations play an important role during public hearings and the public comment period. They help by sharing their expertise and knowledge of conditions the lead and responsible agencies may not be aware of, relay their concerns about the project and may provide possible alternatives to the project or portions of the project, detect any omissions that may have been overlooked or ignored, and may check the information for accuracy.

The **Courts** do not have to be involved in the CEQA process if the environmental documents address all issues. They become involved when a CEQA document is challenged.

C. “Whole of the Action” and “Segmenting”

The CEQA document evaluates the **“Whole of the Action”**. This includes all phases of the project - everything the applicant wants to have approved; everything that would occur if the project is approved; and everything the project would need to build. The project planning, implementation, and operations need to be described in enough detail for an adequate environmental evaluation to be conducted. The level of detail is determined by the availability of information. A high level of detail reduces flexibility in the project but locks in maximums needed for permits and provides more certainty of what the project entails. A low level of detail is more flexible but lacks certainty and permit consistency.

Segmented projects, or “piecemealing”, is the breaking of a project into parts for evaluation purposes. Do not segment a project when the purpose is to avoid the “whole of the action” or when the project is under close scrutiny. This may appear to the public that the applicant and lead agency are trying to hide something.

A project may be segmented when the parts of the project are truly freestanding and independent, insufficient information or speculation would be involved, when controversy does not exist, or when the parts of the project have no material consequences. When segmenting, ensure that all of the parts are independently justified and treat each part as a whole project. The next time a CEQA review is conducted, ensure that next document evaluates the “whole of the action”.

When the Local Enforcement Agency (LEA) or the CIWMB is a lead or a responsible agency, ensure that the CEQA project description includes all the information needed for the solid waste facility permit (SWFP). SWFP descriptions require details of the operating parameters, future plans for projects, and locks the project into a narrow scope (examples: tons/day; total site capacity; hours of operation, vehicle numbers, types of waste handled, etc.).

Avoid CEQA project descriptions that tend to cover only what is needed for the Land Use Permit (LUP)/Conditional Use Permit (CUP), are narrow in scope, allow for changes to the project that do not affect the LUP/CUP decision, may not refer to SWFP requirements, the details are buried in the initial study, allude to other aspects of the project without details, and tend to be generalized (examples: “increase in tonnages”, “expansion of site”, etc.).

D. Nondisposal Facility Element and Siting Element of CIWMP

Once the CEQA process is completed at the local planning department level, the applicant must take steps to ensure that the project is identified in their jurisdiction’s Nondisposal Facility Element (NDFE) or the Siting Element of the County Integrated Waste Management Plan (CIWMP). This is usually done by the planning department and needs to be done prior to the LEA approving the application for a SWFP as complete and correct.

III. SUMMARY OF CEQA AND PERMIT APPLICATION PROCESS

This information is taken from the summary in the CEQA Guidelines. There are three major phases in the development process as provided by CEQA and the PSA: the Pre-Application Phase, the Application Phase, and the Review Phase.

A. The Pre-Application Phase

The Pre-Application Phase begins when the applicant has completed the conceptual and preliminary design work for a project and is ready to prepare a project proposal. At this point, enough information should be available to describe project activities and to identify the project's proposed location. The primary objective of this phase is to identify the appropriate permitting agencies and to collect as much relevant background information as possible.

Many proposals (projects) will require special studies either before or during the formal processing of the application. All state and local agencies are required to list the type of information and the criteria they will use in evaluating a project application. Applicants may request pre-application conferences or "scoping" meetings with the permitting agencies to discuss how agencies' specific rules will apply to their proposed projects.

By the end of the pre-application phase, the applicant should have a good understanding of the detailed project information required, a list of probable permitting agencies, and an indication of the degree of environmental analysis required by the agencies.

At this point, the applicant will learn which agency (if there will be more than one permitting agency) will be the "lead agency." The lead agency is the single agency responsible for determining the type of environmental analysis CEQA requires. In addition, the lead agency must prepare the environmental review document it calls for. The agency with the greatest authority over the project will usually assume the lead agency role. Criteria for determining the lead agency are provided in Section 15051 of the CEQA Guidelines. In the event of a dispute over the lead agency status between or among agencies, the Office of Planning and Research may designate the lead. However, once the lead agency is identified, all other involved agencies, whether state or local, become responsible or trustee agencies.

B. The Application Phase

The Application Phase begins with the filing of the necessary permit application forms along with a detailed project description. Supporting documents must also be filed, where CEQA requires, with the respective agencies. Unless otherwise specified, the sequence of filing applications is left up to the applicant. It must be noted, however, that the failure of some agencies to accept an application until certain other permit approvals have been granted does not in any way impact the time limits under which the agency must act.

During this phase, each receiving agency must review the submitted application to determine if the individual filing is complete. The lead agency must make its determination in writing within 30 days. Should the agency fail to make its determination within 30 days, the application will be deemed accepted as complete by operation of law. If the application is determined to be incomplete, the agency *must* specify the deficiencies and the manner in which the deficiencies may be corrected. The applicant may then refile the corrected application. Upon refile, the agency has another 30 days to review for completeness. If the application is again determined to be incomplete, the agency must provide a process for an appeal of the determination and reach a decision within 60 days. Further dispute may be adjudicated. This step is critical to the process. A permit may not be denied for failure to provide information not requested.

Once an application is accepted as complete, the lead agency has six months to approve or disapprove a project for which an Environmental Impact Report (EIR) has been certified. The time limit in all other cases is three months after a negative declaration is adopted or an exemption issued.

C. The Review Phase

The Review Process begins immediately with the completion of the specific application. In recognition of §65941 of Chapter 4.5 of the Permit Streamlining Act, the lead agency will simultaneously review the project under the applicable permit rules and conduct the necessary environmental analysis. Permit rules vary depending on the particular permit authority in question, but the process generally involves comparing the proposed project with existing statutes. The procedure usually results in a public hearing followed by a written decision by the agency or its designated officer. Typically, a project may be approved, denied, or approved subject to specified conditions.

The CEQA procedure involves a number of steps which produce an environmental document examining the lead agency's as well as the responsible and/or trustee agencies' permit decisions.

The first step in the CEQA process is to determine whether the proposed project is subject to CEQA. There are a number of statutory and categorical exemptions. If the proposal is not covered by CEQA, the lead agency may file a *Notice of Exemption*. If the project is covered by CEQA, the lead agency must prepare an *Initial Study* to determine whether the project may have a significant adverse impact on the environment. The initial study must be completed within 30 days after an application is accepted as complete.

If the Initial Study shows that the project will not have a significant effect on the environment, the lead agency must prepare and circulate a *Negative Declaration*. Where potential significant effects are shown, but the project is modified such that the effects are rendered insignificant, the lead agency must prepare and circulate a mitigated Negative Declaration. In either case, the Negative Declaration must be circulated for review for 30 days and must be ready for adoption by the lead agency within 105 days after a completed application is accepted.

If, on the other hand, the Initial Study shows that the project may have one or more significant effects, the lead agency must circulate a *Notice of Preparation (NOP)* in anticipation of preparing an environmental impact report (EIR) and must consult with responsible and trustee agencies as to the content of the environmental analysis. Responsible agencies must respond to the NOP within 30 days. If a responsible or trustee agency fails to respond, the lead agency may assume that the responsible agency has no response to make. Further, if a responsible agency fails to respond or responds incompletely, the responsible agency may not subsequently raise issues or objections regarding the adequacy of the environmental review.

At the close of this period, the lead agency must prepare and circulate a *Draft Environmental Impact Report (DEIR)*. All concerned agencies and the public may review the DEIR. All comments on the DEIR must be made within the 45-day review period.

At the close of the review and comment period, the lead agency must respond to the comments received. Comments from responsible or trustee agencies shall be limited to those project activities which are within the agency's area of expertise, are required to be carried out or approved by the agency, or will be subject to the exercise of powers by the agency.

The lead agency prepares and certifies a *Final Environmental Impact Report (FEIR)*. If the lead agency approves the project, it must find that each significant impact will be mitigated below the level of significance where feasible, and that overriding social or economic concerns merit the approval of the project in the face of unavoidable effects.

With the CEQA and permit review process completed, the lead agency must approve or deny the permit within 6 months of certifying the EIR or within 3 months of adopting the Negative Declaration and file a *Notice of Determination (NOD)*. Responsible agencies must then act within six months after the lead agency's action or, if the applicant has not already filed an application with a responsible agency, within six months from the time the application is filed (except as modified under Health and Safety Code §25199.6).

Environmental documents for projects involving one or more state agencies or involving issues of area wide or statewide significance must be sent to the State Clearinghouse for distribution to interested state agencies. The State Clearinghouse will link the lead agency with the responsible state agencies.

D. Special Concerns in the CEQA/Permit Process

There are several key points that agencies, applicants and the public must be aware of in order to avoid misunderstandings and delays:

- The time limits for completing the requirements of CEQA and acting on a permit are concurrent and not consecutive. The Permit Streamlining Act discourages a government agency from requiring a completed EIR before accepting a permit application.
- CEQA can help resolve public policy disputes relating to development projects. Technical issues that find their way into policy disputes, no matter how dependent on scientific considerations, are inherently value-laden. CEQA specifically addresses the potential for conflicting expert discussions and mandates that all sides of an issue are considered.
- Under the Permit Streamlining Act, if a public agency does not approve or deny a project within the statutory time limit, the project may be deemed approved. The proponent must give notice to invoke the Permit Streamlining Act.
- The Permit Streamlining Act time limits are not applicable to all permit applications. Time limits only apply to development projects as defined in the PSA. The Streamlining Act specifically excludes ministerial permits such as certain building permits. The time limits do not apply to legislative actions such as the adoption or amendment of zoning ordinances. The time limits do not operate where a federal law specifies a longer or shorter period for action and, *with* the consent of the applicant, the lead agency may waive the time limit if a joint environmental document is being prepared with a federal permitting agency.
- Where a public agency (or series of agencies) will issue more than one permit for a project, the agency(ies) makes each approval separately, but must still act upon the entire project within the statutory time limit.

- All Permit Streamlining Act time limits are maximums. Public agencies should act in a shorter time whenever possible.
- Members of the public may challenge, in court, a wide variety of public agency action and inaction, but only if they first present those challenges to the agency itself within 30 to 180 days after the occurrence of the challenged action, depending upon whether an NOD was filed or not by the agency.

PART 2 THE CEQA PROCESS

I. THE CEQA PROCESS

Once the official SWFP application package is submitted to the LEA, the LEA begins the environmental review process. The LEA must determine the application package to be complete and correct within 30 days of submittal.

A. Screening for CEQA Applicability

The LEA must review and determine if the project is subject to CEQA. The flow chart below provides a summary of this screening process.

Screening for CEQA Applicability			
Is it an activity with no possibility of a significant impact? No↓	→	Yes	→ Activity Outside of CEQA
Is the activity outside the definition Of a project? No↓	→	Yes	→ Activity Outside of CEQA
Is the project described in a Statutory Exemption? No↓	→	Yes	→ Notice of Exemption (optional)
Is the Project described in a Categorical Exemption? No↓	→	Yes	→ Notice of Exemption (optional)
Is the project covered by a previous EIR, Program EIR, or Master EIR? Declaration No↓	→	Yes	→ Finding of no new Impact Or "Mitigated Negative"
Does the Initial Study show that the Project will have no significant impacts? No↓	→	Yes	→ Negative Declaration
Project Requires an EIR			

B. Exemption Process

In order to determine if the project meets a Statutory Exemption or a Categorical Exemption, the lead agency must look to those portions of the CEQA Guidelines that lists those exemptions. **Statutory Exemptions** are listed in Article 18 beginning with Section 15260. Common Statutory Exemptions include: ministerial projects – little or no judgment involved; emergency projects; rejected or disapproved projects; setting of certain rates or charges; and feasibility or planning studies.

Categorical Exemptions are listed in Article 19 beginning with Section 15300. Common Categorical Exemptions include:

- 1) Class 1: operation, repair or maintenance of existing structures or facilities
- 2) Class 2: replacement or reconstruction of existing structures and facilities
- 3) Class 3: construction or conversion of small new facilities
- 4) Class 4: minor alterations of land, water, or vegetation
- 5) Class 5: minor alterations in land use limitations
- 6) Class 6: data collection, research, experimental management, or resource evaluation
- 7) Classes 7 and 8: public agency maintenance, restoration, or enhancement of environment or natural resources
- 8) Class 9: inspections of operations or projects

- 9) A categorical exemption **does not** apply if...
- A reasonable possibility exists that the activity may have a significant environmental impact because of unusual circumstances
 - Cumulative impacts would be significant
 - A project within certain categories of exemption occurs in certain specified sensitive environments
 - A project affects scenic resources within official state scenic highways
 - A project is located on listed toxic sites maintained by Cal/EPA
 - A project causes substantial adverse changes in significant historic resources.

Once the exemption has been determined, it is a good idea to file a Notice of Exemption. Although this is optional, by filing this document with the County Clerk, it limits the challenge time on the CEQA document to 30 days. Without this filing, it is open for challenges for 180 days.

The Notice of Exemption (NOE) should contain a brief description of the project, a finding that the project is exempt, citations to the applicable exemption in the law or State CEQA Guidelines, and a brief statement of reasons supporting the finding of exemption. The format for the NOE can be found in Appendix E of the CEQA Guidelines. (Also see Appendix D of this manual.)

When filing the NOE with the County Clerk, provide the original, as well as two copies of each report/notice, two self-addressed stamped envelopes, and all fees (both county and state) required to complete the filing. The County Clerk posts the NOE within 24 hours for 30 days. After 30 days, the notice is retained for 9 months.

C. Initial Study

During the initial screening, if it is determined that the project does not meet the requirements for an exemption, then further review of the project is required to determine if additional CEQA is required. This is done by completing the Initial Study Checklist found in Appendix G of the CEQA Guidelines. (Also see Appendix E of this manual.)

The Initial Study is used for: deciding whether to prepare an EIR, avoiding unnecessary EIRs through mitigation, focusing the EIR on significant effects, facilitating early environmental assessment, supporting Negative Declarations, fostering the reuse of EIRs, and identifying whether a program EIR, tiering, or similar process can be used.

In order to complete the Initial Study, the lead agency will need to consult with the responsible and trustee agencies. This may be done by holding a “scoping” meeting to discuss the project in an open forum or by contacting the agencies individually if they are unable to attend the scoping meeting. To determine which agencies should attend, Appendix B of the CEQA Guidelines provides a grid of agencies and the issues they would be responsible for or concerned with.

In order to determine significant effects, the following tools are available:

- a) Initial study checklist (Appendix G of the CEQA Guidelines)
- b) CEQA’s mandatory findings of significance
- c) Consultation with other agencies
- d) Agency thresholds of significance – individual agencies may have local limits that they use as standards for determining significance.

1) Basis:

- Health-based regulatory standards
- Public service capacity standards
- Ecological tolerance standards
- Agency lists or guidelines
- General plans
- CEQA guidelines
- Past CEQA practice

2) Factors to consider

- Direct effects
- Reasonably foreseeable indirect effects
- “Considerable” contribution to cumulative effects
- Expert disagreement

- Economic and social changes are not significant effects
- Public controversy does not make an effect significant
- Conclusion of significance must be based on substantial evidence in the record
- Special thresholds for archaeological and historical resources
- Existing plan build out is not proper baseline
- Agency thresholds of significance

3) Thresholds for “Mitigated Negative Declarations”

- Initial Study shows potentially significant impacts
- Revisions in project plans agreed to by applicant before public review would mitigate to below level of significance
- No substantial evidence in record of a significant effect of revised project

D. Environmental Impact Reports

When the Initial Study shows that a significant impact exists, there are three options available – prepare an EIR, reuse an EIR from an earlier project or use tiering to limit the scope of the EIR.

