

MEMORANDUM

TO: Landfill Owners, Operators, and Other Interested Parties

FROM: Rick Brooks, Director, Planning and Environmental Management

DATE: January 28, 2005

RE: Landfill Operator Capacity Assurance Letter

Over the past few months, with the advent of a new solid waste management planning cycle, a number of landfill operators have asked about the need to provide capacity assurance documentation to local governments as those governments update solid waste management plans. As landfill operators you play a critical role in solid waste planning in Georgia. Local governments rely upon you to provide disposal capacity, and in order for you to expand your facility or site a new landfill, you must demonstrate “consistency” with local solid waste plans and ensure the local governments sending waste to your facility have a strategy to meet the state’s 25% per capita waste disposal reduction goal.

According to the Georgia Solid Waste Management Act of 1990, an essential and required component of local government Solid Waste Management Plans is disposal capacity assurance. The Act states that:

The local, multijurisdictional, or regional solid waste plan shall, at a minimum, provide for the assurance of adequate solid waste handling capability and capacity within the planning area for at least ten years from the date of completion of the plan which shall specifically include an adequate collection and disposal capability . . . (12-8-31.1(b)).

Further into the Act, language directed specifically at landfill operators states:

Each application for a permit, grant, or loan issued after July 1, 1992, shall include the following:
(3) Demonstration that the host jurisdiction and all jurisdictions generating solid waste destined for the applicant’s facility are part of an approved solid waste management plan developed in accordance with standards promulgated pursuant to this part, and are actively involved in, and have a strategy for, meeting the state-wide goal for reduction of solid waste disposal by July 1, 1996. (12-8-31.1 (e)(3))

The Department of Community Affairs’ (DCA) Minimum Planning Standards and Procedures for Solid Waste Management were promulgated from the Act and the Standards state that each local government Solid Waste Management Plan must identify how the ten year disposal capacity requirement has been met. Assurances of capacity may be from one or more disposal facility, as long as the ten-year requirement is met. Local governments can meet this capacity assurance requirement in one of three ways:

1. If a local government is providing the disposal capacity to other local governments, a formal written agreement (e.g., an interlocal agreement) between the parties shall be incorporated into the plan; for disposal of its own waste, the landfill manager must write a letter to the city or county manager, mayor, or commission chair certifying capacity;
2. If a private disposal facility is providing the assurance of disposal capacity, that facility owner must certify, in writing, the facility has sufficient capacity to accept the jurisdiction's waste over the ten-year period at one or more of the landfills owned or operated by the company. Please note, this certification of capacity does not obligate the disposal facility to "reserve" this space for a particular jurisdiction, but rather indicates that, at that point in time and given existing disposal rates, the landfill has space available to accept the waste from the jurisdiction(s) in question.
3. If a private hauler is providing the capacity assurance, the hauler must identify the amount of waste to be disposed by the jurisdiction(s) and indicate which disposal facility or facilities they will use over the ten year period to adequately demonstrate ten years of disposal capacity.

These certifications have always been a planning requirement. In an attempt to simplify this planning requirement, we have enclosed a sample capacity assurance letter suitable for use by landfill operators. The letter need not follow this format, but the information contained in the letter is required. In order for a plan to be approved by DCA, the disposal capacity assurance document must name the disposal facility, list the facility EPD permit number, state the time-frame for providing the capacity assurance, and identify the annual amount of waste to be disposed by the jurisdiction(s). Plan updates which do not include these key elements in their capacity assurance documentation will not be approved.

This planning requirement should not be construed as an endorsement or obligation for local governments to contract for ten years of disposal capacity or collection services. The capacity assurance requirement is intended to help local governments understand where their waste is being disposed and prepare them for changes in the disposal marketplace.

As an owner/operator of a landfill, we hope you will work with local governments throughout your region to provide them the capacity assurances they need to fulfill their planning requirements. Please keep in mind that you may indicate that you have capacity for the waste coming from their jurisdiction for the entire 10-year period or for a period less than the ten years. If providing capacity assurance for less than the entire 10-year period, it is very important to clearly state the time period for which you will be providing the capacity assurance so that local governments know they need to secure additional capacity to fulfill the ten-year requirement.

Thank you for your support and cooperation on this very important issue. If you have any questions about this capacity assurance requirement, please contact Mary Harrington at the Department of Community Affairs, (404) 679-3144.