



LINDA S. ADAMS  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION



ARNOLD SCHWARZENEGGER  
GOVERNOR

# CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • P.O. BOX 4025, SACRAMENTO, CALIFORNIA 95812-4025  
(916) 341-6000 • WWW.CIWMB.CA.GOV

MARGO REID BROWN  
CHAIR  
MBROWN@CIWMB.CA.GOV  
(916) 341-6051

## NOTICE OF PUBLIC WORKSHOPS

**Subject:** Closure and Postclosure Maintenance Cost Estimates Regulations

WESLEY CHESBRO  
WCHESBRO@CIWMB.CA.GOV  
(916) 341-6039

On October 3 and 25, 2007, California Integrated Waste Management Board (CIWMB) staff will conduct informal workshops on the proposed closure and postclosure maintenance cost estimate regulations. The workshops are open to all interested parties and will provide participants with the opportunity to review, discuss, and comment on the proposed amendments to Division 2, Subdivision 1, Chapters 4 and 6, and financial assurance forms within the Appendix of Title 27, California Code of Regulations. See below for reservation information.

JEFFREY DANZINGER  
JDANZINGER@CIWMB.CA.GOV  
(916) 341-6024

The proposed text and related rulemaking documents are available on the CIWMB's website at <http://www.ciwmb.ca.gov/Rulemaking/Postclosure/Phase1/default.htm>.

ROSALIE MULE  
RMULE@CIWMB.CA.GOV  
(916) 341-6016

Both workshops will be held at the Cal/EPA Building, 1001 I Street, Sacramento, CA. Driving directions are available at: <http://www.ciwmb.ca.gov/BoardInfo/Location/#CalEPA>. The October 3 workshop will be held from 1:00 p.m. to 5:00 p.m. in the Sierra Hearing Room on the 2<sup>nd</sup> Floor. The CIWMB will broadcast the audio feed of this workshop and accept comments during the workshop via e-mail. Go to <http://www.ciwmb.ca.gov/Broadcast/> to connect to the audio feed. Please direct e-mail comments during the workshop to [ecastaneda@ciwmb.ca.gov](mailto:ecastaneda@ciwmb.ca.gov). The October 25 workshop will be held from 1:00 p.m. to 5:00 p.m. in Room 620.

CHERYL PEACE  
CPEACE@CIWMB.CA.GOV  
(916) 341-6010

The formal public hearing for these regulations is scheduled for November 14, 2007, in the Byron Sher Auditorium, beginning at 9:00 a.m.

GARY PETERSEN  
GPETERSEN@CIWMB.CA.GOV  
(916) 341-6036

The workshops are not intended to be formal meetings of the Board or any of its Committees. It is possible that a quorum of the Board or its Committee members may be present.

Please contact Robert Holmes at (916) 341-6376 to request special accommodations for persons with disabilities or if you have any questions regarding this notice.

**Workshop reservations should be made by phone or E-mail to:**

Robert Holmes  
Waste Compliance and Mitigation Program  
California Integrated Waste Management Board  
1001 I St., P.O. Box 4025  
Sacramento, CA 95812  
Phone: (916) 341-6376 Fax: (916) 319-7403  
E-mail: [rholmes@ciwmb.ca.gov](mailto:rholmes@ciwmb.ca.gov)



## NOTICE OF PROPOSED RULEMAKING

- Title 27. Environmental Protection**  
**Division 2. Solid Waste**  
**Subdivision 1. Consolidated Regulations for Treatment, Storage, Processing or Disposal of Solid Waste**
- Chapter 4. Documentation and Reporting For Regulatory Tiers, Permits, WDRs, and Plans**  
**Subchapter 4. Development of Closure/Postclosure Maintenance Plans**  
**Sections: 21780-21800, 21815-21840, & 21865**
- Chapter 6. Financial Assurances at Solid Waste Facilities and at Waste Management Units for Solid Waste**  
**Subchapter 3. Allowable Mechanisms**  
**Article 1. CIWMB - General Requirements for Mechanisms**  
**Sections: 22231 & 22234**
- Article 2. CIWMB - Financial Assurance Mechanisms**  
**Sections: 22240, 22243, 22244, 22246-22249.5, & 22251-22253**
- Appendix 3. Financial Assurances Forms**  
**Forms: CIWMB 100, 104, & 106**

### PROPOSED REGULATORY ACTION

The California Integrated Waste Management Board (CIWMB) proposes to amend Title 27, California Code of Regulations (27 CCR), Division 2, Subdivision 1, Chapter 4, Subchapter 4, §§21780-21800, 21815-21840, and 21865 and Chapter 6, Subchapter 3, Article 1, §§22231 and 22234 and Article 2, §§22240, 22243, 22244, 22246-22249.5, and 22251-22253. The proposed changes: (1) clarify that closure and postclosure maintenance cost (PCM) estimates be based on costs the state may incur if the state assumes responsibility for the specific activity due to a failure of an owner/operator and address the need for contingencies on all cost estimates; (2) clarify the requirement that when insurance is the financial assurance mechanism, the insurance policy must provide that if the CIWMB or other government entity or court issues an order covering an insured activity (closure, postclosure maintenance or corrective action), the assured funds will be fully available upon request of the CIWMB, regardless of any remaining premiums to be paid ; and (3) include appropriate cleanup language for clarity and consistency.

### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulations to the CIWMB. **The written comment period for this rulemaking ends at 5:00 p.m. on November 13, 2007.** The CIWMB will also accept oral and written comments during the public hearing described below. Please submit your written comments to:

Michael Wochnick  
California Integrated Waste Management Board  
Permitting & Enforcement Division  
P.O. Box 4025, M.S. WC/CCFAD 10A-18  
Sacramento, CA 95812-4025  
e-mail: <mailto:mwochnick@ciwmb.ca.gov>  
Fax: (916) 319-7334  
Phone: (916) 341-6318

## PUBLIC HEARING

A public hearing to receive comments on the proposed rulemaking will be scheduled for November 14, 2007. The hearing will be held in the Byron Sher Auditorium (Second Floor) at the Joe Serna, Jr. Cal/EPA Building, 1001 I Street, Sacramento, California. The hearing will begin at 9:00 a.m. and conclude after the public gives all testimony. The CIWMB requests that persons who make oral comments at the hearing submit written copies of their testimony at the hearing. The Byron Sher Auditorium Hearing Room is wheelchair accessible.

## INFORMATIVE DIGEST

The Integrated Waste Management Act (Act), PRC §40000 et seq., provides for the protection of public health and safety and the environment through waste prevention, waste diversion, and solid waste processing and disposal. Under current regulations, the operator shall provide a written estimate, in current dollars, of the estimated annual cost of hiring a third party to maintain, monitor, and inspect the closed landfill. Cost estimates shall be based on the activities described in the PCM plan and account for PCM of the entire landfill. Since the PCM cost estimate is an annual estimate, the cost of those maintenance items that occur less frequently than annually are prorated to an annual cost. Since there is no defined timeline for PCM, and by extension for the cost estimate, the estimate by inference should include any maintenance/replacement throughout the entire PCM period, however long it may be. However, generally, only replacement and major maintenance costs that would occur within the first 30 years are included in the cost estimate. Maintenance/replacement of longer-life items such as drainage systems and environmental control systems are rarely included in cost estimates.

Likewise, the requirement that closure and PCM costs are to be third-party costs implies that the costs that the state would incur should the operator not perform closure or PCM and the state must contract for those duties would include prevailing wages. However, most closure and PCM plans do not currently specify prevailing wages when preparing cost estimates. At its July 2006 and March 2007 meetings, the CIWMB Permitting and Compliance Committee directed staff to initiate a rulemaking to address these issues.

Moreover, Public Resources Code (PRC) §43501 as amended by Assembly Bill 2296 (Montanez, Stats. 2006, c. 504) requires that closure and postclosure cost estimates are to be based on reasonably foreseeable costs the state may incur if the state would have to assume responsibility for the closure and postclosure maintenance due to the failure of the owner or operator. PRC 43501 further requires that the CIWMB specify in regulation that cost estimates must include, but not be limited to: (1) estimates in compliance with the Labor Code and (2) the replacement and repair costs for longer lived items, including, but not limited to, repair of the environmental control systems.

At its July 2006 and March 2007 meetings, the CIWMB Permitting and Compliance Committee also directed staff to include one financial assurance issue in its rulemaking. When an insurance policy is the financial assurance mechanism and the CIWMB or other government agency or court orders closure, postclosure maintenance or corrective action activities, current law requires the insurance policy proceeds to be readily available to cover the insured activities. This rulemaking clarifies this requirement.

## POLICY STATEMENT OVERVIEW

The CIWMB has determined that there is a need to modify existing closure, postclosure maintenance, and financial assurance regulations to clarify that cost estimates are to be based on the state's costs along with appropriate clean-up language as a means of providing clarity and consistency with state law.

## **PLAIN ENGLISH REQUIREMENTS**

CIWMB staff prepared the proposed regulatory changes pursuant to the standard of clarity provided in Government Code §11349 and the plain English requirements of Government Code §§11342.580 and 11346.2(a)(1). The proposed regulations are considered non-technical and can be easily understood by those who will use them.

## **AUTHORITY AND REFERENCES**

PRC §§40502, 40508, 43040, 43501, 43601 and 43601.5 provide authority for this proposed regulation change. The purpose of the proposed regulation is to implement, interpret and make specific PRC §§ 40508, 43020, 43021, 43022, 43040, 43103, 43500-43610.1 and Title 40, Code of Regulations §§ 258.72 and 258.74.

## **FEDERAL LAW OR REGULATIONS MANDATE**

Federal law or regulations do not contain comparable requirements and as an approved state under Subtitle D of the Resource Conservation and Recovery Act (42 U.S.C.A. §§6901 et seq.), the State of California has the authority to promulgate such regulations.

## **MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

CIWMB staff has determined that the proposed regulation changes will result in no costs or savings to state agencies, no costs to any school districts that are required to be reimbursed under Part 7 (commencing with §17500) of Division 4 of the Government Code, no other non-discretionary costs or savings on local agencies or school districts, and no costs or savings in federal funding to the state.

CIWMB staff has determined that the proposed regulations do not impose a mandate on local school districts.

## **EFFECT ON HOUSING COSTS**

CIWMB staff made an initial determination that the proposed regulation changes would not have a significant effect on housing costs.

## **EFFECT ON BUSINESSES**

CIWMB staff made an initial determination that the proposed regulation changes would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

## **EFFECT ON SMALL BUSINESSES**

CIWMB staff made an initial determination that the proposed regulation changes would not have a statewide adverse economic impact on small businesses including the ability of California businesses to compete with businesses in other states. Due to the capital investment required, few small businesses establish and operate solid waste landfills. As such these regulations will not affect small business in that no small business is required to comply with the regulations, none is required to enforce the regulations, and none derives a benefit nor incurs a detriment from the enforcement of the regulations.

## **EFFECT ON CREATION OR ELIMINATION OF JOBS, EXISTING OR NEW BUSINESS IN THE STATE OF CALIFORNIA**

CIWMB staff has determined that the proposed regulatory action will not affect: (1) the creation or elimination of jobs within the State of California; (2) the creation of new or the elimination of existing businesses with California; or (3) the expansion of businesses currently doing business with the state.

## **COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES**

CIWMB staff analyzed the economic impact of the proposed action. To comply with the new regulation as proposed, staff estimates that the economic impact to private landfill operators would be approximately \$0.3 million to \$0.9 million per year.

