

# REGULATION PROPOSED CHANGES NOTES

Changes are denoted by the following:

Blue Underline – Additions to the current regulations

~~Red Strikeout~~ – Deletions to the current regulations

1 TITLE 27. ENVIRONMENTAL PROTECTION  
2 DIVISION 2. SOLID WASTE  
3 SUBDIVISION 1. CONSOLIDATED REGULATIONS FOR TREATMENT,  
4 STORAGE, PROCESSING OR DISPOSAL OF SOLID WASTE  
5 CHAPTER 2. DEFINITIONS  
6 ARTICLE 2. SPECIFIC DEFINITIONS

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8 § 20164. Combined ~~CIWMB~~CalRecycle & SWRCB Technical Definitions. [~~CIWMB~~  
9 ~~T14:§17225.1-17225.74, §17258.2, 17761, 18200.1, 18251, 18011, 18231, 18281 // SWRCB~~  
10 ~~C15: §2601~~]

11 [Note: This section contains the SWRCB's and ~~the CIWMB's~~CalRecycle's technical definitions,  
12 combined and listed in alphabetical order. Each agency is responsible for adopting its own  
13 definitions within this combined listing. Unless otherwise stated in a given regulation, it is the  
14 intent of the SWRCB and ~~CIWMB~~CalRecycle that each agency's definitions function for the other  
15 agency (e.g., when ~~the CIWMB~~CalRecycle uses a term adopted by the SWRCB, or vice versa, the  
16 term has the same meaning as defined by the agency that adopted the term).]

17 ...  
18 “CalRecycle” (CalRecycle) means the [Department of Resources Recycling and Recovery](#)  
19 [\(formerly the California Integrated Waste Management Board\)](#), which is the lead agency for  
20 [implementing the State municipal solid waste permit program that is deemed to be adequate by](#)  
21 [USEPA under regulations published pursuant to sections 2002 and 4005 of RCRA.](#)

22 ...  
23 “CIWMB” (CIWMB) means the [California Integrated Waste Management Board](#), which, [as of](#)  
24 [January 1, 2010](#), [ceased to exist as an agency and became part of \(subjoined into\) a new](#)  
25 [Department of Resources Recovery and Recycling \(CalRecycle\)](#). [CalRecycle is the lead agency](#)  
26 [for implementing the State municipal solid waste permit program that is deemed to be adequate](#)  
27 [by USEPA under regulations published pursuant to sections 2002 and 4005 of RCRA.](#)

28 ...  
29 **Note:** Authority cited: Section 1058, Water Code; and Sections [40110](#), [40400](#), [40401](#) and 40502 Public Resources Code.  
30 **Reference:** Section 13172, Water Code; Sections 40000, 40001, 40002, [40110](#), [40400](#), [40401](#), 43103 and 43105, Public  
31 Resources Code, and Title 40, CFR 258.2.  
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35 CHAPTER 3. CRITERIA FOR ALL WASTE MANAGEMENT UNITS,  
36 FACILITIES, AND DISPOSAL SITES  
37 SUBCHAPTER 5. CLOSURE AND POST-CLOSURE MAINTENANCE  
38 ARTICLE 2. CLOSURE AND POST-CLOSURE MAINTENANCE STANDARDS  
39 FOR DISPOSAL SITES AND LANDFILLS  
40

41 § 21200. ~~CIWMB~~CalRecycle—Change of Ownership During Closure or Postclosure  
42 Maintenance. (~~T14: Section 17792~~)

1 (a) An owner or operator of a disposal site who plans to sell, transfer or convey the ownership or  
2 operation of the disposal site to a new owner or operator shall notify EA and CalRecycle 45 days  
3 prior to the anticipated transfer of title. This notification shall include the name(s), address(es)  
4 and phone number(s) of the new owner or operator.

5  
6 (b) The new owner or operator shall submit the following to EA and CalRecycle as part of the  
7 notification under ¶(a):

8  
9 (1) Documentation of the financial assurance demonstrations of the new owner or operator, in  
10 compliance with the requirements of Articles 2 and 4 of Subchapter 2, Chapter 6 of this Title;  
11 and

12  
13 (2) An affidavit from the new owner or operator stating that the new owner or operator has read  
14 the governing SWFP (if applicable), closure plan, and postclosure maintenance plan and will  
15 comply with all terms and conditions in the SWFP (if applicable), closure plan, and postclosure  
16 maintenance plan, and that all new information submitted is correct.

17  
18 (c) The EA shall review the submitted information to determine if the new owner or operator has  
19 provided all required information to comply with the terms and conditions of the SWFP (if  
20 applicable), closure plan, and the postclosure maintenance plan. The EA shall also obtain  
21 written confirmation from CalRecycle that the new owner or operator has complied with the  
22 financial assurance requirements of Articles 2 and 4, Subchapter 2, Chapter 6.

23  
24 (1) If the EA determines that the new owner or operator has complied with all requirements, the  
25 EA shall send written notification to the prior owner and operator, new owner and operator,  
26 RWQCB, and CalRecycle within 30 days of receipt of the notification of transfer of title. Within  
27 15 days thereafter, the EA shall send the owner and operator a copy of a changed SWFP, if  
28 applicable.

29 (2) If the EA determines that the new owner or operator has not complied with all requirements,  
30 the EA shall send written notification of this determination to the prior owner and operator, new  
31 owner and operator, RWQCB, and CalRecycle within 30 days of receipt of the notification of  
32 transfer of title. The EA shall include the basis for this determination of inadequacy.

33  
34 ~~(a) Before the title to a disposal site is transferred to another person during closure or postclosure~~  
35 ~~maintenance, the new owner shall be notified by the previous owner or his agent of the existence~~  
36 ~~of these standards and of the conditions and agreements assigned to assure compliance.~~

37  
38 ~~(b) The previous owner shall notify the EA of the change in title within thirty (30) days and shall~~  
39 ~~provide the name, firm, mailing address, and telephone number of the new owner.~~

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41 **Note:** Authority cited: Sections 40502 and 43020, Public Resources Code; and Section 66796.22(d), Government Code.  
42 **Reference:** Sections 43021, 43103 and 44005, Public Resources Code; and Section 66796.22(d), Government Code.

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**CHAPTER 4. DOCUMENTATION AND REPORTING FOR REGULATORY TIERS, PERMITS, WDRS, AND PLANS**  
**SUBCHAPTER 3. DEVELOPMENT OF WASTE DISCHARGE REQUIREMENTS (WDRS) AND SOLID WASTE FACILITY PERMITS**  
**ARTICLE 2. ~~CIWMB~~CalRecycle - APPLICANT REQUIREMENTS**

**§ 21570. ~~CIWMB~~CalRecycle–Filing Requirements. (~~T14:§18201~~)**

9 (a) Any operator of a disposal site who is required to have a full solid waste facilities permit and  
10 waste discharge requirements pursuant to Public Resources Code, Division 31 and §20080(f)  
11 shall submit an application package for a solid waste facilities permit in duplicate to the EA  
12 pursuant to ¶(f). The applicant shall also simultaneously submit one copy of the application form  
13 and the Joint Technical Document (JTD) to the Regional Water Quality Control Board  
14 (RWQCB) and one copy of the application form to the director of the local agency that oversees  
15 local land use planning for the jurisdiction in which the site is located. The applicant shall ensure  
16 demonstration of financial assurances to ~~the CIWMB~~CalRecycle pursuant to Chapter 6 of this  
17 Subdivision.

18 (b) All other applicants who are required to have a full solid waste facilities permit shall submit  
19 an application package for a solid waste facilities permit in duplicate to the EA pursuant to ¶(f)  
20 and one copy of the application form to the director of the local agency that oversees local land  
21 use planning for the jurisdiction in which the site is located. The applicant shall also  
22 simultaneously submit one copy of the application form to the RWQCB.

23 (c) Any application package submitted to the EA shall be accompanied by the fee specified by  
24 the EA pursuant to Public Resources Code §44006(c).

25 (d) The application package shall require that information be supplied in adequate detail to  
26 permit thorough evaluation of the environmental effects of the facility and to permit estimation  
27 of the likelihood that the facility will be able to conform to the standards over the useful  
28 economic life of the facility. The application package shall require, among other things, that the  
29 applicant and the owner give the address at which process may be served upon them.

30 (e) All information in the application package shall be certified by the applicant and the owner of  
31 the site as being true and accurate to the best knowledge and belief of each. The applicant, owner  
32 of the facility, or both, shall supply additional information as deemed necessary by the EA.

