

Welcome
to the
Permit Implementation Regulations
Informational Presentation

Overview

- Part of Solid Waste Facilities Permit Regulations Development Plan
- Plan Approved by Permitting and Enforcement Committee at November 2004 Committee Meeting
- First of three rulemaking packages to be developed by staff to address various permit-related issues

Informal Phase

- Assembled working team
- Conducted scoping meetings
- Held stakeholder workshops
- Presented updates to P&E Committee
- Created web page for project
<http://www.ciwmb.ca.gov/Rulemaking/PermitImplem/>
- Drafted proposed regulatory language
- Directed by P&E Committee at November 2005 meeting to initiate formal rulemaking

Outreach Efforts

- Distribution of information includes: EAs, industry, and public interest groups
- Notices disseminated for all activities (workshops and comment periods)
- Three public workshops that included:
 - audio broadcasting of all workshops,
 - video-conferencing and evening sessions for scoping workshops, and
 - teleconferencing of workshop on draft regulations
- All information relative to informal rulemaking process posted on Web Page

Purpose of Today's Presentation

- To give interested parties an opportunity to learn about the proposed regulations so they are better prepared to participate in the upcoming 60-day formal comment period
 - Presentation not part of the formal rulemaking process
 - Questions are encouraged to promote greater understanding
 - Comments can be discussed, but staff will not respond formally to comments

Permit Implementation Regulations

Six Concepts

1. Public Noticing and Informational Meeting Requirements
2. Listing Public Notices and/or Meetings
3. Relationship of Solid Waste Facilities Permit to Local Land Use
4. Five-Year Permit Review Noticing
5. Surprise Random Inspections
6. Significant Change and Modified Permit Process

Public Noticing and Informational Meeting Requirements

- Required by AB 1497 to adopt regulations that implement new EA public notice and hearing requirements for permit revisions
- Directed by CIWMB to investigate applying CDI hearing requirements for new CDI permits to other solid waste facilities

Proposed Regulations:

- Implement additional noticing requirements for RFI amendments, modified permits, new and revised permits
- Require noticing for all applications received and informational meetings for new and revised permits

Public Noticing and Informational Meeting Requirements

Purpose of Proposed Regulations

- To comply with AB 1497 requirements that the EA notice and hold a public hearing on an application for a permit revision
- To provide a consistent, transparent and accessible permit process that allows the public to be better informed of proposed new facilities or changes being proposed in the design or operation at existing facilities

Noticing Requirements for RFI Amendments and Modified Permits

- Currently for RFI Amendments
 - EA maintains list of pending applications
 - EA mails written notice of an application upon request
 - EA retains written public comments on application

- Proposed for RFI Amendments & Modified Permits
 - Operator required to post temporary notice at facility entrance that meets specified content
 - EA required to prepare notice that meets specified content and
 - EA posts on EA's or local jurisdiction's public notice board,
 - EA posts on EA's web site,
 - Operator posts on web site, and/or
 - CIWMB posts on web site

Noticing Requirements for Revised and New Permits

■ Currently for Revised Permits

- EA required by AB 1497 to comply with Gov't Code Section 65091, including:
 - EA sending written notice to property owners within 300 feet of site, to newspaper for publishing or posting at three public places

■ Currently for New Permits

- EA required by CDI regulations
 - to comply with Gov't Code Section 65091 for new CDI permits (same requirements as AB 1497 for revised permits)
 - to send notice to governing body of local jurisdiction and State legislators
- No requirement for new permits for other facilities

Noticing Requirements for Revised and New Permits

Proposed for Both Revised and All New Permits

- EA required to comply with Gov't Code Section 65091 (same requirement in CDI regulations and AB 1497 for revised permits)
- EA required to send notice to governing body of local jurisdiction and State legislators (from CDI regulations)
- Specify required content of notice

Hearing Requirements for Revised and New Permits

■ Currently for Revised Permits

- EA required by AB 1497 to hold public hearing on application for revised permit

■ Currently for New Permits

■ EA required by CDI regulations

- to hold informational public hearing on application for new CDI permit
- to hold meeting not more than 5 miles from facility on a day and time that will enable attendance by residents
- Authorized to combine meeting with another public meeting
- Authorized to substitute a previous public meeting or hearing
- Authorized to require Operator to pay costs connected with meeting

