

Solid Waste Financial Assurance Work Group March 25, 2011 Meeting Summary

Participants

Dan Batts, Landfill Management
Liz Browne, DEQ
Stephanie Glysson, Republic
Tom Horton, Waste Management
Ray Ilka, GM – SMCO
Dan Kendall, Kent County DPW
Becky Kocsis, DEQ
Dennis Leonard, DTE Energy
Rhonda Oyer, DEQ
Rich Paajanen, Waste Management
Don Pyle, DSWMA
Margie Ring, DEQ
Steve Sliver, DEQ
Kevin Somero, Waste Management

Meeting Materials

- Updated Part 115 financial assurance amendments framework
- Part 115 Amendments, draft for discussion
- List of existing type III landfills – increased financial assurance amount if calculated as for Type II
- List of landfills potentially impacted by proposed minimal \$500,000 up-front financial assurance requirement for corrective action
- FY10 Waste Utilization/Accumulation Sites

Discussion Points

- Perpetual Care Fund (PCF)
 - Are they serving the intended purpose or would an alternative (e.g., additional bonding) meet the same financial assurance needs, while at the same time free up the cash (\$130 million total) currently held in the accounts?
 - The PCF monies are more readily available to the DEQ when needed; the DEQ does not need to initiate a complicated or lengthy process before accessing a PCF. The PCF also is not subject to reductions below the maximum required fund amount during postclosure.
 - Is the administrative burden on industry and the DEQ significant and justifiable considering what the PCF provides and in light possible alternatives?
 - The PCF appears to be unique to Michigan, at least among the Region 5 states. **The national waste management firms should check with their sites in other states to see if something similar is required. The DEQ will also do further checking with other state agencies as well.**

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- Industry may be more amenable to fee increases if the PCF deposits could be reduced or eliminated.
- The DEQ is concerned about having funds available after financial assurance mechanisms and the PCF are exhausted.
 - The state perpetual care account (PCA), which is funded by operating license application fees, was established to provide funds for closure and maintenance of landfills after all other sources were used.
 - The PCA has been underfunded because of a shift from 2 year to 5 year licenses, and the low application fees being insufficient to generate the type of revenue need to develop a significant fund balance.
 - The PCA was used to make up for the lack of surcharge revenue in funding the solid waste program in FY10 and FY11.
 - Industry may be interested in replenishing the PCA with a portion of the current PCF deposit or something similar but is concerned that the PCA would again be diverted by the Legislature to other uses.
 - Ensuring a level playing field, i.e., consistent enforcement of financial assurance requirements at all landfills, is important to agreement on establishing a larger PCA that would be available to the DEQ.
- DEQ concerns about lack of adequate financial assurance at Type III landfills and non-landfills.
 - Focus first on the cost estimates on which the financial assurance should be based.
 - Standard amounts (e.g., \$20,000 per acre of landfill) are in 1996 dollars and hard to relate to actual costs.
 - Example: in 2008, the DEQ took over closure and maintenance of a Type III landfill, which had full financial assurance in the amount of \$1.6 million. The actual costs to close and maintain the site are estimated to be more than double the available amount of financial assurance. Leachate pump and haul costs alone could consume all of the available financial assurance within the next few years.
 - Proposed requiring Type III landfills to estimate costs consistent with the current approach for Type II's. This may be too broad of an approach, and consideration should be given to whether the Type III is constructed and operated as a single cell versus multiple cell landfill, stability and variability of wastes, etc. **The group needs input from other Type III landfill representatives. Dennis Leonard will consult with Consumers Energy and Wisconsin Electric. The DEQ will contact Bill Lievens and St. Mary's.**
 - Proposed increase in non-landfill financial assurance amount from \$4,000 to \$20,000.
 - Should we consider a separate category of public utilities for financial assurance purposes? Perhaps allow the use of a financial test for up to 100% (vs. 70%) of the financial assurance amount?

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- Corrective action financial assurance.
 - \$500,000 may be too much as the initial amount for the very small Type III landfills.
 - Section 11523(5)(D)(i) and (ii) need clarification that the financial assurance would be required after any alternate source demonstration, and that the \$500,000 would be required until financial assurance for the remedial action plan was provided. Reductions in the \$500,000 during the investigation could be handled under Section 11523(9)(D).
 - **Work group members representing landfills should evaluate their costs for conducting the corrective action characterization and assessment/development of corrective measures to determine what a minimal amount of financial assurance should be prior to submittal of a remedial action plan.**
- Next meeting tentatively scheduled for the afternoon of May 6, after the Solid Waste Advisory Committee meeting.
 - Follow-up on items from today's discussion
 - Continue review of items in the framework, focusing next on the financial mechanisms and how much financial assurance is required. Also how long - and how much - financial assurance should be required after closure. (Wisconsin example is perpetual care with 40 years of financial assurance.)