Two types of EIRs that may be “reused” are Program EIRs and Master EIRs. Program EIRs are prepared for rules, regulations, or plans and parts of chains of planned events. They are linked geographically. If the subsequent activity is within a Program EIR’s scope, no new CEQA document required. An internal checklist should be used to document determination and feasible mitigation measures must be incorporated into the activity. A notice of later activity must indicate reliance on the Program EIR. If a subsequent activity is not within a Program EIR’s scope, a new Initial Study must be prepared and either an EIR or Negative Declaration prepared.

Master EIRs are prepared for General Plans (including elements and amendments), Specific Plans, projects consisting of smaller individual projects to be implemented in phases, regulations to be implemented by subsequent projects, projects pursuant to or furthering a redevelopment plan, state highway or transit projects subject to multiple reviews or approvals, regional transportation plans, congestion management plans, Federal military base reuse plans, and hunting and fishing regulations.

“Tiering” refers to the coverage of several general matters in broader EIRs (such as general plans or policy statements) with subsequent narrower EIRs. Tiering is appropriate when the sequence of EIRs is: a) from a general plan, policy or program EIR to a program, plan, or policy EIR of lesser scope or to a site-specific EIR; or b) from an EIR on a specific action at an early stage to a subsequent EIR or a supplement to an EIR at a later stage. Tiering in such cases is appropriate when it helps the lead agency to focus on the issues which are ripe for decision and excludes from consideration issues already decided or not yet ripe. It allows agencies to deal with broad environmental issues in EIRs at planning stages and then to provide more detailed examination of specific effects in EIRs on later development projects that are consistent with or implement the plans. These later EIRs are excused by the tiering concept from repeating the analysis of the broad environmental issues examined in the general plan EIRs.

Tier 1 includes General Plan or Program EIRs. Tier 2 includes community or specific plan EIRs and Tier 3 includes development projects or infrastructure EIRs. Appendix J of the CEQA Guidelines provides examples of tiering. (Also see Appendix F of this manual.)

The contents of an Initial Study must include a project description, the environmental setting of the project, the potential environmental impacts, the mitigation measures for any significant effect identified, consistency with plans and policies, and the names of preparers.

E. Notice of Preparation

Once the lead agency has determined that an EIR must be prepared, a Notice of Preparation (NOP) is sent to all responsible and trustee agencies. The required contents of an NOP include a brief project description, the project location, the public hearing date, time, and place, the location of project files, and the deadline and address for comments. An example format for the NOP is included in Appendix I of the CEQA Guidelines. (Also see Appendix G of this manual.) Responses to the NOP are sent to lead agency within 30 days.

Within 45 days from determining to prepare an EIR, the lead agency contracts with someone to prepare the preliminary draft EIR. The document may be prepared by the lead agency staff, another public or private

entity, the project applicant or project applicant's consultant, or by a third-party contract involving the lead agency, project applicant, and consultant.

The environmental document must contain the following:

- a) Table of contents or index
- b) Summary of the EIR
- c) Project description
 - Project objectives
 - Project location - a regional map, detailed local map, site boundaries, and listed toxic sites from Cal/EPA
 - Project characteristics – a narrative explanation of project concept, proposed buildings and activities, diagrams/conceptual drawings, build out assumptions, and supporting public services
 - Reasonably foreseeable, larger future phases
 - Required approvals – list of agencies that will use the EIR and are required to issue permits
- d) Environmental settings – climate (precipitation, seasonal temperatures, wind conditions, evaporation rate), air (air quality data, existing emissions, project emissions, landfill gas emissions, leachate evaporation, odor), surface and subsurface water (existing sources, drainage, average seasonal flows, water quality analysis, watershed characteristics, beneficial uses, location of wells, depth to groundwater), geology (description of subsurface strata, soils, seismicity, mineral deposits), land (description of site surface, maximum slope on the site, slope stability), flora (description of site flora, vegetation which will be permanently removed, relation between vegetation and slope stability and erodability, rare and endangered flora), fauna (description of site fauna, resident population of rodents and other potential vectors, rare and endangered fauna), noise (local noise ordinance criteria, background noise levels at and adjacent to site, location of noise receptors such as schools, residents, hospitals), social (growth inducement), land use compatibility (zoning, adjacent land use, distance to nearest residences), plan consistency (general and regional plans such as the CIWMP), historical/cultural (archaeological sites, historical sites, cultural sites), traffic, and aesthetics (compatible with specific general plan policies or view shed ordinances)
- e) Significant environmental impacts (direct, indirect, short-term, long-term, cumulative, unavoidable)
- f) Areas of known controversy
- g) Alternatives to the project - no project alternative, environmentally superior alternative (This is a key component of the EIR as opponents will focus on this as a challenge. Alternatives do not need to be evaluated at equal levels of detail.)
- h) Significant irreversible changes (required only in EIRs on plans, policies, ordinances, LAFCO actions, and joint NEPA documents).

Special considerations to be made regarding the writing of the environmental document include: style and page limits (average 150 pages, 300 pages if difficult issue), emphasis on significant effects, forecasting and speculation (careful when assuming worse case – look at what actual case will be), disagreement among experts (this is okay in EIRs, they must be disclosed; the lead agency decides which experts they will listen to), level of specificity, citations (all citations must be available to the public), and incorporation of other documents and studies by reference.

If the document is prepared by the applicant or a consultant, the lead agency independently reviews the document for content and accuracy. When the draft environmental document is completed, it is submitted for review. The lead agency may send a copy of the draft document to those responsible agencies that have been actively involved in the preparation or may have an interest in portions of the document. This is also helpful in ensuring that the findings and any mitigation measures identified in the document are adequate.

Once the draft document has been reviewed and appropriate edits made, the document is ready for public comment. A Notice of Completion is filed with the State Clearinghouse when there is a state agency involved, for NEPA documents, for projects of statewide, regional, or area-wide significance, for Williamson Act cancellations of >100 acres, for projects with EIRs in environmentally sensitive areas, for projects affecting sensitive wildlife habitats, for projects interfering with water quality standards, and for projects within 10 miles of a nuclear power plant. The Notice of Completion for the State Clearinghouse is found in Appendix C of the

CEQA Guidelines. (Also see Appendix H of this manual.) This is a standard form for completion and submittal.

A Notice of Completion for use at a local level is found in Appendix L of the CEQA Guidelines. (Also see Appendix I of this manual.) This notice may also serve as the public notice for availability and review of the Draft EIR. The notice must contain the project description, project location, identification of significant environmental impacts, specification of the review period, identification of the public hearing date, time, and place (if applicable), address where the Draft EIR is available for review, identification of the location of documents referenced in the Draft EIR, and a statement of whether the project is a listed toxic site. The notice is filed with the County Clerk and copies are sent to all responsible and trustee agencies and any person or organization requesting, or who previously requested, a copy. It may also be sent to adjacent jurisdictions.

Public notice may also be by one of three methods: publication in a newspaper of general circulation, posting on and off the project property, and by direct mailing to adjacent landowners and renters. A public hearing on the draft CEQA document is optional but may be a good idea if there is controversy surrounding the project. The hearing is held during the 30-45 day public comment period.

Once the public comments are received, the lead agency, applicant and the document preparer respond to each comment submitted. This may take anywhere from a couple of weeks to months to complete, depending on the complexity of the comments and their responses. When the responses are complete, they are sent to the commenting agencies 10 days prior to any decision making to ensure the responses are satisfactory. Some comments may come in after the deadline. Although the lead agency does not have to respond to these comments, it may be in the lead agency and applicant's best interest to still prepare responses but place at the end of the responses and indicate that the comments were received after the deadline.

The Final EIR consists of the original Draft EIR sent out for public comment, copies of the comments received during the public comment period, a list of persons or entities commenting on the Draft EIR, and the lead agency responses and any text changes made to the Draft EIR as a result of the comments. The lead agency must then certify that the Final EIR has been completed in compliance with CEQA, was presented to the decision-making body and was reviewed and considered by the decision-making body prior to approving the project, and that the Final EIR reflects the lead agency's independent judgment and analysis.

In their CEQA decision-making, the lead agency's decision must be supported by findings and the findings must be supported by substantial evidence on record. Three possible findings are: the project has been changed to avoid or substantially reduce impact magnitude, or changes to the project are within another agency's jurisdiction and such changes have been or should be adopted, or specific economic, social, legal, technical, or other considerations make the mitigation measure or alternative feasible.

The lead agency may also make a finding based on balancing the environmental damage that may be caused by the project against social, economic, and other factors called a "statement of overriding consideration". This is a loophole in the CEQA process that may be used after the EIR is complete to override the damage because the project is considered more beneficial. The lead agency must make a final decision on the project itself within 6 months of the Final EIR certification.

F. Mitigation and Monitoring Programs

Environmental monitoring is included in the CEQA process to ensure implementation of the mitigation measures during the project implementation, to provide feedback to agency staff and the decision-makers about the effectiveness of their actions, to provide learning opportunities for improving mitigation measures on future projects, and to identify the need for enforcement action before irreversible environmental damage occurs.

Mitigation enforcement mechanisms include "Stop Work" orders, denial of building occupancy permits, revocation of project approval (condition of permit), misdemeanor criminal sanctions (fines, jail), performance bonds, and recording with county recorder.

Mitigation monitoring requirements are triggered when the lead agency adopts a Neg Dec or when an EIR indicates they are required for the project to move forward. CEQA requires that the lead agency must adopt a "reporting and monitoring" program for changes in the project adopted or made as conditions of approval to mitigate or avoid significant effects. Certain agencies must provide the lead agency with performance

standards or monitoring programs for impacts they identify to include in the CEQA document and in the final project approvals.

G. Notice of Determination

A Notice of Determination (NOD) is filed within 5 days of the project’s approval. The NOD contains the project name, project description, the date the project was approved, a determination of whether the project will have significant effects, a statement that the EIR was prepared and certified, any mitigation measures made as a condition of approval, the findings that were made, and an indication if a statement of overriding considerations was adopted. An example format for the NOD is included in Appendix D of the CEQA Guidelines. (Also see Appendix J of this manual.)

The lead agency files the NOD with the County Clerk or Office of Planning and Research within 5 days of approval of the project. The County Clerks then posts the notice within 24 hours for 30 days. The NOD starts the clock that limits challenging the CEQA document to 30 days. After 30 days, CEQA document cannot be challenged.

H. Negative Declarations and “Mitigated Negative Declarations”

When the initial study shows that the project will have no significant impact, a Negative Declaration (Neg Dec) is prepared. If significant impacts are found but the applicant agrees to modify their project to include mitigation measures that reduce potentially significant impacts to less-than-significant levels, then a Negative Declaration with Mitigations is prepared. NOTE: Technically, there is no such thing as a “Mitigated Negative Declaration” (MND). This is the same as a Negative Declaration with Mitigations but the term is understood to mean the same and will be used in this document for convenience.

Once the lead agency has decided to prepare a Neg Dec, they have 45 days to prepare the document. The document may be prepared by the lead agency staff, another public or private entity, the project applicant or project applicant’s consultant, or by a third-party contract involving the lead agency, project applicant, and consultant.

The required contents of a Neg Dec include the project description, the project location, identification of the project applicant, proposed finding of no significant effect, and a copy of the initial study justifying the finding.

A “Mitigated Negative Declaration”, contains the same information as a Neg Dec but also must include the mitigation measures included in the project description to clearly reduce potentially significant impacts to less-than-significant levels. The mitigation measures must be committed to before public review of MND. Equivalent mitigation may be submitted after public review without recirculation, but a public hearing is required.

The following table is a summary of the Negative Declaration Process under CEQA.

Negative Declaration Process Under CEQA

<ul style="list-style-type: none"> • Contract for Negative Declaration preparation executed • Mitigation measures identified and agreed to by project applicant • Draft Negative Declaration prepared • Notice of Intent to adopt Negative Declaration • Responses to Negative Declaration received • Comments considered • Negative Declaration completed • Mitigation reporting and monitoring program adopted • Lead agency makes determination on project • Notice of Determination filed • Notice of Determination posted • Responsible agency makes decision on project 	<ul style="list-style-type: none"> • 45 days from decision to prepare Negative Declaration • 20-30 days • 180 days • 60 days from Neg Dec adoption • 5 days from project approval • 24 hours from filing • 180 days from lead agency
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If the document is prepared by the applicant or a consultant, the lead agency independently reviews the document for content and accuracy. When the draft Neg Dec is completed, it is submitted for review. The lead agency may send a copy of the draft document to those responsible agencies that have been actively involved in the preparation or may have an interest in portions of the document. This is also helpful in ensuring that the findings and any mitigation measures incorporated into the document are adequate.

Once the draft document has been reviewed and appropriate edits made, the document is ready for public comment. A Notice of Intent to adopt the Neg Dec is filed with the State Clearinghouse when there is a state agency involved or with the County Clerk when no state agency is involved. The Notice of Completion form in Appendix C of the CEQA Guidelines may be used for this purpose. The public comment period lasts 20-30 days and is begun by the filing of a Notice of Intent (NOI) to adopt a Neg Dec.

The NOI must contain a brief description of the project and its location, the starting and ending dates for public review, the date, time and place of any scheduled public meetings or hearings, the addresses where copies of the Neg Dec or MND are available for review, whether any listed toxic sites are present, and any other information required by statutes or regulations. Much like the EIR process, once the public comments are received, the lead agency, applicant and the document preparer respond to each comment submitted. When the responses are complete, they are sent to the commenting agencies 10 days prior to any decision making to ensure the responses are satisfactory. Some comments may come in after the deadline. Although the lead agency does not have to respond to these comments, it may be in the lead agency and applicant's best interest to still prepare responses but place at the end of the responses and indicate that the comments were received after the deadline.

The Final Neg Dec consists of the original Draft Neg Dec sent out for public comment, copies of the comments received during the public comment period, a list of persons or entities commenting on the Draft Neg Dec, and the lead agency responses and any text changes made to the Draft Neg Dec as a result of the comments. The lead agency must then certify that the Final Neg Dec has been completed in compliance with CEQA, was presented to the decision-making body and was reviewed and considered by the decision-making body prior to approving the project, and that the Final Neg Dec reflects the lead agency's independent judgment and analysis.

When the Neg Dec is completed, the commenting agencies are notified of the project hearing date when the Neg Dec will be adopted. Any mitigation and reporting programs will be adopted at that same time.