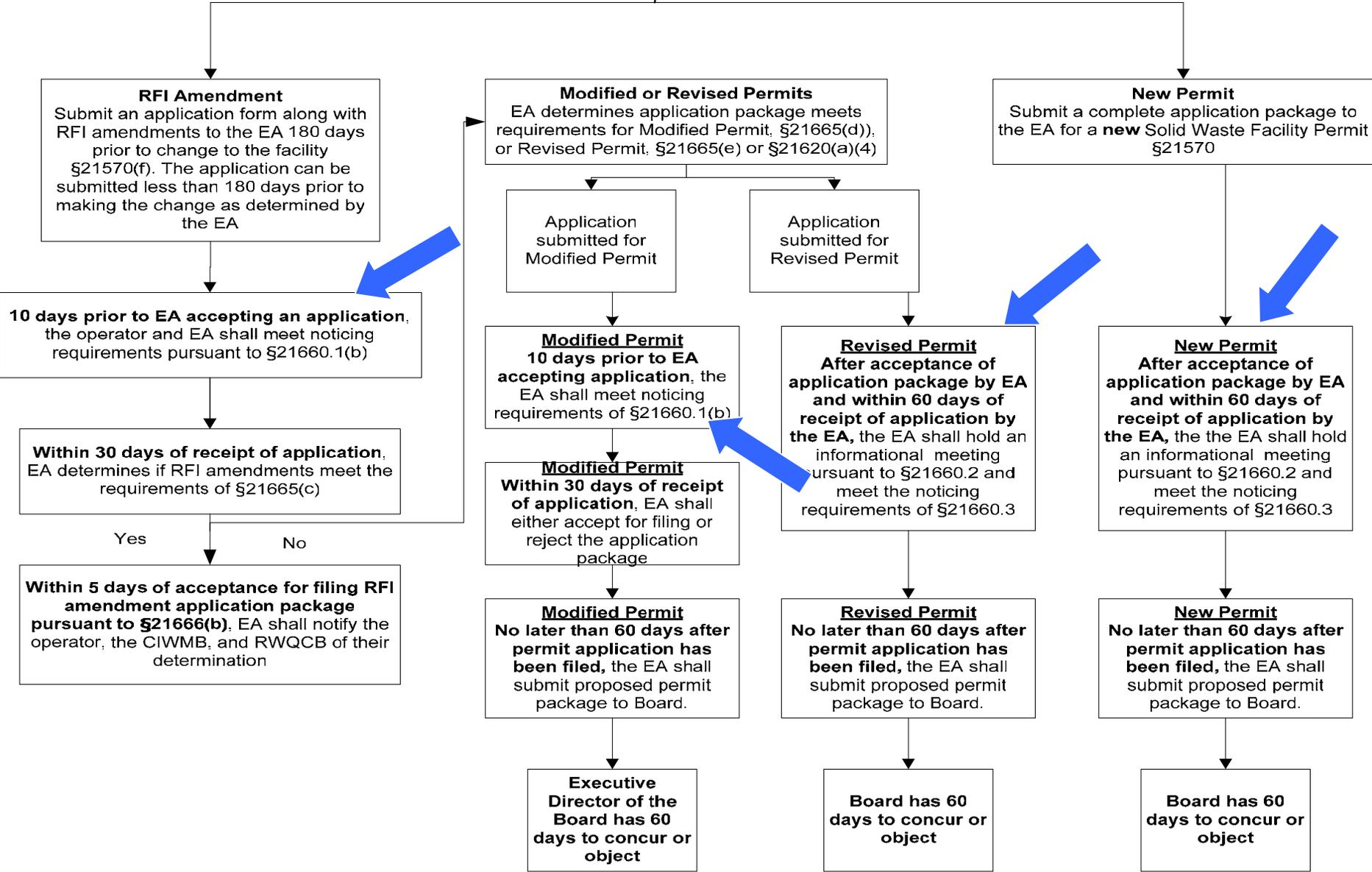
■ No requirement for new permits for other facilities

Hearing Requirements for Revised and New Permits

Proposed for Both Revised and All New Permits

- Define public hearing as informational meeting since meeting is strictly informational and no official decision is made at the meeting
- EA required to hold informational meeting for revised and new permits
- EA required to hold meeting not more than 5 miles from facility on a day and time that will enable attendance by residents (from CDI regulations)
- EA may combine meeting with another public meeting (from CDI regulations)
- EA may substitute a previous public meeting or hearing (from CDI regulations)
- Authorized to require Operator to pay costs connected with meeting

**Process For An RFI Amendment and Modified, Revised, and New Solid Waste Facility Permits
California Code of Regulations
Title 27**



Listing Public Notices and/or Meetings

Currently

- Operators are not required to submit to EA as part of the permit application package a list of all public notices and meetings conducted relative to changes requested in the application

Proposed Regulations:

- Require operators to include this information with the permit application for a new, modified, or revised permit

Purpose of Proposed Regulations

- To strengthen information reported to CIWMB on level of community outreach used in relation to permit actions being considered, which assists CIWMB in determining what additional actions if any might be needed to meet environmental justice objectives
- To be consistent with AB 1497, which requires EJ concerns be considered in development of the regulations

