

UPDATED INFORMATIVE DIGEST

The California Integrated Waste Management Act (Act), Public Resources Code (PRC) section 40000 et seq., provides for the protection of public health and safety and the environment through waste prevention, waste diversion, and safe waste processing and disposal. PRC section 40502 requires the California Integrated Waste Management Board (CIWMB) to adopt rules and regulations including minimum standards for solid waste handling and disposal which do not duplicate any requirements that are already under the authority of the State Air Resources Board or the State Water Resources Control Board (PRC Section 43020). PRC Section 43021 requires the regulations to include standards for the design, operation, maintenance, and ultimate reuse of solid waste facilities. PRC Section 44002 prohibits the operation of a solid waste facility by any person who has not been issued a solid waste facilities permit. PRC Section 44004(a) prohibits an operator of a solid waste facility from making a significant change in the design or operation of a solid waste facility that is not authorized by the existing permit, unless the change is approved by the enforcement agency (EA), the change conforms with the Act and all regulations adopted pursuant to the Act, and the terms and conditions of the solid waste facilities permit are revised to reflect the change. The term “significant change in the design or operation of a solid waste facility that is not authorized by the existing permit” is not defined in statute or regulation.

Chapter 823 of the Statutes of 2003 (AB 1497, Montanez), amended PRC Section 44004 to require that the CIWMB (to the extent resources are available) adopt regulations that define the term “significant change in the design or operation of the solid waste facility that is not authorized by the existing permit.” AB 1497 also required the CIWMB to implement new public noticing and hearing requirements applicable to the EA when processing applications for permit revisions. Prior to AB 1497, there was no requirement that the EA notice and hold a public hearing when processing an application for a permit revision. The only other hearing requirements for permit actions taken by the EA are for new construction, demolition and inert debris (CDI) permit applications (Title 14 sections 17383.10 and 17388.6). The CIWMB directed staff at its January 2004 meeting to investigate the application of the CDI hearing requirements for new CDI permits to other solid waste facilities in order to provide consistent hearing and notice requirements for different types of solid waste facilities. The CIWMB further directed staff at its November 2004 meeting to implement the permit regulation development plan presented by staff, which includes the AB 1497 requirements, the application of the CDI hearing requirements for new permits to other solid waste facilities, and other permitting requirements to provide clarification and consistency to the existing regulations.

The proposed regulations:

- define the phrase “significant change in the design or operation of the solid waste facility that is not authorized by the existing permit,” which determines when a solid waste facilities permit needs to be revised
- establish a methodology (accompanied by an explanatory decision tree) for EAs to follow when presented with a request by an operator to make changes to a solid waste facilities permit; by applying the methodology, the EA determines

how to accommodate the changes proposed by the operator – through a report of facility information (RFI) amendment, a modified permit, or a revised permit

- establish, apart from the methodology, a list of changes in the design or operation of a solid waste facility that would always be considered significant and would require a revision to a solid waste facilities permit
- authorize a “modified permit” as a new method to change activities at a solid waste facility that will allow modifications to a permit for changes that are less than a “significant change...,” as defined in the proposed regulations
- implement additional noticing requirements for amendments to the RFI and modified, new and revised permits, and establish informational meeting (hearing) requirements for new and revised full permits
- clarify that an operator can make minor changes as currently practiced at a solid waste facility which do not require EA review and approval if the change meets specified criteria, the operator notifies the EA as required, and the change is on the minor change list or meets specified criteria
- clarify the relationship between the solid waste facilities permit and local land use decisions and approvals
- establish a new requirement that operators include with the permit application a list of all public notices and meetings conducted relative to the permit application
- require the EA to notify all facility operators when they must apply for a five-year permit review of their permit, bringing consistency to the process
- require the EA to conduct its inspection program so that facility inspections are unannounced and random, insofar as possible