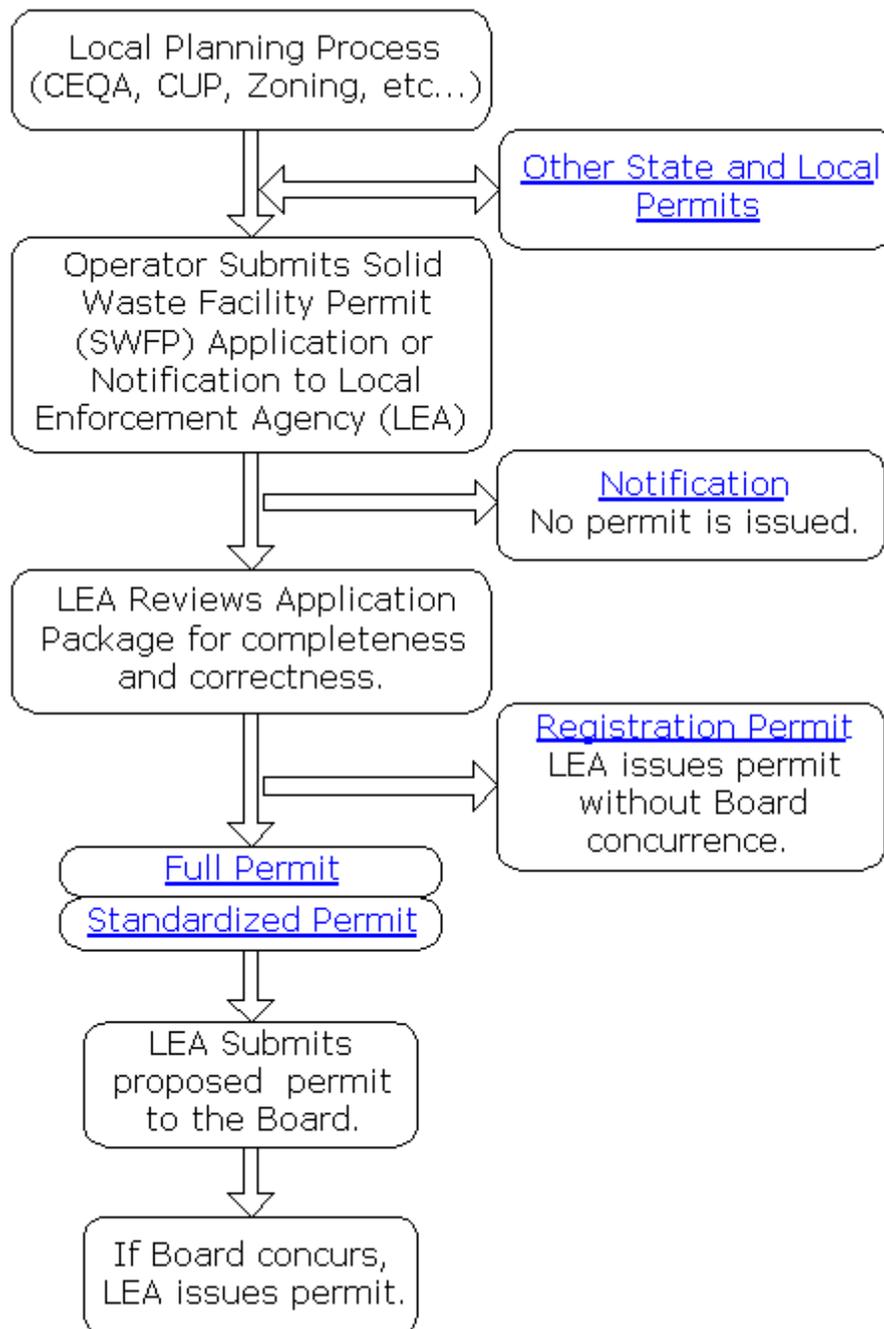
The lead agency must make a determination on the project within 60 days from Neg Dec's adoption. A Notice of Determination (NOD) is filed within 5 days of the project approval. The NOD must identify the project, describe the project, indicate the date of project approval, state that the project will have no significant environmental effect, and state that a Negative Declaration has been prepared to avoid significant effects.

The NOD is posted within 24 hours from filing with the County Clerk for 30 days. Responsible agencies must make their decisions on the project within 180 days from lead agency's decision if they have received an application for a permit.PART 3

THE SWFP PROCESS

I. INTRODUCTION

More often than not, the permitting process, and thus the CEQA process, begins with the application for a land use permit (LUP) or conditional use permit (CUP) from the local planning department as they are usually the first agency to act on a project. (See the flow chart below.) If the planning department determines that there is no action required on their part (i.e. the project is consistent with current LUP, CUP, or zoning, previously approved CEQA document, and NDFE or Siting Element), the applicant then comes to the LEA for a SWFP. This is when the LEA may become the Lead Agency for the CEQA process. Otherwise the local planning agency is the Lead Agency. CEQA is addressed in Part 2 of this document.



A. Who Needs a Solid Waste Facility Permit?

The California Integrated Waste Management Board (CIWMB), in conjunction with the Local Enforcement Agencies (LEAs), regulates solid waste handling, processing and disposal activities. These include the operation of landfills, transfer-processing stations, material recovery facilities, compost facilities, CDI facilities, and waste to energy facilities. Until the CIWMB's tiered regulatory structure became effective in 1994, virtually all solid waste handling activities were subject to the requirement of first obtaining a "full" solid waste facility permit or an exemption from the requirement of obtaining this permit from the local enforcement agency (LEA) with jurisdiction over the proposed site. CIWMB must concur in the issuance of any full and standardized permits before they are issued by the LEA.

The CIWMB has implemented regulations which exclude some activities from permitting requirements, allow others to operate after making a notification to the LEA, and many others to operate with less burdensome forms of a permit. Some activities still require the full solid waste facility permit.

There are five tiers of regulation for solid waste handling activities:

1. [Excluded Solid Waste Handling](#)
2. [Enforcement Agency Notification](#)
3. [Registration Permit](#)
4. [Standardized Permit](#)
5. [Full Permit](#)

The first two tiers do not require a solid waste facility permit, while the latter three do. The tier in which an activity is slotted depends not only on the type of activity, but also the type and amount of solid waste being handled.

Reference: [LEA Central Permit Fact Sheet](#) (Also see Appendix K of this manual.)

B. Roles of the LEA and Board Staff in the Permitting Process

The LEA has the primary responsibility in processing and enforcing the SWFP. LEAs review operator application packages to determine completeness and adequacy, and write SWFPs including conditions that protect public health and safety and environment. Additionally, the LEA makes a discretionary action by issuing the SWFP, and therefore is responsible for ensuring compliance with California Environmental Quality Act (CEQA). The LEA is the primary contact for the operator in the permitting process. Board staff's primary role is to assist the LEA in analyzing the SWFP application package and writing SWFPs. This assistance can be accomplished by publishing advisories, telephone conversations, reviewing applications and draft permits, training, attending meetings with operators, and other types of technical assistance.

C. Goals and Function of the Solid Waste Facility Permit

The primary goal/purpose of issuing or revising a SWFP is to ensure protection of the public health and safety and prevention of environmental damage, the long-term protection of the environment shall be the guiding principle (PRC 44012).

Statutory requirements for a SWFP:

- Authorize the operation of the solid waste facility in accordance with California law and regulations (PRC 44014 [b]).
- Minimize overlap with other regulatory agencies (PRC Division 30, Part 4, Chapter 1.5).
- Specify limitations, prohibitions, terms, and conditions that the enforcement agency determines to be appropriate for the design and operation of a solid waste facility.
- Be consistent with the CEQA analysis for the project (PRC 44004, 27 CCR 21650).

Practical requirements for writing a SWFP:

- Be written to reasonably accommodate anticipated fluctuations to reflect at least a five-year plan of the facilities' activities and operations, thus minimizing the need for frequent revisions.
- Specify limitations and prohibitions based on:
 - a) The LEA's knowledge of past operating practices.
 - b) The LEA's review of the facility design and operation.
 - c) Local enactments and site specific conditions.

Reference: [LEA Advisory NO. 57](#) (Also see Appendix L of this manual.)

II. PRE-PERMIT APPLICATION ACTIVITY

Early consultation with the applicant is key to the permitting process. Most of the SWFP process begins before an official application package is submitted to the LEA. The LEA meets with the operator to review the project description or the draft versions of a Report of Facility Information (RFI) or Joint Technical Document (JTD).

During this time, informal discussions occur to determine the level of detail in the project descriptions, which documents will need to be included or revised, and the type of permit to be issued (ex: Notification, Registration, Standardized, or Full Permit). The Tiered Regulatory Placement chart, located in Appendix M of this manual, is utilized, along with the regulations for the type of operation, to determine the permitting tier.

A. Multiple Solid Waste Facility Permits

As facilities have been slotted into the Regulatory Tiers, LEAs, CIWMB staff, and operators have been questioning whether multiple SWFPs (or permits) can, or should be issued for a single site. LEA Advisory #39 was developed to help all interested parties understand the options available for determining when it is appropriate to issue more than one permit at a site. There are three different combinations of permits that could occur: (1) more than one full permit; (2) full permit and one or more operations with less than a full permit(s) (in this advisory, standardized, registration, or notification tiers are called "tiered permits"); (3) more than one tiered permit.

More Than One Full Permit

Enforcement Agencies have issued, with Board concurrence, separate full permits for new activities within the boundaries of an existing permitted facility. An example is the issuance of a permit for a transfer station within the boundaries of a permitted landfill.

Full Permit and Tiered Permit

Board practice has been to allow operators to obtain a tiered permit for an operation within the boundaries of a facility with a full permit. An example of this would be a compost facility(s) with a tiered permit located within the boundaries of a landfill.

B. Alternatives/Flexibility

An operator has two options when proposing to add an activity that will need either a full or tiered permit within the boundaries of an existing facility with a full permit. The operator can revise the existing permit to incorporate the new operation, or obtain a separate full or tiered permit for the new operation. However, if the LEA determines that the addition of an operation eligible for a full or tiered permit necessitates significant changes in the design and operation of the existing facility with the full permit, or if it is necessary to change the terms or conditions of the existing full permit to accommodate the new on-site operation, then the LEA may require the operator to apply for a permit revision. This would be consistent with Title 14 of the California Code of Regulations (14 CCR) Section 18211 that requires operators proposing to make significant changes in the design or operation of their facility to apply for a revision. If the changes are determined to be not significant and do not require a revision to the permit, the LEA can require a Report of Facility Information amendment.

Either approach listed above would comply with Public Resources Code Section 44002, which prohibits the operation of a solid waste facility by any person without a Solid Waste Facility Permit.

Deciding whether to issue multiple tiered permits or a single tiered permit for a site can be more difficult. For distinctly different operations, the only option may be to issue separate permits. For example, if an operator wants to operate a compost facility and a contaminated soil disposal facility there are no provisions in the regulations to issue a single permit.

Operators may try to obtain multiple tiered permits for similar operations to avoid obtaining a higher tiered permit with more requirements. **For example, an operator might request multiple compost Registration Permits for operations that are not separate from each other, instead of a single Standardized Permit. In these cases, if the LEA determines that the operations are not separate, they can require the operator to obtain the appropriate higher-tiered permit.**

A determination must be made whether the operations are separate or are one when deciding if multiple permits or a single permit is appropriate. The factors used in making this determination can include:

- Physical proximity of the operations (i.e., are the operations on contiguous, or multiple parcels).
- Types of waste being handled by each operation.
- Whether processing equipment is shared by the facilities.
- Whether storage or processing areas are shared.
- Whether personnel are shared.
- Whether record keeping is shared.
- Protection of public health, safety, and the environment.
- The intent of the operator.

- Environmental impacts, including cumulative impacts of multiple facilities. (Please refer to LEA Advisory #36 for additional guidance.) (Note: Advisory 36 was rescinded until it can be revised.)

C. Multiple Operators

In all of the cases listed above it is assumed that only one operator is applying for the permits. If more than one operator is involved in activities that overlap, or are connected in some way, then separate permits could be issued. The LEA should ensure that the operations are adequately separated when there are multiple operations with separate operators. The separation of the facilities is needed to allow the LEA to take appropriate enforcement action should it be necessary. These situations should be handled on a case-by-case basis.

Reference: [LEA Advisory No. 39](#) (Also see Appendix N of this manual.)

III. SUBMITTAL OF APPLICATION PACKAGE OR NOTIFICATION

Local Enforcement Agencies (LEAs) are required to make a finding that a proposed permit is complete and correct and acceptable for filing. 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 LEA.

This section contains the definitions of "complete and correct" for purposes of reviewing permit applications and proposed permit packages, in addition to [other criteria](#) for accepting, rejecting, or [filing](#) an application. Also available is the [Permit Application Review Chart](#) to compare facility parameters when reviewing a permit or permit application for consistency with other documents. (Also see Appendix O of this manual.)

See table below.

	Complete	Correct
Full Permit	" Complete " means all requirements placed upon the operation of the solid waste facility by statute, regulations, and other agencies with jurisdiction have been addressed in the application package. Title 27, Section 21563(d)(1)	" 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. Title 27, Section 21563(d)(2)
	"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." Title 27, Section 21570(d)	
Standardized and Registration Permits	" Complete " means all information required as part of a solid waste facilities permit application submitted pursuant to this Article has been provided. Title 14, Section 18101(d)	" Correct " means all information provided by the applicant, as part of a solid waste facilities permit application submitted pursuant to this Article, is accurate, exact, and fully provides the applicable filing requirement information for the solid waste facility for which a permit is being sought. Title 14, Section 18101(e)

Full Permit

"Application Filing" means the enforcement agency has determined the application package is [complete and correct](#) and the statutory time limit contained in [PRC Section 44008](#) commences. [Title 27, Section 21563\(d\)\(3\)](#)

Standardized and Registration Permits

"Acceptance for filing" means the enforcement agency has determined that the application is [complete and correct](#) and the specified permit action time frames contained in this Article commence. [Title 14, Section 18101\(a\)](#)

A. Statutory Requirements for Permit Writing and Issuance

Other criteria for accepting a permit application as complete and correct include:

- [PRC Section 44014\(b\)](#): "The permit shall contain all terms and conditions which the enforcement agency determines to be appropriate for the operation of the solid waste facility. The operator shall comply with all terms and conditions of the permit."
- ...consistent with state minimum standards...Public Resources Code [\(PRC\) Section 44009](#)
- ...consistent with the standards adopted by the Board... [PRC Section 44010](#)
- ...consistent with [PRC Sections 43040](#) and [PRC Section 43600](#) (financial ability/responsibility)
- ...consistent with [PRC Section 44007](#) (permit submittal and terms and conditions)
- ...consistent with [PRC Sections 44017, 44150 and 44152](#) (waste to energy, transformation)
- ...consistent with [PRC Sections 50000 or 50001](#) (waste management planning)
- "...the enforcement agency shall ensure that primary consideration is given to protecting public health and safety and preventing environmental damage, and that the long-term protection of the environment is the guiding criterion..." [PRC Section 44012](#)

Also available is the [Permit Application Review Chart](#) to compare facility parameters when reviewing a permit or permit application for consistency with other documents. For more information on writing a full permit, see [LEA Advisory No. 57](#).

Reference: [Permit Toolbox Complete and Correct Page](#)

B. Guidance for Writing a Solid Waste Facility Permit

This section provides guidance on how to write a solid waste facility permit (SWFP) that is consistent with the California Code of Regulations, Title 27 (27 CCR) and the Public Resources Code (PRC). It discusses the role of the LEA and Board staff in the SWFP process, the goals of the SWFP guidelines for writing a permit, including the contents and a boilerplate SWFP ([Word](#), 122 KB or [PDF](#), 19 KB) that can be used as a template, if desired, by the LEA. LEAs are encouraged to use the SWFP boilerplate cover page in order to accommodate changes in owner/operator and five-year review updates.

The following information is organized by numbers that correspond to the attached boilerplate SWFP ([Word](#), 122 KB or [PDF](#), 19 KB). (See Appendix P of this manual.)

The following items (1-13) are required information in the SWFP:

1. Facility/Permit (SWIS) Number and Local Enforcement Agency Number (if applicable)

A permit number assigned for each permit issued by an LEA appearing on all pages of the permit. The SWIS number, assigned by the Board, is for state and local tracking purposes. The LEA can also include the local permit number, if applicable, on the permit.

2. Name and Street Address of Facility

The facility name and address, and/or other identifying description (no P.O. box) to locate the site.