## **CONSIDERATION OF ALTERNATIVES**

The CIWMB must determine that no reasonable alternative considered by the CIWMB or that has otherwise been identified and brought to the attention of the CIWMB would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action. The CIWMB invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

## **CONTACT PERSONS**

Inquires concerning the proposed administrative action or the substance of the proposed regulations may be directed to:

Michael Wochnick  
California Integrated Waste Management Board  
Permitting & Enforcement Division  
P.O. Box 4025, M.S. WC/CCFAD 10A-18  
Sacramento, CA 95812-4025  
e-mail: <mailto:mwochnick@ciwmb.ca.gov>  
Fax: (916) 319-7334  
Phone: (916) 341-6318

Back-up contact person to whom inquires concerning the proposed administrative action or the substance of the proposed regulations may be directed:

Richard Castle  
California Integrated Waste Management Board  
Permitting & Enforcement Division  
P.O. Box 4025, M.S. WC/CCFAD 10A-18  
Sacramento, CA 95812-4025  
e-mail: <mailto:rcastle@ciwmb.ca.gov>  
Fax: (916) 319-7392  
Phone: (916) 341-6343

## **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The CIWMB will have the entire rulemaking file and all information upon which the proposed regulations are based available for inspection and copying throughout the rulemaking process at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by

contacting Michael Wochnick at the address, e-mail, or telephone number listed above. For more timely access to the proposed text of the regulations and in the interest of waste prevention, interested parties are encouraged to access the CIWMB's website at <http://www.ciwmb.ca.gov/Rulemaking/Postclosure/> Additionally, the final statement of reasons will be available at the above listed Internet address or you may call the contact persons named above.

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

The CIWMB may adopt the proposed regulation changes as described in this notice. If the CIWMB makes modifications which are sufficiently related to the proposed text, it will make the modified text – with changes clearly indicated – available to the public for at least 15 days before the CIWMB adopts the regulations as revised. Requests for the modified text should be made to the contact person. The CIWMB will transmit any modified text to all persons who testify at a public hearing if one is held; all persons who submit written comments at a public hearing; all persons whose comments are received during the comment period; and all persons who request notification of the availability of such changes. The CIWMB will accept written comments on the modified regulations for 15 days after the date on which they are made available.

1 **California Code of Regulations**

2 **Title 27. Environmental Protection**

3 **Division 2. Solid Waste**

4 **Subdivision 1. Consolidated Regulations for Treatment, Storage, Processing or Disposal of**  
5 **Solid Waste**

6 **Chapter 4. Documentation and Reporting For Regulatory Tiers, Permits, WDRs, and**  
7 **Plans**

8 **Subchapter 4. Development of Closure/~~Post-Closure~~Postclosure Maintenance Plans**  
9

10 **~~21780. CIWMB - Submittal of Closure and Postclosure Maintenance Plans. (114:§18267, §18268, and~~**  
11 **~~§18255)~~**

12 (a) Each submittal shall be certified by a registered civil engineer or a certified engineering geologist. Each  
13 submittal shall include:

14 (1) The preliminary or final closure and postclosure maintenance plans containing all of the elements specified  
15 under §21790 through §21840, as applicable.

16 (2) Updated or initial cost estimates for closure and postclosure activities to reflect the components and  
17 requirements under §§21815, §21820 and §21840. Cost estimates shall be reevaluated at the time of each plan  
18 amendment, update, or revision. Cost estimates shall be based on the actual current unit costs for closure and  
19 postclosure maintenance. Cost estimate adjustments based only on inflation factors are not acceptable.

20 (3) An updated demonstration of financial responsibility in accordance with Subchapter 2 of Chapter 6 (§22205  
21 et seq.). This demonstration shall reflect the updated cost estimates for closure and postclosure activities required  
22 under ¶(a)(2).

23 (b) The operator shall submit two copies of each document to the EA, the RWQCB, the CIWMB and the local air  
24 district. All drawings shall be submitted at an appropriate scale that clearly shows all pertinent features. The closure  
25 and postclosure maintenance plans shall be clearly marked "preliminary" or "final", depending on the status. For  
26 partial final closure, those sections submitted pursuant to §21800, shall be clearly marked "partial final."

27 (c) Plans for complete site closure of a solid waste landfill shall be submitted in accordance with the following  
28 schedule:

29 (1) Preliminary closure and postclosure maintenance plans for existing solid waste landfills shall be submitted at  
30 the time of application for each SWFP review or revision. The plans shall be submitted as part of the JTD or as a  
31 separate document in the form of a distinct component of a JTD;

32 (2) Preliminary closure and postclosure maintenance plans for new landfills not operating prior to the effective  
33 date of the regulations shall be submitted as part of the JTD or as a separate document in the form of a distinct  
34 component of a JTD at or before the time of application for a SWFP. For the purposes of this Subchapter, lateral  
35 expansions of landfills are considered new municipal solid waste landfills.

36 (3) Final closure and postclosure maintenance plans for solid waste landfills shall be submitted two years prior to  
37 the anticipated date of closure. Within five years of the anticipated date of closure, the operator may submit the final  
38 closure and postclosure maintenance plans in lieu of submitting new or updated preliminary closure and postclosure  
39 maintenance plans.

40 (d) Partial final closure of a solid waste landfill shall be allowed in accordance with the following:

41 (1) For the complete closure of discrete units, partial final closure and postclosure maintenance plans shall be  
42 submitted for each unit 2 years prior to the anticipated date of closure of that discrete unit in accordance with  
43 §§21800 and 21830. Closure of such a discrete unit shall not commence until approval of the partial final closure  
44 and postclosure maintenance plans for that discrete unit. The specific closure details for each discrete unit shall be  
45 compatible with closure of the entire landfill; and

46 (2) For the implementation of any one or a combination of individual final closure activities, partial final closure  
47 and postclosure maintenance plans for the activities shall be approved before implementation of such closure  
48 activities.

49 (e) If immediate closure of a disposal site is necessary to protect public health and safety and the environment,  
50 closure plans shall be submitted in accordance with a schedule specified by the EA and concurred with by the  
51 RWQCB and CIWMB. If the RWQCB or CIWMB does not object to the schedule within 30 days of written  
52 notification by the EA, the schedule is deemed concurred with by that agency. An emergency corrective action plan  
53 may be required by the EA, to be submitted for approval by the EA. The emergency corrective action plan may be  
54 implemented prior to the submittal of the closure plan.

(f) If, at its own motion, an operator ceases accepting waste at a landfill prior to the anticipated closure date  
specified in the currently effective Solid Waste Facility Permit, and the operator does not intend to receive

1 additional waste at the landfill, the operator shall submit final closure and postclosure maintenance plans in  
2 accordance with a schedule specified by the EA and concurred with by the RWQCB and CIWMB. If the RWQCB  
3 or CIWMB does not object to the schedule within 30 days of written notification by the EA, the schedule is deemed  
4 concurred with by that agency. In no case shall the schedule be longer than six (6) months from the date the operator  
5 ceased accepting waste at the landfill.

6 (g) The owner or operator of a MSWLF unit shall notify the EA that closure and postclosure maintenance plans  
7 have been prepared and placed in the operating record in accordance with 40 CFR 258.60(d) and 258.61(d).

8  
9 **Note:** *Authority cited: Section 40502, Public Resources Code; and Section 66796.22(d), Government Code.*  
10 *Reference: Sections 66796.22(b) and 66796.22(d), Government Code; and Sections 43020, 43021, 43022 and 43103, Public*  
11 *Resources Code.*  
12

13 **21790. CIWMB - Preliminary Closure Plan Contents. (114-§18261, 18261.3)**

14 (a) The purpose of the preliminary plan is to provide a basis for the operator to establish a preliminary estimate of  
15 closure costs certified for accuracy by a registered civil engineer or certified engineering geologist, and enable the  
16 CIWMB to assess the reasonableness of the cost estimate for non-water quality aspects of closure.

17 (b) The plan shall identify the steps necessary to perform either partial final closure, in accordance with §21120,  
18 or complete landfill closure and shall include, but is not limited to, the following information:

19 (1) a closure cost estimate pursuant to §§21815 and §21820;

20 (2) location maps indicating property boundaries and the existing, permitted, and proposed final limits of waste  
21 placement; entry roads; and structures outside the property boundary but within 1000 feet of the property boundary.  
22 A location map shall also be included showing the general location of the landfill;

23 (3) [Reserved];

24 (4) a location map of the current monitoring and control systems including: leachate control and drainage and  
25 erosion control systems as required pursuant to chapter 3 (§20180 et seq.); landfill gas monitoring and control  
26 systems as required pursuant to chapter 3 (§20180 et seq.);

27 (5) a description of proposed postclosure land uses;

28 (6) an estimate of the maximum extent of the landfill that will ever require closure at any given time during the  
29 life of the landfill;

30 (7) an estimate of the closure date based on volumetric calculations, including supporting documentation. The  
31 estimate shall account for the effects of settlement and for volume occupied by daily cover material; and

32 (8) a preliminary description of closure activities including schedules for implementation. The activities  
33 described shall include, but are not limited to:

34 (A) site security and structure removal pursuant to §§21135 and 21137;

35 (B) final cover and grading pursuant to §§21140 and 21142. The description shall include type of materials and  
36 estimate of the volume or amount needed of each type of material. If on site materials are planned for use in the final  
37 cover for the low permeability layer, test results confirming the suitability of such materials shall be included;

38 (C) construction quality assurance methods pursuant to §§20323 & 20324;

39 (D) drainage and erosion control systems pursuant to §21150;

40 (E) landfill gas monitoring and control systems pursuant to Article 6, Subchapter 4, Chapter 3 (§20920 et seq.);

41 (F) leachate monitoring and control measures pursuant to §21160.

42 **Note:** *Authority cited: Section 40502, Public Resources Code; and Section 66796.22(d), Government Code.*  
43 *Reference: Section 66796.22(b) and 66796.22(d), Government Code; and Sections 43020, 43021 and 43103, Public Resources Code.*  
44  
45

46 **21800. CIWMB - Final Closure Plan Contents. (114-§18262, 18262.3)**

47 (a) The purpose of the final closure plan is to provide a basis for the operator to establish an accurate detailed  
48 estimate of closure costs certified for accuracy by a registered civil engineer or certified engineering geologist,  
49 enable the CIWMB to assess the reasonableness of the cost estimate for non-water quality aspects of closure,  
50 provide a detailed plan and schedule for the operator to implement upon closure of the landfill, and allow monitoring  
51 of closure activities to determine that all requirements of landfill closure have been implemented in accordance with  
52 the appropriate plan.

53 (b) Final closure plans for partial final closure (i.e. the complete closure of discrete units) shall conform to the  
54 requirements of this section. Final closure plans for partial closure (i.e. implementation of any one or a combination  
55 of individual final closure activities) shall conform to the requirements of this section as applicable.

56 (c) The final closure plan shall include, but is not limited to, a detailed description of each item contained in  
57 §21790(b)(1) through (b)(8). In addition, the final closure plan shall include a detailed description of the sequence of  
closure stages, giving tentative implementation dates.

1 (d) The final closure plan shall also include a detailed schedule for disbursement of funds for closure activities,  
2 from a trust fund, or enterprise fund if applicable, for either:

- 3 (1) ~~advance payment for activities to be performed in accordance with the plan, or~~  
4 (2) ~~reimbursement of costs paid for activities performed in accordance with the plan~~

5  
6 **Note:** *Authority cited: Section 40502, Public Resources Code; and Section 66796.22(d), Government Code.*  
7 *Reference: Section 66796.22(b) and 66796.22(d), Government Code; and Sections 43020, 43021 and 43103, Public Resources Code.*  
8

9 **21815. CIWMB - General Criteria for Cost Estimates.**

10 (a) Cost estimates shall be based on costs the state may incur if the state would have to assume responsibility for  
11 the closure or postclosure maintenance due to the failure of the operator to properly and adequately perform any or  
12 all of those activities.

13 (b) Cost estimates shall include, but not be limited to.:

14 (1) estimates in compliance with §§1770, 1773, and 1773.1 of the Labor Code;

15 (2) California Department of Transportation (Caltrans) *Labor Surcharge and Equipment Rental Rates*; and

16 (3) Caltrans "Force Account Payment" included in Section 9-1.03 of the *Caltrans Standard Specifications*.

17 (c) An operator may propose and the CIWMB may accept alternative costs for those included in ¶(b)(2) and (3)  
18 if the operator provides adequate justification for the use of alternative costs.