33 (f) A complete and correct application package shall include, but not necessarily be limited to,  
34 the following items:

35 (1) Application For Solid Waste Facilities Permit/Waste Discharge Requirements Form CIWMB  
36 E-1-77 (Version 8-04) (Appendix 1); and

37 (2) Complete and correct Report of Facility Information. In the case of disposal sites, this will be  
38 a Report of Disposal Site Information (RDSI) in the format of a JTD or an Disposal Site Facility  
39 Plan or Disposal Facility Report in the format of a JTD; and

1 (3) California Environmental Quality Act (CEQA) compliance information as follows:  
2 (A) Evidence that there has been compliance with the CEQA, Division 13 (commencing with  
3 §21000) of the Public Resources Code, regarding the facility; or

4 (B) Information on the status of the application's compliance with the CEQA regarding the  
5 facility, including the proposed project description. Once there has been compliance with the  
6 CEQA regarding the facility, evidence of compliance shall be submitted to the EA; and

7 (4) Any CEQA Mitigation Monitoring Implementation Schedule; and

8 (5) Conformance finding information, including one of the following:

9 (A) Until a countywide or regional agency integrated waste management plan has been approved  
10 by ~~the CIWMB~~ [CalRecycle](#), the application shall include statements that: the facility is identified  
11 and described in or conforms with the County Solid Waste Management Plan, or otherwise  
12 complies with Public Resources Code §50000; and that the facility is consistent with the city or  
13 county General Plan and compatible with surrounding land use, in accordance with Public  
14 Resources Code §50000.5; or

15 (B) After a countywide or regional agency integrated waste management plan has been approved  
16 by ~~the CIWMB~~ [CalRecycle](#), the application shall include a statement that: the facility is identified  
17 in either the countywide siting element, the nondisposal facility element, or in the Source  
18 Reduction and Recycling Element for the jurisdiction in which it is located; or, that the facility is  
19 not required to be identified in any of these elements pursuant to Public Resources Code §50001;  
20 and

21 (6) For disposal sites, completeness determination of Preliminary or Final Closure/Postclosure  
22 Maintenance Plan as specified in §§21780, 21865, and 21890 (Subchapter 4 of this Chapter); and

23 *[Note: The operator has the option of submitting the preliminary closure plan with the JTD, in*  
24 *which case the EA, RWQCB, and ~~CIWMB~~ [CalRecycle](#) would review it at the same time. If deemed*  
25 *complete by the reviewing agencies, the solid waste facilities permit application package could*  
26 *then be accepted for filing if all other information in the JTD is accepted by the EA. Or the*  
27 *operator can submit a stand alone preliminary closure plan to be deemed complete by reviewing*  
28 *agencies before the application package is submitted to the EA. For ~~CIWMB~~ [CalRecycle](#)*  
29 *purposes, all final closure/postclosure plans are stand alone documents but can be processed*  
30 *jointly with a proposed solid waste facilities permit revision as long as the final plan is*  
31 *determined complete prior to approval of the proposed solid waste facilities permit. The JTD*  
32 *Index prepared for the EA should show where each closure requirement is addressed in the*  
33 *closure/post-closure plan.]*

34 (7) For disposal sites, a copy of the most recently submitted detailed written estimate or latest  
35 approved estimate, whichever identifies the greatest cost, to cover the cost of known or  
36 reasonably foreseeable corrective action activities, pursuant to §22101;

37 ~~(7)~~ For disposal sites, current documentation of acceptable funding levels for [required closure,](#)  
38 [postclosure maintenance, and corrective action](#) Financial Assurance Mechanisms (in accordance  
39 with Chapter 6, Division 2); and

- 1 (89) For disposal sites, current documentation of compliance with operating liability  
2 requirements in accordance with Chapter 6;
- 3 (910) For disposal sites permitted for more than 20 tons-per-day, a ground or aerial survey to be  
4 completed at least once every five years or more frequently as determined by the EA. For  
5 disposal sites permitted for 20 tons-per-day or less, a ground or aerial survey must be completed  
6 at least once every ten years. Survey results must be submitted as a CADD or vector graphics  
7 data file including at least two strata, i.e., 1) a stratum showing the base and finished ground  
8 surfaces, and 2) a stratum showing the existing and finished ground surfaces. For disposal sites  
9 where a change in permitted volume is proposed, a third stratum showing the base and proposed  
10 finished ground surface must be included. For each stratum the following information shall be  
11 included: site name, stratum name, surface1 name, surface2 name, volume calculation method  
12 (grid, composite, section), expansion (cut) factor, compaction (fill) factor, cut volume, fill  
13 volume and net volume. All volumes shall be reported in cubic yards. If the base ground surface  
14 is uncertain, the operator is allowed to provide the best available information as a substitute for  
15 the actual as-built contours. If selecting this substitute method, the operator must provide an  
16 explanation of the basis for using the substitute base ground surface. For the purposes of this  
17 section the following definitions apply:
- 18 (A) "base ground surface" - the best available excavation plan surface that existed prior to the  
19 placement of any waste;
- 20 (B) "CADD" - computer aided design and drafting;
- 21 (C) "compaction (fill) factor" - the factor used to correct for expected compaction of fill material;  
22 this factor should normally be unity (one); if the factor is not unity (one), an explanation must be  
23 provided for the basis of the volumetric correction;
- 24 (D) "cut volume" - for any stratum, the volume removed by a cut of a lower surface to achieve  
25 the upper surface;
- 26 (E) "existing ground surface" - the topography that exists at the time of the subject survey;
- 27 (F) "expansion (cut) factor" - the factor used to correct for expected expansion of a cut surface;  
28 this factor should normally be unity (one); if the factor is not unity (one), an explanation must be  
29 provided for the basis of the volumetric correction;
- 30 (G) "fill volume" - for any stratum, the volume bound between the upper and lower surfaces;
- 31 (H) "finished ground surface" - the final fill plan surface as shown in the approved closure plan  
32 for the disposal site;
- 33 (I) "net volume" - the fill volume less the cut volume;
- 34 (J) "site name" - the name of the disposal site for which the survey information is being  
35 submitted;
- 36 (K) "stratum (plural: strata)" - a particular volume of a solid waste landfill bound by specified  
37 upper and lower surfaces;

- 1 (L) "stratum name" - a descriptive name for the stratum for which volumetric information is  
2 being submitted, e.g., total volume including proposed expansion;
- 3 (M) "surface names" - names for the pair of surfaces that define a named stratum, e.g., base  
4 ground surface and proposed finished ground surface;
- 5 (N) "survey" - a comprehensive examination of the disposal site under the direction of registered  
6 civil engineer or licensed land surveyor for purposes of determining the topography of the base,  
7 existing and finished ground surfaces, and the volumes bound by those surfaces;
- 8 (O) "vector graphics" - computer generated images comprised of lines and shapes of given  
9 origin, direction, thickness, color and other attributes;
- 10 (P) "volume calculation method" - grid, composite, section or other method approved by the  
11 enforcement agency.

12 (~~1011~~) For disposal sites, one of the following:

13 (A)(i) In-place waste density (pounds of waste per cubic yard of waste). The in-place density is  
14 the estimated or measured density of in-place waste material achieved by mechanical or other  
15 means in the development of the current lift of the current operating waste cell, and

16 (ii) Waste-to-cover ratio, estimated, (volume:volume). The waste-to-cover ratio estimate is a  
17 unit-less expression of the proportion of the volumes of waste and cover that comprise a volume  
18 of compacted fill material, e.g. 4:1. The cover portion of the waste-to-cover ratio estimate should  
19 include only soil or approved daily or intermediate alternative cover that is not considered a  
20 waste material, i.e., payment of fees to ~~the CIWMB~~ [CalRecycle](#) is not required. The waste  
21 portion of the waste-to-cover ratio estimate should include only waste material for which  
22 payment of fees to ~~the CIWMB~~ [CalRecycle](#) is reported, or

23 (B) Airspace utilization factor (tons of waste per cubic yard of landfill airspace). The airspace  
24 utilization factor (AUF) is the effective density of waste material in the landfill. The AUF is  
25 recorded as the total weight of waste material passing over the landfill scales that is placed in a  
26 known volume of landfill airspace in a given period of time. The waste portion of the AUF  
27 should include only waste material for which payment of fees to ~~the CIWMB~~ [CalRecycle](#) is  
28 reported.

29 (~~1112~~) List of all public hearings and other meetings open to the public that have been held or  
30 copies of notices distributed that are applicable to the proposed solid waste facilities permit  
31 action.

32 **Note:** Authority cited: Sections 40002, 40502 and 43020, Public Resources Code.

33 **Reference:** Sections 43103, 44001-44017, 44100-44101, 44300-44301, 44500-44503 and 44813-44816, Public Resources Code.

**§ 21640. ~~CIWMB~~ [CalRecycle](#) - Review of Permits. (~~T14:§18213~~)**

34 (a) Except as provided in §21680, all full SWFPs shall be reviewed and, if necessary, revised,  
35 from the date of last issuance at least once every five years.

1 (b) No less than 150 days before the permit is due for review, the operator shall submit an  
2 application for permit review. The application shall be made in the manner specified in §§21570  
3 and 21590 and shall contain the following:

4 (1) Identify the proposed changes in design and operation; and

5 (2) Updated amendments to the Report of Facility Information (RFI);

6 (3) For disposal sites only, the updated amendments shall include an estimate of the remaining  
7 site life and capacity;

8 (4) For disposal sites only, an amended closure plan as specified in §§21780, 21865, and 21890.

9 (5) For disposal sites, a copy of the most recently submitted detailed written estimate or latest  
10 approved estimate, whichever identifies the greatest cost, to cover the cost of known or  
11 reasonably foreseeable corrective action activities, pursuant to §22101.

12 **Note:** Authority Cited: Sections 40502 and 43020, Public Resources Code.  
13 Reference: Section 43103 and 44015, Public Resources Code.

#### 14 **Article 3.1. ~~CIWMB~~CalRecycle-~~CIWMB~~CalRecycle Requirements**

#### **§ 21685. ~~CIWMB~~CalRecycle-Proposed Solid Waste Facilities Permit; ~~CIWMB~~CalRecycle Processing Requirements. (~~T14:§18207, §17608~~)**

15 (a) ~~The~~ ~~CIWMB~~CalRecycle shall stamp the proposed solid waste facilities permit with the date  
16 of receipt at the time the envelope is opened. ~~The~~ ~~CIWMB~~CalRecycle shall consider each  
17 proposed solid waste facilities permit, any public testimony, and comments. Written comments  
18 may be submitted to ~~the~~ ~~CIWMB~~CalRecycle and will become part of the ~~CIWMB~~CalRecycle  
19 record. Such written comments shall be made available to the EA.