3. Name and Mailing Address of Operator

The name of the operator(s) and their mailing address(es), which may differ from the site address, to identify the responsible party and let the public know where notice may be sent. Generally, contract operators are not included on the permit since the operator and owner are responsible for the permit (14CCR 18208, 27CCR 21663).

4. Name and Mailing Address of Land Owner

The name of the land owner(s) and their mailing address(es), which provides a location to serve notice. For multiple owners or operators the LEA may attach an additional page(s) to the SWFP.

5. Permitted Operations

The type of facility, as defined in regulation and/or statute (landfills, transfer stations, green waste composting facilities, mixed composting facilities, processing facilities, transformation facilities, etc.), including a list of all operations that will be covered under the permit. Multiple activities under one SWFP will generally occur when combining an operation, which falls under the tiered permitting regulations with a full permit activity.

6. Approval

The name and title of the LEA's approving officer typed on the permit and a signature (at the time of issuance of the SWFP).

7. Date Received by the Board, Board Concurrence, and the Date the Permit is Issued

The Board will stamp the date the permit was received in the Board office, and the date it concurs with the permit. The LEA will stamp the date it issues the SWFP to the operator. These dates are necessary for record keeping and tracking the SWFP through the process. In practice, these "stamps" may not appear on the same copy of the SWFP. However, the dates on the final permit must be the same as the stamped dates and the permit shall read the same as the permit that was acted on by the Board.

8. Local Enforcement Agency Name and Address

The LEA's name and address.

9. Operator/Owner Transfer Date

The date of the transfer the LEA approves a change in operator or owner (land owner and/or business owner) and makes minor changes in the permit to reflect this change pursuant to PRC 44005. This is necessary for purposes of clarification, record keeping, and tracking. If the LEA reissues the permit through a revision, this is not necessary.

10. Site Boundary

The site boundary, including all areas that will be governed by the permit. The boundaries may be described in parcels, as long as they are whole parcels. If, for some reason, the boundaries can not be described in whole parcels they may be described from the results of an engineered survey (a "metes and bounds" description). A map may be attached to the parcel description or "metes and bound" description to clarify the permit boundaries and to define the location of the permitted acreage (14CCR 18208, 27CCR 21663).

11. LEA Findings Pursuant to Public Resources Code 44009 and 44010

The findings can be as stated in the boilerplate permit or as deemed appropriate by the LEA. Please note that these findings are made at the time the LEA proposes and issues the SWFP. The following findings shall be made:

- a. The permit is consistent with the County Solid Waste Management Plan (CoSWMP) or the Countywide Integrated Solid Waste Management Plan (CIWMP) (PRC 50000 or 50001).
- b. Facility compliance with PRC 50000 or 50001. For a landfill SWFP, where a CIWMP has not been approved, the authorized agent must have made a written finding that the facility is consistent with, and designated in, the applicable General Plan(s). Additionally, the local governing body must make a written finding that the surrounding land use is compatible with the facility operation (PRC 50000.5 [a] and [b]). (Authorized agent means the body or person who has the authority to determine county and/or city general plan conformance, which is usually a jurisdiction's Board of Supervisors or City Council.)
- c. The permit is consistent with standards adopted by the Board (PRC 44010).
- d. The design and operation of the facility is consistent with the state minimum standards for solid waste handling and disposal as determined by the LEA.
- e. The environmental documentation (i.e., Environmental Impact Report (EIR), Negative Declaration, and/or Exemption) is consistent with and supports the proposed permit and Report of Facility Information (RFI). This finding should cite the environmental document(s), a document reference number, and date, including amendments that enabled the LEA to make this finding.

12. Facility Limitations include:

- Tonnage
- Elevation and excavation
- Disposal (footprint) area
- Hours of operation
- Traffic

If the LEA deems that these limits are not an integral part of the project description, the LEA should provide a rationale in a cover letter that accompanies the proposed permit and be prepared to present that rationale at the Board hearing where the SWFP is being considered. It is recommended that the LEA work with Board staff if any of these items are deleted from the *Limitations* section of the permit to ensure a smoother package submittal during the 60-day review and concurrence timeframe. When determining the appropriate limits to put in the permit the LEA should consider 27 CCR, section 21663:

" The permit shall specify the person authorized to operate the facility and the boundaries of the facility. The permit shall contain such conditions as are necessary to specify a design and operation for which the operator has demonstrated in proceedings before the LEA the ability to control adverse environmental effects." A description of the design and operation may include, capacity, throughput, traffic, contouring of a landfill, physical configurations, such as acreage and height for a landfill, procedures, personnel and equipment."

When writing limits into the SWFP it is important that they are written in a clear manner so as to be enforceable and unambiguous. For example, if an average tonnage is being used as a limit the time over which this average is calculated should be included. (Note: Generally, averages are used as limits when CEQA has defined tonnage as an average. Sometimes an average and maximum are described in the CEQA document.)

SWFP limitations are used to ensure compliance with state minimum standards, applicable parts of the CEQA document, and local requirements as deemed necessary by the LEA. For more flexibility the numbers should be limits consistent with or lesser than delineated in CEQA documents and not necessarily what is currently occurring at the site. The LEAs, as parameters for setting any necessary conditions or monitoring requirements, may use these limits.

The limit should be complete and specific. For example, hours of operation could be interpreted as operating hours, hours open to the public, etc. LEAs should avoid ambiguous conditions similar to the above example. Be specific on the intent of the limit.

Proposals to exceed SWFP limits may cause the LEA to change the SWFP conditions, conduct additional CEQA analysis, or require the operator to amend the RFI description of design and operations. In some cases, the LEA may determine that these limits may not be necessary. An example of this may be if the RFI describes necessary measures for operating at night, CEQA analysis has no limits on hours of operation and there is no environmental, public health, or nuisance reason to limit the hours of operation, then limiting the hours of operation in the permit may not be necessary. Keep in mind that if any limitation has been set in the CEQA documents the SWFP cannot exceed these limits.

Additionally, one limitation could supersede the need for another limit. For example, if the tonnage limit restricts the vehicle traffic enough to ensure that incoming and outgoing traffic will not impact the operator's ability to handle the permitted amount of waste, or cause a hazard on public roads from vehicles stacking, then the traffic limit may not be necessary in the permit.

Any of these limits may be described in a manner the LEA determines is adequate for the appropriate level of public health and environmental protection and is consistent with the CEQA documents. When deciding if these limits are necessary the LEA shall consider the location of the facility, proximity to homes and businesses or other sensitive receptors, special site conditions, the operator's compliance record, the CEQA analysis, and the overall design of the facility. Any of these limitations may be excluded from the SWFP with a brief explanation of the

LEA's reasoning. This reasoning may be given in the cover letter that accompanies the proposed permit.

13. Design Information includes:

- Total Airspace Capacity
- Design Capacity (for other than disposal facilities)
- Remaining Airspace Capacity as of a specific date
- Estimated Closure Year

Preceding the Design Information section with a statement indicating that this description is the design information at the time this permit is issued/written provides maximum flexibility for operators who make non-significant changes in design and operation, in order to meet AB 939 goals, to adapt to changing regulations, and to efficiently run their solid waste facility while still having a meaningful project description in the permit to provide the LEA with a baseline for determining significant change. The LEA may allow changes through approved RFI amendments, pursuant to 27 CCR, Section 21665.

Information provided in this section of the permit is interlinked and a minor change in one set of the Design Information could lead to the change of other criteria. Site/SWFP changes should be reviewed on a case by case basis. If significant changes occur in the site design this will, in most cases, change other parameters such as capacity and site life. Significant changes will require revision of the SWFP and may require additional environmental review in order to comply with CEQA. However, it may also be appropriate to put these parameters as restrictions if the facility is limited by the CEQA analysis. A good example of this is a lateral expansion of a landfill (filling in a whole new area or unit) which, in almost all cases, would be a significant change because the landfill's footprint, acreage, capacity, closure year, and closure plan would all change (PRC 44004(a)).

The following information is optional:

14. Additional Documents Reviewed at the time the SWFP was proposed/issued:

This should be a list of documents (i.e., permits, environmental documents, etc.), including the dates of the documents that were reviewed at the time the permit was issued. These documents describe and/or condition the operation and use of the facility, which were considered when the LEA wrote and issued this permit. The LEA considered these documents before making the above findings about the facility and permit and before determining the necessary conditions to incorporate into the permit to ensure the protection of public health and safety and the environment. These are not conditioning documents of the SWFP and are not enforceable under this permit. The LEA might include the following:

- EIR or negative declaration* (include clearinghouse number)
- Land use permits and conditional use permits*
- Preliminary closure plan or final closure and postclosure maintenance plan*
- Closure financial responsibility documentation
- Operating liability documentation
- Waste discharge requirements
- Local and county ordinances and rulings that regulate the facility
- Air pollution permits and variances

* Indicates documents that should be reviewed prior to writing the permit.

15. LEA Monitoring Requirements:

This section should include those self-monitoring requirements that should be submitted to the LEA on a timed basis. The LEA should consider its authority and need for the documents. The LEA may require any reports

that are necessary to monitor the facilities compliance with State minimum standards. The monitoring requirements may also be put as LEA conditions if the LEA deems it to be more efficient.

16. LEA Conditions:

The LEA may want to condition the operation of the facility. When considering what kind of conditions may be appropriate the LEA should consider any past enforcement issues with the operator, or any environmental impacts associated with the design and operations of the facility which may need mitigating. The LEA should not restate conditions from the permits issued by other agencies. Conditions that are more restrictive than the limits expressed in a Regional Water Quality Control Board (RWQCB) or local air district permit or order should be solely for the purpose of protecting the public health and safety and the environment along with the citation of the authority which supports such condition.

The information contained in the Report of Disposal Site Information (RDSI) shall be used to determine whether a permit should be issued and to provide information to be included within the permit if, in the opinion of the LEA, it is applicable. The RDSI should be referenced in the 'conditions' section of the permit. The LEA may include as much of the RDSI in the permit as deemed applicable pursuant to 27 CCR 21600 (a). It is suggested that language be crafted to allow for future amendments to the RFI.

The permit could contain prohibitions on the acceptance of any liquid waste sludge, non hazardous waste requiring special handling, designated waste, or hazardous waste to be accepted at the site under the LEA Conditions section.

Mitigation measures that are adopted as part of the CEQA analysis are often included in the LEA conditions. The LEA should only include those mitigation measures that the LEA has the authority to enforce under the PRC, 14 CCR, and 27 CCR.

C. Conclusion

Although not always easy to write, a clear and concise permit benefits the LEA, operator, and the Board. It is necessary to strive toward writing permit conditions that are explicit and indisputable. The Board encourages LEAs to work closely with their Permitting and Inspection Branch representatives when preparing SWFPs. This helps to reduce potential problems and misinterpretations on or near the day of the hearing.

Lastly, the LEAs may incorporate other limits and conditions in the permit, as they deem necessary to protect the public health and safety and the environment and ensure the facilities' ability to comply with State minimum standards with an authority citation. All limits or conditions should be within the LEA's authority and in conformance with PRC, Chapter 1.5, Sections 43100-43103 (AB 1220). If proposed limits or conditions overlap with the RWQCB or local air district limits, the LEA should coordinate with the appropriate agency and operator before the proposed limits are included in the permit, pursuant to 27CCR, sections 20005 and 20030 and PRC 43101 et seq. If the limits or conditions are made under the authority of the health department or community ordinance the authority is appropriately cited next to the limit or condition.

Reference: [LEA Advisory NO. 57](#)

IV. REGISTRATION PERMIT PROCESS

A. What is a registration permit?

Until the Board's [tiered regulatory structure](#) became effective in 1994, there was a "one-size-fits-all" permit process that applied to all facilities. There are now five tiers, including the registration tier which provides a higher level of review and oversight than a "notification," but can be processed in less time than the full or standardized permits. The current permit tiers now include:

- [Full](#)
- [Standardized](#)
- [Registration](#)
- [Notification](#)
- [Excluded](#)

B. Types of facilities required to obtain a registration permit:

There are 6 types of facilities which may qualify for the registration tier. Scroll down the third column of the [Permit Tier Placement Chart](#) (Appendix M) for a full list of facilities that qualify for the registration tier.

Effective April 4, 2003, there are no longer any compost facilities in the registration permit tier. [Title 14, Section 17855.4](#) describes the process and time-lines for operators with pre-existing registration permits to apply for the proper tier.

C. Registration permit application processing requirements

The [registration permit requirements](#) are described in Title 14, California Code of Regulations, Section 18104-18104.9.

The completed and accepted [registration permit application form](#) (Word 6.0/95, 19 KB) (see Appendix Q of this manual) is required to be attached to the issued [registration permit](#) (Word 6.0/95, 15 KB) (see Appendix R of this manual) when a copy is forwarded to either the operator, or the Board. The registration permit contains the following specification at the bottom of the form:

"The facility for which this permit has been issued may only be operated in accordance with the description provided in the attached application, which is hereby incorporated by reference."

D. Permit requirements unique to the registration permit tier:

- Unlike full permits, the registration permit **application process** is described in [Title 14](#), rather than [Title 27](#).
- Unlike full permits, registration (and standardized) permits *do not* contain LEA **terms and conditions**.
- Unlike full and standardized permits, registration permits are **not submitted to, or concurred by, the Board** prior to LEA issuance.
- The processing **time lines** are shorter than a full or standardized permit.
- Less information is required with the application.
- A *new* permit is issued if any changes are proposed. Registration permits cannot be "revised" like a full permit. Also, the RFI amendment process does not apply to the registration tier.

The [Permit Tier/Task Chart](#) illustrates other major differences between the full, standardized, registration, and notification tiers. See Appendix S of this manual.

E. Resources

- [Title 14, Section 18104: Registration Permit Requirements](#)
- [Registration Permit Application Form](#) (Word 6.0/95, 19 KB)
- [Registration Permit Form](#) (Word 6.0/95, 15 KB)
- [Permit Tier/Task Chart](#) (Which types of permits require which types of documentation?)
- [Permit Tier Placement Chart](#) (Which types of facilities require which type of permit?)
- [LEA Advisory No. 39: Issuance of Multiple \(Tiered\) Permits](#)

Reference: [Permit Toolbox Registration Page](#)

V. STANDARDIZED PERMIT PROCESS

A. What is a standardized permit?

Until the Board's [tiered regulatory structure](#) became effective in 1994, there was a "one-size-fits-all" permit applied to all facilities. There are now five tiers, including the standardized tier which provides a higher level of review and oversight than the other tiers but not as much as the full permit. Permit tiers include:

- [Full](#)
- Standardized
- [Registration](#)
- [Notification](#)
- Excluded

B. Types of facilities required to obtain a standardized permit:

Only 2 types of facilities now qualify for the standardized tier:

- [Contaminated Soil Disposal Facilities](#)
- [Nonhazardous Ash Disposal/Monofill Facilities](#)

Effective April 4, 2003, there are no longer any compost facilities in the standardized permit tier. [Title 14, Section 17855.4](#) describes the process and time-lines for operators with pre-existing standardized permits to apply for the proper tier.

Scroll down the fourth column of [Permit Tier Placement Chart](#) for a full list of facilities that qualify for the standardized tier.

C. Standardized permit application processing requirements

- The [standardized permit requirements](#) are described in Title 14, California Code of Regulations, Section 18105.

D. Permit requirements unique to the standardized permit tier

- Unlike full permits, the standardized permit application process is described in [Title 14](#), rather than [Title 27](#).
- Unlike full permits, Standardized Permits *do not* contain LEA **terms and conditions**.
- The processing **timelines** are shorter than a full permit.
- Less information is required with the application.
- The [Tier/Task Chart](#) illustrates the major differences between the full, standardized, registration, and notification tiers.