Relationship of SWFP to Local Land Use

Currently

- EAs are required to review a permit application package to determine if it is “complete” and “correct”
- A complete permit application requires inclusion of the land use and/or conditional use permit applicable to facility
- Not clear what EA should be doing relative to reviewing land use/CUP

Proposed Regulations:

- Clarify that correctness review done by EA does not include verifying accuracy of information contained in CUP or other land use entitlement for facility
- Require operator to submit copy of permit application to local planning agency

Relationship of SWFP to Local Land Use

Purpose of Proposed Regulations

- To clarify that EA responsibility is limited to verifying application for completeness in determining whether land use/or CUP was submitted
 - EAs use this information to better understand the project, in evaluating other application materials, and for writing permit terms and conditions
- To help ensure local planning department is aware that operator has proposed new facility or changes to existing facility
 - The appropriate agency for verifying if facility would operate consistent with local land use entitlement is entity that granted the entitlement, namely local government

Five-Year Permit Review Noticing

Currently

- EA is required to notify operator and CIWMB that operator needs to apply for five-year permit review for full permit
- CIWMB is required to notify operator and EA of need for five year permit review for registration and standardized permits

Proposed Regulations:

- Require EA, instead of CIWMB, to notice all facility operators of need to apply for five-year review of their permit

Purpose of Proposed Regulations

- To bring consistency to the task and to eliminate confusion among regulators regarding their responsibilities

Surprise Random Inspections

Currently

- EA is authorized to conduct inspections at operations and facilities without prior notice to owner/operator during normal business hours or site's operating hours
- EA required by CDI regulations to conduct all site inspections at CDI facilities unannounced and at irregular intervals to greatest extent possible

Proposed Regulations:

- Require EA to conduct inspections, whenever possible, without prior notice to owner/operator, on randomly selected days, during normal business hours or site's operating hours
- Require EA to include in its Enforcement Program Plan procedure manual for inspection and investigation that inspections and investigations be random and unannounced

Surprise Random Inspections

Purpose of Proposed Regulations

- To strengthen the concept that inspections should be conducted as surprise random inspections when possible
 - This avoids potential for operator to anticipate arrival of inspector and inspector not observing site as it might normally be operated
- To provide consistency among all types of facilities and operations in requiring random, unannounced inspections
- To strengthen inspection program by allowing EA performance to be evaluated on whether EA is conducting random, unannounced inspections as provided in EPP

Significant Change and Modified Permit Process

- Required by AB 1497 to adopt regulations that define term “significant change in design or operation of the SWF that is not authorized by the existing SWFP” which determines when a permit revision is required
- Identified from stakeholders need to develop process that would allow permit modifications for changes less significant

Proposed Regulations:

- Define the term “significant change...” using decision tree for EAs to follow in making determination
- Establish modified permit process

Significant Change and Modified Permit Process

Purpose of Proposed Regulations

- To comply with AB 1497 requirements that CIWMB adopt regulations that define the term “significant change...”
- To provide a consistent analytical process for EA to use in determining if proposed change is significant that allows EA to consider site-specific considerations and circumstances when making a determination
- To allow changes to a permit that are less than significant by creating a modified permit process

Significant Change and Modified Permit Process

Currently

- PRC Section 44004(a) prohibits an operator from making a significant change in the design or operation of a facility not authorized by the permit unless
 - Change approved EA
 - Change conforms with the IWMA, and
 - Terms and conditions are revised
- Significant change is not defined
 - Changes to a permit that may be less than significant still require a permit revision and CIWMB concurrence
 - Changes can be made as amendments to RFI if terms and conditions of permit don't need to change

Significant Change and Modified Permit Process

Proposed Regulations

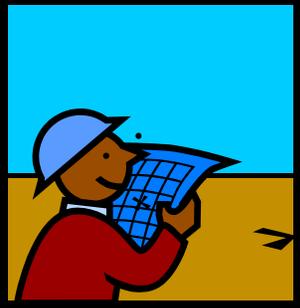
- Define the term significant change by use of a methodology where the EA determines if a proposed change qualifies as an amendment to the RFI or requires the permit to be modified or revised
- Incorporate existing RFI process and criteria into methodology
- Establish a modified permit process for changes that are less than significant and require Exec Director concurrence

Definition of Significant Change

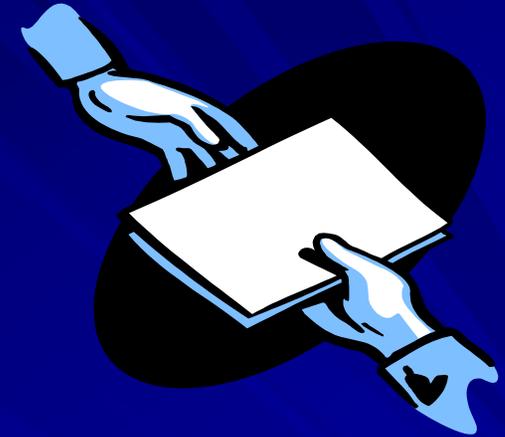
“Significant Change” means a change in design or operation of a solid waste facility where the EA has determined pursuant to Section 21665 that the change is of such consequence that the solid waste facilities permit needs to include further restrictions, prohibitions, mitigations, conditions or other measures to adequately protect public health, public safety, ensure compliance with State minimum standards or to protect the environment.