20 (b) ~~The~~ ~~CIWMB~~CalRecycle shall not concur in issuance of the proposed solid waste facilities  
21 permit for new and revised solid waste facilities permits, and the Executive Director of ~~the~~  
22 ~~CIWMB~~CalRecycle for modified solid waste facilities permits, if the following information, if  
23 applicable, has not been submitted to the EA and ~~the~~ ~~CIWMB~~CalRecycle pursuant to Public  
24 Resources Code §44009:

25 (1) Complete and correct Report of Facility Information as certified by the EA,

26 (2) EA's Solid Waste Facilities Permit Review Report pursuant to §21675,

27 (3) EA's proposed solid waste facilities permit written pursuant to this Subchapter.

28 (4)(A) Information that the facility is identified and described in or conforms with the County  
29 Solid Waste Management Plan (Public Resources Code §50000); and that the facility is  
30 consistent with the city or county General Plan and compatible with surrounding land use, in  
31 accordance with Public Resources Code §50000.5; or

- 1 (B) After a countywide or regional agency integrated waste management plan has been approved  
2 by ~~the CIWMB~~ [CalRecycle](#), the EA's finding that the facility has met the requirements of Public  
3 Resources Code §50001.
- 4 (5) Documentation sufficient for ~~the CIWMB~~ [CalRecycle](#) to deem that a Preliminary or Final  
5 Closure/Postclosure Maintenance Plan is consistent with closure and postclosure maintenance  
6 state minimum standards (including, but not limited to, Chapters 3 and 4) for those portions of  
7 the plan subject to ~~CIWMB~~ [CalRecycle](#) jurisdiction, if applicable;
- 8 (i) For closure plans submitted as part of a JTD, the determination whether the plans are  
9 consistent with state minimum standards shall be made within 60 days of the plans being  
10 considered complete pursuant to §21860(c).
- 11 (ii) This preliminary determination shall constitute the staff recommendation for the Board  
12 consideration of concurrence with a solid waste facilities permit unless the application package,  
13 of which the JTD was a part, is amended or modified.
- 14 (iii) This determination is solely for the Board consideration of concurrence with a solid waste  
15 facilities permit and does not constitute any final determination for the closure plans review  
16 process pursuant to §21860.
- 17 (6) For disposal sites, a copy of the most recently submitted detailed written estimate or latest  
18 approved estimate, whichever identifies the greatest cost, to cover the cost of known or  
19 reasonably foreseeable corrective action activities, pursuant to §22101;
- 20 ~~(67)~~(A) Current documentation of acceptable funding levels for required closure, postclosure  
21 maintenance, and corrective action Financial Assurances Documentation in accordance with  
22 Chapter 6, if applicable; and
- 23 (B) Current documentation of compliance with Operating Liability Requirements, if applicable  
24 (Chapter 6).
- 25 ~~(78)~~ ~~The CIWMB~~ [CalRecycle](#) shall ensure the facility is operating consistent with State  
26 Minimum Standards, pursuant to Subchapter 4 of Chapter 3 of this subdivision or applicable  
27 minimum standards in Title 14 (§17200 et seq.),
- 28 ~~(89)~~ The EA finding that existing CEQA documentation is consistent with and supports the  
29 proposed solid waste facilities permit and RFI or supporting information indicating the EA has  
30 found that approval of the proposed solid waste facilities permit would not lead to any adverse  
31 environmental impacts and is exempt from the requirements of CEQA.
- 32 (c) ~~The CIWMB~~ [CalRecycle](#), with respect to new and revised solid waste facilities permits, and  
33 the Executive Director of ~~the CIWMB~~ [CalRecycle](#), with respect to modified solid waste facilities  
34 permits, shall either concur or object to the issuance of the proposed solid waste facilities permit  
35 within sixty days of receipt, except as authorized by Public Resources Code §44009, or by  
36 operator's consent. If ~~the CIWMB~~ [CalRecycle](#) or Executive Director objects to a proposed solid  
37 waste facilities permit, it shall accompany its objection with an explanation of its action, which  
38 may suggest conditions or other amendments that may render the proposed solid waste facilities  
39 permit unobjectionable; however, such suggestions do not constitute approval of the proposed

1 solid waste facilities permit subject to incorporation of the suggestions. The Executive Director  
2 shall report to ~~the CIWMB~~ [CalRecycle](#) on his or her concurrence or denial of modified permits at  
3 its next regularly scheduled meeting or via a memo, and post this information on ~~the~~  
4 [CIWMB](#) [CalRecycle](#)'s web site ~~or agenda~~.

5 (d) For the purposes of ~~CIWMB~~ [CalRecycle](#)'s determination to concur in or to object to a  
6 proposed permit pursuant to ¶(c) above, a facility that has landfill decomposition gases  
7 exceeding the compliance levels in §§20919.5 or 20921, or at which a hazard or nuisance may  
8 exist pursuant to §20919, shall be considered to be consistent with State Minimum Standards  
9 specified in §§20919, 20919.5, and 20921 for purposes of ¶(b)(8) of this section if all of the  
10 following requirements have been satisfied with respect to the facility (for the purpose of this  
11 subsection, "facility" includes "disposal site"):

12 (1) The operator shall have delivered all notices to the EA and owner as required by §§20919,  
13 20919.5, and 20937 as applicable.

14 (A) The site-specific compliance level applicable to the facility shall be lesser of that specified in  
15 (i) the facility's JTD/RFI, closure and postclosure maintenance plans, or the permit for the  
16 facility, or (ii) shall be the levels specified in §§20919.5 or 20921, as applicable.

17 (B) The facility's compliance boundary for landfill decomposition gas migration shall be the  
18 permitted facility boundary or other alternate boundary within the permitted facility boundary  
19 approved by the EA.

20 (2) The EA shall have forwarded to ~~the CIWMB~~ [CalRecycle](#) all notifications received pursuant to  
21 ¶(d)(1) above.

22 (3) Landfill gas monitoring has been and is being conducted at least monthly, at a minimum,  
23 after notice to the EA and shall continue until the operator has complied with the enforcement  
24 order issued pursuant to ¶(d)(6) below.

25 (4) The EA has determined that landfill decomposition gas generated by the facility does not  
26 constitute an imminent and substantial threat to public health and safety or the environment.

27 (A) For purposes of this section, an imminent and substantial threat to public health and safety or  
28 the environment is defined as a condition which is creating a substantial probability of harm,  
29 when the probability and potential extent of harm make it reasonably necessary to take  
30 immediate action to prevent, reduce, or mitigate the harm to persons, property, natural resources,  
31 or the public health or safety.

32 (5) The EA has determined that to come into compliance with §§20919, 20919.5, and 20921 it  
33 will take the operator longer than 90 days due to the time it takes to plan and implement  
34 appropriate corrective measures.

35 (6) The facility is operating under an enforcement order issued to the operator and which meets  
36 all of the following requirements:

37 (A) The order was issued pursuant to 14 CCR §18304.1(a)(3) and includes a compliance  
38 schedule for bringing the facility into compliance with §§20919, 20919.5, and 20921.

- 1 (B) A final order has been issued pursuant to 14 CCR §18304.2.
- 2 (C) A copy of the proposed order and any amended order proposed by the EA was provided to  
3 ~~the CIWMB~~[CalRecycle](#) for review and comment prior to its issuance.
- 4 (7) The EA has reviewed and approved and ~~the CIWMB~~[CalRecycle](#) has reviewed all  
5 investigation reports or results, proposed workplans, or proposed gas mitigation measures  
6 submitted pursuant to the enforcement order issued pursuant to ¶(d)(6).
- 7 (A) If possible, all parties shall mutually agree to time frames for EA and ~~CIWMB~~[CalRecycle](#)  
8 review of the submitted documents so that all reviews can be completed expeditiously. In the  
9 event agreement cannot be reached, the EA and ~~CIWMB~~[CalRecycle](#) shall determine the  
10 schedules for their review.
- 11 (8) The operator is in compliance with the approved gas mitigation measures or workplan  
12 approved by the EA and specified in the enforcement order.
- 13 (A) If the operator fails to comply with the enforcement order, the EA shall, as necessary and  
14 appropriate:
- 15 (i) Take additional enforcement action, which may include the imposition of administrative civil  
16 penalties in an amount from one hundred dollars (\$100) up to five thousand dollars (\$5,000) for  
17 each day on which a violation occurs pursuant to §45011 of the Public Resources Code, or
- 18 (ii) Take direct cleanup action pursuant to an appropriate enforcement order.
- 19 (B) If the EA fails to take appropriate enforcement action as specified in 14 CCR §18084(d),  
20 ~~CIWMB~~[CalRecycle](#) may take enforcement action pursuant to 14 CCR §18350.
- 21 (C) If ~~the CIWMB~~[CalRecycle](#) takes enforcement action in lieu of the EA, any required public  
22 hearing shall be conducted by ~~the CIWMB~~[CalRecycle](#) Executive Director or his/her designee.
- 23 (9) For facilities that propose a facility property boundary expansion, a footprint expansion, or  
24 any other increase in facility capacity as part of the permit application, investigations or analyses  
25 respecting landfill decomposition gases at the facility must have been conducted by the operator  
26 prior to the submittal of the permit application to the EA and the results of such investigations  
27 and analyses shall be submitted to the EA, ~~CIWMB~~[CalRecycle](#), RWQCB, APCD/AQMD, and  
28 any other appropriate agency prior to or concurrent with the permit application.
- 29 (A) The investigations or analyses shall evaluate:
- 30 (i) Whether the proposed expansion may increase the magnitude or complexity of the  
31 noncompliance with §§20919, 20919.5, and 20921.
- 32 (ii) Whether the proposed expansion may cause potential impacts to water quality and air quality  
33 or other impacts outside the jurisdiction of the EA.
- 34 (B) If the results of the investigations and analyses conducted pursuant to ¶(d)(9)(A)(i) warrant,  
35 the operator shall include an analysis and additional feasible control measures as part of the gas  
36 mitigation measures or workplan specified in the order required by ¶(d)(6).