E. Resources

- [Title 14, Section 18105 - Standardized Permit Requirements](#)
- [Standardized Permit Application Form](#) (Word 6.0/95, 27 KB) See Appendix T of this manual.
- [Standardized Composting Solid Waste Facility Permit](#) (Word 6.0/95, 20 KB) See Appendix U of this manual.
- [Standardized Nonhazardous Ash Solid Waste Facility Permit](#) (Title 14) See Appendix V of this manual.
- [Standardized Contaminated Soil Solid Waste Facilities Permit](#) (Title 14) See Appendix W of this manual.
- [Permit Application Review Chart](#) (A tool that lets you compare site parameters in the various elements of the permit package)
- [Permit Tier/Task Chart](#) (Which types of permits require which types of documentation?)
- [Permit Tier Placement Chart](#) (Which types of facilities require which type of permit?)
- [LEA Advisory No. 39](#) - Issuance of Multiple (Tiered) Permits
-

Reference: [Permit Toolbox Standardized Page](#)

VI. FULL PERMIT PROCESS

A. What is a full permit?

[Public Resources Code \(PRC\), Sections 44001 and 44002](#), state that

- "...no person shall operate a solid waste facility without a solid waste facilities permit..."
- "...any person who proposes to become an operator of a solid waste facility shall file with the enforcement agency having jurisdiction over the facility, or the board if there is no designated and certified enforcement agency, an application for a solid waste facilities permit..."

"Solid Waste Facility" includes a solid waste transfer or processing station, a composting facility, a transformation facility, and a disposal facility. [Section 40194 of the PRC \(Definitions\)](#)

Until the Board's [tiered regulatory structure](#) became effective in 1994, there was a "one-size-fits-all" permit applied to all facilities. There are now five tiers, including the original "full" tier, which provides the greatest level of review and oversight. Permit tiers include:

- Full
- [Standardized](#)
- [Registration](#)
- [Notification](#)
- Excluded

B. Types of facilities required to obtain a full permit

The following types of facilities are currently required to obtain a **full** solid waste facilities permit prior to commencing operations:

- [Solid waste landfills](#)
- All compost facilities with feedstock other than green material ([Title 14, Section 17854](#))
- [Green Material Composting Facilities](#) with more than 12,500 cubic yards of feedstock, compost, or chipped and ground material on-site at any one time ([Title 14, Section Section 17857.1](#))
- Chipping and Grinding Operations handling more than 500 tons per day ([Title 14, Section 17862.1](#))
- [Large volume transfer/processing facilities](#) (Title 14, Section 17403.7) receiving 100 tons or more of solid waste per operating day.
- Transformation (a.k.a. "waste to energy" or "co-generation") means incineration, pyrolysis, distillation, or biological conversion of mixed municipal waste (including biosolids). "Transformation" does not include composting, gasification, or biomass conversion ([PRC Section 40201](#)).
- Certain large volume [construction and demolition/inert debris facilities](#).

See the [Tiered Regulatory Placement Chart](#) for a comprehensive list of facilities and operations that have been slotted into the permit tiers.

C. Full permit application processing requirements

The process and timelines for processing a full solid waste facility permit (SWFP) are described in:

- Public Resources Code (PRC) [Sections 44001 - 44018](#) and
- California Code of Regulations (CCR), [Title 27, Chapter 4, Subchapter 3](#).

Reference: [Permit Toolbox Full Permit Page](#)

D. Full Permit Process Flowchart

(FYI – This chart is being updated to include the AB 1497 requirements and timelines.)

This flow chart (originally presented at the Board's [August 2000 Permit Workshop](#)) illustrates the process of obtaining a new or revised [full permit](#) as required by Title 27 the California Code of Regulations, [Section 21570](#), [Section 21650](#), and [Section 21685](#).

Note: The following chart has not yet been updated to reflect the [AB 1497](#) requirements for an LEA public hearing prior to accepting an application for a revised full permit or the change from 30 to 60 in the number of days the LEA has to make a determination for a revised permit.

A

Process For A Full Solid Waste Facility Permit California Code of Regulations Title 27

Applicant Filing Requirements - 21570

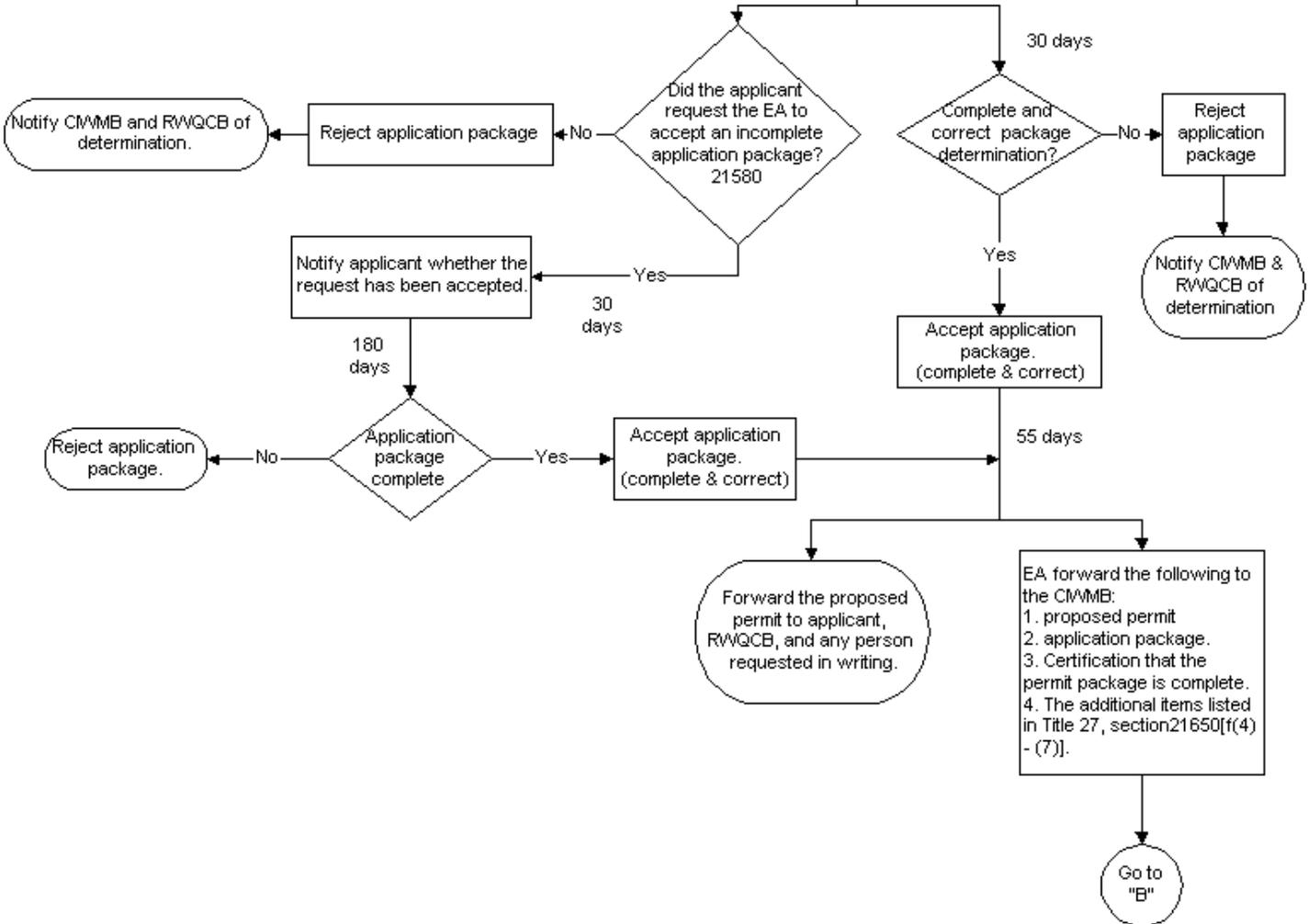
One copy of the application form to the Regional Water Quality Control Board (RWQCB) & if a disposal site a copy of the Joint Technical Document (JTD).

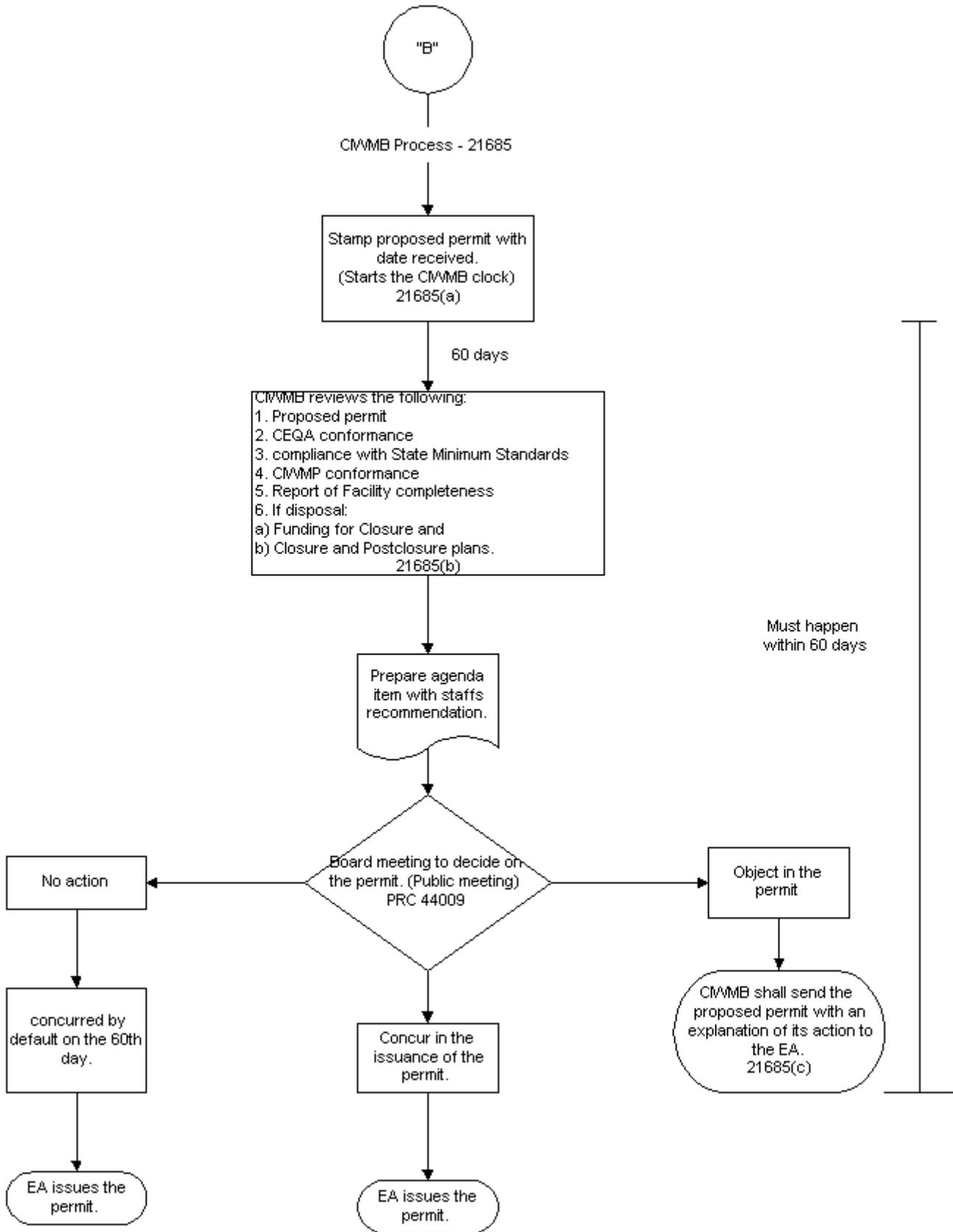
Submit a complete application package in duplicates to the EA for a new or revised Solid Waste Facility Permit (SWFP).
Title 27, section 21570

Enforcement Agency (EA) Processing Requirements - 21650

Stamp application package with date received.
(Starts the clock)

EA checks the package to determine whether it meets the requirements of T27 21570. (Complete Application Package)





E. Operator and Applicant Filing Requirements

[Title 27, Section 21570](#) identifies the requirements for preparing and submitting a [complete and correct](#) application for a full permit, which initiates the process of obtaining or revising a permit.

Also see the [Full Permit Application and Permit Package Checklist](#) ("The Laundry List") in Appendix X of this manual. The [Solid Waste Facility Permit Application](#) (Excel 5.0, 38 KB) and [Instructions for Completion](#) (MS Word, 22 KB) are available on-line and in Appendix Y of this manual.

This section summarizes the application package submittal requirements of the applicant/operator. A [complete and correct](#) application package shall include, but not necessarily be limited to, the following items:

1. [Joint Application Form](#) (Excel 5.0, 38 KB) The completed application form and package must be submitted in duplicate to the [Local Enforcement Agency](#) (LEA). One copy of the form must also be submitted to [Regional Water Quality Control Board](#) (RWQCB).
2. [Report of Facility Information \(RFI\)](#) In the case of disposal sites, this will be a Report of Disposal Site Information (RDSI) or a RDSI in the format of a Joint Technical Document (JTD) with a copy submitted to the RWQCB. [[More..](#)]
3. [CEQA Information](#) The application package must include evidence that there has been compliance with the California Environmental Quality Act (CEQA); or information on the status of compliance with CEQA, including the proposed project description; and any CEQA Mitigation Monitoring Implementation Schedule. [[More..](#)]
4. [Conformance Finding Information](#) Include a statement that the facility is identified in either the countywide siting element (SE), the nondisposal facility element (NDFE), or in the Source Reduction and Recycling Element (SRRE) for the jurisdiction in which it is located; or, that the facility is not required to be identified in the Integrated Waste Management Plan (IWMP) pursuant to Public Resources Code section 50001 [[More..](#)]
5. **Complete Closure Plan** For disposal sites, completeness determination of Preliminary or Final Closure/Postclosure Maintenance Plan as specified in sections [21780](#), [21865](#), and [21890](#) must be included.
6. [Financial Assurance Information](#) For disposal sites, include current documentation of acceptable funding levels for the approved Financial Assurance Mechanism. [[More..](#)]
7. [Operating Liability Information](#) For disposal sites, include current documentation of compliance with operating liability requirements. [[More..](#)]
8. **Land Use and/or Conditional Use Permits** Include any applicable local permits.
9. **Owner/Operator Certification** 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 LEA/EA.

F. Local Enforcement Agency (LEA) Processing Requirements

[Title 27, Section 21650](#) identifies the responsibilities of the LEA for receipt and review of the [complete and correct](#) application, and for writing and issuing the permit.

Also see the [LEA Full Permit Tasks and Timelines Table](#) below and LEA Advisory 57, [Guidance on Writing a Solid Waste Facility Permit](#). A [Solid Waste Facility Permit](#) (MS Word, 90 KB) template/form is available for use by LEAs.

LEA Full Permit Process and Timelines

This table illustrates the general tasks and timelines for LEA processing of a [full permit](#). Each task is linked to more detailed instructions, resources, and tools. **Note:** Please refer to the entire text of [Title 27, Chapter 4, Subchapter 3, Article 3](#) when using this table.