19 (d) Cost estimates shall include the cost for all activities yet to be completed even if the activity is tentatively  
20 planned to occur or be completed prior to closure or completion of postclosure maintenance

21 (e) Cost estimates shall be supported by adequate documentation to justify the estimates. This documentation  
22 shall be submitted with the estimate(s).

23 (f) The total cost estimate shall be increased by a factor of 20% to account for cost over runs due to unforeseen  
24 circumstances which would result in increased costs. The operator may apply to the CIWMB for, and the CIWMB  
25 may approve, a contingency percentage of less than 20% at the time that the final plans are approved, provided that  
26 the CIWMB finds that a lesser percentage will provide acceptable coverage of potential cost overruns;

27 (g) Prior to the initiation of closure activities, the operator shall submit one of the following:

28 (1) a statement that the expected cost for closure construction (based on submitted contractor bids or other  
29 appropriate documentation) will be equal to or less than the cost estimate included in the approved final closure plan  
30 or

31 (2) a revised cost estimate that reflects the expected costs (based on submitted contractor bids or other  
32 appropriate documentation).

33 (h) In conjunction with the submittal of the Certification of Closure pursuant to §21880, the operator shall submit  
34 evidence of the actual costs for closure.

35 **Note:** *Authority cited: Sections 40502 and 43501, Public Resources Code.*

36 *Reference: Sections 43020, 43021, 43103, and 43501, Public Resources Code*

37 **21820. CIWMB - Closure Cost Estimates. (T14:§18263)**

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

40 (1) Cost estimates shall equal the cost of closing the landfill at the point in its active life when the extent and  
41 manner of operation would make closure the most expensive, as indicated by the closure plan. For operators closing  
42 discrete units in phases, according to the requirements of partial closure, the estimate may account for closing only  
43 the maximum area or unit ever open at any time. Otherwise the estimate shall account for the entire landfill except  
44 for those areas certified closed by the CIWMB, RWOCB, and EA pursuant to §21880;

45 (2) Cost estimates shall be developed for the activities anticipated for scheduled closure. The closure cost  
46 estimate shall always be high enough to ensure that, if, at any time, the landfill had to begin to close, the cost of  
47 activities for closure would not exceed the cost estimate;

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

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

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

57 (6) The operator may reduce the closure cost estimate when changes to the plan or at the landfill decrease the  
58 costs of closure. The request for reduction shall be submitted to the CIWMB for approval.

- (b) Closure cost estimates shall include, but are not limited to, the following information:
- (1) If the documents are preliminary closure and postclosure maintenance plans, an estimate of the cost of developing final closure and postclosure maintenance plans; and
  - (2) an estimate of the cost to prepare plans and specifications, bidding documents, and other construction related documents; and
  - (23) an estimate of the cost of closure activities including schedules for implementation activities. The activities described shall include, but are not limited to, an estimate of the cost:
    - (A) an estimate of the cost to install or upgrade site security;
    - (B) an estimate of the cost for structure removal; and
    - (C) an estimate of the costs to install or upgrade the landfill gas monitoring and control systems, including landfill gas, leachate, and ground water systems.
    - (D) to install the final cover; and
    - (E) to install drainage and erosion control systems.
- ~~(c) If the document is a preliminary plan, the items required under (b)(2)(A), (B), and (C) may be provided as lump sum estimates.~~

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

**21825. CIWMB - Preliminary Postclosure Maintenance Plan Contents. (P14:§18264, 18264.3)**

- (a) The purpose of the preliminary postclosure maintenance plan is to provide a basis for the operator to establish a preliminary estimate of postclosure monitoring, maintenance, and inspection costs certified for accuracy by a registered civil engineer or certified engineering geologist, and enable the CIWMB to assess the reasonableness of the cost estimate.
- (b) The preliminary postclosure maintenance plan shall include, but is not limited to the following information:
  - (1) a description of the planned uses of the property during the postclosure maintenance period in accordance with §21190; and
  - (2) a preliminary description of the methods, procedures, and processes that will be used to maintain, monitor and inspect the closed landfill during the postclosure maintenance period to comply with §21180; and
  - (3) a postclosure maintenance cost estimate pursuant to §§21815 and 21840.

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

**21830. CIWMB - Final Postclosure Maintenance Plan Contents. (P14:§18265, 18265.3)**

- (a) The purpose of the final postclosure maintenance plan is to provide a basis for the operator to establish an accurate detailed cost estimate certified for accuracy by a registered civil engineer or certified engineering geologist, enable the CIWMB to assess the reasonableness of the cost estimate, and provide a detailed plan for the inspection, maintenance, and monitoring of the landfill during the postclosure maintenance period.
- (b) The final postclosure maintenance plan shall include, but is not limited to, the following information:
  - (1) the emergency response plan as required by §21130 of Chapter 3, Subchapter 5;
  - (2) the persons or companies responsible for each aspect of postclosure maintenance, and their addresses and telephone numbers;
  - (3) a description of the planned uses of the property during the postclosure maintenance period in accordance with §21190 of Chapter 3, Subchapter 5;
  - (4) an as built description of the current monitoring and control systems at the landfill including a detailed description of any proposed changes to be implemented as part of closure. This description shall be kept current throughout the postclosure maintenance period;
  - (5) a detailed description of the methods, procedures and processes that will be used to maintain, monitor and inspect the closed landfill during the postclosure maintenance period to comply with §21180 of Chapter 3, Subchapter 5;
  - (6) an operations and maintenance plan for the gas control system;
  - (7) a summary of the requirements for reporting the results of monitoring and collection, pursuant to section §21180 of chapter 3, Subchapter 5; and
  - (8) the postclosure maintenance cost estimates pursuant to §§21815 and §21840 of this Subchapter.

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34

**21840. CIWMB - Postclosure Maintenance Cost Estimates. (114:§18266)**

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

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

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

(23) The cost estimate used to demonstrate financial assurance, shall be the annual cost of maintenance and monitoring anticipated during the postclosure period, multiplied by thirty (30) years; and

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

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

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

~~(b) Preliminary postclosure maintenance plans shall include a lump sum estimate of the annual cost of postclosure monitoring and maintenance in accordance with ¶(c).~~

~~—(c) Final postclosure Postclosure maintenance plans shall include a detailed estimate of the annual costs for postclosure monitoring and maintenance, including the following:~~

~~(1) site security pursuant to §21135;~~

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

~~(3) maintenance of vegetation including fertilization, irrigation and irrigation system maintenance;~~

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

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

Note: Authority cited: Section 40502, 40508, and Public Resources Code.

Reference: Sections 40508, 43020, 43021, 43103, 43501 and 43509, Public Resources Code; and Title 40, Code of Federal Regulations, Sections 258.72.

35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56

**21865. CIWMB - Amendment of Closure and Postclosure Maintenance Plans. (114:§18272)**

(a) ~~Preliminary closure~~ Closure and postclosure maintenance plans shall be submitted every time a review or revision of the SWFP is conducted. For disposal sites without a solid waste facilities permit, updated plans shall be submitted at least once every five years. The plans shall be submitted as part of the JTD or a separate document in the form of a distinct component of a JTD. If the preliminary closure and postclosure maintenance plans have been previously approved and a new horizontal or vertical expansion of a solid waste landfill or a new postclosure land use is not proposed, the form of submittal shall be as amendments to the existing plans as necessary. Submittal shall be in accordance with §21780. The evaluation and approval of the plan amendments shall be as specified under §21860.

(b) The plans shall be amended to reflect the following:

(1) A change in operation or solid waste landfill design which would affect the implementation of the closure and/or postclosure maintenance plans;

(2) A change in the anticipated year of closure;

(3) Any change in the financial mechanism required pursuant to §22227, "Substitution of Mechanisms" or §22231, "Cancellation or Nonrenewal by a Provider of Financial Assurance"; or

(4) Updates of the cost estimates. These updates shall be adjusted for current costs shall be based on the actual current unit costs for closure and postclosure maintenance. Cost estimate adjustments based only on inflation factors are not acceptable.

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

Note: Authority cited: Section 40502, Public Resources Code; and Section 66796.22(d), Government Code.

Reference: Section 66796.22(d), Government Code; and Section 43103, Public Resources Code.

1 **Chapter 6. Financial Assurances at Solid Waste Facilities and at Waste Management**  
2 **Units for Solid Waste**  
3 **Subchapter 3. Allowable Mechanisms**  
4 **Article 1. General Requirements for Mechanisms**  
5

6 **22231. CIWMB - Cancellation or Nonrenewal by a Provider of Financial Assurance. (T14:Section 17258-74, 18242,**  
7 **18294)**

8  
9 (a) Except as otherwise provided in section 22232, a provider of financial assurance may cancel or not renew a  
10 financial assurance mechanism by sending a notice of termination by certified mail to the operator, and the CIWMB.  
11 (1) Termination of a letter of credit, a surety bond, an insurance policy, or a guarantee shall not occur until 120 days  
12 after the date on which the operator, and the CIWMB have received the notice of termination, as evidenced by the  
13 return receipts.

14 (2) If a provider of financial assurance cancels or fails to renew a mechanism for reasons other than its bankruptcy  
15 or incapacity, the operator shall obtain alternate coverage within 60 days after receiving the notice of termination. If  
16 the operator fails to obtain alternate coverage within the 60 days, the operator shall notify the CIWMB of such  
17 failure.

18 (b) The closure and/or postclosure maintenance and/or reasonably foreseeable corrective action costs insurance  
19 policy, issued in accordance with section 22248, shall provide that the insurer may not cancel, terminate or fail to  
20 renew the policy except for failure to pay the premium. The automatic renewal of the policy shall, at a minimum,  
21 provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay  
22 the premium, the insurer may cancel the policy by sending notice of cancellation by certified mail to the operator,  
23 and the CIWMB 120 days in advance of cancellation. If the insurer cancels the policy, the operator must obtain  
24 alternate financial assurance as specified in section 22228. If the operator fails to demonstrate alternate financial  
25 assurance as specified in section 22228 within 60 days after receiving the notice of termination, the CIWMB may  
26 allow the insurer an extension to the term of the insurance policy for a period of time shorter than one year.  
27 Cancellation, termination, or failure to renew will not occur and the policy will remain in full force and effect in the  
28 event that on or before the date of expiration:

29 (1) The CIWMB or EA enforcement agency deems the disposal facility abandoned; or

30 (2) The permit is terminated or revoked or a new permit is denied by the CIWMB or EA enforcement agency; or

31 (3) Partial or complete closure, postclosure maintenance, or corrective action is ordered by the CIWMB, EA, or  
32 any other government entity state or federal agency, or a court of competent jurisdiction; or

33 (4) The operator is named as a debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy) U.S.  
34 Code; or

35 (5) All delinquent premium payments have been brought current.

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

41  
42 **Note:** Authority cited: Section 40502, Public Resources Code.

43 Reference: Sections 43040, 43103, 43500 - 43610, Public Resources Code.

44  
45 **22234. CIWMB - Disbursements from Financial Mechanisms. (T14:§ 17258-74)**

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

49 (1) Sufficient funds are remaining in the financial mechanism(s) to cover the remaining costs of closure,  
50 postclosure maintenance, or corrective action; and

51 (2) Justification and documentation of the cost is presented to the CIWMB for review and approval in  
52 conjunction with approved final closure and postclosure maintenance plans, or an approved corrective action plan.

53 (b) The CIWMB shall authorize disbursements from an established closure or postclosure maintenance financial  
54 assurance mechanism to the RWQCB for the costs of closure or postclosure maintenance if the RWQCB finds that  
55 the operator has failed to perform closure or postclosure maintenance as required by the closure plan or postclosure  
56 maintenance plan as approved by the RWQCB and the CIWMB, or as required by an Order issued by the RWQCB,  
57 including Waste Discharge Requirements (WDRs), Cease and Desist Orders (CDOs), and/or Cleanup and  
Abatement Orders (CAOs).