1 (e) If an applicant or enforcement agency requests that revisions, additions or amendments be  
2 considered, these will be considered in accordance with the conditions specified in §21580 and  
3 ¶(f) of §21650 respectively.

4 **Note:** Authority Cited: Sections 40502 and 43020, Public Resources Code.  
5 Reference: Section 43103, 44007 - 44010 and 44014, Public Resources Code.  
6  
7

8 **CHAPTER 4. DOCUMENTATION AND REPORTING FOR REGULATORY**  
9 **TIERS, PERMITS, WDRS, AND PLANS**  
10 **SUBCHAPTER 4. DEVELOPMENT OF CLOSURE/POSTCLOSURE**  
11 **MAINTENANCE PLANS**  
12

13 **§ 21820. ~~CIWMB~~CalRecycle—Closure Cost Estimates.**

14  
15 (a) The operator shall provide a written cost estimate, in current dollars, of the cost of hiring a  
16 third party to close the landfill in accordance with the submitted closure plan. Cost estimates  
17 shall meet the following criteria:

18  
19 (1) Cost estimates shall equal the cost of closing the landfill at the point in its active life when  
20 the extent and manner of operation would make closure the most expensive, as indicated by the  
21 closure plan;

22  
23 (A) When closing units in phases, according to the requirements of partial closure, the estimate  
24 may account for closing only the maximum area or unit of a landfill open at any time, or

25  
26 (B) If not closing units in phases pursuant to ¶(a)(1)(A), the estimate shall account for the entire  
27 permitted landfill except for those areas certified closed by ~~the CIWMB~~CalRecycle, RWQCB,  
28 and EA pursuant to §21880;

29  
30 (2) Cost estimates shall include the cost of activities necessary to close the site pursuant to ¶(b).  
31 Cost estimates shall be developed for the activities anticipated for scheduled closure. The  
32 Closure cost estimates shall always be high enough to ensure that, if, at any time, the landfill  
33 had to begin to close, the cost of activities for closure would not exceed the cost estimate. To  
34 reflect the potential for premature closure, each cost estimate shall include all activities required  
35 for closure yet to be completed at the time of preparation of the estimate;

36  
37 (3) Cost estimates shall include or reflect the design, materials, equipment, labor, administration  
38 and quality assurance necessary for closure;

39  
40 (4) The total closure cost estimate shall be increased by a factor of 20% to account for cost over-  
41 runs due to unforeseen circumstances, such as adverse weather conditions and inadequate site  
42 characterization, which would result in increased closure costs. The operator may apply to ~~the~~  
43 ~~CIWMB~~CalRecycle for, and ~~the CIWMB~~CalRecycle may approve, a contingency percentage of  
44 less than 20% at the time that the final closure plan is approved, provided that ~~the~~  
45 ~~CIWMB~~CalRecycle finds that a lesser percentage will provide acceptable coverage of potential  
46 cost overruns;

1  
2 (5) The operator shall increase the closure cost estimate when changes to the plan or at the  
3 landfill increase the cost of closure; and

4  
5 (6) The operator may reduce the closure cost estimate when changes to the plan or at the landfill  
6 decrease the costs of closure. The request for reduction shall be submitted to ~~the~~  
7 ~~CIWMB~~[CalRecycle](#) for approval.

8  
9 (b) Closure cost estimates shall include, but are not limited to, the following information:

10  
11 (1) If the documents are preliminary closure and postclosure maintenance plans, an estimate of  
12 the cost of developing final closure and postclosure maintenance plans;

13  
14 (2) an estimate of the cost to prepare plans and specifications, bidding documents, and other  
15 construction related documents; and

16  
17 (3) an estimate of the cost of closure activities including schedules for implementation activities.  
18 The activities described shall include, but are not limited to, an estimate of the cost:

19  
20 (A) to install or upgrade site security;

21  
22 (B) for structure removal;

23  
24 (C) to install or upgrade the monitoring and control systems, including landfill gas, leachate, and  
25 ground water systems if one or more of these systems is required by CalRecycle, RWQCB, or  
26 EA.

27  
28 (D) to install the final cover; and

29  
30 (E) to install or upgrade drainage and erosion control systems.

31  
32 Note: Authority cited: Section 40502, Public Resources Code.  
33 Reference: Sections 43020, 43021 and 43103, Public Resources Code.

34  
35  
36 **§ 21840. ~~CIWMB~~[CalRecycle](#)–Postclosure Maintenance Cost Estimates.**

37  
38 (a) The operator shall provide a written estimate, in current dollars, of the cost of hiring a third  
39 party to maintain, monitor, and inspect the closed landfill in accordance with the postclosure  
40 maintenance plan requirements. Cost estimates shall be subject to the following requirements:

41  
42 (1) Cost estimates shall be based on the activities described in the postclosure maintenance plan  
43 and account for postclosure maintenance of the entire landfill;

44  
45 (A) Cost estimates shall be based on the current monitoring and maintenance requirements. Cost  
46 estimates shall not anticipate future reductions in maintenance and/or monitoring.

1 (2) Cost estimates shall be of sufficient detail to identify the maintenance costs, repair costs, and  
2 replacement costs throughout the postclosure maintenance of the landfill;

3  
4 (3) The cost estimate ~~used to demonstrate financial assurance~~, shall be the annualized cost of  
5 maintenance and monitoring ~~anticipated~~ during the postclosure period as delineated in the  
6 postclosure maintenance plan, ~~multiplied by thirty (30)~~; and

7  
8 (A) Cost estimates for those maintenance and monitoring activities which occur less frequently  
9 than annually shall be prorated to an annual cost. The expected recurrence period shall be  
10 specified in the postclosure maintenance plan; and

11  
12 (i) Cost estimates for those maintenance and monitoring activities which occur less frequently  
13 than every 30 years shall be calculated as occurring every 30 years;

14  
15 (4) The operator shall modify the postclosure cost estimate, in accordance with §21865 of this  
16 Subchapter, when changes in the plan or landfill conditions indicate an increase or decrease in  
17 postclosure maintenance costs. Requests for modifications shall be submitted to ~~the~~  
18 ~~CIWMB~~ CalRecycle for approval.

19  
20 (b) Postclosure maintenance plans shall include a detailed estimate of the annual costs for  
21 postclosure monitoring and maintenance, including the following:

22  
23 (1) site security pursuant to §21135;

24  
25 (2) maintenance and integrity of the final cover including material acquisition, labor, and  
26 placement for repair of the final cover as required due to the effects of settlement, slope failure,  
27 or erosion;

28  
29 (3) maintenance of vegetation including fertilization, irrigation and irrigation system  
30 maintenance;

31  
32 (4) monitoring, operation and maintenance of the environmental monitoring and control systems,  
33 including, but not limited to, the landfill gas, leachate, and ground water systems;

34  
35 (5) maintenance of the drainage and erosion control systems including clearing materials  
36 blocking drainage conveyances and repairing drains, levees, dikes and protective berms.

37  
38 Note: Authority cited: Sections 40502 and 40508, Public Resources Code.  
39 Reference: Sections 40508, 43020, 43021, 43103, 43501 and 43509, Public Resources Code; and Title 40, Code of Federal  
40 Regulations, Section 258.72.  
41  
42

43 **§ 21865. ~~CIWMB~~ CalRecycle—Amendment of Closure and Postclosure Maintenance Plans.**

44  
45 (a) ~~Preliminary-c~~ Closure and postclosure maintenance plans shall be submitted every time a  
46 review or revision of the SWFP is conducted. If there have been no changes requiring an  
47 amendment under the ¶(c) criteria, a statement certified by a registered civil engineer or certified

1 engineering geologist that there have been no changes may be submitted in lieu of submitting  
2 plans.

3  
4 (1) For disposal sites without a solid waste facilities permit, the operator shall initially submit  
5 updated plans in accordance with the following schedule:

6  
7 (A) If the approval of Certification of Closure pursuant to §21880 occurred on or after January 1,  
8 1988 but prior to January 1, 1997, the operator shall submit updated plans on or before July 1,  
9 2012;

10  
11 (B) If the approval of Certification of Closure pursuant to §21880 occurred on or after January 1,  
12 1997 but prior to January 1, 2001, the operator shall submit updated plans on or before July 1,  
13 2013;

14  
15 (C) If the approval of Certification of Closure pursuant to §21880 occurred on or after January 1,  
16 2001 or if the operator has initiated closure activities on or before February 25, 2003, but has not  
17 received approval of Certification of Closure pursuant to §21880, the operator shall submit  
18 updated plans on or before July 1, 2014.

19  
20 (2) After complying with ¶(1), the operator shall submit updated plans at least once every five  
21 years.

22  
23 (b) The plans shall be submitted as part of the JTD or a separate document in the form of a  
24 distinct component of a JTD. ~~If the preliminary closure and postclosure maintenance plans have~~  
25 ~~been previously approved and a new horizontal or vertical expansion of a solid waste landfill is~~  
26 ~~not proposed, the~~ The form of submittal shall be as amendments to the existing plans as  
27 necessary. Submittal shall be in accordance with §21780. The evaluation and approval of the  
28 plans ~~amendments~~ shall be as specified under §21860.

29  
30 (~~b~~c) The plans shall be amended to reflect the following:

31  
32 (1) ~~Any~~ change in

33  
34 (A) ~~operation~~ Operation or solid waste landfill design which would affect the implementation of  
35 the closure and/or postclosure maintenance plans;

36  
37 (~~2~~B) ~~A change in~~ The anticipated year of closure;

38  
39 (~~3~~C) ~~Any change in~~ The financial mechanism required pursuant to §22227, "Substitution of  
40 Mechanisms" or §22231, "Cancellation or Nonrenewal by a Provider of Financial Assurance";  
41 ~~or~~ and

42 (~~4~~2) Updates of the cost estimates shall be based on the current costs on a unit basis (unit costs)  
43 for closure and postclosure maintenance. Cost estimate adjustments based only on inflation  
44 factors are not acceptable.