Decision Tree Process

Title 27 Section 21665



Operator wants to make a change in the design or operation of the facility that is within the authority of the EA and is not on the “minor change” list.



Application provided to EA

EA reviews application, and answers required questions to determine which approval process to use (RFI amendment, Modified or Revised Permit process)



Decision Tree Process

Title 27 Section 21665



1-Consistent with CEQA?
2-Consistent with Standards?
3-Consistent with the permit?



Not a significant change
RFI Amendment



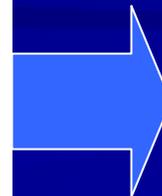
4-Nonmaterial?



Not a significant change
Modified Permit



5-Include condition to
protect public health,
safety, environment,
consistent with
standards?



A significant change
Revised Permit

Approval Processes

RFI Amendment		30 – day or less process EA review only Permit need not change	Notice: EA Office Posting at site Other options	No EA Meeting
Modified Permit		180 – day process EA and Board review	Notice: EA Office Posting at site Other options	No EA Meeting, Exec Director concurrence
Revised Permit		180 – day process EA and Board review	Notice: 1497 Notice	EA Meeting or Substitute Meeting, CIWMB concurrence

Minor Change and Significant Change Lists

Alternative Lists

- CIWMB directed staff to
 - Work with stakeholders in development of minor change and significant change lists and
 - Insert these lists into the proposed regulations prior to 60-day formal comment period so commenters could consider merit of list concept as well as content of lists.
- Work group of interested stakeholders was formed to generate lists
- Purpose of lists to provide certainty to operators and EAs on what actions are required by EA to address changes to design and operation of a facility
- Listed changes fall outside scope of methodology and from exercise of EA's discretion

Minor Change and Significant Change Lists

Minor Change List

- Changes that could be made by operator in design or operation of facility that would never require EA review and approval
- For a change to qualify, it needs to be
 - Subject to EA authority
 - Consistent with State minimum standards
 - Consistent with the permit
 - Listed on Minor Change List
 - Operator needs to notice EA after change made

Minor Change and Significant Change Lists

Minor Change List

- Alternative 1 – Minor Change List:
 - Changes identified and fully supported by work group – Proposed Regulations, page 6, starting at line 8

- Alternative 2 – Optional Minor Change List:
 - Additional changes that could be added to Minor Change List, Alternative 1
 - Changes identified and supported by 60% of work group – Proposed Regulations, page 6, starting at line 27

Minor Change and Significant Change Lists

Significant Change List

- Changes in design or operation of a facility that are considered to be significant and would always require a permit revision
- For a change to qualify, it needs to be listed on Significant Change List, Alternative 3
 - Changes identified and supported by 60% of work group
 - Proposed Regulations, page 8, starting at line 14

Example Scenarios

- 1. Increase by 5% the amount solid waste received at the site.
 - Increase in tonnage is on the significant change list so this will require a permit revision process.

- 2. Update reference to a newly revised WDR in the permit issued by the EA.
 - The permit needs to be changed to include the new information, there is no change to design and operation, it is nonmaterial so this will require a modified permit process.

- 3. Add a new ADC type which is not currently on the list of ADCs previously approved by the EA and included in the RFI (the permit issued by the EA does not limit or restrict ADC used)
 - Nothing in the permit is changing, so this would be an RFI amendment process.

Example Scenarios (cont.)

- 4. Change the number of employees that work on a sorting belt at any given time.
 - Would not be in EA's responsibility or authority, so no approval is required.

- 5. Replace the compactor type at the landfill which is identified in the RFI with one that has the same specifications.
 - This is on the "minor change" list so it would not require EA approval.

- 6. A request to store additional recycled paper bales on site, which the EA determines to be an unsafe practice and the EA determines that there should be a limit on total amount and height of the material to avoid public safety issues.
 - The EA will be imposing limits on the activity to protect public safety by including conditions in the permit, thus requiring a permit revision process.

Next Steps

- 60-day Formal Rulemaking Begins April 7, 2006
- Rulemaking package can be accessed on web site
- Individuals on mailing list will receive Notice and link to web site
- Public Hearing to receive comments June 5, 2006 in Cal/EPA Building, Coastal Hearing Room
- Public Comment ends June 6, 2006