1 (c) The CIWMB shall authorize disbursements from an established corrective action financial assurance  
2 mechanism to the RWQCB for the costs of corrective action if the RWQCB finds that the operator has failed to  
3 perform corrective action as required by the corrective action workplan as approved by the RWQCB and the  
4 CIWMB, or as required by an Order issued by the RWQCB, including WDRs, CDOs, and/or CAOs.  
5

6 **Note:** *Authority cited: Section 40502, Public Resources Code.*  
7 *Reference: Sections 43103, 43500 - 43610, Public Resources Code; Title 40, Code of Federal Regulations, Section 258.74(a)(7).*  
8

## 9 **Article 2. Financial Assurance Mechanisms**

### 10 ~~22240. CIWMB - Trust Fund. (Title 40, Code of Federal Regulations, Section 258.74, 18234, 18284)~~

11 (a) The trust fund shall have a trustee that is authorized to act as a trustee and whose trust operations are  
12 regulated and examined by a federal or state agency.

13 (b) The trust agreement shall be worded as specified by and established by using Form CIWMB 100 (4/96-8/07)  
14 which is incorporated by reference, with appropriate amendments to identify that the mechanism is utilized for  
15 closure and/or postclosure maintenance and/or third party operating liability and/or corrective action.

16 (c) If, at any time, the value of the trust fund is greater than the required amount of coverage minus the amount of  
17 coverage demonstrated by another mechanism, the operator may request in writing that the CIWMB authorize the  
18 release of the excess funds. The CIWMB shall review the request within 90 days of receipt of the request. If any  
19 excess funds are verified, the CIWMB shall instruct the trustee to release the funds.  
20

21 **Note:** *Authority cited Section 40502 and 43040, Public Resources Code.*  
22 *Reference: Section 43040, 43103 and 43500-43610, Public Resources Code.*  
23

### 24 ~~22243. CIWMB - Letter of Credit. (Title 40, Code of Federal Regulations, Section 258.74, 18287)~~

25 (a) The institution issuing a letter of credit shall have the authority to issue letters of credit and its letter-of-credit  
26 operations shall be regulated and examined by a federal or state agency.

27 (b) The letter of credit shall be worded and completed, with appropriate amendments to identify that the  
28 mechanism is utilized for closure and/or postclosure maintenance and/or corrective action costs, as specified by  
29 form CIWMB 101 (4/96-12/01) which is incorporated by reference. The original mechanism must be submitted to  
30 the CIWMB.

31 (c) The letter of credit shall be accompanied by a letter from the operator identifying the number, issuing  
32 institution, and date of issuance of the letter of credit and the name, address, solid waste information system number,  
33 and amount of funds assured by the letter of credit for closure and/or postclosure maintenance and/or corrective  
34 action for each solid waste landfill. If the letter of credit is for more than one coverage requirement and/or for more  
35 than one solid waste landfill, appropriate sublimits must also be clearly identified within the letter of credit.

36 (d) The letter of credit shall be irrevocable and shall be issued for a period of at least one year, except as noted in  
37 ¶(d)(2).

38 (1) The letter of credit shall provide that the expiration date will be automatically extended for a period of at least  
39 one year, unless the issuing institution provides notice of termination as specified in §22231.

40 (2) If an operator fails to demonstrate alternate coverage within 60 days after receiving a notice of termination,  
41 the CIWMB may allow an issuing institution an extension to the term of a letter of credit for a period of time shorter  
42 than one year.

43 (e) The issuing institution shall become liable under the terms of the letter of credit if the CIWMB determines  
44 that the operator has failed or is failing to perform closure or postclosure maintenance or corrective action activities  
45 as guaranteed by the mechanism.

46 (f) The operator may cancel the letter of credit only if alternate financial assurance is substituted as specified in  
47 §22227 or if the operator is released from the requirements of this section in accordance with §22235.  
48

49 **Note:** *Authority cited: Section 40502, Public Resources Code.*  
50 *Reference: Sections 43103, 43500-43610, Public Resources Code.*

### 51 ~~22244. CIWMB - Surety Bond. (Title 40, Code of Federal Regulations, Section 258.74, 18288)~~

52 (a) The status of the surety company issuing a surety bond shall be among those listed as holding certificates of  
53 authority as acceptable sureties on Federal bonds and as acceptable reinsuring companies in Circular 570 of the U.S.  
54 Department of the Treasury which is published on July 1 of each year in the Federal Register.

55 (b) The penal sum of the bond must be in an amount at least equal to the closure and/or postclosure and/or the  
56 corrective action cost estimate, except as provided in §22228.

57 (c) The surety bond shall be worded and completed as specified by one of the following forms, which shall be  
supplied by the CIWMB. The original mechanism must be submitted to the CIWMB:

1 (1) Form CIWMB 102(a) (4/96-12/01) which is incorporated by reference, for a surety bond guaranteeing  
2 performance of closure; or

3 (2) Form CIWMB 102(b) (4/96-12/01) which is incorporated by reference, for a surety bond guaranteeing  
4 performance of postclosure maintenance; or

5 (3) Form CIWMB 102(c) (4/96-12/01) which is incorporated by reference, for a surety bond guaranteeing  
6 performance of reasonably foreseeable and/or known corrective action activities; or

7 (4) Form CIWMB 103(a) (4/96-12/01) which is incorporated by reference, for a surety bond guaranteeing  
8 payment of closure costs; or

9 (5) Form CIWMB 103(b) (4/96-12/01) which is incorporated by reference, for a surety bond guaranteeing  
10 payment of postclosure maintenance costs; or

11 (6) Form CIWMB 103(c) (4/96-12/01) which is incorporated by reference, for a surety bond guaranteeing  
12 payment of reasonably foreseeable and/or known corrective action costs.

13 (d) The surety company shall become liable under the terms of the bond if the CIWMB determines that the  
14 operator has failed or is failing to perform closure or postclosure maintenance or corrective action as guaranteed by  
15 the bond.

16 (e) Payments made under the terms of the bond will be deposited by the surety directly into the depository trust  
17 fund, as identified in §22237.

18 (f) The operator may cancel the bond only if alternate financial assurance is substituted as specified in §22227 or  
19 if the operator is no longer required to demonstrate financial responsibility in accordance with §22235.

20  
21 Note: Authority cited: Section 40502, Public Resources Code.

22 Reference: Sections 43103, 43500-43610, Public Resources Code.

23  
24 **22246. CIWMB - Financial Means Test. (114:§18238, 18289)**

25 (a) To pass the financial means test, an operator or a guarantor shall be a private entity and shall meet the criteria  
26 of ¶(d), ¶(e), ¶(f) or ¶(g) based on independently audited year-end financial statements for the latest completed fiscal  
27 year.

28 (b) The phrase "amount of liability coverage to be demonstrated by the test" as used in ¶(d) and ¶(e) refers to the  
29 amount of liability coverage required by §22216.

30 (c) The phrase "current cost estimates covered by the test" as used in ¶(f) and §(g) refers to the current  
31 postclosure cost estimate required by ¶(h)(1) to be shown in paragraphs 1 and 2 of the letter from the chief financial  
32 officer.

33 (d) To cover operating liability the operator or guarantor shall have:

34 (1) Net working capital and tangible net worth each at least six times the amount of liability coverage to be  
35 demonstrated by the test; and

36 (2) Tangible net worth of at least \$10-15 million; and

37 (3) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the  
38 amount of liability coverage to be demonstrated by the test.

39 (e) To cover operating liability the operator or guarantor shall have:

40 (1) A current rating for its most recent bond issuance of AAA, AA, A, or BBB issued by Standard and Poor's or  
41 Aaa, Aa, A, or Baa as issued by Moody's; and

42 (2) Tangible net worth of at least six times the amount of liability coverage to be demonstrated by the test; and

43 (3) Tangible net worth of at least \$10-15 million; and

44 (4) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the  
45 amount of liability coverage to be demonstrated by the test.

46 (f) To cover postclosure maintenance the operator or guarantor shall have:

47 (1) Two of the following three ratios: a ratio of total liabilities to net worth that is less than 2.0; a ratio of the sum  
48 of net income plus depreciation, depletion, and amortization to total liabilities that is greater than 0.1; and a ratio of  
49 current assets to current liabilities that is greater than 1.5; and

50 (2) Net working capital and tangible net worth each at least six times the sum of the current cost estimate covered  
51 by the test; and

52 (3) Tangible net worth of at least \$10-15 million; and

53 (4) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the  
54 sum of the current cost estimate covered by the test.

55 (g) To cover postclosure maintenance the operator or guarantor shall have:

56 (1) A current rating for its most recent bond issuance of AAA, AA, A, or BBB issued by Standard and Poor or  
57 Aaa, Aa, A, or Baa as issued by Moody's; and

58 (2) Tangible net worth at least six times the sum of the current cost estimate covered by the test, and

(3) Tangible net worth of at least \$10-15 million and

1 (4) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the  
2 sum of the current cost estimate covered by the test.

3 (h) Within 90 days after the close of each financial reporting year, the operator or the guarantor shall submit the  
4 following items to the CIWMB and, in the case of a guarantor, to the operator;

5 (1) A letter on the operator's or guarantor's official letterhead stationary that is worded and completed as specified  
6 in form CIWMB 104 (4/96-8/07) which contains an original signature of the operator's or guarantor's chief financial  
7 officer.

8 (A) An operator or guarantor shall use form CIWMB 104 (4/96-8/07) to demonstrate or guarantee financial  
9 responsibility for liability coverage only or postclosure costs only or both liability and postclosure maintenance. If  
10 the operator or guarantor is using a similar financial means test to demonstrate liability coverage and/or postclosure  
11 maintenance for facilities in other states, the operator shall list those out-of- state facilities, as well as the California  
12 facilities on this test.

13 (2) A copy of an independent certified public accountant's report on examination of the operator's or guarantor's  
14 financial statements for the latest completed fiscal year, with a copy of the operator's or guarantor's financial  
15 statements for the latest completed fiscal year.

16 (3) A letter from an independent certified public accountant stating that:

17 (A) He or she has compared the data in the letter in ¶(h)(1), from the chief financial officer specified as having  
18 been derived from the financial statements for the latest completed fiscal year of the operator or the guarantor, with  
19 the amounts in the financial statements; and

20 (B) Based on the comparison, no matters came to his or her attention that caused him or her to believe that the  
21 specified data should be adjusted.

22 (4) If the operator or the guarantor is required to make such a filing, a copy of the operator's or guarantor's most  
23 recent form 10-K filed with the U.S. Securities and Exchange Commission.

24 (i) The CIWMB may require updated financial statements at any time from the operator or guarantor. If the  
25 CIWMB finds that the operator or guarantor no longer meets the financial means test requirements of ¶(d),(e),(f),  
26 or (g) based on such reports or other information, including but not limited to, credit reports and reports from other  
27 state agencies, the operator shall obtain alternate coverage within 60 days after receiving the notification of such a  
28 finding.

29 (j) If, at the time of its annual filing, an operator using the financial means test fails to meet the requirements of  
30 the financial means test under ¶(d),(e),(f), or (g), the operator shall obtain alternate coverage within 60 days after  
31 the determination of such failure.

32 (k) If the operator fails to obtain alternate coverage within the times specified in ¶(i) or (j), the operator shall  
33 notify the CIWMB by certified mail within 10 days of such failure.

34 Note: Authority cited: Section 40502 and 43040, Public Resources Code.  
35 Reference: Sections 43040 and 43103, Public Resources Code.  
36  
37  
38

22247. CIWMB - Guarantee. (114:§18239, 18291)

39 (a) The guarantor shall be:

40 (1) A parent corporation of the operator;

41 (2) A firm whose parent corporation is also the parent corporation of the operator; or

42 (3) A firm engaged in a substantial business relationship with the operator and issuing the guarantee as an act  
43 incident to that business relationship.

44 (b) The guarantor shall meet the requirements of the financial means test under §22246 of this Article based on  
45 the guarantor's audited year-end financial statements.

46 (c) The guarantee shall be worded and completed as specified by form CIWMB 105 (4/96-12/01), which is  
47 incorporated by reference.