1 ~~[Note: The intent of subsection (b) is to assure adequate review of the amended portions of the~~  
2 ~~plans and not to institute a comprehensive review of the portions of the plan not subject to the~~  
3 ~~amendments.]~~

4  
5 Note: Authority cited: Section 40502, Public Resources Code.  
6 Reference: Sections 43103, 43505 and 43509, Public Resources Code.

7  
8 **§ 21880. ~~CIWMB~~ CalRecycle—Certification of Closure. ~~(T14:s18275)~~**

9  
10 (a) The operator shall submit to ~~the CIWMB~~ CalRecycle, the EA, and the RWQCB for approval a  
11 certification, under penalty of perjury, that the solid waste landfill has been closed in accordance  
12 with the approved final closure plan.

13  
14 (1) The certification submittal shall also include the as-built costs of closure in the same  
15 arrangement and sequence as the estimated costs of closure included in the approved final  
16 closure plan.

17  
18 (b) The certification shall be completed by a registered civil engineer or certified engineering  
19 geologist and include a report with supporting documentation. The report shall include a Final  
20 Construction Quality Assurance (CQA) report pursuant to ~~Article 2 of Subchapter 1 of Chapter 3~~  
21 ~~(§20323 and §20324 et seq.)~~ and any other documentation as necessary to support the  
22 certification. The certification, Final CQA report and any other documentation as necessary to  
23 support the certification shall be incorporated into the approved postclosure maintenance plan.

24  
25 (c) The certification shall be submitted within 180 days of the completion of closure construction  
26 activities unless CalRecycle, EA, and RWQCB approve an alternate schedule.

27  
28 (d) Within 120 days of receipt of the certification, CalRecycle, RWQCB, and EA shall complete  
29 a detailed review of the submittal and submit their comments to the operator.

30  
31 (e) If the certification is not approved by CalRecycle, RWQCB, or EA, the operator shall submit  
32 a revised certification within 60 days following such determination unless CalRecycle, RWQCB,  
33 and EA approve an alternate schedule.

34  
35 ~~(e)~~ (f) Once the certification has been approved by ~~the CIWMB~~ CalRecycle, RWQCB, and the EA,  
36 ~~the CIWMB~~ CalRecycle shall release the operator from the financial mechanism for closure.  
37 CalRecycle shall notify the local planning agency of this determination.

38  
39 ~~(d)~~ (g) On the day that the certification of closure is approved, the solid waste landfill shall be  
40 considered closed and in postclosure maintenance.

41  
42 Note: Authority cited: Section 40502, Public Resources Code; ~~and Section 66796.22(d), Government Code.~~  
43 Reference: ~~Section 66796.22(d), Government Code; and~~ Sections 43020, 43021, 43103 and 44006, Public Resources Code.

44  
45  
46 **SUBCHAPTER 5. CalRecycle - CORRECTIVE ACTION COST ESTIMATE AND**  
47 **PLAN REQUIREMENTS**

**§ 22100. CalRecycle–Scope and Applicability.**

1 (a) This subchapter applies to owners and operators of all disposal facilities that were or are  
2 required to be permitted as solid waste landfills and have been or will be operated on or after  
3 July 1, 1991.

4 (b) The operator shall provide cost estimate(s) and a plan, as appropriate, for initiating and  
5 completing known or reasonably foreseeable corrective action pursuant to §22101.

6  
7 (c) For the purposes of this subchapter, the following definitions apply:

8  
9 (1) “Corrective action” means an activity, including restoring the integrity or establishing the  
10 adequacy of a damaged or inadequate containment structure or environmental monitoring or  
11 control system, to: bring a landfill into compliance with the applicable requirements, prevent a  
12 reasonably foreseeable release, or remediate a known release to the environment. Corrective  
13 action does not include routine maintenance.

14  
15 (2) “Causal event” means an occurrence that could result in a non-water release corrective  
16 action. Causal events include, but are not limited to, earthquakes, flooding, tsunamis, seiche, fire,  
17 precipitation, and degradation of or otherwise inadequate containment structure or environmental  
18 monitoring or control system.

19  
20  
21 Note: Authority cited: Section 40502, 43020, 43021, 43050 and 43103, Public Resources Code.  
22 Reference: Sections 40052, 43020, 43021 and 43101, Public Resources Code.  
23  
24

**§ 22101. CalRecycle–Corrective Action Cost Estimate Requirements.**

25  
26 **(a) Water release corrective action cost estimate**

27 The operator shall provide a cost estimate for initiating and completing corrective action for all  
28 known or reasonably foreseeable releases from the solid waste landfill to water in accordance  
29 with the program required by the SWRCB pursuant to §20380(b).

30  
31 **(b) Non-water release corrective action cost estimate**

32 (1) Effective July 1, 2011, on or before the date of the first permit review or revision or plan  
33 review as determined by the schedule in §21865, the operator shall also provide a cost estimate  
34 for the complete replacement of the final cover. The operator shall calculate this cost in one of  
35 the following two ways:

36  
37 (A) By providing a new estimate of the cost of complete replacement of the final cover,  
38 including, but not limited to, the cost of removing the existing cover and preparing for and  
39 installing the new cover, as necessary, depending on the replacement final cover system design;  
40 or,  
41

1 (B) By providing the greater of either the most recently approved or most recently submitted  
2 closure cost estimate, adjusted, as necessary, to reflect closure of the entire solid waste landfill  
3 and current unit costs.

4  
5 (2) The operator, in lieu of providing a separate corrective action cost estimate pursuant to  
6 ¶(b)(1)(A) or (B), may provide a site-specific corrective action plan, as described in §22102 .

7  
8 (c) A cost estimate prepared pursuant to ¶(a) or ¶(b) must be a detailed written estimate, in  
9 current dollars, of the cost of hiring a third party to perform all applicable corrective action  
10 activities for the entire corrective action period.

11  
12 (d) The operator shall prepare the cost estimates in accordance with the requirements of §21815.

13  
14 (e) The operator shall increase the cost estimate if changes in the corrective action program,  
15 corrective action plan, or landfill conditions increase the maximum cost of corrective action.

16  
17 (f) The operator may only reduce the amount of the cost estimate if the cost estimate exceeds the  
18 maximum remaining corrective action costs and the reduction is approved pursuant to ¶(g).

19  
20 (g)(1) The operator shall provide the cost estimate prepared pursuant to ¶(a) to RWQCB for  
21 review and approval and shall provide a copy of this estimate to CalRecycle.

22  
23 (2) The operator shall provide the estimate prepared pursuant to ¶(b) to RWQCB, EA, and  
24 CalRecycle for review and approval in accordance with the schedule in §21860.

25  
26 Note: Authority cited: Section 40502, 43020, 43021, 43050 and 43103, Public Resources Code.  
27 Reference: Sections 43020, 43021 and 43101, Public Resources Code.

28  
29  
30 **§ 22102. CalRecycle–Corrective Action Plan Requirements.**

31  
32 (a) A corrective action plan submitted to comply with §22101(b)(2) must include:

33  
34 (1) An evaluation of the known or reasonably foreseeable non-water release corrective action  
35 needed as a result of each known or reasonably foreseeable causal event;

36  
37 (2) Cost estimates, prepared pursuant to §22101(c)-(f), for all known or reasonably foreseeable  
38 corrective actions described in the plan. The cost estimate with the highest amount must be used  
39 to determine the amount of financial assurance required pursuant to §22221(b)(2); and

40  
41 (3) An evaluation of the long-term performance of the final cover system to ensure that it will  
42 continue to meet the requirements of §21140 without the need for corrective action.

43  
44 (b) The operator shall submit the plan to RWQCB, EA, and CalRecycle for review and approval  
45 in accordance with the schedule in §21860.

1 (c)(1) The corrective action plan shall be prepared and certified by a third party who meets all of  
2 the following conditions;

3  
4 (A) Is a registered civil engineer or certified engineering geologist;

5  
6 (B) Is not employed by the current entity responsible for the design of the solid waste landfill;

7  
8 (C) Is not the current professional in responsible charge of work for the design of the solid waste  
9 landfill; and

10  
11 (D) Is not employed by an entity or its subsidiary, parent, or other similarly related entity under  
12 common control that owns or operates the solid waste landfill.

13  
14 (2) For the purposes of §§(c)(1) (B) and (C), the current entity responsible for the design and the  
15 current professional in responsible charge of design work are the entity and registered civil  
16 engineer or certified engineering geologist responsible for the design pursuant to  
17 §21600(b)(4)(B) in the conditioning JTD/RDSI, including all subsequent RFI amendments as  
18 applicable and approved, listed in the most recently issued solid waste facility permit and  
19 pursuant to §21780 in the approved final closure plan.

20  
21 Note: Authority cited: Section 40502, 43020, 43021, 43050 and 43103, Public Resources Code.  
22 Reference: Sections 43020, 43021 and 43101, Public Resources Code.  
23

### **§ 22103. CalRecycle–Updated Corrective Action Cost Estimate.**

24  
25 (a) The operator shall submit an updated corrective action estimate prepared pursuant to  
26 §22101(a) and an updated correction action estimate or corrective action plan prepared pursuant  
27 to §22101(b) each time closure and postclosure maintenance plans are required to be submitted  
28 pursuant to §21865.

29  
30 (1) The updated cost estimate shall be based on the current unit costs. Cost estimate adjustments  
31 based only on inflation factors are not acceptable.

