

Long-Term Postclosure Maintenance and Corrective Action Cost Estimates and Financial Assurance Demonstrations for Landfills

General Overview of
Regulatory Changes

5/10/2010

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Presenters/Moderator

- Bob Holmes – Regulations Coordinator
- Michael Wochnick – Closure & Technical Support
- Richard Castle – Financial Assurances

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Ground Rules

- PowerPoint Presentation
 - Hold questions for Q&A period
- Question & Answer Period
 - Submit questions in writing
 - On line
 - loan.feher@calrecycle.ca.gov
 - Gotowebinar chat feature
 - In room
 - 3 x 5 cards
 - Put slide number on 3 x 5 card or in title line of email
 - Basis for future FAQs
- On Line - Mute Phones
- In House – Cell phones on vibrate

Agenda

- 2:00 – 2:10 Introduction
 - Purpose
 - Other Training and Guidance Under Development
 - Training Format
- 2:10 – 2:40 Overview of Postclosure Maintenance and Corrective Action Requirements
- 2:40 – 3:10 Overview of Financial Assurance Requirements
- 3:10 – 3:15 Break
- 3:15 – 4:00 Question & Answer Period

Scheduled Training

- **May 10, 2010:** Two hour workshop/Webinar as a primer and review of major changes
- **Mid-May, 2010:** LEA Roundtable presentations to seek additional questions and areas in need of clarification for future training or Web content
- **June 15, 2010:** Two hour workshop/Webinar on proactive monitoring plans and cost estimating (Phase 1 and Phase 2)
- **Late spring/early summer 2010:** Permit Training; add financial assurances to permit checklist topics as part of the one-day, venue-based permit training
- **December/January 2010:** Two hour workshop/Webinar on non-water release corrective action
- **February 2011:** Annual LEA Conference session on corrective action and proactive monitoring (or other financial assurances issue)

Guidance Documents

- July 2010: Proactive Monitoring (step-down)
- July 2010: Initial FAQs (revised as needed)
- December 2010: Corrective Action Plan BMPs
- Summer/Fall 2010: Updated Permit Toolbox (as necessary)
- Fall/Winter 2010: Updated cost estimate spreadsheet (if warranted)

Web Portal - Regulation Implementation
<http://www.calrecycle.ca.gov/LEA/Regs/Implement/Postclosure/default.htm>

Most Significant Changes

- Phase 1
 - More specifics for cost estimates
- Phase 2
 - Non-water Release Corrective Action
 - More specifics for PCM financial assurances

Plans - General

- Revised/updated plans required at least every five years and at each permit review and revision
 - Initial schedule specified for non-permitted LFs
 - Certified statement for no amendments
 - Applies to closure, pcm, and corrective action
- More specifics of what is to be included

Closure Certification Report

- Include as-built costs
- Timelines
 - Submittal = w/in 180 days of ending construction
 - Review = w/in 120 days of submittal
 - Revision = w/in 60 days of comments
- CalRecycle notifies local planning of acceptance

Corrective Action Plan

- Alternative for sites which do not use default final cover replacement
- Contents
 - Evaluation of known or reasonably foreseeable non-water release corrective action due to known or reasonably foreseeable causal event
 - Evaluation of long-term performance of final cover
 - Cost estimates for all corrective actions

Corrective Action Plan – cont.

- Preparation
 - Licensed PE (civil) or CEG
 - Independent third party
 - Not entity/person responsible for current design
 - Not employed by landfill O/O

Cost Estimates - General

- Include justification
- Include more detail
 - Lump sum preliminary estimates no longer acceptable
- Updated estimates
 - Reflect current costs – not just inflation
 - Due at least every 5 years and at permit review & revision
- Represents State's Costs
 - Labor Code = prevailing wages
 - Caltrans (default standard)
 - Rental Rates
 - Force Account Payment
 - Other w/justification

Cost Estimates – Closure

- Further defines
 - Greatest extent of closure
 - Premature closure
- Items not yet completed at time of estimate
- Include plans/specs, bid documents, etc.
- Prior to closure construction
 - Demonstrate cost (e.g., bids) < cost estimate
- OR–
 - Increase estimate and financial assurance

Cost Estimates – PCM

- Annualized cost
- Items > 30-year life treat as 30-year life
- Cannot anticipate future reductions

Cost Estimates – Corrective Action

- Water Release – no change
- Non-water release
 - For LFs operated on or after July 1, 1991
 - Initial due between July 1, 2011 & July 1, 2016
 - With permit review or revision
 - Per schedule 27 CCR 21865 if no permit
- Highest of water release vs. non-water release

Cost Estimates – Corrective Action cont.

- Non-water release estimate calculated either
 - Final Cover Replacement (Default)
 - Cost of Replacement
 - or–
 - Closure cost estimate adjusted for full LF and current costs
 - OR–
 - Site Specific Corrective Action Plan
 - Most expensive CA due to causal event

Financial Assurance - General

- Required for permit concurrence
 - Closure, PCM, Corrective Action
- Highest of most recent submitted or approved

Financial Assurance - PCM

- Annualized cost times factor
 - Default = 30x
 - Annual drawdown to 15x
 - If final plans approved on or before July 1, 2010
 - Step-Down/Step-Up/Unchanged
 - Specified Conditions

Financial Assurance – PCM Step-Down

- Meet certain conditions
 - No enforcement order
 - Certain exceptions
 - All capital improvements completed
 - Activities in O&M phase or all completed
 - CA is effectively remediating situation
 - Costs covered in PCM and/or CA financial mechanisms
 - Proactive Monitoring Program
 - No corrective action disbursement
 - PCM costs consistent with cost estimate
- Available every 5 years
- Minimum multiplier = 15x

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Financial Assurance – PCM Step-Up

- No longer meet conditions for step-down
 - Enforcement action issued
 - Exception
 - Order for exceptional event not related to design, operation, etc.
 - Operator in compliance with Order
 - No longer meet enforcement action step-down exception
 - No proactive monitoring
 - CA disbursement not repaid
- Limited to one 5x step-up per 5-year period
- Maximum of 30x

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Financial Assurance – PCM Multiplier Unchanged

- Does not meet conditions for step-up or step-down
 - PCM costs not consistent

Financial Assurance – PCM New Owner/Operator

- Default Multiplier = 30x
 - Exception if new operator meets conditions
 - Good operation of landfills
 - Able to provide 30x financial assurance
 - Provided affidavit for new owner/operator

Financial Assurance – Corrective Action

- Water release
 - No change
- Non-water release
 - Effective July 1, 2011
 - 5-year schedule
 - Permit review or revision
 - Per 27 CCR 21865 – non permitted LFs
- Highest of water release vs. non-water release

Financial Assurance – Corrective Action Disbursements

- Limited
 - Only if operator demonstrates need for release
 - Repayment w/in 5 years

Financial Mechanisms

- Financial Means Test
 - Increased tangible net worth factor to \$15M
 - Modified description
 - Tangible net worth
- Insurance
 - Cancellation criteria
 - Release of funds to CalRecycle
 - Obligation of Insurer

Financial Mechanisms – cont.

- Pledge of Revenue
 - Form developed
- Trust Fund
 - Beneficiary better defined

Other Changes

- **New Owner/Operator**
 - Specific requirements for change in ownership during closure and PCM
 - Similar to active sites
- **Definitions**
 - CalRecycle
 - Corrective Action
 - Causal Event

Q&A Period

- Per Ground Rules
- Basis for future FAQs