48 (d) The terms of the guarantee shall specify that if:

49 (1) The operator fails or is failing to perform postclosure maintenance in accordance with the applicable  
50 approved postclosure maintenance plan when required to do so, the guarantor shall either:

51 (A) Perform postclosure maintenance in accordance with the applicable approved postclosure maintenance plan;  
52 or

53 (B) Establish and fund a trust fund, as specified in §22240, in the name of the operator in the amount of the  
54 applicable current postclosure maintenance cost estimate covered by the guarantee.

55 (2) The operator fails to satisfy a judgment or an award for bodily injury and property damage to third parties  
56 caused by accidental occurrences, or fails to pay an amount agreed in settlement of a claim arising from or alleged to  
57 arise from such injury and damage, the guarantor shall satisfy such judgment, award, or settlement agreement up to  
58 the limits of the guarantee.

1 (e) If the guarantor fails to meet the requirements of the financial means test under §22246 or wishes to terminate  
2 the guarantee, the guarantor shall send notice of such failure or termination by certified mail to the operator, and the  
3 CIWMB within 90 days after the end of that financial reporting year. The guarantee shall terminate no less than 60  
4 days after the date that the operator, and the CIWMB have received the notice of such failure or termination, as  
5 evidenced by the return receipts. The guarantor shall establish alternate coverage as specified in §22228 on behalf of  
6 the operator within 60 days after such notice, unless the operator has done so.

7 (f) The CIWMB may require updated financial statements at any time from a guarantor. If the CIWMB finds, on  
8 the basis of such reports or information from other sources, including but not limited to, credit reports and reports  
9 from other state agencies, that the guarantor no longer meets the financial means test requirements of §22246 or any  
10 requirements of §22247, the CIWMB shall notify the guarantor and operator of such finding by certified mail. The  
11 guarantor shall establish alternate coverage as specified in §22228 on behalf of the operator within 60 days after  
12 such notice, unless the operator has done so.

13  
14 **Note:** Authority cited: Section 40502 and 43040, Public Resources Code.  
15 Reference: Sections 43040, 43103 and 43500-43610, Public Resources Code.  
16

**22248. CIWMB - Closure and/or Postclosure Maintenance and/or Reasonably Foreseeable Corrective Action Insurance. (new)**

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

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

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

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

30 (e) The closure or postclosure maintenance insurance or reasonably foreseeable corrective action policy shall  
31 guarantee that funds will be available to close the solid waste landfill whenever final closure occurs or to provide  
32 postclosure maintenance for the solid waste landfill whenever the postclosure maintenance period begins or provide  
33 for corrective action for the solid waste landfill if corrective action is deemed necessary, whichever is applicable.  
34 The policy shall also guarantee that once the closure or postclosure maintenance or corrective action program  
35 begins, the insurer will be responsible for the paying out of funds to the operator or person authorized to conduct  
36 closure or postclosure maintenance or corrective action, up to an amount equal to the face amount of the policy.

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

42 (g) An operator, or any other person authorized to conduct closure or postclosure maintenance or corrective  
43 action, may receive ~~disbursements~~ reimbursements for closure or postclosure maintenance or corrective action  
44 expenditures, whichever is applicable. Requests for ~~disbursements~~ reimbursement will be granted by the insurer  
45 only if the remaining value of the policy is sufficient to cover the remaining costs of closure or postclosure  
46 maintenance or corrective action and if the expenditures have been reviewed and approved in writing by the  
47 CIWMB or its designee.

48 (h) Notwithstanding any other provisions of this section, if either partial or complete closure, postclosure  
49 maintenance or corrective action activities are ordered by the CIWMB, EA, or other government entity or court of  
50 competent jurisdiction ~~its designee~~ as a result of failure by the operator or other authorized person authorized to  
51 conduct such activities, the policy shall also guarantee that the insurer shall be responsible for paying out funds to  
52 the CIWMB for deposit into a special account established by the CIWMB for closure, postclosure maintenance or  
53 corrective action activities of the facility. The policy shall further guarantee that the insurer shall, without delay, pay  
54 to the CIWMB the amount the CIWMB requests, up to an amount equal to the face amount of the policy, regardless  
55 of any remaining premiums to be paid. CIWMB requests for payment will be based on current estimated expenses as  
56 determined by the CIWMB for closure, postclosure maintenance, or corrective action activities. Any payments made

1 by the insurer that exceed the actual expenses incurred in performing the insured activity will be repaid to the insurer  
2 at the completion of the insured activity.

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

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

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

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

20 (m) Each closure and/or postclosure maintenance and/or reasonably foreseeable corrective action insurance  
21 policy shall be evidenced by a certificate of insurance established by using form CIWMB 106 (08/2001-8/07), which  
22 is incorporated by reference. Each certificate of insurance shall contain the insurer's warranty that the policy  
23 conforms in all respects with the requirements of this Subdivision, as applicable, and as such regulations were  
24 constituted on the date the policy is certified to on an annual basis. In addition, the insurer shall agree that any  
25 provision of the policy inconsistent with these regulations is amended to eliminate such inconsistency by submittal  
26 of the certification for closure and/or postclosure maintenance and/or reasonably foreseeable corrective action  
27 insurance.

28  
29 **Note:** Authority cited: Sections 40502, Public Resources Code.  
30 Reference: Sections 43103, 43500-43610, Public Resources Code.  
31

#### 32 **22249. CIWMB - Local Government Financial Test.**

33 (a) To pass the local government financial test, and to demonstrate financial responsibility for postclosure  
34 maintenance and/or corrective action costs, an operator or a guarantor shall be a local government agency and shall  
35 meet the criteria of sections ~~¶¶~~(e),(f),(i) and (j) based on financial statements prepared in conformity with Generally  
36 Accepted Accounting Principles for governments and have its financial statements audited by an independent  
37 certified public accountant.

38 (b) A local government is not eligible to assure its obligations under section ~~§~~22249 if it:

39 (1) Is currently in default on any outstanding general obligation bonds, or

40 (2) Has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by  
41 Standard and Poor's, or

42 (3) Has operated at a deficit equal to five percent or more of total annual revenue in each of the past two fiscal  
43 years, or

44 (4) Receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified  
45 public accountant auditing its financial statement as required by section ~~¶~~(a).

46 (c) The phrase "current postclosure maintenance cost estimates covered by the test" refers to the current  
47 postclosure maintenance cost estimate required by section ~~¶~~(j)(1) to be shown in paragraphs 1 and 2 of the letter  
48 from the chief financial officer.

49 (d) The phrase "current corrective action cost estimates covered by the test" refers to the current corrective action  
50 cost estimate required by section ~~¶~~(j)(1) to be shown in paragraphs 1 and 2 of the letter from the chief financial  
51 officer.

52 (e) The total amount of postclosure maintenance costs and corrective action costs which can be assured under this  
53 local government financial test is determined as follows:

54 (1) If the local government operator or guarantor does not assure other environmental obligations through a  
55 financial test, it may assure postclosure maintenance costs and/or corrective action costs that equal up to 43 percent  
56 of the local government's total annual revenue.

57 (2) If the local government operator or guarantor assures other environmental obligations through a financial test,  
58 including but not limited to those associated with underground injection control wells, petroleum underground  
storage tank facilities, PCB storage facilities, and hazardous waste treatment, storage, and disposal facilities, it must

1 add those costs to the postclosure maintenance costs and/or corrective action costs it seeks to assure. The total that  
2 may be assured must not exceed 43 percent of the local government's or guarantor's total annual revenue.

3 (3) The operator or guarantor must obtain an alternate financial assurance instrument for those costs that exceed  
4 the limits set in (1) and (2).

5 (f) The operator or guarantor shall meet the criteria of either ~~section 4(g)~~ or (h) based on the operator's or  
6 guarantor's most recent audited annual financial statements prepared in conformity with Generally Accepted  
7 Accounting Principles for governments.

8 (g) The operator or guarantor shall satisfy each of the following financial ratios based on the operator's or  
9 guarantor's most recent audited annual financial statements prepared in conformity with Generally Accepted  
10 Accounting Principles for governments:

11 (1) Liquidity ratio: a ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05;  
12 and

13 (2) Debt service ratio: a ratio of annual debt service to total expenditures less than or equal to 0.20; or

14 (h) An operator or guarantor with outstanding, rated, general obligation bonds that are not secured by insurance, a  
15 letter of credit, or other collateral or guarantee must have such bonds with current investment grade rating as  
16 follows:

17 (1) Aaa, Aa, A or Baa, as issued by Moody's on all such general obligation bonds; or

18 (2) AAA, AA, A, or BBB, as issued by Standard and Poor's on all such general obligation bonds.

19 (i) The operator or guarantor shall provide public notice of the local government's assured obligations by placing  
20 a reference to the postclosure maintenance costs and/or corrective action costs assured through the financial test into  
21 its next comprehensive annual financial report (CAFR). If timing does not permit the reference to be incorporated  
22 into the most recently issued CAFR or budget prior to the first year the financial test is used to assure local  
23 government solid waste facility obligations, the reference may instead be placed in the operating record until  
24 issuance of the next available CAFR. The operator shall certify that the reference to the postclosure maintenance  
25 costs and/or corrective action costs assured through the financial test is provided. The operator's certification shall  
26 be submitted with the chief financial officer letter as specified in ~~section 4(j)(2)~~.

27 (1) For postclosure maintenance costs, conformance with Government Accounting Standards Board (GASB)  
28 Statement 18 assures compliance with this public notice requirement.

29 (2) The following, including the GASB requirements, shall be disclosed:

30 (A) The nature and source of requirements for those obligations assured by the local government financial test  
31 including postclosure maintenance costs and/or corrective action costs; and

32 (B) Postclosure maintenance costs recognized at the balance sheet date; and

33 (C) Estimated postclosure maintenance costs remaining to be recognized; and

34 (D) Percentage of landfill capacity used to date, as of the end of the latest completed fiscal year; and

35 (E) Remaining landfill capacity reported in cubic yards or tons as of the end of the latest completed fiscal year;  
36 and

37 (F) Estimated remaining useful landfill life in years; and

38 (G) Corrective action costs. The reference shall be placed in the CAFR not later than 120 days after the corrective  
39 action remedy has been selected as required under Article 1, Subchapter 3, Chapter 3 (~~section 20380 et seq.~~).

40 (j) Within 180 days after the close of each financial reporting year, the operator or guarantor shall submit the  
41 following items to the CIWMB and, in the case of a guarantor also, to the operator;

42 (1) A letter on the local government's letterhead stationary that is worded and completed as specified in Form  
43 CIWMB 112(2/05), which is incorporated by reference, which contains an original signature of the local  
44 government's chief financial officer. An operator or guarantor shall use Form CIWMB 112(2/05) to demonstrate or  
45 guarantee financial responsibility for postclosure maintenance costs and/or corrective action costs.

46 (A) If the operator or guarantor is using a similar financial test to demonstrate postclosure maintenance costs  
47 and/or corrective action costs for other environmental obligations including but not limited to those associated with  
48 underground injection control wells, petroleum underground storage tank facilities, PCB storage facilities, and  
49 hazardous waste treatment, storage, and disposal facilities, the operator or guarantor shall list those facilities, as well  
50 as the solid waste facility obligations it seeks to assure.

51 (2) A letter from the local government's treasurer or auditor-controller certifying the relative size (43%) threshold  
52 as specified in ~~section 4(e)~~, and the public notice requirement as specified in ~~section 4(i)~~ have been satisfied.

53 (3) A copy of an independent certified public accountant's report on examination of the operator's or guarantor's  
54 financial statements for the latest completed fiscal year, with a copy of the operator's or guarantor's financial  
55 statements for the latest completed fiscal year.

56 (A) An unqualified opinion of the independent certified public accountant is required.

57 (B) Local governments that have audits conducted only once every two years due to state law, may use the latest  
58 annual statement, audited or unaudited, provided that the most recent audit resulted in an unqualified opinion from  
59 the auditor.

