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California Integrated Waste Management Board

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Arnold Schwarzenegger
Governor

January 8, 2004

To All Enforcement Agencies and Solid Waste Landfill Owners and Operators:

Re: Labor Transition Plan Requirement For New Final Closure Plans

The purpose of this letter is to provide notice of a new requirement affecting solid waste landfill final closure plans. Chapter 823, Statutes of 2003 (AB 1497, Montañez) effective January 1, 2004, added Section 43501.5 to the Public Resources Code (PRC). Generally, the statute requires that landfill operators¹ submit a "Labor Transition Plan" (LTP) and a certification respecting the LTP to the Enforcement Agency (EA) when the operator submits its final landfill closure plan to the EA and the California Integrated Waste Management Board (CIWMB).

It is CIWMB's understanding that the Legislature's intent in enacting Section 43501.5 is to place the primary responsibility for compliance with the new statute on landfill operators and to limit the responsibility of EAs and CIWMB. Thus, landfill operators must certify that the LTPs they submit satisfy the requirements of Section 43501.5. EAs shall receive a copy of the LTP and the operator's certification. EAs are not responsible for assuring that the LTPs contain all the elements required by the statute, nor are they responsible for evaluating the adequacy or merits of the Plan. CIWMB shall receive only a copy of the operator's certification.

Section 43501.5 states in full:

43501.5(a) In addition to the requirements of this article, and Section 21780 of Title 27 of the California Code of Regulations, a person who is required to file a final closure plan shall also file with the enforcement agency a Labor Transition Plan that includes all of the following

- (1) Provisions that ensure, subject to any requirements already established pursuant to a collective bargaining agreement, preferential reemployment and transfer rights of displaced employees to comparable available employment with the same employer for a period of no less than one year following the closure of the solid waste facility.
- (2) Provisions to provide displaced employees assistance in finding comparable employment with other employers.
- (3) Provisions to ensure compliance with all applicable provisions of Chapter 4 (commencing with Section 1400) of Part of 4 of Division 2 of the Labor Code.

¹ Pursuant to Title 27, California Code of Regulations, Section 20164, "operator" is the landowner or other person legally responsible to the State for, among other things, obtaining a solid waste facilities permit for the site, operating the solid waste facility, closing the facility and maintaining it during the postclosure period.

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(b) When submitting the final closure plan, the operator shall submit, in addition to the requirements of subdivision (a), a certification to the board and the enforcement agency that the provisions described in paragraphs (1) to (3), inclusive, of subdivision (a), will be implemented, subject to any requirements already established under a collective bargaining agreement.

(c) For the purposes of this section, "comparable employment" means the same or a substantially similar job classification at equal or greater wage and benefit levels in the same geographic region of the state.

This new law took effect on January 1, 2004. Therefore, any landfill operator who submits a final closure plan pursuant to 27 CCR Section 21780(c)(3) on or after January 1, 2004, must also submit a LTP to the EA and certifications to the EA and CIWMB that the LTP meets the criteria of PRC 43501.5.

This requirement does not apply to submittal of preliminary closure plans, partial final closure plans, revised final closure plans in the review process that have been accepted for filing prior to January 1, 2004, or to revisions of previously approved final plans. Cost estimates or financial assurances for implementation of the LTP are not required. The LTP is required only to be submitted to the EA. The EA is not required to provide any review of the LTP.

The certification must be submitted to the EA and CIWMB, together with the final closure plan, in order for the final closure plan to be determined complete and acceptable for filing. A sample certification form is included as an attachment to this letter. Operators are not required to use the sample certification; they may provide their own certification.

Because CIWMB staff resources do not include expertise in labor transition issues, we suggest that operators contact their internal Human Resources Department (if applicable). Additional general information about labor relationships may also be found on the web sites of the State of California Department of Industrial Relations (DIR) and the Employment Development Department (EDD). The DIR's and EDD's general web page addresses are www.dir.ca.gov and www.edd.ca.gov, respectively. The EDD also has web pages specifically geared for employers at www.edd.ca.gov/employer.htm.

Should you have any questions concerning the above matter, please contact Mr. Michael Wochnick in the CIWMB Closure and Technical Services Section at (916) 341-6318.

Sincerely,

Original Signed By

Howard Levenson, Ph.D.
Deputy Director, Permitting & Enforcement

Attachment: Sample Labor Transition Plan Certification