
Solid Waste Financial Assurance Workgroup

October 15, 2010

Work Group Goals

- Recommend improvements to the financial assurance provisions for solid waste disposal areas under Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.
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Work Group Goals

- Review amount of financial assurance required.
 - Review types of financial mechanisms.
 - Review financial assurance mechanism language and update as necessary.
 - Review perpetual care fund requirements.
 - Evaluate extending financial assurance requirements to waste utilization.
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Where we are...

- Established work group comprised of representatives from state and local government and industry.
 - Work group has responded to two groups of questions:
 - Cost estimates
 - Financial mechanisms and perpetual care funds (PCFs)
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Cost Estimates

- Cost estimates for type II landfills closure and post-closure costs, as adjusted for inflation, are reasonable.
 - Option for both standard cost estimate and site-specific third party cost estimate should be retained.
 - Third party cost estimates should be reviewed by DNRE if significantly different than standard estimate.
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Cost Estimates

- Requirement to adjust cost estimates for inflation should remain unchanged.
 - Timing of cost estimate adjustment should be changed from license anniversary date to July of each year, after inflation factor is published by DNRE.
 - Further evaluation of cost estimates for other types of facilities is needed.
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Financial Mechanisms

- Financial mechanism wording is ok but should be revisited to ensure it is up-to-date.
 - Standard wording for financial mechanisms should be maintained
 - Pay-in period for cash bonds should be eliminated.
 - Clarification to financial mechanism definitions would be helpful.
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Financial Mechanisms

- Financial tests and guarantees should be allowed for both corporations and local governments.
 - Expand use of financial test to type III landfills and other disposal area types.
 - Need for limits on captive surety companies and captive insurers uncertain.
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PCF

- Other options for small PCFs should be allowed (e.g., cash bond).
 - Cap on PCF amount, as adjusted for inflation, should remain.
 - PCF cap for certain type III landfills should be increased to same level as other type II and type III landfills.
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PCF

- DNRE should specify when PCF deposit is due.
 - Should differential in PCF deposits for different waste types should be maintained?
 - Should PCF per ton deposit be adjusted for inflation?
 - Still question the use of the PCF to pay the surcharge.
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Other Issues

- Financial assurance for electric utilities.
 - Due process for DNRE claims.
 - Timing of financial assurance for corrective action.
 - Making the PCF truly perpetual.
 - Require financial assurance at other types of facilities.
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Other Issues

- Stakeholder input on pros and cons of how other states administer financial assurance requirements?
 - Other stakeholder issues?
 - Alternatives to current financial assurance system – i.e., relying on third parties to all maintain financial mechanisms for the benefit of the DNRE.
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What's next?

- Further discussion on targeted areas.
 - Drafting proposed amendments to Part 115.
 - Evaluating language in existing financial mechanisms.
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Proposed Amendments - Preview

- Add or change certain definitions in statute.
 - Delete Section 11524.
 - Increase required financial assurance for processing facilities and transfer stations.
 - Eliminate different cost estimates for type II and type III landfills.
 - Allow type III landfills to utilize financial test.
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Proposed Amendments - Preview

- Use same PCF cap for type II and type III landfills.
 - Clarify DNRE access to financial mechanisms for corrective action.
 - Eliminate pay-in period for cash bonds.
 - Change basis for PCF to tons only.
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PCF Discussion

- How a PCF differs from other “bonding.”
 - Basis for PCF maximum in 1996, and does it still make sense today?
 - Payment of surcharge from PCF?
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Due Process Discussion

- For bonds - 7 day notice and opportunity for hearing
 - Nothing specified for PCF
 - Should they be similar?
 - What do we want?
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