- 1 (4) A letter from an independent certified public accountant that performed the audit:  
2 (A) Stating that he or she has reviewed the letter required by section-~~¶~~(j)(1) from the chief financial officer  
3 including data derived from the financial statements for the latest completed fiscal year of the operator or the  
4 guarantor, and compared the data with the amounts in the financial statements; and  
5 (B) Describing the procedures performed and related findings, including whether or not there were discrepancies  
6 found in the comparison, based on an agreed-upon procedures engagement performed in accordance with American  
7 Institute of Certified Public Accountants, Inc.'s (AICPA's) Statement on Auditing Standards No. 75, Engagements to  
8 Apply Agreed-Upon Procedures to Specified Elements, Accounts or Items of a Financial Statement.  
9 (5) A copy of the comprehensive annual financial report (CAFR) used to comply with section-~~¶~~(i) or certification  
10 by the local government's treasurer or auditor-controller that the requirements of General Accounting Standards  
11 Board Statement 18 have been met.  
12 (6) A copy of the bond rating on the bond rating service's letterhead stationery.  
13 (k) The CIWMB may require updated financial statements at any time from the operator or guarantor. If the  
14 CIWMB finds that the operator or guarantor no longer meets the local government financial test requirements of  
15 sections-~~¶~~(g) or (h), the operator shall obtain alternate coverage within 60 days after receiving the notification of  
16 such a finding.  
17 (l) If, when preparing its annual update, an operator using the local government financial test fails to meet the  
18 requirements of the financial test under sections-~~¶~~(g) or (h), the operator shall obtain alternate coverage within 210  
19 days after the close of the financial reporting year.  
20 (m) If the operator fails to obtain alternate coverage within the times specified in sections ~~¶~~(k) or (l), the  
21 operator shall notify the CIWMB by certified mail within 10 business days of such failure.  
22 (n) A local government financial test may be combined with another payment mechanism to assure the amount of  
23 required coverage specified in sections-~~§~~22211 and 22221 of Subchapter 2.

24  
25 **Note:** Authority cited: Sections 40502 and 43601.5, Public Resources Code.  
26 References: Sections 43500 through 43610.1, Public Resources Code, Part 258.74(f) and (h), Title 40 Code of Federal Regulations.  
27

#### 22249.5. CIWMB - Local Government Guarantee.

- 28 (a) The guarantor shall be a local government which meets the requirements of the Local Government Financial  
29 Test under section-~~§~~22249 of this Article based on the guarantor's audited year-end financial statements.  
30 (b) The guarantee shall be worded and completed as specified by form CIWMB 113(7/98-2/05), which is  
31 incorporated by reference.  
32 (c) When the guarantee specifies coverage for postclosure maintenance costs, the terms shall also specify:  
33 (1) If the operator fails to perform postclosure maintenance in accordance with the applicable approved  
34 postclosure maintenance plan when required to do so, the guarantor shall either:  
35 (A) Perform, or pay a third party to perform, postclosure maintenance in accordance with the applicable approved  
36 postclosure maintenance plan; or  
37 (B) Establish and fund a trust fund as specified in section-~~§~~22240 of this Article, in the name of the operator in  
38 the amount of the applicable current postclosure maintenance cost estimate covered by the guarantee; and/or  
39 (d) When the guarantee specifies coverage for corrective action costs, the terms shall also specify:  
40 (1) If the operator fails to perform corrective action in accordance with the applicable approved corrective action  
41 plan when required to do so, the guarantor shall either:  
42 (A) Perform, or pay a third party to perform, corrective action in accordance with the applicable approved  
43 corrective action plan; or  
44 (B) Establish and fund a trust fund as specified in section-~~§~~22240 of this Article, in the name of the operator in  
45 the amount of the applicable current corrective action cost estimate covered by the guarantee; and/or  
46 (e) The guarantee will remain in force unless the guarantor fails to meet the requirements of sections-~~§~~22249  
47 and/or 22249.5 of this Article, or wishes to terminate the guarantee. Cancellation may not occur, however, during  
48 the 120 days beginning on the date of receipt of the notice of cancellation by both the operator and the CIWMB, as  
49 evidenced by return receipts.  
50 (1) The guarantor shall send a notice of cancellation by certified mail to the operator, and the CIWMB, within  
51 180 days after the end of that financial reporting year. The guarantee shall terminate no less than 120 days after the  
52 date that the operator and the CIWMB received the notice of cancellation, as evidenced by the return receipts.  
53 (2) If the guarantee is cancelled, the operator shall establish alternate assurance as specified in section-~~§~~22228 of  
54 Article 1 of this Subchapter within 60 days after such notice.  
55 (3) If the operator fails to provide alternate financial assurance:  
56 (A) The operator shall send notice of such failure by certified mail to the guarantor, and the CIWMB, within the  
57 same 60 day period; and

1 (B) The guarantor must provide alternate assurance as specified in section §22228 of Article 1 of this Subchapter  
2 within 60 days after the date of the operator's notice.

3 (f) The CIWMB may require updated financial statements at any time from a guarantor. If the CIWMB finds that  
4 the guarantor no longer meets the local government financial test or guarantee requirements of sections §§22249  
5 and/or 22249.5 of this Article, the CIWMB shall notify the guarantor and operator of such finding by certified mail.  
6 If the CIWMB notifies the guarantor and the operator that the guarantee is no longer acceptable, the operator and  
7 guarantor shall comply with section §22249.5 (e) (2) and (3) of this Article.

8 (g) Only a guarantee for payment, rather than performance of work, may be combined with another payment  
9 mechanism to assure the amount of required coverage specified in sections §§22206, 22211, 22216, and/or 22221 of  
10 Subchapter 2.

11 **Note:** Authority cited: Sections 40502 and 43601.5, Public Resources Code.

12 *References: Sections 43500 through 43610.1, Public Resources Code, Part 258.74(f) and (h), Title 40 Code of Federal Regulations.*

13 **22251. CIWMB - Liability Insurance. (Title 14, §18236)**

14 (a) The issuer of the insurance policy shall be an insurer that, at a minimum, is licensed by the California  
15 Department of Insurance to transact the business of insurance in the State of California as an admitted carrier.

16 (b) If coverage is not available as specified in ¶(a), the operator may seek coverage by an insurer which, at a  
17 minimum, shall be eligible to provide insurance as an excess or surplus lines insurer in California.

18 (c) If coverage is obtained as described in ¶(b), the insurance shall be transacted by and through a surplus line  
19 broker currently licensed under the regulations of the California Department of Insurance and upon the terms and  
20 conditions prescribed in the California Insurance Code (CIC), Division 1, Part 2, Chapter 6.

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

24 (e) Each insurance policy shall be either:

25 (1) Evidenced by a certificate of liability insurance established by using form CIWMB 107 (4/96-12/01), which is  
26 incorporated by reference; or

27 (2) Amended and evidenced by a liability insurance endorsement established by using form CIWMB 108 (4/96  
28 12/01), which is incorporated by reference.

29 **Note:** Authority cited: Section 40502 and 43040, Public Resources Code.

30 *Reference: Sections 43040 and 43103, Public Resources Code.*

31 **22252. CIWMB - Self-Insurance and Risk Management. (Title 14, §18237)**

32 (a) To use the self-insurance and risk management mechanism an operator shall:

33 (1) Be a public entity;

34 (2) Be self-insured;

35 (3) Employ a risk manager;

36 (4) Have an active safety and loss prevention program that seeks to minimize the frequency and magnitude of  
37 third party damages caused by accidental occurrences and other self-insured losses;

38 (5) Have procedures for and a recent history of timely investigation and resolution of any claims for third party  
39 damages caused by accidental occurrences and other self-insured losses; and

40 (6) Satisfy any other reasonable conditions that the CIWMB determines are needed to ensure that the assured  
41 amount of funds shall be available in a timely manner.

42 (b) This coverage shall be demonstrated by using form CIWMB 109 (4/96-12/01), which is incorporated by  
43 reference.

44 **Note:** Authority cited: Section 40502 and 43040, Public Resources Code.

45 *Reference: Sections 43040 and 43103, Public Resources Code.*

46 **22253. CIWMB - Insurance and Environmental Fund. (Title 14, §18240)**

47 (a) To be eligible to use this mechanism to demonstrate financial responsibility for compensating third parties for  
48 bodily injury and property damage, the operator shall fulfill the requirements of sections ¶¶(a) through (e) of this  
49 section no later than July 2, 1992.

50 (b) The operator shall submit a signed certification to the CIWMB on form CIWMB 110 (12/01), which is  
51 incorporated by reference; and

52 (c) The operator shall submit certification of coverage to demonstrate the establishment and maintenance of  
53 comprehensive general liability insurance coverage with limits in at least the amounts specified in Article 3 of  
54

1 Subchapter 2 of this Chapter. This insurance must conform to the requirements of ~~section §22251(a - d)~~ and/or  
2 ~~section §22252(a)~~; and

3 (d) The operator shall demonstrate the establishment of an environmental liability fund, which shall be fully  
4 funded, as described before July 2, 1997. This means that the operator shall make the initial payment as described in  
5 ¶(d)(3) by July 2, 1992 and subsequent payments as described in ~~section ¶(d)(4)~~ on July 1st of the following years:  
6 1993, 1994, 1995, 1996, and 1997.

7 (1) The environmental liability fund shall have a trustee that is authorized to act as a trustee and whose trust  
8 operations are regulated and examined by a federal or state agency.

9 (2) The environmental liability fund shall be established by using form CIWMB 111 (12/01), which is  
10 incorporated by reference.

11 (3) The funding of the environmental liability fund shall be initiated with a payment of \$200,000 or a payment  
12 that is at least equal to the applicable aggregate liability coverage amount specified in Article 3 of Subchapter 2 of  
13 this Chapter, divided by 5, which is the maximum number of years in the pay-in period.

14 (4) On each anniversary date of July 1, the minimum payment shall be determined by this formula:

$$15 \text{ Minimum Payment} = \frac{\text{AC} - \text{CV}}{\text{Y} + 1}$$

16 where AC is the aggregate coverage required, CV is the current value of the trust fund and Y is the number of years  
17 remaining in the pay-in period.

18 (5) The operator may accelerate payments into the environmental liability fund. However, the value of the  
19 environmental liability fund shall be maintained at no less than the value that the environmental fund would have, if  
20 payments were made as specified in ¶(d)(3) and ¶(d)(4).

21 (6) If the value of the environmental liability fund becomes greater than the total amount of the applicable  
22 aggregate liability coverage, the operator may request in writing that the CIWMB authorize the release of the excess  
23 funds. The CIWMB shall review the request within 90 days of receipt of the request. If any excess funds are  
24 verified, the CIWMB shall instruct the trustee to release the funds.

25 (e) The operator may substitute any alternate financial assurance mechanism(s), as identified in ~~section §22227~~,  
26 for the Insurance and Environmental Fund mechanism.

27  
28  
29 Note: *Authority cited: Section 40502 and 43040, Public Resources Code.*  
30 *Reference: Sections 43040 and 43103, Public Resources Code.*

# Appendix 3. Financial Assurances Forms

State of California

California Integrated Waste Management Board

## TRUST AGREEMENT

Trust Account Number: \_\_\_\_\_

This Trust Agreement (Agreement) is entered into as of \_\_\_\_\_  
by and between:

(Date)

GRANTOR	TRUSTEE
Operator Name:	Trustee Name:
Address:	Address:
	Phone Number:
<input type="checkbox"/> Corporation <input type="checkbox"/> Association <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship In the State of _____	<input type="checkbox"/> Incorporated in the State of _____ <input type="checkbox"/> A National Bank

### TERMS OF AGREEMENT

WHEREAS, the California Integrated Waste Management Board (CIWMB) has established regulations applicable to the Grantor in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, requiring that an operator of a solid waste disposal facility shall provide assurance that funds will be available when needed for closure and/or postclosure maintenance and/or corrective action and/or third party operating liability claims of the facility, and

WHEREAS, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facilities identified herein, and

WHEREAS, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee,

NOW THEREFORE, the Grantor and Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

- (a) The term "Grantor" means the operator who enters into this Agreement and any successors or assigns of the Grantor.
- (b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.
- (c) The term "CIWMB" means State of California, Integrated Waste Management Board or its designee.

