



CLOSURE PLAN CONTENTS AND TECHNICAL REVIEW

3.14 - FINANCIAL RESPONSIBILITY

Introduction

Pursuant to Title 22, California Code of Regulations, sections 67001 through 67033, all owners or operators of interim status or permitted hazardous waste treatment and storage (T&S) facilities must provide a mechanism to demonstrate that they have:

! Financial assurance to cover estimated closure costs for each facility (that is, the T&S facility can provide or prove they have adequate funds to close the hazardous waste units they plan to or have operated in accordance with the requirements of their approved closure plan (CP) and;

! Liability coverage for sudden accidental occurrences in the amount of \$1 million per occurrence per facility with at least a \$2 million annual aggregate per facility.

Submittals Required by Applicant

Financial assurance for closure and/or post-closure costs for a facility must be provided using one or a combination of the following mechanisms*:

1. Trust Fund
2. Surety Bond
3. Letter of Credit
4. Closure Insurance
5. Financial Test/Corporate Guarantee
6. Performance Bond
7. Payment Bond

An example of each mechanism can be found in Section 66264.140 of the Cal. Code of Regs. and examples of each are included in Appendix B.

Liability coverage for a facility must be provided using one or a combination of the following mechanisms*:

1. Trust Fund
2. Surety Bond
3. Letter of Credit
4. Liability Insurance
5. Financial Test/Corporate Guarantee
6. Payment Bond

Actions Required by Permit Writer

1. Separate the package of Financial Responsibility (FR) information from the rest of the closure plan (keep a copy).
2. Check that the Financial Assurance mechanism is at least the amount of the closure cost estimate.
3. Fill out a financial review request review form. Each Regional Department office has one person in the Surveillance and Enforcement Branch (SEB) that is assigned the responsibility of FR reviews. Each region has their own Review Request Form which must be completed by the permit writer. See Appendix B of this manual

for a sample Financial Responsibility Review Request form.

4. Send the FR review request and Financial Assurance package to the Surveillance and Enforcement (SEB) reviewer. This should be done after the draft closure plan public comment period has begun or is ready to Public Notice. Request that the review be completed within 30 days.

5. Do not approve the closure plan until the FR reviewer has "passed" the package (i.e., the package meets all regulatory criteria). The approval form is part of the administrative package for closure plan approval.

Note #1: The Department's Management Memo #92-HWM-7 was written in response to the question on whether partially closed facilities must maintain liability coverage and closure financial assurance for closed units. The closed units either had closure plans and certifications approved by the Department or not.

* For certified and Department-approved partial closures or not the Department cannot release the facility from liability coverage until final closure of the facility is approved by the Department.

* For certified and Department-approved partial closures the Department can consider a partial release of the facility's closure financial mechanism if the remaining funds would be adequate to cover the costs of closing the remainder of the facility using worst case closure assumptions. However, no closure funds should be released if the closure plan for the remainder of units at the facility has not yet been approved.

In the case of a facility without any approved closure plan, the Department cannot consider the partial release of any financial assurance mechanism until the Department has approved the closure plan for the entire facility and the closure certification for the partial closure has been approved also. Only under these circumstances will a partial release be considered.

Note #2: Non-RCRA facilities may use any of the above-listed mechanisms, or submit an alternative mechanism which is subject to review and approval by the Department (on a case-by-case basis, and must be equivalent to the financial mechanisms described in regulation.

Key Questions

! Is the dollar amount provided by the financial assurance mechanism at least the amount of dollars shown in the closure cost estimate (that is the estimate we agree with).

! Has proof of liability insurance been provided at the \$1 million and \$2 million limits required.

WP File Name: CH0314_C.MAN

List of Examples:

List of Attachments:

List of References:

Section 66264.140 of the Cal. Code of Regs. - examples of FR mechanisms

List of Appendices:

See Appendix B - Sample Financial Responsibility Review Request form and examples of FR mechanisms