



THE CITY OF SAN DIEGO

May 30, 2006

Ms. Bobbie Garcia
California Integrated Waste Management Board
PO Box 4025
1001 "I" Street
Sacramento, CA 95812-4025

Subject: Permit Implementation Regulations (AB1497)

Dear Ms. Garcia:

The City of San Diego Solid Waste Local Enforcement Agency (LEA) appreciates the opportunity to review and provide comments on the draft proposed *Permit Implementation Regulations (AB1497)*.

General Comments:

The LEA strongly supports the decision tree concept as described in Title 27, California Code of Regulations, §21665. The decision tree approach provides for an efficient processing of operational and design changes at solid waste facilities dependent on the resultant impacts of the proposed change. In addition, a real benefit of the decision tree concept is the elimination of a one-size-fits-all approach; it acknowledges the diversity of California as a whole.

The LEA strongly prefers the decision tree approach over the List approach for determining the significance of a proposed change. However, if the regulations are to include a Minor Change List as given in Section 2160 (Alternative Minor Lists 1 and 2), the LEA could support all of List 1 and selected items on List 2 (see following) provided that Section 21620.(a)(1)(E) remains in its entirety. The Minor Change List would provide a simple mechanism for basic information/editing updates by the operator without the burden of filling out the solid wastes facilities permit application form. However, Section 21620.(a)(1)(E) (iii) is important to retain because it provides a mechanism for an LEA to essentially override the Minor Change List (after the fact) if a problem develops and thus retains LEA discretion and use of professional judgement given a site-specific issue. With respect to Alternative List 2, the LEA can support all of the items listed except vi, ix, x, xi, and xvi.

The LEA adamantly opposes Alternative 3 Significant Change List. The inclusion of this



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list is in direct opposition to our reasons for supporting the decision tree concept. The Significant Change List attempts to implement a one-size-fits-all approach state wide and it disregards local issues (or lack thereof). We do not support it.

The proposed regulations should provide procedures for when an applicant utilizes their right under Public Resources Code 44009, waiver of statutory timelines, after a LEA accepts an application as complete and correct. This is especially important with regards to the requirement for an LEA to conduct a public meeting within 60 days of receipt of an application.

With the inclusion of the permit modification process allowed by the decision tree model, additional clarification is warranted in the event the Executive Director objects to the proposed permit. We suggest that the Executive Director's decision be appealable to the Board.

Specific Comments:

1. Section 21570(f)(12) and 14CCR Sections 18104.1(h) & 18105.1j)

Suggest the following language to provide clarity on types of hearings, meetings and notices needed (additions in **bold**). In addition, it is important to include public meetings because there is often outreach efforts conducted with community groups and interested groups that should be acknowledged:

(12) List of all **public** hearings, **meetings** held and/or notices distributed that are applicable to the proposed solid waste facilities permit action.

2. Section 21620 header

Revise header to be consistent with language in this section as it does apply to changes in design as well as operations. Also, this allows for easier location in the Table of Contents:

§21620. CIWMB – Change in **Design or** Operation. (new)

3. Section 21620.(a)(1)(E)

In the first sentence, we suggest replacing “reasonable time” with **15 days** for greater clarity and consistency.

4. Section 21660.3(a)(7) and Section 21660.4(a)(7)

The referenced finding, §21665(c)(1), deals with RFI amendments and is therefore

not applicable as this section deals with Notice of New and Revised Permit Application and Enforcement Agency Conducted Information Meeting.

5. Section 21660.1(a)(5)

The inclusion of the “Date by which the EA is required to act upon the RFI amendment or the solid waste facilities permit modification” is problematic and should be removed. It does not take into account the applicants’ ability to waive their statutory timeline pursuant to Public Resources Code 44009. In addition, an EA could process an RFI or Permit Modification earlier than the posted date.

To require a “date certain” for LEA action implies the public can comment up to that date. However, an LEA can process an application prior to that “date certain” thereby causing confusion to the public

6. Section 21660.1(a)(6) & Section 21660.3(a)(7)

A fundamental problem with this requirement is if the publication is required to be posted 10 days prior to an EA taking action, how can the publication contain an EA finding? The operator is to prepare and post the publication at the time the application is submitted to the EA (per 21660.1(b)).

Also, the referenced finding, §21665(c)(1), deals with RFI amendments only and does not appear to apply to a new, modification or revised permit.

7. Section 21660.1(b)

The required 10 days posting prior to the EA taking action is too restrictive. It reduces the application process timeline from 30 days or 20 days.

In Section 21660.1(b)(4), we suggest changing the word “accepting” on line 44 to “**acting on**” so as not to presume acceptance of the application by the EA.

8. 14CCR 18104.7(b), 18105.9(b)

As discussed during numerous public workshops and informational meetings, one of reasons for having the EA notice the operator of the Permit Review in Title 14 was to be consistent with language for full permits in Title 27. The noticing required by 27CCR 21675 is to the operator only; it does not include noticing the board. Therefore, all sections in Title 14 dealing with permit review noticing should strike Board noticing.

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Thank you again for the opportunity to provide comments. If you have any questions or require clarification, please contact me at (619) 533-3695 or Rebecca Lafreniere at (619) 533-3694.

Sincerely,

A handwritten signature in cursive script that reads "Victoria L. Gallagher".

Victoria L. Gallagher, REHS, MPH
Program Manager

cc (via email): Mark de Bie, CIWMB
Kelly Broughton, DSD
Ben Gale, CCDEH SW Committee Chair
Bill Prinz, EAC Chair
Rebecca Lafreniere, LEA