LEA Full Permit Process Tasks	Time Lines (Calendar Days)	
<ul style="list-style-type: none"> Provide guidance to applicant and local planning agencies on permit process, local land use permits, and CEQA. 	Prior to application	
<ul style="list-style-type: none"> Receive permit application package from operator. 	60 Days for Revised Permits Only (Changed from 30 days per AB 1497) 30 Days for New Permits Title 27 Section 21650(b)	
<ul style="list-style-type: none"> Review application package for completeness and correctness. 		
<ul style="list-style-type: none"> NEW Hold public hearing per AB 1497 for revised permits only. 		
<ul style="list-style-type: none"> Accept for filing or reject application package; or Accept application as incomplete Title 27 Section 21650(e). 		
<ul style="list-style-type: none"> Write proposed permit (may also submit draft permit for Board review). Submit proposed (unsigned) permit and accepted application package to Board. 	55 days Title 27 Section 21650(f)	120 days PRC Section 44008
<ul style="list-style-type: none"> Assist board staff with agenda item. Attend board briefing and board meeting. 	Board has 60 days to concur or object PRC Section 44009 .	
<ul style="list-style-type: none"> Issue (not more than 120 days from filing but not less than 65 days after submittal to Board) or deny permit. PRC Section 44007 		
<ul style="list-style-type: none"> Submit copy of signed issued permit to Board. 		
<ul style="list-style-type: none"> Enforce terms and conditions of permit. 	Until permit is revoked or site is closed.	
<ul style="list-style-type: none"> Review amendments to RFI. 	As changes occur or are proposed at the facility.	
<ul style="list-style-type: none"> Review permit. 	At least once every 5 years after issuance until closure.	

Effective January 1, 2004, [AB 1497](#) requires enforcement agencies to hold a public hearing before making a determination on an application for a **revised** permit. This bill also extends from 30 to 60 the number of days the LEA has to determine whether an application package for a **revised** permit is complete and correct. The number of days that the LEA has to make a determination on a **new** permit remains at 30 days.

This section summarizes the proposed permit package submittal requirements of the LEA/EA. The LEA/EA shall either accept or reject the application package (above) within **60 days** of its receipt for **revised** permits and within **30 days** of receipt for **new** permits.

No later than **55 days** after the application package has been accepted and [filed](#), the LEA/EA shall mail the CIWMB the following per Title 27 [Section 21650](#).

- A copy of the proposed permit** More information on writing the propose permit is available in [LEA Advisory No. 57](#).
- The accepted permit application package** Include all applicable information submitted by the operator/applicant above.

3. **LEA/EA Certification** The LEA/EA must provide certification that the permit package is [complete and correct](#), including a statement that the [RFI](#) meets the requirements of
 - [27CCR §21600](#) (RDSI for landfills), or
 - [14CCR §18221.6](#) (Transfer/Processing Report), or
 - [14CCR §17863](#) (RCSI for compost facilities)
 - [More..](#)
4. **[Regional Water Quality Control Board \(RWQCB\) Information](#)** Provide documentation, if applicable, of the applicant's compliance with any RWQCB enforcement order or the status of the applicants WDRs, as described in [PRC section 44009](#).
5. **Public Comments** Provide any written public comments received on a pending application.

Note: Effective January 1, 2004, [AB 1497](#) requires enforcement agencies to hold a public hearing before making a determination on an application for a revised permit.
6. **[Permit Review Report](#)** Include a permit review report which has been prepared, pursuant to CCR section 21675, within the last five years. [\[More..\]](#)
7. **[LEA/EA CEQA Finding](#)** Provide a finding that the proposed permit is consistent with and is supported by existing CEQA analysis, or information regarding the progress toward CEQA compliance. [\[More..\]](#)

Note: "Laundry List " means: AB1220 full permit application package, California Code of Regulations (CCR), Title 27, Sections 21570 and 21650, Effective on July 18, 1997.

Reference: [Permit Toolbox "Laundry List"](#)

G. California Integrated Waste Management Board Processing Requirements

[Title 27, Section 21685](#) identifies the role of the Board for final review and concurrence in, or objection to, the issuance of the permit.

H. Permit requirements unique to the full permit tier

- The full permit application process is described in **Title 27** of the California Code of Regulations (CCR) rather than Title 14 for other tiers.
- Full permits contain site-specific LEA (or EA) **terms and conditions** (rather than standardized conditions for other tiers).
- [The application submittal package](#) ("laundry list") requires more information.
- The review/processing **timelines** are longer.
- The LEA is required to notify the operator when the 5-year permit review is due (the Board sends the notification for other tiers).

The [Permit Task/Tiers Chart](#) below illustrates the major differences between the full, standardized, registration, and notification permit tiers.

Permit Tasks and Tiers Chart

Use this chart to determine which permit process tasks and permit application elements apply to each regulatory tier. Also see the [Permit Tier Placement Chart](#) which shows the types of facilities and operations that are slotted into each type of permit tier.

Note: This page has been updated to reflect Assembly Bill 1497 (effective on January 1, 2004). See the [all-LEA e-mail](#) providing interim guidance on implementing the provisions of [AB 1479](#).

Operator Permit Tasks and Application Elements	Regulatory Permit Tier			
	Full Title 27, Section 21570	Standardized Title 14, Section 18105	Registration Title 14, Section 18104	Notification Title 14, Section 18103
Prepare and Submit Application for New or Revised Permit	Yes, 150 days prior to operation or changes.	Yes	Yes	Notify LEA
Application Form	Yes	Yes	Yes	Notify LEA
RFI	Yes	Yes	Yes	No. An operations plan or OIMP are required for some operations.
CEQA Information	Yes	Yes	No (may be required by local agency)	No (may be required by local agency)
Conformance Finding	Yes (Unless the facility is a transfer station which recovers less than 5% of the volume of materials received for reuse or recycling)	Yes (There are no transfer stations in the standardized tier)	Yes (Unless the facility is a transfer station which recovers less than 5% of the volume of materials received for reuse or recycling)	No. (Must provide evidence that local planning department was notified)
CUP	Yes	No (may be required by local agency)	No (may be required by local agency)	No (may be required by local agency)
Complete Closure Plan	Yes, for Landfill	No	No	No
Financial Assurance	Yes, for Landfill	No	No	No
Operating Liability	Yes, for Landfill	No	No	No
Owner/Operator Certification	Yes	Yes	Yes	No
Apply for 5-Year Permit Review	Yes, 150 days prior to due date.	No. Certify no changes or apply for new permit.	No. Certify no changes or apply for new permit.	N/A
LEA Permit Tasks and Application Elements	Full Title 27, Section 21650	Standardized Title 14, Section 18105	Registration Title 14, Section 18104	Notification Title 14, Section 18103
Provide guidance to applicant and local planning agencies on permit, local land use, and CEQA .	Yes.	Yes.	Yes.	Yes.
Review Permit at Least Every 5 Years from Date Issued	Yes. LEA notifies operator 150 days prior to due date.	Yes. CIWMB notifies LEA and operator 60 days prior.	Yes. CIWMB notifies LEA and operator 60 days prior.	N/A
Permit Review Report	Yes	No (new permit is reissued every 5 years)	No (new permit is reissued every 5 years)	N/A
Process RFI Amendment	Yes, if certain findings can be made.	N/A. Must obtain new permit.	N/A. Must obtain new permit	N/A
Approve Change in Owner and/or Operator	Yes, if certain findings can be made.	New permit if operator change. Notify LEA if owner change.	New permit if operator change. Notify LEA if owner change.	N/A
Request Application for	Yes, if significant changes.	No. Operator must apply	No. Operator must apply	N/A. Notify LEA of

Revised Permit		for new permit if any changes.	for new permit if any changes.	changes.
Review Application Package	Yes	Yes	Yes. Review is limited. No discretionary action.	N/A
 LEA Public Hearing	Yes for revised permits. No for new permits.	Yes for Construction and Demolition/Inert Debris (CDI).		No
Accept or Reject Application	Yes, within 60 days for revised permits and within 30 days for new permits.	Yes, within 30 days.	Yes, within 30 days.	N/A
Pre-Permit Inspection	Yes. Board/LEA	Yes. Board/LEA	As needed by LEA.	N/A
Write Permit	Yes, with terms and conditions.	No. Permit is in the regulations.	No. Permit is in the regulations.	No
Submit Permit Package to Board	Yes, within 55 days of acceptance of application.	Yes, within 15 days of acceptance of application.	No. Issue permit within 5 days of acceptance of application.	N/A. Submit notification within 5 days of receipt.
Accepted Permit Package	Yes	Yes	No	N/A
LEA Certification	Yes	No	No	No
LEA CEQA Finding	Yes	Yes	No	No
RWQCB Information	Yes, if RWQCB enforcement action against landfill.	No	No	No
Permit Review Report	Yes	No	No	N/A
Public Hearing	Yes	Yes for CDI sites	Yes for CDI sites	No
Public Comments	Yes	Yes	Yes	No
Attend Board Meeting	Yes	Yes	N/A	N/A
Issue (or Deny) Permit	Yes, after Board hearing. Board has 60 days to act.	Yes, after Board hearing. Board has 30 days to act.	Yes, without Board concurrence.	N/A
Enforce Permit	Yes. Monthly inspections.	Yes. Monthly inspections.	Yes. Monthly inspections.	Quarterly inspections.
Board Permit Tasks and Application Elements	Full Title 27, Section 21685	Standardized Title 14, Section 18105	Registration Title 14, Section 18104	Notification Title 14, Section 18103
Provide guidance to applicant and local planning agencies on permit, local land use, and CEQA .	Yes.	Yes.	Yes.	Yes.
Review Permit Package	Yes	Yes	No	N/A
Prepermit Inspection	Yes	Yes	No	No
Submit Title and Write Agenda Item	Yes, approximately 30 days prior to Board meeting.	Yes, approximately 30 days prior to Board meeting.	No	N/A

Concur or Object to Permit	Yes, within 60 days of receipt of proposed permit.	Yes, within 30 days of receipt of proposed permit.	No	No
Maintain Solid Waste Information System (SWIS) Database	Yes.	Yes.	Yes.	Yes.

Note: All references to a time period of "days" means "calendar days".

Also see the [Permit Tier Placement Chart](#) which shows the types of facilities and operations that are slotted into each type of permit tier.

I. Resources

- [Full permit application and permit submittal checklist](#) ("laundry list")
- [Full permit LEA tasks and timelines](#)
- [Full permit process flowchart](#)
- [Solid Waste Facility Permit Application](#) (Excel 5.0, 38 KB) and [Instructions for Completion](#) (MS Word, 22 KB)
- [Solid Waste Facility Permit](#) (MS Word, 90 KB) Template/Form
- [Permit Application Review Chart](#) (A tool that lets you compare site parameters in the various elements of the permit package)
- [Examples of issued permits](#)
- [Who Needs a Permit](#) (Fact Sheet)
- [Permit Tier/Task Chart](#) (Which types of permits require which types of documentation?)
- [Permit Tier Placement Chart](#) (Which types of facilities require which type of permit?)
- [List of other local, state, or federal agencies](#) which may regulate solid waste facilities.
- LEA Advisory 57: [Guidance on Writing a Solid Waste Facility Permit](#)

Reference: [Permit Toolbox Full Permit Page](#)

VII. PUBLIC PARTICIPATION TOOLS

In January 2004, the mandates of Assembly Bill 1497 (Chapter 823, Statutes 2003) became effective. The provisions found in AB 1497 were summarized in a [letter to all LEAs](#) from Howard Levenson, Deputy Director of Permitting and Enforcement. Presently, the Board is considering the feasibility and particulars of pursuing a regulation package to address the various components delineated in AB 1497.

In the interim, the following guidance has been developed to assist LEAs with the public hearing component of AB 1497. It provides examples from some LEAs with regard to their public hearing efforts. There are samples of public notices for public hearings and checklists for conducting a public meeting. These can be found at the CIWMB web page. Also, an AB1497 Public Hearing Process Summary can be found in Appendix Z of this manual.

- [Sample Public Hearing Notices](#): Includes samples from the Orange County and San Diego County Local Enforcement Agencies
- **Orange County Public Meeting Checklist:** ([Word](#), 375 KB or [PDF](#), 109 KB) Includes information on preparing for a public meeting. Also includes information on content and delivery of presentation.
- [Equipment and Supplies Checklist:](#) ([Excel](#), 24 KB or [PDF](#), 9 KB) Sample checklist of necessary equipment and supplies that may be needed during a public meeting.
- [Legislation Implementation Guidance:](#) The guidance includes suggested procedures, problem solving approaches, and scientific methods.

Reference: [LEA Central Public Hearing Tools](#)

Frequently Asked Questions: AB 1497 (Chapter 823, Statutes of 2003)

Chapter 823, Statutes of 2003 ([AB 1497](#), Montanez) as explained in a [November 5, 2003, all LEA message](#), became effective January 1, 2004. The bill added Public Resources Code section 43501.5, and amended sections 44004 and 45011.

The responses to the following frequently asked questions are based on CIWMB staff's interpretation of statute. The responses are intended to serve as guidance for the implementation of statute until the CIWMB can promulgate regulations. The guidance is not enforceable in the same manner as regulations because the CIWMB has not adopted it through the formal rulemaking process. CIWMB staff welcome the continued dialogue on additional questions and potential responses.

Labor Transition Plan

Question 1: Must the operator include provisions for independent contractors in the Labor Transition Plan [PRC 43501.5]?

Answer 1: Labor law is not an area in which CIWMB has expertise. Please consult with your legal counsel regarding how to carry out AB 1497's requirements for Labor Transition Plans. In response to this question, however, note that "independent contractors" are distinguished from "employees." While there are several characteristics that differentiate them, the primary distinction is that employers have the right to control what their employees do and how they do it, whereas employers only control the results of the work their independent contractors do, not the means by which they do it.

Note: Additional guidance related to the Labor Transition Plan requirements is available on the [Local Enforcement Agency Correspondence](#) web page.

Public Hearing

The bill requires enforcement agencies (EAs) to make a determination on an application for a revised permit and hold a public hearing within 60 days of receipt of the application [PRC 44004(h)(1)(A)].

Question 2a: If an EA received an application prior to 1/1/04 but deemed it complete and correct after 1/1/04, is a hearing required?

Answer 2a: Yes, a hearing is required if an EA received an application prior to 1/1/04 but deemed it complete and correct after that date.

Question 2b: Is the 60-day timeline measured from the date of first receipt of an application or from the date the EA determines the application is complete and correct?

Answer 2b: The enactment of AB 1497 created some inconsistencies between statute and regulation that CIWMB will attempt to resolve through regulatory changes. The initial informal rulemaking process including public hearing will begin in 2004.

In the interim, it is CIWMB staff's view that the 60-day timeline is measured from the date the EA receives the permit application. During those 60 days, the EA has 30 days to determine if the application is complete and correct [27 CCR § 21650(b); see also 27 CCR § 21570(f)]. If the application is complete and correct, the EA must conduct its preliminary evaluation leading to its proposed determination as to whether a permit revision is required, whether the proposed revision would comply with state law and whether CEQA analysis must be conducted before making such a decision [PRC § 44004(d)]. The EA then has (at least) the remaining 30 days of the 60-day period to hold a public hearing on its tentative decision [PRC 44004(h)(1)(A)]. If the application is not complete and correct, the EA must reject it within 30 days and so notify the operator [27 CCR §§ 21650(b), (d)] or accept the application as incomplete [27 CCR § 21650(e)].

Question 2c: If an application is deemed incomplete, and the EA accepts the incomplete application, when must a hearing be scheduled?

Answer 2c: By accepting an incomplete application the EA can allow up to 180 days for the applicant to provide a complete application. By regulation, when the EA accepts an incomplete application, the operator must waive the time limit set in PRC § 44009 and has 180 days to submit a complete and correct application [27 CCR § 21650(e)]. Once the application is determined to be complete, the permit processing timeframes are started at the point in the normal process where the EA files the complete and correct application. That triggers the requirement to hold the public hearing within 30 days from the determination that the package is complete and correct.