32  
33 Note: Authority cited: Section 40502, 43020, 43021, 43050 and 43103, Public Resources Code.  
34 Reference: Sections 43020, 43021, 43101, 43103, 44004 and 44015, Public Resources Code.  
35  
36

## **CHAPTER 6. FINANCIAL ASSURANCES AT SOLID WASTE FACILITIES AND AT WASTE MANAGEMENT UNITS FOR SOLID WASTE**

### **SUBCHAPTER 2. FINANCIAL ASSURANCE REQUIREMENTS**

#### **ARTICLE 2. FINANCIAL ASSURANCE FOR POSTCLOSURE MAINTENANCE**

### **§ 22211. ~~CIWMB~~CalRecycle–Amount of Required Coverage ~~(T14:Section 18282)~~**

37  
38  
39  
40  
41  
42  
43  
44  
45 (a) ~~Except as otherwise noted in section §22225, t~~The operator of each solid waste landfill shall  
46 demonstrate financial responsibility to ~~the CIWMB~~CalRecycle for postclosure maintenance until  
47 released from postclosure maintenance pursuant to §21900. Except as otherwise provided in ¶(b)

1 and §22225, the amount of the financial demonstration must be ~~in~~ at least the amount of the  
2 current greater of either the most recently approved or most recently submitted postclosure  
3 maintenance cost estimate, prepared pursuant to §21840 multiplied by a factor as identified  
4 below.

5  
6 (1) For each solid waste landfill without approved final closure and postclosure maintenance  
7 plans on or before July 1, 2010, the postclosure maintenance cost estimate must be calculated  
8 with a multiplier equal to thirty (30) from the time the postclosure maintenance cost estimate is  
9 initially prepared and continuing throughout the certification of closure of the entire solid waste  
10 landfill pursuant to §21880, which will initiate the postclosure maintenance period of the closed  
11 landfill.

12  
13 (2) After five (5) years of completed postclosure maintenance activities, at each postclosure  
14 maintenance plan review conducted pursuant to §21865, the operator may submit a request to  
15 CalRecycle for approval to use a reduced multiplier. CalRecycle shall approve the use of a  
16 reduced multiplier if CalRecycle determines all the following criteria have been satisfied:

17  
18 (A) The operator may only request a reduced multiplier once every five (5) years, the first  
19 request occurring no earlier than the end of the fifth (5) year of postclosure maintenance,

20  
21 (B) The operator request shall be for a reduction in the multiplier in increments of five (5), but in  
22 no instance shall the multiplier be reduced below fifteen (15) until the operator is released from  
23 postclosure maintenance pursuant to §21900, and

24  
25 (C) During the five (5) year interval, the operator shall meet all of the following conditions:

26  
27 1. The operator has not been subject to an enforcement order issued for the closed solid waste  
28 landfill by EA, CalRecycle, or RWQCB, including but not limited to, a Notice and Order,  
29 Cleanup and Abatement Order, Cease and Desist Order, Time Schedule Order, or similar  
30 controlling order within the current Waste Discharge Requirements of RWQCB or SWFP and  
31 CalRecycle has not placed the closed solid waste landfill on the Inventory of Facilities Violating  
32 State Minimum Standards, except if:

33  
34 a. The agency that issued the enforcement order has determined that:

35  
36 i. Any required capital improvements have been satisfactorily constructed, and

37  
38 ii. The activities required by the enforcement order either:

39  
40 I. Are in the operation and maintenance phase, or

41  
42 II. Have been satisfactorily completed, and

43  
44 iii. The activities required by the enforcement order are effectively remedying the subject(s) of  
45 the enforcement order, and

1 b. The remaining costs of the activities required by the enforcement order are addressed in the  
2 postclosure maintenance and/or the corrective action financial assurance demonstrations.

3  
4 c. If the multiplier was previously approved for reduction pursuant to ¶a and ¶b, CalRecycle shall  
5 require the multiplier to be increased in increments of five (5), limited to one (1) incremental  
6 increase within a five (5) year period, to a maximum multiplier of thirty (30), if at any time  
7 subsequent to the approved reduction the operator fails to continue to meet the conditions  
8 specified in ¶a and ¶b.

9  
10 2. The operator has consistently performed a proactive monitoring program that has been  
11 described in the operator's postclosure maintenance plan that has been approved by EA,  
12 CalRecycle and RWQCB. The proactive monitoring program shall include, but not be limited to  
13 the following: leachate quality and quantity; landfill gas generation and migration; groundwater  
14 quality; and final cover settlement, stability, integrity, and maintenance history including repair  
15 and replacement. If the operator is already monitoring one or more of the items identified in this  
16 section due to other requirements, these may be included within the proactive monitoring  
17 program. The proactive monitoring program shall ensure that the operator is obtaining  
18 information in order to determine the characteristics and trends of leachate, landfill gas,  
19 groundwater and final cover both individually and as they interact with each other in the landfill.  
20 The operator shall analyze the data to determine if postclosure maintenance activities have been  
21 and will be effective in meeting the requirements of §§21090 and 21180. The monitoring data  
22 and evaluation shall be made available to EA, CalRecycle, and RWQCB upon request,

23  
24 3. There has not been a disbursement for corrective action in accordance with §22234, and

25  
26 4. The postclosure maintenance activities and costs are consistent with the estimated postclosure  
27 maintenance activities and costs in the approved postclosure maintenance plan.

28  
29 (3) At each postclosure maintenance plan review conducted pursuant to §21865, if the multiplier was  
30 previously approved for reduction pursuant to ¶(a)(2), CalRecycle shall require the multiplier to be  
31 increased in increments of five (5), limited to one (1) incremental increase within a five (5) year  
32 period, to a maximum multiplier of thirty (30), if, during the five (5) year interval since the previous  
33 plan review, either

34  
35 (A) The operator fails to meet conditions specified in ¶(a)(2)(C)1 or 2 except:

36  
37 1. if the enforcement order issued pursuant to ¶(a)(2)(C)1 was issued due to an exceptional event  
38 unrelated to the design, operation, closure, or maintenance of the closed solid waste landfill,  
39 including, but not limited to, a wildfire or act of terrorism, and the operator petitions CalRecycle and  
40 CalRecycle determines that;

41  
42 a. the enforcement order meets the conditions of ¶1, and

43  
44 b. the operator is in compliance with the terms and conditions of that enforcement order, or

45  
46 (B) The operator fails to meet the schedule to repay any disbursement for corrective action pursuant  
47 to §22234(b).

1  
2 (4) If an operator does not qualify for a reduction in the multiplier pursuant to ¶(a)(2)(C) and is not  
3 required to increase the multiplier pursuant to ¶(a)(3), CalRecycle shall require the multiplier to be  
4 maintained at the current multiplier.

5  
6 (b) For each solid waste landfill with approved final closure and postclosure maintenance plans  
7 on or before July 1, 2010, the postclosure maintenance cost estimate multiplier must be equal to  
8 thirty (30), except that:

9  
10 (1) Upon request by the operator and verification by CalRecycle, the operator may reduce the  
11 multiplier to an amount corresponding to the number of years of postclosure maintenance  
12 completed since the approval of the certification of closure of the entire solid waste landfill  
13 pursuant to §21880, but shall not reduce the multiplier to less than fifteen (15).

14  
15 (2) Upon request by the operator and verification by CalRecycle, at the end of each year of  
16 postclosure maintenance, the operator may reduce the multiplier on a one-for-one basis with the  
17 number of years of postclosure maintenance completed, but shall not reduce the multiplier to less  
18 than fifteen (15).

19  
20 (c) Upon transfer of ownership or operation of a closed solid waste disposal site,

21  
22 (1) The new operator shall provide a financial assurance demonstration using a multiplier of  
23 thirty (30), and

24  
25 (2) The new operator may submit a request to CalRecycle for approval to reduce the multiplier  
26 to the current level of financial assurances provided by the previous operator. CalRecycle shall  
27 approve the request if CalRecycle determines that all of the following criteria are met:

28  
29 (A) The new operator has operated and maintained solid waste disposal sites for at least ten (10)  
30 years, is not currently in violation of an enforcement order and has not exhibited a pattern and  
31 practice of violations of applicable standards;

32  
33 (B) The new operator has submitted the affidavit required by §21200(b)(2); and

34  
35 (C) The new operator has submitted satisfactory evidence that it is able to obtain a financial  
36 assurance demonstration, pursuant to §22228 at a thirty (30) multiplier level.

37  
38 **Note:** Authority Cited: Section 40502 and 43050, Public Resources Code.

39 **Reference:** Sections 43103, and 43501, 43509(a), 43600, 43601, 43602 and 43604 Public Resources Code

40  
41 **ARTICLE 4. FINANCIAL ASSURANCE REQUIREMENTS FOR CORRECTIVE**  
42 **ACTION**  
43

44 **§ 22220. ~~CIWMB~~CalRecycle—Scope and Applicability. (new)**

1 (a) This article requires operators of disposal facilities to demonstrate the availability of financial  
2 resources to conduct corrective action activities as required under ~~Article 1, Subchapter 3,~~  
3 ~~Chapter 3 (§§20380 et seq.(b))~~ and 22100.

4  
5 (b) The requirements of this article apply to operators of all disposal facilities that were or are  
6 required to be permitted as solid waste landfills and have been or will be operated on or after  
7 July 1, 1991.