(d) The term "Beneficiary" means (1) the CIWMB when this Agreement is used for closure, postclosure maintenance, and/or corrective action and (2) a third party injured or damaged by accidental occurrences arising from the operation of the covered facility when this Agreement is used for operating liability claimants who satisfy the requirements either of Section 4(a) or 4(b) of this Agreement.

Section 2. Identification of Facilities Cost Estimates and Coverage Amounts. This Agreement pertains to the facilities, cost estimates, and determination of primary or excess coverage identified on attached Schedule A (for each facility identified in Schedule A, list the solid waste information system number, name, address, the current closure and/or postclosure cost estimates and/or corrective action cost estimates and/or operating liability coverage (indicate the closure and postclosure amounts and corrective action and operating liability coverage amounts separately), or portions thereof for which financial assurance is demonstrated by this Agreement).

Section 3. Establishment of Fund for Closure and/or Postclosure and/or Corrective Action and/or operating liability. The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Beneficiary CIWMB. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the Beneficiary CIWMB.

Section 3a. Establishment of Fund for Operating Liability. The Grantor and the Trustee hereby establish a trust fund, hereinafter the "Fund" for the benefit of any and all third parties injured or damaged by accidental occurrences arising from operation of the facility(ies) covered by this trust agreement, in the amounts of \_\_\_\_\_ per occurrence and \_\_\_\_\_ annual aggregate for accidental occurrences, except that the Fund is not established for the benefit of third parties for the following:

(a) "Bodily injury" or "property damage" expected or intended from the standpoint of the Grantor. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

(b) "Bodily injury" or "property damage" for which the Grantor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the Grantor would be obligated to pay in the absence of the contract or agreement.

(c) Any obligation of the Grantor under a workers' compensation, disability benefits, or unemployment compensation law or any similar law.

(d) "Bodily injury" to:

- (1) An employee of the Grantor arising from, and in the course of, employment by the Grantor; or
- (2) The spouse, child, parent, brother, or sister of an employee as a consequence of (1) above.

This exclusion applies:

- (1) Whether the Grantor may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay another person who must pay damages because of the injury.

(e) "Bodily injury" or "property damage" arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, "auto", or watercraft owned or operated by or rented or loaned to the Grantor. Use includes operation and loading and unloading. This exclusion does not apply to:

(1) Parking an "auto" on, or on the ways next to, premises the Grantor owns or rents, provided the "auto" is not owned by or rented or loaned to the Grantor.

(2) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in paragraph (F)2. or (F)3. of the definition of "mobile equipment" (27 CCR, Division 2, Subdivision 1, Chapter 6).

(f) "Property damage" to:

- (1) Any property owned, rented, or occupied by the Grantor;
- (2) Premises that are sold, given away, or abandoned by the Grantor if the "property damage" arises out of any part of those premises;
- (3) Property loaned to the Grantor;
- (4) Personal property in the care, custody, or control of the Grantor;
- (5) That particular part of real property on which the Grantor or any contractors or subcontractors working directly or indirectly on behalf of the Grantor are performing operations, if the "property damage" arises out of these operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because the Grantor's work was incorrectly performed on it.

Section 4. Payment for Closure and/or Postclosure Maintenance and/or Corrective Action. The Trustee shall make payments from the Fund as the CIWMB shall direct, in writing, to provide for the payment of the costs of closure and/or postclosure maintenance and/or corrective action of the facilities covered by this Agreement. The Trustee shall make disbursements reimburse the Grantor or other persons as specified by the CIWMB from the Fund for closure and/or postclosure and/or corrective action expenditures in such amounts as the CIWMB shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the Beneficiary CIWMB specifies in writing. Upon refund, such funds shall not constitute part of the Fund as defined herein.

Section 4a. Payment for Bodily Injury or Property Damage. The Trustee shall satisfy a third party liability claim by making payments from the Fund only on receipt of one of the following documents:

(a) Certification from the Grantor and the third party claimant Beneficiary that the liability claim should be paid. The certification must be worded as follows:



Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation. The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and the CIWMB a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and to the CIWMB shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting on the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If, for any reason, the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, CIWMB, and the present Trustee by certified mail ten days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the CIWMB to the Trustee shall be in writing, signed by the CIWMB designees, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the CIWMB hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or CIWMB, except as provided for herein.

Section 15. Notice of Nonpayment. The Trustee shall notify the Grantor, and CIWMB, by either registered or certified mail, within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

Section 15a. Notice of Nonpayment. If a payment for bodily injury or property damage is made under Section 4a of this trust, the Trustee shall notify the Grantor of such payment and the amount(s) thereof within five (5) working days. The Grantor shall, within one year of such payment, either make payments to the trustee in amounts sufficient to cause the trust to return to its value immediately prior to the payment of claims under Section 4a, or shall provide written proof to the Trustee that other financial assurance for operating liability coverage has been obtained equaling the amount necessary to return the trust to its value prior to the payment of claims. If the Grantor dies does not either make payments to the Trustee or provide the Trustee with such proof, the Trustee shall, within 10 working days after the anniversary date of the payment, provide a written notice of nonpayment to the CIWMB.

Section 16. Amendment of Agreement. This agreement may be amended by an instrument in writing executed by the Grantor, Trustee, and CIWMB, or by the Trustee and CIWMB if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the CIWMB, or by the Trustee and the CIWMB, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor. The CIWMB will agree to termination of the trust when the operator substitutes alternate financial assurance or is released as specified in 27 CCR, Division 2, Subdivision 1, Chapter 6.

Section 18. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the CIWMB issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act in conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the State of California.

Section 20. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify and sign under the laws of the State of California that the information in this document is true and correct to the best of his or her knowledge, and is being executed in accordance with the requirements of 27 CCR, Division 2, Subdivision 1, Chapter 6.

Signature of Grantor:	Title:
Typed or Printed Name of Person Signing:	Seal:
Attest: Title	
Signature of Trustee:	Title:
Typed or Printed Name of Person Signing:	Seal:
Attest: Title	

**PRIVACY STATEMENT**

*The Information Practices Act (California Civil Code Section 1798.17) and the Federal Privacy Act (5 U.S.C. 552a(e)(3)) require that this notice be provided when collecting personal information from individuals.*

**AGENCY REQUESTING INFORMATION:** *California Integrated Waste Management Board.*

**UNIT RESPONSIBLE FOR MAINTENANCE OF FORM:** *Financial Assurances Section, California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025. Contact the Manager, Financial Assurances Section, at (916) 341-6000.*

**AUTHORITY:** *Public Resources Code section 43600 et seq.*

**PURPOSE:** *The information provided will be used to verify adequate financial assurance of solid waste disposal facilities listed.*

**REQUIREMENT:** *Completion of this form is mandatory. The consequence of not completing this form is denial or revocation of a permit to operate a solid waste disposal facility.*

**OTHER INFORMATION:** *After review of this document, you may be requested to provide additional information regarding the acceptability of this mechanism.*

**ACCESS:** *Information provided in this form may be provided to the U.S. Environmental Protection Agency, State Attorney General, Air Resources Board, California Department of Toxic Substances Control, Energy Resources Conservation and Development Commission, Water Resources Control Board, and California Regional Water Quality Control Boards. For more information or access to your records, contact the California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025, (916) 341-6000.*

EXHIBIT A

TRUST AGREEMENT BY AND BETWEEN \_\_\_\_\_

AND THE \_\_\_\_\_

As provided for in Section 14 of the Trust Agreement, the persons, other than the officials of the CIWMB identified in Section 14 of the Trust Agreement, who, until this Exhibit A is amended, shall have the authority to make orders, requests, and instructions to the Trustee are:

Officials of the Grantor.

Officials of the Grantor who have authority to give instructions are:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

EXHIBIT A

Any orders, requests or instructions by the Grantor to the Trustee, pursuant to the foregoing Agreement, may be signed by any one or more of the following persons:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

TRUST AGREEMENT/DEPOSITORY TRUST

SCHEDULE A

This Agreement demonstrates financial assurance for the following cost estimate(s) and/or operating liability for the following facility(ies):

Solid Waste Information System Number	Name of Facility(ies)	Address of Facility(ies)	Cost Estimates and or operating liability coverage For Which Financial Assurance is Being Demonstrated by This Agreement
			Closure: _____ Postclosure: _____ Corrective Action: _____ Per Occurrence: _____ Annual Aggregate: _____ Total: _____

The cost estimates listed here were last adjusted on \_\_\_\_\_ Date

TRUST AGREEMENT (ONLY)

SCHEDULE B

The fund is established initially as consisting of the following:

\$ \_\_\_\_\_ (Spell out dollar amount)

as evidenced by \_\_\_\_\_ (Name of institution drawn on)

Check Number \_\_\_\_\_

Dated \_\_\_\_\_

I hereby certify that funds have been received and deposited.

Authorized Signature:	Title:
Typed or Printed Name of Person Signing:	Address:
	Phone Number of Person Signing:

DEPOSITORY TRUST AGREEMENT (ONLY)

SCHEDULE B

List of Property Comprising Trust Fund

None at the time of trust establishment. Funding of this Depository Trust Agreement is contingent upon drafts against that primary,

\_\_\_\_\_ number \_\_\_\_\_ and issued by  
(Surety Bond or Letter of Credit)

the \_\_\_\_\_ on \_\_\_\_\_  
(Issuing Institution) (Date)

in accordance with the terms of that \_\_\_\_\_  
(Surety Bond or Letter of Credit)

**THIS PAGE INSTRUCTIONS ONLY****Letter From the Chief Financial Officer  
Financial Means Test for Postclosure Maintenance and/or Operating Liability**

(a) A letter from the chief financial officer, as specified in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, shall be on operator or guarantor letterhead stationery. It shall contain the original signature of the chief financial officer and shall be worded as indicated on the attached proforma Form CIWMB 104 (12/01).

(b) The letter from the chief financial officer shall be accompanied by the following items, as specified in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

- (1) A copy of an independent certified public accountant's report on financial statements for the latest completed fiscal year.
- (2) A special report from the independent certified public accountant on the financial data in the letter;
- (3) A copy of the financial statements for the latest completed fiscal year.
- (4) A copy of the Form 10-K most recently filed with the Securities and Exchange Commission, if required; and
- (5) If applicable, the guarantee with wording as specified in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

**PRIVACY STATEMENT**

*The Information Practices Act (California Civil Code Section 1798.17) and the Federal Privacy Act (5 U.S.C. 552a(e)(3)) require that this notice be provided when collecting personal information from individuals.*

**AGENCY REQUESTING INFORMATION:** *California Integrated Waste Management Board.*

**UNIT RESPONSIBLE FOR MAINTENANCE OF FORM:** Financial Assurances Section, California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025. Contact the Manager, Financial Assurances Section, at (916) 341-6000.

**AUTHORITY:** *Public Resources Code section 43600 et seq.*

**PURPOSE:** *The information provided will be used to verify adequate financial assurance of solid waste disposal facilities listed.*

**REQUIREMENT:** *Completion of this form is mandatory. The consequence of not completing this form is denial or revocation of a permit to operate a solid waste disposal facility.*

**OTHER INFORMATION:** After review of this document, you may be requested to provide additional information regarding the acceptability of this mechanism.