Question 2d: Does the statute intend for this public hearing to have the same meaning as a hearing set for a California Environmental Quality Act (CEQA) document?

Answer 2d: CEQA does not require any public hearings, although the CEQA Guidelines recommend public hearings on CEQA documents [14 CCR § 15202]. Typically, however, a project that is subject to CEQA will be considered in a public hearing.

For the purpose of this question, CIWMB staff assumes that the questioner means to ask whether AB 1497's public hearing intends the same functional purpose as a public hearing held by a public agency before approving a project, such as a land use entitlement. It is CIWMB staff's view that the statute does not establish a relationship between the AB 1497 hearing and the CEQA process other than indicating that the purpose of the hearing is to make public the preliminary determination of the action to be taken by the EA on the application package. Thus, the EA should present its proposed determination to the public in the hearing, along with its rationale for its determination and should allow for public comment on the determination and the project. It is important to note that this preliminary determination does include determining whether CEQA review is required prior to making the final determination.

Question 2e: If an operator submits an application for a revised permit and the Conditional Use Permit (CUP) still needs a hearing for the same issues, could the EA accept the application as incomplete and hold one hearing for both the CUP and AB 1497?

Answer 2e: Yes. If the meeting is noticed according to the requirements in the statute and the EA is part of the hearing, (i.e. it is clear in the notice and at the hearing that the EA is part of the meeting, that the EA is able to indicate what the preliminary determination is on the application at the meeting, and the EA is available for questions and answers), then the hearing should meet the requirements for both the CUP and AB 1497. Depending on timing, note that it may not be necessary to accept the application as incomplete.

Question 2f: Will the EA be required to respond to the questions or issues raised by the people attending the hearing? If yes, will the EA have to respond to all attendees or just those within the area surrounding the subject property?

Answer 2f: CIWMB staff believes that the EA should be responsive to questions and note issues raised by anyone attending the hearing. However, AB 1497 does not require any specific response by the EA. The EA should attempt to conduct the hearing when the applicant and affected stakeholders can attend as well.

Question 2g: In what format would the CIWMB staff require these responses (see "f" above) to be in and would they need to be forwarded to the CIWMB staff for comment as well?

Answer 2g: The CIWMB staff does not at this time require any formal response or require one to be sent to them. CIWMB staff will continue to encourage EAs to share information with their CIWMB staff counterpart.

Question 2h: I have a transfer facility requesting a revision of its permit. It is owned and operated by a local municipality under our jurisdiction. The local municipality is the Lead Agency on CEQA. They have submitted a Mitigated Negative Declaration to the various agencies as well as us, and we have sent them our comments. The municipality has not held a public hearing on the proposed Mitigated Negative Declaration. We have not received an application for revision of the permit. Would the public hearing that the municipality holds for CEQA satisfy our obligation to hold a hearing under AB 1497?

Answer 2h: The subject of the AB 1497 hearing is the EA's preliminary determination relative to a permit revision application (see PRC 44004(d)). If an application has not been received, the EA would not be able to make a preliminary determination, and would not be able to discuss with the public the basis for its preliminary determination, so holding a hearing would not be of full benefit to the community. A hearing prior to submittal of an application does not follow the steps outlined in the statute. The EA should consider fully participating in the CEQA process, including commenting on the draft document and attending hearings conducted by the Lead Agency. The EA should consider making clear in their comments and testimony provided at hearings that the EA will hold a public hearing (pursuant to AB 1497) upon receipt of a permit revision application, process the permit revision application, and, if appropriate, issue a revised permit prior to the site operator making changes in design or operations.

Question 2i: Is the hearing required by AB 1497 covered by the Brown Act [open meetings]?

Answer 2i: Hearings conducted by a single person as EA are not subject to the Brown Act (covering local "legislative bodies" and their creations), as established by case law (Wilson v. SF Muni Ry, 29 Cal. App. 3d 870 (1973)), or the Bagley-Keene Open Meeting Act (covering "state bodies"), by statute (under section 11121 of the act, the term "state body" refers only to multi-member bodies).

CIWMB Comment on Proposed EA Determination

The statute states that before the EA makes its determination on an application for a revised permit, the EA shall submit the proposed determination to the CIWMB for comment [PRC 44004(h)(1)(A)].

Question 3a: At what point in the 60 days should this go to CIWMB staff for comment?

Answer 3a: The EA's determination on an application for a revised permit needs to be sent to CIWMB staff as soon as possible prior to the hearing to allow sufficient time for the CIWMB staff to provide comments, if it decides to do so.

Question 3b: Is this comment (see "a" above) before or after the public hearing?

Answer 3b: CIWMB staff will attempt to provide the EA with comments prior to or at the hearing, or prior to the need for the EA to make a formal determination regarding the permit application.

Question 3c: What influence does the comments by the CIWMB staff have on the determination?

Answer 3c: CIWMB staff comments will indicate staff's view of what an appropriate determination would be, if its view is different than that provided by the EA. The EA must weigh the degree of influence that this warrants in light of presenting the proposed permit to the CIWMB for concurrence.

Question 3d: If the CIWMB staff disagrees with the determination of the EA, who has the final authority to make the determination?

Answer 3d: The EA has authority to make its own determination. However, the determination, as with all actions or inactions by EAs, is subject to Board review upon consideration of concurrence in the issuance of the permit. PRC 43214(d)(6) gives the CIWMB broad authority to monitor actions of the EA and determine whether those actions are consistent with the PRC and regulations. Therefore, an inappropriate or inconsistent determination by an EA may result in the CIWMB requesting an evaluation of the EA based on the finding. CIWMB staff will continue to work alongside EAs to make every attempt to avoid these situations.

Question 3e: If the disagreement is with the CIWMB staff, what recourse does the EA have to appeal the decision of the CIWMB staff, since this is long before any documents go in front of the Board in a public hearing?

Answer 3e: Disagreements will be subject to further review and discussion between the EA and CIWMB staff. If a mutual resolution cannot be established at this level, the Permitting and Enforcement Division Deputy Director or CIWMB Executive Director could become involved to help the parties resolve disagreements and reach consensus. Such a process would be entirely informal and at the discretion of the Deputy Director and Executive Director. However, if the EA were ultimately found to not have completed the process as required by statute or regulation, the CIWMB could request an evaluation of the EA's performance of those duties.

"Significant Change" Regulations

Question 4: When will the Board have a definition of "significant change in the design or operation of the solid waste facility that is not authorized by the existing permit?" In the interim period, who has the authority to make this determination [PRC 44004(h)(2)(i)(1)]?

Answer 4: The initial informal rulemaking process including significant change will begin in 2004. Progress on the rulemaking can eventually be tracked on the [Proposed Regulations](#) page. In the interim, the EA makes the initial determination for significant change. CIWMB staff will continue to be available for consultation on the issue of significant change upon request of the EA.

Reference: [LEA Central Reg/Leg Implementation Page](#)

VIII. FIVE-YEAR PERMIT REVIEWS

This section describes the process for conducting the five-year permit review for a solid waste facility permit and provides [resources](#) for completing the review process. The process for reviewing full permits is different and separate from the process for reviewing standardized and registration permits.

- [Full Permit Review Process](#)
- [Standardized Permit Review Process](#)
- [Registration Permit Review Process](#)
- [Resources](#)

All issued solid waste facility permits, including full, standardized, and registration tiers, are required to be reviewed and, if necessary, revised at least once every five years [[Section 44015 of the Public Resources Code \(PRC\)](#)]. The Notification Tier is not a permit and, therefore is not required to meet this standard.

The purpose of the permit review is to document any changes in design and operation since the permit was issued, or since the permit was last revised or reviewed. The permit review should especially note any significant or unauthorized changes that are planned or have occurred at the facility.

A. Full Permit Review Process

1. Summary

- Local Enforcement Agency (LEA) notifies the operator of pending permit review.
- Operator submits application for permit review and other required documents.
- LEA reviews permit and relevant documentation.
- LEA submits permit review report and directives to operator and copies the CIWMB.

2. Regulatory Requirements

- The **operator** requirements are described in [Title 27, Section 21640](#).
- The **LEA** requirements are described in [Title 27, Section 21675](#).
- The statutory requirements are described in [Section 44015 of the Public Resources Code \(PRC\)](#).

3. LEA Notification

The **LEA** is required to notify the operator at least 180 days prior to the full permit review due date (about 6 months before the five-year anniversary of the permit issue date).

- See [LEA Advisory No. 24](#) for more information on when a Permit Review Report is due. (See Appendix AA of this manual.)
- The LEA can download a [sample notification letter](#) for use when notifying the operator. (See Appendix BB of this manual.)
- A copy of the [Solid Waste Facility Permit Application](#) (Excel 5.0, 38 KB) should be included with the notification letter.
- The notification letter should be copied to the Board's [Permitting and Inspection](#) Branch.

4. Operator Application

The operator is required to submit a [Solid Waste Facility Permit Application](#) (Excel 5.0, 38 KB) at least 150 days before the permit is due for review.

- See [LEA Advisory No. 24](#) for more information on when a Permit Review Report is due.
- The application for permit review shall be made in the manner specified in [Title 27, Section 21570](#) (operator filing requirements) and [Title 27, Section 21590](#) (RFI Requirements).
- Also see the "[Laundry List](#)" for a list of documents that may be required to be included with the full permit application form.

Finally, the application for permit review should:

- Identify the proposed changes in design and operation; and
- Include updated amendments to the Report of Facility Information (RFI); and
- For disposal sites only, include an estimate of the remaining site life and capacity.
- For disposal sites only, [Title 27, Section 21865](#) requires any amendments to the closure and postclosure maintenance plans to be submitted with the permit review.

5. LEA Review

The purpose of the permit review is to document any changes in design and operation since the permit was issued, or since the permit was last revised or reviewed. The permit review should especially note any significant or unauthorized changes that are planned or have occurred at the facility.

- [LEA Advisory No.21](#) contains guidance for documenting the LEA findings and conclusions in a Permit Review Report. (See Appendix CC of this manual.)
- A Full Permit Review Report Form ([Word 6.0/95, 51KB](#) or [PDF, 113 KB](#)) is available for use by the LEA. (See Appendix DD of this manual.)
- In addition to the permit, the LEA should review those items on the full permit "[Laundry List](#)", any other documents referenced by the permit, inspection reports, and other documents the LEA deems appropriate.
- Examples of completed [Permit Review Reports](#) are available for reference on the CIWMB web page.
- When completed, the Permit Review Report should be submitted to the operator.
- A copy of the permit review report shall be submitted to the CIWMB within 150 days of receipt of the application for permit review.
- Please take time to look at the list of [review questions](#) below to help with consideration of all potential changes in design and operation.

6. LEA Review Questions

The following review questions and considerations provide guidance for conducting a [5-year permit review report](#) for facilities that have been issued full permits. Many of these questions may not apply in every case.

a) Review of Compliance History

Objective: Determine whether specific permit terms or conditions have been effective in contributing to overall compliance. For example, if a permit contains a condition establishing specific litter control measures, and those measures have been implemented, yet there are still frequent citations or violations of the litter control standard, that condition is probably not effective and should be revised.

Permit

Are there any terms or conditions in the permit which specify design features, methods, or procedures directed toward compliance with State minimum standards or CEQA mitigation measures?

- Have they been implemented?
- What is the overall compliance history with respect to those standards for which there is a specific term or condition in the permit?
- Does the permit condition need to be revised or removed from the permit?

State Minimum Standards

- What is the overall compliance history with respect to State Minimum Standards?
- Is there a specific permit term or condition specifying design features, methods, or procedures to improve the level of compliance?
- Does the review of past violations or areas of concern indicate a need for additional permit terms and conditions, or monitoring requirements?

Complaints

- Does a review of the LEA's complaint log indicate a need for additional permit terms and conditions?

b) Review of Permits, Statutes, and Regulations

Objective: Determine whether terms and conditions are appropriate in light of changes in other permits, statutes, and/or regulations which may have occurred since the permit was issued or last revised. Determine whether terms or conditions have become obsolete as a result of the passage of time. It is also sometimes useful to look at older permit documents to make sure no changes were overlooked during a previous permit revision or review.

Permits

- Have there been any changes in any of the other permits applicable to the site since issuance or the last review or revision of the Solid Waste Facilities Permit (SWFP)?
- If so, do any of the changes in the terms or conditions of those permits conflict with any term or condition of the SWFP?
- Are there other activities operating under one of the regulatory tier permits that should be reflected in the SWFP?
- Does a review of LEA-approved RFI amendments indicate a need for new or revised terms and conditions?

Regulations

- Have there been any changes in federal, State, or local statutes, ordinances, or regulations since the issuance or the last review or revision of the SWFP?
- If so, do any of those changes conflict with or negate any of the terms or conditions of the SWFP, or necessitate the incorporation of additional terms or conditions into the SWFP?
- Are there any pre-AB1220 conditions (such as RWQCB or AQMD requirements) that need to be removed from the permit?

Terms and conditions

- Are there any terms or conditions containing action dates which have passed?
- Have those conditions been satisfactorily met?
- Should the dates be revised or the condition removed from the permit?
- If there are violations of the terms and conditions, has a notice and order been issued to the operator?

c) Review of Application Package Conditioning Documents

Objective: Based on a review of the documents of the [Full Permit Application and Permit Package Checklist](#) ("The Laundry List"), determine whether any other changes in design or operation might need to be incorporated into a revised permit?

d) Review of Service Area Characteristics

Objective: Determine whether the terms and conditions of the permit are appropriate in light of changes in surrounding land uses, waste stream characteristics, waste collection and transport systems, service area boundaries, etc. Have such changes resulted in conditions which increase the potential occurrence of any of the environmental impacts which were considered at the time the permit was issued or last revised, thereby requiring additional conditions to mitigate those potential impacts.

Surrounding land use

- Have there been any changes in land use or land use zoning of properties adjacent to the facility since the permit was issued, or since the last time the permit was revised or reviewed?
- If so, are the new uses more susceptible to environmental impacts or susceptible to different kinds of environmental impacts than the previous uses?
- Are additional terms or conditions needed to implement mitigation measures identified as becoming necessary if, and when, anticipated changes in surrounding land uses occurred?

Waste stream

- Have there been any changes in the characteristics of the waste stream handled by the facility?
- If so, is there a need to incorporate special handling provisions for any wastes into the permit conditions to prevent health, safety, or environmental impacts?

Waste collection

- Have there been any changes in the waste collection and transport systems utilized in the facility service area?
- If so, do such changes result in an increase in the number of vehicles using the site?
- Has there been an increase in recycling and diversion activities that should be reflected in the SWFP?

Service area boundaries

- Has there been a change in service area boundaries since the permit was issued or was last revised or reviewed?
- Have the city limits of any cities within the service area expanded through annexation?
- Have new cities been incorporated, and added to or removed from the service area?
- Have new areas been added to or removed from the service area?
- Could the service area changes impact the types or amounts of waste accepted?

Contracts and franchises

- Have new areas been added to or removed from the service area through changes in contracts, franchises, or other agreements, or as a result of the closure of some other facility?
- Do the new service area boundaries result in new or increased potential for direct or indirect environmental impacts associated with the operation of the facility?
- Are additional terms or conditions needed to ensure needed mitigation measures are implemented?
- Has there been a change in operator or land owner as a result?