8  
9 **Note:** Authority cited: Sections 40502 and 40508, Public Resources Code

10 **Reference:** Sections 40508 and 43103, Public Resources Code; Section 258.73, Title 40, Code of Federal Regulations.  
11  
12

**§ 22221. ~~CIWMB~~CalRecycle—Amount of Required Coverage. ~~(T14:Section 17258.73)~~**

13  
14 (a) Except as otherwise ~~provided~~~~Noted~~ in ~~¶(b) and in §§22225 and~~ 22226, the operator of each  
15 disposal facility shall demonstrate financial responsibility to ~~the CIWMB~~CalRecycle for  
16 initiating and completing known or reasonably foreseeable corrective action ~~for all known or~~  
17 ~~reasonably foreseeable releases from the disposal facility as require under Article 1, Subchapter~~  
18 ~~3, Chapter 3, (§20380 et seq.)~~ in at least the amount of the ~~current~~ greater of either the most  
19 recently approved or most recently submitted corrective action cost estimate prepared pursuant to  
20 §22101(a) reviewed and approved by the appropriate RWQCB[Water Release Corrective Action  
21 Estimate]. Effective July 1, 2011, this ¶ does not apply to an operator that is required to comply  
22 with ¶(b).

23  
24 (b) Except as otherwise provided in §§22225 and 22226, effective July 1, 2011, on or before the  
25 date of the first permit review or revision or plan review as determined by the schedule in  
26 §21865, the operator of each disposal facility shall demonstrate financial responsibility to  
27 CalRecycle for initiating and completing known or reasonably foreseeable corrective action in at  
28 least the amount of the greater of:

29  
30 (1) The greater of either the most recently approved or most recently submitted corrective action  
31 cost estimate, prepared pursuant to §22101(a), [Water Release Corrective Action Estimate], or  
32 ~~The operator of each disposal facility required to demonstrate financial responsibility to~~  
33 ~~undertake a corrective action program must have a detailed written estimate, in current dollars, of~~  
34 ~~the cost of hiring a third party to perform the corrective action in accordance with the program~~  
35 ~~required under Article 1, Subchapter 3, Chapter 3 (§20380 et seq.). The corrective action cost~~  
36 ~~estimate must account for the total costs of corrective action activities as described in the~~  
37 ~~corrective action plan for the entire corrective action period.~~

38  
39 (2) The greater of the most recently approved or most recently submitted corrective action cost  
40 estimate, prepared pursuant to §22101(b), [Non-Water Release Corrective Action Estimate].

41  
42 (c) Except as otherwise provided in §§22225 and 22226, in determining the required amount of  
43 financial assurances under ¶(a) and (b), if a disposal facility is subject to both known and  
44 reasonably foreseeable corrective actions, the operator must compare the amounts of the  
45 applicable known and reasonably foreseeable corrective action cost estimates and use the  
46 estimate with the greatest amount.  
47

1 (d) The operator must annually adjust the estimate for inflation until the corrective action  
2 program is completed in accordance with ~~Article 1, Subchapter 3, Chapter 3~~ (§20380 et seq.) and  
3 §22100 et seq.

4  
5 ~~(3) The operator must increase the corrective action cost estimate and the amount of financial~~  
6 ~~assurance provided under (a) if changes in the corrective action program or disposal facility~~  
7 ~~conditions increase the maximum costs of corrective action.~~

8  
9 ~~(4) The operator may reduce the amount of the corrective action cost estimate and the amount of~~  
10 ~~financial assurance provided under (a) if the cost estimate exceeds the maximum remaining costs~~  
11 ~~of corrective action.~~

12  
13 (e) The operator must receive authorization from ~~the CIWMB~~ CalRecycle ~~approving the~~  
14 ~~reduction of the corrective action cost estimate~~ before ~~adjusting~~ reducing the financial  
15 mechanism used to demonstrate coverage.

16  
17 **Note:** Authority cited: Sections 40502 and 40508, Public Resources Code

18 **Reference:** Sections 40508 and 43103, Public Resources Code; Section 258.73, Title 40, Code of Federal Regulations.

### 19 20 **SUBCHAPTER 3. ALLOWABLE MECHANISMS**

21  
22 All forms referenced in this Subchapter are located in Appendix 3.

### 23 24 **ARTICLE 1. ~~CIWMB~~ CalRecycle-GENERAL REQUIREMENTS FOR** 25 **MECHANISMS**

#### 26 27 **§ 22231. ~~CIWMB~~ CalRecycle-Cancellation or Nonrenewal by a Provider of Financial** 28 **Assurance. (~~T14:s17258.74,s18242,18294~~)**

29  
30 (a) Except as otherwise provided in §22232, a provider of financial assurance may cancel or not  
31 renew a financial assurance mechanism by sending a notice of termination by certified mail to  
32 the operator, and ~~the CIWMB~~ CalRecycle.

33  
34 (1) Termination of a letter of credit, a surety bond, an insurance policy, or a guarantee shall not  
35 occur until 120 days after the date on which the operator; and ~~the CIWMB~~ CalRecycle have  
36 received the notice of termination, as evidenced by the return receipts.

37  
38 (2) If a provider of financial assurance cancels or fails to renew a mechanism for reasons other  
39 than its bankruptcy or incapacity, the operator shall obtain alternate coverage within 60 days  
40 after receiving the notice of termination. If the operator fails to obtain alternate coverage within  
41 the 60 days, the operator shall notify ~~the CIWMB~~ CalRecycle of such failure.

42  
43 (b) The closure and/or postclosure maintenance and/or reasonably foreseeable corrective action  
44 costs insurance policy, issued in accordance with §22248, shall provide that the insurer may not  
45 cancel, terminate or fail to renew the policy except for failure to pay the premium. The automatic  
46 renewal of the policy shall, at a minimum, provide the insured with the option of renewal at the  
47 face amount of the expiring policy. If there is a failure to pay the premium, the insurer may

1 cancel the policy by sending notice of cancellation by certified mail to the operator, and ~~the~~  
2 [CIWMB CalRecycle](#) 120 days in advance of cancellation. If the insurer cancels the policy, the  
3 operator must obtain alternate financial assurance as specified in §22228. If the operator fails to  
4 demonstrate alternate financial assurance as specified in §22228 within 60 days after receiving  
5 the notice of termination, ~~the CIWMB CalRecycle~~ may allow the insurer an extension to the term  
6 of the insurance policy for a period of time shorter than one year. Cancellation, termination, or  
7 failure to renew will not occur and the policy will remain in full force and effect in the event that  
8 on or before the date of expiration:

- 9
- 10 (1) ~~The CIWMB CalRecycle~~ or ~~enforcement agency~~EA deems the disposal facility abandoned; or
  - 11
  - 12 (2) The permit is terminated or revoked or a new permit is denied by ~~the CIWMB CalRecycle~~ or  
13 ~~enforcement agency~~EA; or
  - 14
  - 15 (3) Partial or complete closure, postclosure maintenance, or corrective action is ordered by ~~the~~  
16 [CIWMB CalRecycle](#), [EA](#), [RWQCB](#), other government entity, ~~or any other state or federal~~  
17 ~~agency~~; or ~~a~~ court of competent jurisdiction; or
  - 18
  - 19 (4) The operator is named as a debtor in a voluntary or involuntary proceeding under Title 11  
20 (Bankruptcy) U.S. Code; or
  - 21
  - 22 (5) All delinquent premium payments have been brought current.

23

24 (c) Cancellation or nonrenewal of third party operating liability insurance or self-insurance and  
25 risk management for third party operating liability coverage shall occur no less than 60 days after  
26 the date on which the operator, and ~~the CIWMB CalRecycle~~ have received the notice of  
27 termination, as evidenced by the return receipts; except in the case of non-payment of insurance  
28 premiums, in which case cancellation shall occur no less than 10 days after the date on which the  
29 operator, and ~~the CIWMB CalRecycle~~ have received the notice of termination.

30  
31 Note: Authority cited: Sections 40502 and 43040, Public Resources Code.  
32 Reference: Sections 43040, 43103 and 43500-43610, Public Resources Code.

#### 33

#### 34 **§ 22234. ~~CIWMB CalRecycle~~–Disbursements from Financial Mechanisms**

35

36 (a) The operator, or other person authorized to conduct closure, postclosure maintenance, or  
37 corrective action activities may request disbursements from ~~the CIWMB CalRecycle~~ for these  
38 expenditures in advance of the activities or as reimbursement for activities completed. Requests  
39 for disbursement will be granted by ~~the CIWMB CalRecycle~~ only if:

- 40
- 41 (1) Sufficient funds are remaining in the financial mechanism(s) to cover the remaining costs of  
42 closure, postclosure maintenance, or corrective action; and
- 43
- 44 (2) Justification and documentation of the cost is presented to ~~the CIWMB CalRecycle~~ for review  
45 and approval in conjunction with approved final closure and postclosure maintenance plans; or  
46 an approved corrective action plan.
- 47

1 (3) For a corrective action financial mechanism, the owner and operator have provided  
2 documentation satisfactory to CalRecycle that they are financially unable to conduct the  
3 corrective action activities without receiving a disbursement or disbursements from the financial  
4 mechanism.

5  
6 (b) The operator shall replenish the corrective action financial mechanism(s) to the level  
7 prescribed by §22221 within five (5) years of the initial disbursement unless CalRecycle and  
8 RWQCB agree to an alternate schedule.

9  
10 ~~(bc)~~ ~~The CIWMB~~ CalRecycle shall authorize disbursements from an established closure or  
11 postclosure maintenance financial assurance mechanism to the RWQCB for the costs of closure  
12 or postclosure maintenance if the RWQCB finds that the operator has failed to perform closure  
13 or postclosure maintenance as required by the closure plan or postclosure maintenance plan as  
14 approved by the RWQCB and ~~the CIWMB~~ CalRecycle, or as required by an Order issued by the  
15 RWQCB, including Waste Discharge Requirements (WDRs), Cease and Desist Orders (CDOs),  
16 and/or Cleanup and Abatement Orders (CAOs).