**ACCESS:** *Information provided in this form may be provided to the U.S. Environmental Protection Agency, State Attorney General, Air Resources Board, California Department of Toxic Substances Control, Energy Resources Conservation and Development Commission, Water Resources Control Board, and California Regional Water Quality Control Boards. For more information or access to your records, contact the California Integrated Waste Management Board, 1001 I Street, P.O. Box 4025, Sacramento, California 95812-4025, (916) 341-6000.*

Executive Director  
California Integrated Waste Management Board  
1001 I Street  
P.O. Box 4025  
Sacramento, CA 95812-4025

I am the chief financial officer of \_\_\_\_\_ Operator's or Guarantor's Name and Address \_\_\_\_\_. This letter is in support of the financial means test or guarantee to demonstrate financial assurance, as specified in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

[Fill out the following paragraphs regarding all United States solid waste facilities and associated cost estimates. If no facilities belong in a particular paragraph, write "None" in the space indicated. For each facility, include its solid waste information system or other identification number, name, address, and current closure and/or postclosure cost estimates and/or operating liability coverage. Identify each cost estimate separately as to whether it is for closure or postclosure maintenance cost estimates or operating liability coverage. The CIWMB only allows demonstrations to the CIWMB for the costs of postclosure maintenance and operating liability, as specified in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.]

1. This firm is the operator or owner of the following facilities for which the firm is demonstrating financial assurance for postclosure maintenance and/or operating liability coverage through the financial means test specified in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, or financial assurance for closure and/or postclosure maintenance and/or operating liability through similar financial means tests specified in the laws of this and/or other states. The current closure and/or postclosure cost estimates and/or operating liability covered by the tests are shown for each facility:

2. This firm guarantees, through the guarantee for postclosure maintenance and/or operating liability specified in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, or through similar guarantees for closure and/or postclosure maintenance and/or operating liability coverage specified in the laws of this and/or other states, the closure and/or postclosure maintenance and/or operating liability of the following facilities. The current closure and/or postclosure maintenance cost estimates and/or operating liability so guaranteed and the name and address of the operator are shown for each facility:

3. The tangible net worth identified in the financial means test or guarantee is calculated by [include a specific description of all relevant items and the individual specific values utilized in deriving the reported tangible net worth].

This firm is  is not  required to file a Form 10-K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on \_\_\_\_\_ Month, Day \_\_\_\_\_. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended \_\_\_\_\_ Date \_\_\_\_\_. Use either Alternative I or Alternative II.

ALTERNATIVE I  
(Omit if using Alternative II)

1. Sum of current closure and/or postclosure cost estimates and/or operating liability coverage (total of all cost estimates and annual aggregates shown in the two numbered paragraphs of the letter to CIWMB) ..... \$ \_\_\_\_\_
2. Total liabilities (if any portion of the closure or postclosure cost estimates or operating liability coverage is included in total liabilities, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4) ..... \$ \_\_\_\_\_
- \* 3. Tangible net worth (include a detailed explanation in Chief Financial Officer Letter) ..... \$ \_\_\_\_\_
- \* 4. Net worth ..... \$ \_\_\_\_\_
- \* 5. Current assets ..... \$ \_\_\_\_\_
- \* 6. Current Liabilities ..... \$ \_\_\_\_\_
7. Net working capital (line 5 minus line 6) ..... \$ \_\_\_\_\_
- \* 8. The sum of net income plus depreciation, depletion, and amortization ..... \$ \_\_\_\_\_
9. Total assets in the United States (required only if less than 90 percent of the firm's assets are located in the United States) ..... \$ \_\_\_\_\_
10. Is line 3 at least \$4015 million? .....  Yes  
 No
11. Is line 3 at least 6 times line 1? .....  Yes  No
12. Is line 7 at least 6 times line 1? .....  Yes  No
13. Are at least 90 percent of firm's assets located in the United States?.....  Yes  No  
If not, complete line 14
14. Is line 9 at least 6 times line 1? .....  Yes  No
15. Is line 2 divided by line 4 less than 2.0? .....  Yes  No
16. Is line 8 divided by line 2 greater than 0.1? .....  Yes  No
17. Is line 5 divided by line 6 greater than 1.5? .....  Yes  No

I hereby certify that this letter is worded as specified by the California Integrated Waste Management Board and is being executed in accordance with the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Date

Corporate Seal

ALTERNATIVE II  
(Omit if using Alternative I)

1. Sum of current closure and/or postclosure cost estimates and/or operating liability coverage (total of all cost estimates and annual aggregates shown in the two numbered paragraphs of the letter to CIWMB)..... \$ \_\_\_\_\_
2. Current bond rating of most recent issuance of this firm and name of rating service ..... \_\_\_\_\_
3. Date of issuance of bond ..... \_\_\_\_\_
4. Date of maturity of bond ..... \_\_\_\_\_
- \* 5. Tangible net worth (a. if any portion of the closure or postclosure cost estimates or operating liability coverage is included in "total liabilities" on your firm's financial statements, you may add the amount of that portion to this line. b. include a detailed explanation in Chief Financial Officer Letter.)..... \$ \_\_\_\_\_
6. Total assets in the United States (required only if less than 90 percent of firm's assets are located in the United States) ..... \$ \_\_\_\_\_
7. Is line 5 at least \$4015 million? .....  Yes  
 No
8. Is line 5 at least 6 times line 1? .....  Yes  No
9. Are at least 90 percent of firm's assets located in the United States? .....  Yes  No  
If not, complete line 10
10. Is line 6 at least 6 times line 1? .....  Yes  No

I hereby certify that this letter is worded as specified by the California Integrated Waste Management Board and is being executed in accordance with the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Date

Corporate Seal

**CERTIFICATE OF INSURANCE FOR  
CLOSURE  
POSTCLOSURE MAINTENANCE  
REASONABLY FORESEEABLE CORRECTIVE ACTION**

*If additional space is needed, add attachment.*

Insurer Name	Address Phone Number	CA Insurer License Number or NAIC Number
Insured Name	Address Phone Number	

**Solid Waste Disposal Facilities Covered:** *(Enter closure, postclosure maintenance, and reasonably foreseeable corrective action amounts separately. If coverage is not offered, enter "N/A" as the amount. All amounts must total face amount.)*

Name	Address	Solid Waste Disposal Facility Identification Number	Closure Insurance Amount	Postclosure Insurance Amount	Reasonably Foreseeable Corrective Action Amount
Policy Number:		Effective Date:	Face Amount:		

**INSURER CERTIFICATION**

The insurer hereby certifies that it has issued to the insured the identified policy of insurance to provide financial assurance for Closure , Postclosure Maintenance , Reasonably Foreseeable Corrective Action  *(Check all that apply)*, for the facility(ies) identified above. **The policy provides that monies identified in the face amount above will be available without delay for insured activities when needed.** The term *face amount* means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments. The insurer further warrants that such policy conforms in all respects with the requirements of Division 30 of the Public Resources Code; Title 27 of the California Code of Regulations, Division 2, Subdivision 1, Chapter 6; and the regulations of the California Department of Insurance and under the terms and conditions described in Division 1 of the California Insurance Code for the facility(ies) identified above, as applicable and as such regulations were constituted on the date shown below. **It is agreed that any provision of the policy inconsistent with such regulations is hereby amended to eliminate such inconsistency.**

Insured and Insurer hereby AGREE  DO NOT AGREE  to adjust the face amount of the insurance coverage yearly so that it guarantees a new closure and/or postclosure and/or corrective action coverage amount, provided the face amount does not increase by more than 20 percent in any one year, and no decrease in the face amount takes place without written permission from the CIWMB.

The insurance policy shall guarantee that funds will be available whenever insured activities occur. The policy shall also guarantee that once the insured activities begin, the insurer will be responsible for the paying out of funds to the operator or person authorized to conduct the insured activities, up to an amount equal to the face amount of the policy.

The insurance policy shall guarantee that disbursements for expenditures will be granted only if the remaining value of the policy is sufficient to cover the remaining approved applicable costs, and if the expenditures have been reviewed and approved in writing by the CIWMB, California-Integrated-Waste-Management-Board-(CIWMB) or its designee.

Notwithstanding any other provisions of Division 30 of the Public Resources Code or Title 27 of the California Code of Regulations, Division 2, Subdivision 1, Chapter 6, if either partial or complete closure, postclosure maintenance, or corrective action is ordered by the CIWMB, EA, other government entity, or court of competent jurisdiction its designee as a result of failure by the operator or other authorized person authorized to conduct such activities, the insurance policy shall also guarantee that the insurer will be responsible for paying out funds to the CIWMB for deposit into a special account established by the CIWMB for closure the insured activities of the facility. The insurance policy shall further guarantee that the insurer will, without delay, pay to the CIWMB the amount the CIWMB requests, up to an amount equal to the face amount of the insurance policy regardless of any remaining premiums t be paid. CIWMB requests for payment will be based on current estimated expenses as determined by the CIWMB for closure, postclosure maintenance, or corrective action activities. Any payments made by the insurer that exceed the actual expenses incurred in performing the insured activity will be repaid to the insurer at the completion of the insured activity.

This insurance coverage allows assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided that such consent is not unreasonably refused.

The insurer hereby waives notification of amendments to closure and/or postclosure plans, permits, applicable laws, statutes, rules, and regulations and agrees that any such amendment shall not in any way alleviate its obligation on this insurance coverage.

The insurer further certifies that it will not cancel, terminate, or fail to renew this policy except for failure to pay the premium, and that the automatic renewal of the policy provides the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium and the insurer elects to cancel, terminate or not renew the policy, the insurer will send notice by either registered or certified mail to the operator and the CIWMB. Cancellation, termination, or failure to renew may not occur, however, during the one hundred twenty (120) days beginning with the date of receipt of the notice by the operator and the CIWMB, as evidenced by the return receipts. Cancellation, termination, or failure to renew will not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

- (1) The CIWMB or EA ~~local enforcement agency~~ deems the facility abandoned; or
- (2) The permit is terminated or revoked or a new permit is denied by the CIWMB or local enforcement agency; or
- (3) Partial or complete Cclosure, postclosure maintenance, or corrective action is ordered by the CIWMB, EA, or any other government entity ~~State or federal agency~~, or a court of competent jurisdiction; or
- (4) The operator is named as a debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy) U.S. Code; or
- (5) All delinquent premium payments have been brought current.

If this policy is used in combination with another mechanism, this policy shall be considered primary  or excess  (check one) coverage. Whenever requested by the ~~California-Integrated-Waste-Management-Board~~ CIWMB of the State of California, the insurer agrees to furnish to the CIWMB a certified copy of the original policy listed above, including all endorsements thereon.

The party below certifies and signs under penalty of perjury that the information in this document is true and correct to the best of his or her knowledge, and satisfies the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 6, and that the insurer is licensed by the California Department of Insurance to transact the business of insurance in the State of California as an  admitted carrier or  eligible excess or surplus lines insurer.

Authorized Signature of Insurer  ➤	Title
Typed or Printed Name of Person Signing  ➤	Phone Number
Notary Signature and Seal  ➤	Date

Privacy Statement (next page)

*The Information Practices Act (California Civil Code Section 1798.17) and the Federal Privacy Act (5 U.S.C. 552a(e)(3)) require that this notice be provided when collecting personal information from individuals.*

**AGENCY REQUESTING INFORMATION:** *California Integrated Waste Management Board.*

**UNIT RESPONSIBLE FOR MAINTENANCE OF FORM:** *Financial Assurances Section, California Integrated Waste Management Board, 1001 "I" Street, P.O. Box 4025, Sacramento, California 95812-4025. Contact the Manager, Financial Assurances Section, at (916) 341-6000.*

**AUTHORITY:** *Public Resources Code section 43600 et seq.*

**PURPOSE:** *The information provided will be used to verify adequate financial assurance of solid waste disposal facilities listed.*

**REQUIREMENT:** *Completion of this form is mandatory. The consequence of not completing this form is denial or revocation of a permit to operate a solid waste disposal facility.*

**OTHER INFORMATION:** *After review of this document, you may be requested to provide additional information regarding the acceptability of this mechanism.*

**ACCESS:** *Information provided in this form may be provided to the U.S. Environmental Protection Agency, State Attorney General, Air Resources Board, California Department of Toxic Substances Control, Energy Resources Conservation and Development Commission, Water Resources Control Board, and California Regional Water Quality Control Boards. For more information or access to your records, contact the California Integrated Waste Management Board 1001 "I" Street, P.O. Box 4025, Sacramento, California 95812-4025, (916) 341-6000.*