Waste generation

- Have waste generation rates changed within the facility's service area since the issuance or the last revision or review of the permit?
- Were projections of future waste delivery rates to the facility considered at the time of permit issuance or the last revision of the permit?
- What is the maximum waste delivery rate which is specifically identified in those projections?
- Has the waste delivery rate to the facility exceeded the maximum rate permitted?

e) Review of Anticipated Future Events

Objectives: Determine whether changes in facility design or operation, statutes or regulations, surrounding land uses, waste generation rates, waste stream characteristics, waste collection and transport systems, or service area boundaries—which can be reasonably anticipated to occur in the next five years—are likely to increase the potential for environmental impacts beyond that which was considered when the permit was issued.

Design or operation

- Does the operator propose to make any changes in the facility design or operation during the next five years which would be in conflict with any of the permit specifications, or which have the potential to increase the likelihood or magnitude of potential environmental impacts?

Facility closures

- Are there likely to be any facility closures during the next five years which would result in a change in the size of the service area, or the volume of waste delivered to the facility under review?

Future waste generation

- Using current waste projection estimates, is the amount of waste anticipated during the next five year period likely to exceed the maximum amount considered for acceptance at the time the permit was issued or revised?

Adjacent land use

- Are there any anticipated changes in land use adjacent to the facility which are likely to result in the need for permit terms or conditions to prevent or mitigate potential environmental impacts?

Regulations packets

- Are there any regulations being developed, or recently adopted but not yet effective, which are likely to require changes in the terms or conditions of the permit in the next five years?

7. LEA Conclusions and Directives to Operator

Depending on the LEA's findings and conclusions, there are four possible directives that can be given to the operator/applicant:

LEA Conclusion(s)	Directives to Operator
Minor changes in design and operation that meet the findings of Title 27 Section 21665(c) .	Submit an application for a RFI amendment (Excel 5.0, 38 KB)
Change in operator or land owner.	Submit owner/operator change notification as specified by Title 27 Section 21630 and LEA Advisory No. 47 .
Significant changes in design or operation, or other changes that can not be addressed through an RFI amendment – Title 27 Section 21665(c) .	<ul style="list-style-type: none"> • Submit an application for a revised permit (Excel 5.0, 38 KB). • Conduct initial study to determine if additional CEQA is necessary. • Submit new or amended closure plan per Title 27, Section 21875. • Prepare _____ and _____ process a full permit.
No changes in design or operation; changes in the terms and conditions are not necessary.	LEA can reissue permit with a new cover page as described in LEA Advisory No. 52 .
Examples of completed Permit Review Reports are available for reference.	

8. Board Tracking

The Board maintains permit review information in its facility files and Solid Waste Information System (SWIS) database, including: notification date, application date, LEA receipt date, LEA determination, and Board receipt date.

The Board will send the LEA a verification of receipt letter when these documents are received.

B. Standardized and Registration Permit Review Process

1. Summary

- Integrated Waste Management Board (Board) notifies the operator of pending permit review.
- Operator submits "certification of no change" or application for new permit.
- LEA reviews documentation and processes new permit.

2. Regulatory Requirements

- For standardized permits, the requirements are described in [Title 14, Section 18105.9](#).
- For registration permits, the requirements are described in [Title 14, Section 18104.7](#).
- The [permit review chart](#) below also documents the process for standardized permits. The process for registration permits is very similar.

3. Board Notification

The **Board** is required to notify the operator at least 60 days before the registration or standardized permit is due for review (about 2 month before the 5 year anniversary of the permit issue date).

- Standardized Permit Notification Letter ([Word 97/2000, 150 KB](#)) (See Appendix EE of this manual.)

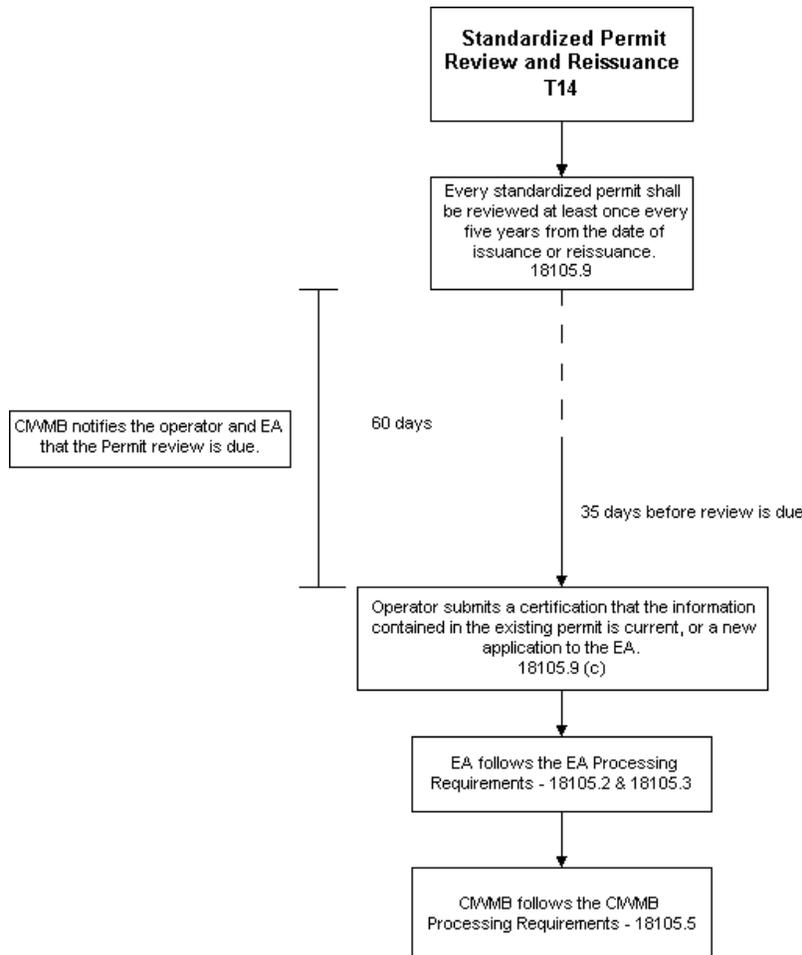
- Registration Permit Notification Letter ([Word 97/2000, 150 KB](#)) (See Appendix FF of this manual.)
- A copy of the [standardized permit application](#) (Word 6.0/95, 27 KB) or the [registration permit application](#) (Word 6.0/95, 19 KB) should be included with the notification letter.
- The notification letter should be copied to the [LEA](#).

4. Operator Application

Depending on the status of the site, the operator shall submit one of the following documents 35 days prior to the permit review due date:

No changes in design or operation:	Any changes in design or operation:
The operator submits a certification of no change to the LEA.	The operator submits a new application to the LEA.
Either submittal will result in the LEA processing and issuing a new standardized permit or a new registration permit . The standardized permit will need to be submitted to the Board for review and concurrence.	

5-Year Permit Review Process Chart for Standardized Permits



5. LEA Review

The LEA will use the new application, or the certification that the facility information has not changed, to process and issue a [new standardized permit](#) or a [new registration permit](#). The standardized permit will need to be submitted to the Board for review and concurrence.

6. Board Tracking

The Board maintains permit review information in the Solid Waste Information System (SWIS) database, including: notification date, application date, LEA receipt date, LEA determination, and Board receipt date.

7. Resources

- Statute requiring permits to be reviewed: [Section 44015 of the Public Resources Code \(PRC\)](#)
- [Title 27, Section 21640](#) - Review of Permits
- [Full Permit Sample Notification Letter](#)
- Standardized Permit Sample Notification Letter ([Word 97/2000, 150 KB](#))
- Registration Permit Sample Notification Letter ([Word 97/2000, 150 KB](#))
- Full Permit Review Report Form ([Word 6.0/95, 51KB](#) or [PDF, 113 KB](#))
- [Full permit application for a permit review, RFI amendment, or revised permit](#) (Excel 5.0, 38 KB).
- [Standardized permit application](#) (Word 6.0/95, 27 KB)
- [Registration permit application](#) (Word 6.0/95, 19 KB)
- [Standardized Permit Review Chart](#)
- Examples of completed [Permit Review Reports](#)
- [Processing a Full Permit](#)
- [Processing a Standardized Permit](#)
- [Processing a Registration Permit](#)
- [LEA Advisory No. 47](#)
- [LEA Advisory No. 52](#)
- [Review questions](#) for completing a permit review report.

Reference: [Permit Toolbox PRR Page](#)

IX. CEQA REQUIREMENTS FOR OBTAINING A PERMIT

For a [project](#) subject to the California Environmental Quality Act (CEQA), state law requires evidence of compliance with the CEQA; either through the preparation, circulation, and adoption/certification of an environmental document; or by determining that the proposal is categorically or statutorily exempt prior to project approval.

This section provides [CEQA resources](#) for submitting, reviewing, and processing a new or revised solid waste facility permit. This is not intended to provide guidance for lead agencies on the preparation of CEQA documents.

- [Which permit tiers require CEQA compliance?](#)
- [Operator application filing requirements](#)
- [LEA review and findings](#)
- [Board review and findings](#)
- [Resources](#) (regulations, advisories, tools, forms, and links)

Please call or e-mail Environmental Review ([ERS staff](#)) if you have any questions about the CEQA process.

A. Which permit tiers require CEQA compliance?

- Full: [Title 27, 21570\(f\)\(3\), \(4\)](#)
- Standardized: [Title 14, Section 18105.1\(f\)](#)

Although the registration tier currently does not require the applicant to submit evidence of CEQA compliance, CEQA compliance may be required through a permit or approval by a responsible or lead agency. Please note that Board staff are reviewing the CEQA requirements for registration permits and may change this regulation in the future.

B. Operator permit application filing requirements

For a full or standardized permit, the operator is required to submit the following CEQA information with the [complete and correct](#) permit application:

- Evidence of CEQA compliance; or
- Information on the status of CEQA compliance; including
- The proposed project description; and
- Any CEQA mitigation monitoring implementation schedules.

C. Status Reports

While a status report may be adequate for submittal of the application, evidence of CEQA compliance is required prior to Board concurrence in order to obtain a full or standardized permit.

Lack of CEQA compliance is not a reason for finding an application incomplete or incorrect.

However, utilizing [Section 15111](#) of the CEQA Guidelines, an application would not be received ("[accepted for filing](#)") by the LEA under the permitting statute or ordinance until such time as progress toward completing the environmental documentation required by CEQA is sufficient to enable an LEA to complete the permit process. Thus the permit review timelines are halted until CEQA is sufficiently completed.

Once CEQA compliance has been achieved, evidence of compliance shall be submitted to the enforcement agency.

D. Evidence of Compliance

The following are examples of environmental documents that may be submitted to demonstrate evidence of CEQA compliance or status towards compliance:

- Initial Study
- Environmental Impact Report (EIR), Draft (DEIR), or Final (FEIR)
- Supplemental or Subsequent EIR (SEIR)
- Addendum to an EIR
- Negative Declaration (NegDec or ND)
- Mitigated Negative Declaration (MND)
- Notice of Determination (NOD)
- Notice of Exemption (NOE)
- Mitigation Monitoring Implementation Schedule (MMIS) and/or Mitigation Monitoring and Reporting Program (MMRP)
- Statement of Overriding Considerations

Please see the Resource Agency's [CEQA Guidelines](#) for more information on each type of environmental document.

E. LEA Review and Findings

1. Environmental Document Review Process

The LEA should be available to provide the following services as a responsible agency:

- Provide guidance to local planning agencies
- Scoping meetings
- Early consultation
- Comment on Initial Study and draft environmental document(s)
- Review final environmental document(s) and response to comments

Also see:

- Board handout [LEA Role as a Responsible Agency](#)
- [Environmental Review Document Preparation Guidelines](#) for information on what types of information should be addressed in the environmental document.

2. Application Package Review Process

- Compare final environmental document(s) with application and/or proposed (or draft) permit, especially site design parameters such as tonnage, traffic, hours, etc... to make sure they match.
- Add terms and conditions to proposed permit to mitigate potential environmental impacts.
- Submit [complete and correct](#) application package and proposed permit to Board.

- Include required LEA CEQA finding with proposed permit.

G. Required LEA/EA CEQA Finding

1. Full permit: the LEA must make the following written finding prior to submittal of a new or revised proposed permit:

"The proposed permit is consistent with, and supported by, existing CEQA analysis." [Title 27, Section 21650](#).

2. Standardized permits: if evidence of CEQA compliance has not previously been submitted, evidence must be received within 15 days of acceptance of the application. [Title 14, Section 18105.2\(g\), \(h\)](#)

Example: The LEA CEQA finding should support the proposed permit by including, at a minimum, the following information:

- A statement that the LEA has reviewed the CEQA document(s).
- References to all environmental documents and amendments that support this finding, including: title of environmental document, approving agency, date of approval, and State Clearinghouse number (SCH#).
- Finding language: "The proposed permit is consistent with, and supported by existing CEQA analysis."
- Signed and dated by LEA.

Sample/model CEQA findings will be provided by the CIWMB at a later date. If you have an example you would like to share, please send it to CIWMB staff.

H. Board Review and Finding

1. Environmental Document Review Process

The Board's environmental review staff provide the following services as a Responsible Agency:

- Provide guidance to LEAs and local planning agencies.
- Conduct site visits.
- Attend local hearings.
- Attend scoping meetings.
- Provide early consultation.
- Comment on draft environmental document.
- Review final environmental document and response to comments.

2. Proposed Permit Package Review Process

- Receipt of [complete and correct](#) application and proposed permit package.
- Compare final environmental document with proposed (or draft) permit.
- Prepare analysis and recommendation for agenda item.
- Board members concur or object.
- Prepare and submit [Notice of Determination](#) (NOD) to [State Clearinghouse](#).

3. Board Agenda Item Language

For full and standardized permits, the following introductory statement is used by Board staff in the CEQA analysis section of the permit agenda item:

"For a [project subject to CEQA](#), State law requires evidence of compliance with the California Environmental Quality Act (CEQA); either through the preparation, circulation, and adoption/certification of an environmental document; or by determining that the proposal is categorically or statutorily exempt prior to project approval."

The agenda item also contains a chronological reference to all environmental documents prepared for the project. You can browse recent permit agenda items at the [Board's meeting agenda and documents page](#).

4. Board Resolution

Board staff must make the following determination prior to recommending concurrence in the issuance of a proposed permit:

"The final CEQA documentation is adequate for the Board's evaluation of the proposed project for those project activities which are within this agency's expertise and/or powers, or which are required to be carried out or approved by the Board."

This finding is documented in the approved resolution if the Board concurs in the issuance of the permit.

I. CEQA Resources

Board

- ERS [staff contacts list](#)
- [Top 10 CEQA process problems](#) (CIWMB Spring 2000 CEQA training)
- [LEA role as a responsible agency](#) (CIWMB Spring 2000 CEQA Training)
- LEA Advisory No. 36: [CEQA Cumulative Impact Analysis](#)
- LEA Advisory No. 22: [Changes in Design or Operation and CEQA Compliance](#)
- [Environmental Review Document Preparation Guidelines](#)

Other

- [California Resource Agency's CEQA page](#)
- [CEQA Guidelines](#) (Resources Agency)
- Interactive [CEQA Flowchart](#) (Resources Agency)
- [CEQA Definitions](#) (Resources Agency)
- [Governor's Office of Planning and Research](#) (State Clearinghouse)
- [CEQA Forms and Publications](#) (State Clearinghouse)

Reference: [Permit Toolbox CEQA Page](#)

X. PROCESS PERMIT EXEMPTIONS

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; *[Note: 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.]*

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.

Reference: [Permit Toolbox Exempt/Excluded Page](#)