17  
18 ~~(ed)~~ ~~The CIWMB~~ CalRecycle shall authorize disbursements from an established corrective action  
19 financial assurance mechanism to the RWQCB for the costs of corrective action if the RWQCB  
20 finds that the operator has failed to perform corrective action as required by the corrective action  
21 workplan as approved by the RWQCB and ~~the CIWMB~~ CalRecycle; or as required by an Order  
22 issued by the RWQCB, including WDRs, CDOs, and/or CAOs.

23  
24 Note: Authority cited: Section 40502, Public Resources Code.  
25 Reference: Sections 43103 and 43500 – 43610. Public Resources Code, Title 40, Code of Federal Regulations, Section 258.74(a)(7).

26  
27  
28 **ARTICLE 2. ~~CIWMB~~ CalRecycle-FINANCIAL ASSURANCE MECHANISMS**

29  
30 **§ 22245. ~~CIWMB~~ CalRecycle–Pledge of Revenue. ~~(T14:s18290)~~**

31  
32 (a) A pledge of revenue shall consist of a resolution by the governing body of the operator or  
33 provider of financial assurance authorizing an agreement between the operator or provider of  
34 financial assurance and ~~the CIWMB~~ CalRecycle to establish the pledge. The resolution and the  
35 agreement shall remain effective continuously throughout the period in which the pledge of  
36 revenue is used to satisfy the requirements of Subchapter 2 of this Chapter.

37  
38 (b) The agreement establishing the pledge of revenue shall contain the following items:

39  
40 (1) The types and sources of pledged revenue;

41  
42 (2) The amount of revenue pledged from each source;

43  
44 (3) The period of time that each source of revenue is pledged to be available; and

45  
46 (4) The solid waste landfill(s) and the current postclosure and/or corrective action cost  
47 estimate(s) that are covered by the pledge.

1  
2 (5) The authorization for ~~the CIWMB~~CalRecycle to direct payment for postclosure maintenance  
3 and/or corrective action if ~~the CIWMB~~CalRecycle determines that the operator has failed or is  
4 failing to perform postclosure maintenance or corrective action activities covered by the  
5 mechanism.

6  
7 (c) An operator or provider of financial assurance shall pledge the following types of revenue  
8 that the operator or provider of financial assurance controls and that will be available in a timely  
9 manner to pay for postclosure maintenance or corrective action:

10  
11 (1) User fees, rents, or other guaranteed revenue from existing or planned solid waste facilities;

12  
13 (2) Tax increases within statutory limitations; and/or

14  
15 (3) Other guaranteed revenues that are acceptable to ~~the CIWMB~~CalRecycle.

16  
17 (d) If an operator or provider of financial assurance ceases at any time to retain control of its  
18 ability to allocate any pledged revenue to pay postclosure maintenance or corrective action costs,  
19 the operator or provider of financial assurance shall notify ~~the CIWMB~~CalRecycle and shall  
20 obtain alternate coverage within 60 days after control lapses.

21  
22 (e) Each resolution and agreement shall be submitted with a completed pledge of revenue form  
23 CalRecycle 114 (02/2010), which is incorporated by reference.

24  
25 Note: Authority cited: Section 40502, Public Resources Code.  
26 Reference: Sections 43103 and 43500-43610, Public Resources Code.

27  
28 **§ 22248. ~~CIWMB~~CalRecycle—Closure and/or Postclosure Maintenance and/or Reasonably**  
29 **Foreseeable Corrective Action Insurance.**

30  
31 (a) The issuer of the insurance policy shall be an insurer, including a captive insurance company  
32 that, at a minimum, is licensed by the California Department of Insurance to transact the business  
33 of insurance in the State of California as an admitted carrier.

34  
35 (b) If coverage is not available as specified in ¶(a), the operator may seek coverage from an  
36 insurer, including a captive insurance company that, at a minimum, shall be eligible to provide  
37 insurance as an excess or surplus lines insurer in California.

38  
39 (c) If coverage is obtained as described in ¶(b), the insurance shall be transacted by and through a  
40 surplus lines broker currently licensed under the regulations of the California Department of  
41 Insurance [California Insurance Code (CIC), Division 1, Part 2, Chapter 6] and upon the terms  
42 and conditions prescribed by the California Department of Insurance.

43  
44 (d) ~~The CIWMB~~CalRecycle or its designee may object to the use of any insurer at anytime,  
45 whether before or after placement of coverage based on information obtained from, but not  
46 limited to, the Surplus Line Association of California, Best's Insurance Reports, and/or the Non-  
47 Admitted Insurers Quarterly List.

1  
2 (e) The closure or postclosure maintenance insurance or reasonably foreseeable corrective action  
3 policy shall guarantee that funds will be available to close the solid waste landfill whenever  
4 closure occurs or to provide postclosure maintenance for the solid waste landfill whenever the  
5 postclosure maintenance period begins or provide for corrective action for the solid waste  
6 landfill if corrective action is deemed necessary, whichever is applicable. The policy shall also  
7 guarantee that once the closure or postclosure maintenance or corrective action program begins,  
8 the insurer will be responsible for the paying out of funds to the operator or person authorized to  
9 conduct closure or postclosure maintenance or corrective action, up to an amount equal to the  
10 face amount of the policy.

11  
12 (f) The insurance policy shall be issued for a face amount at least equal to the most recently  
13 approved closure and/or postclosure maintenance and/or reasonably foreseeable corrective action  
14 cost estimate(s) whichever is applicable, unless the policy is being used in combination with  
15 another acceptable mechanism. The term "face amount" means the total amount the insurer is  
16 obligated to pay under the policy. Actual payments by the insurer will not change the face  
17 amount, although the insurer's future liability may be lowered by the amount of the payments.

18  
19 (g) An operator, or any other person authorized to conduct closure or postclosure maintenance or  
20 corrective action, may receive disbursements ~~reimbursements~~ for closure or postclosure  
21 maintenance or corrective action expenditures, whichever is applicable. Requests for  
22 disbursements ~~reimbursements~~ will be granted by the insurer only if ~~the remaining value of the~~  
23 ~~policy is sufficient to cover the remaining costs of closure or postclosure maintenance or~~  
24 ~~corrective action and if~~ the expenditures have been reviewed and approved in writing by ~~the~~  
25 CIWMBCalRecycle or its designee.

26  
27 (h) Notwithstanding any other provisions of this section, if either partial or complete closure,  
28 postclosure maintenance or corrective action activities are ordered by ~~the CIWMBCalRecycle,~~  
29 EA, RWQCB, or other government entity or court of competent jurisdiction ~~its designee~~ as a  
30 result of failure by the operator or other authorized person ~~authorized~~ to conduct such activities,  
31 the policy shall also guarantee that the insurer shall be responsible for paying out funds to ~~the~~  
32 CIWMBCalRecycle for deposit into a special account established by ~~the CIWMBCalRecycle~~ for  
33 closure, postclosure maintenance or corrective action activities of the facility. The policy shall  
34 further guarantee that the insurer shall, without delay, pay to ~~the CIWMBCalRecycle~~ the amount  
35 ~~the CIWMBCalRecycle~~ requests, up to an amount equal to the face amount of the policy,  
36 regardless of any remaining premiums to be paid. CIWMBCalRecycle requests for payment will  
37 be based on current estimated expenses as determined by ~~the CIWMBCalRecycle~~ for closure,  
38 postclosure maintenance or corrective action activities. Any payments made by the insurer that  
39 exceed the actual expenses incurred in performing the insured activity will be repaid to the  
40 insurer at the completion of the insured activity.

41  
42 (i) Each policy shall contain a provision allowing assignment of the policy to a successor  
43 operator. Such assignment may be conditional upon consent of the insurer, provided that such  
44 consent is not unreasonably refused.

1 (j) Except as provided in §22231, the insurer may not cancel, terminate, or fail to renew the  
2 policy. ~~The insurance policy must provide that the insurer may not cancel, terminate or fail to~~  
3 ~~renew the policy except for failure to pay the premium. The automatic renewal of the policy~~  
4 ~~must, at a minimum, provide the insured with the option of renewal at the face amount of the~~  
5 ~~expiring policy. If there is a failure to pay the premium, the insurer may cancel the policy by~~  
6 ~~sending notice of cancellation by certified mail to the owner and operator, and the CIWMB 120~~  
7 ~~days in advance of cancellation. If the insurer cancels the policy, the owner or operator must~~  
8 ~~obtain alternate financial assurance as specified in §22228.~~

9  
10 (k) For insurance policies providing coverage for postclosure maintenance, commencing on the  
11 date that liability to make payments pursuant to the policy accrues, the insurer shall thereafter  
12 annually increase the face amount of the policy. Such increases must be equivalent to the face  
13 amount of the policy, less any payments made, multiplied by an amount equivalent to 85 percent  
14 of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S.  
15 Treasury for 26-week Treasury securities.

16  
17 (l) The operator may cancel the insurance policy only if alternate financial assurance is  
18 substituted as specified in §22227, or if the operator is no longer required to demonstrate  
19 financial responsibility in accordance with the requirements of Subchapter 2 of this Chapter.

20  
21 (m) Each closure and/or postclosure maintenance and/or reasonably foreseeable corrective action  
22 insurance policy shall be evidenced by a certificate of insurance established by using form  
23 CIWMB CalRecycle 106 (02/201008/2001), ~~which is incorporated by reference~~. Each certificate  
24 of insurance shall contain the insurer's warranty that the policy conforms in all respects with the  
25 requirements of this Subdivision, as applicable, and as such regulations were constituted on the  
26 date the policy is certified to on an annual basis. In addition, the insurer shall agree that any  
27 provision of the policy inconsistent with these regulations is amended to eliminate such  
28 inconsistency by submittal of the certification for closure and/or postclosure maintenance and/or  
29 reasonably foreseeable corrective action insurance.

30  
31 Note: Authority cited: Section 40502, Public Resources Code.  
32 Reference: Sections 43103 and 43500-43610, Public Resources Code.