

Massachusetts Department of Environmental Protection
Solid Waste Facility Issues Workgroup
April 18, 2023
Meeting Notes

The Massachusetts Department of Environmental Protection (MassDEP) held the third meeting of its Solid Waste Facility Issues Workgroup. The meeting presentation is posted along with these meeting notes.

The first issue that we discussed was post-closure monitoring and maintenance requirements at closed landfills. Meeting participants raised the following questions and comments relative to post-closure care at landfills, including financial assurance mechanism:

- What is MassDEP’s estimated timing for publishing draft regulations for public comment?
 - MassDEP is working to finalize draft regulations for internal review within the next couple of months and is aiming to publish draft regulations for comment by the end of 2023.
- The 50 percent floor amount for financial assurance mechanisms mentioned in the presentation provides very little flexibility. Carrying the cost of a 30-year FAM on a balance sheet is very expensive, particularly when viewed from an acquisition perspective. The cost would be lessened if the FAM did not have to cover as long a time period, for example a FAM that would cover a rolling 10-year period.
 - MassDEP agrees that setting a floor of 50 percent of the original FAM amount may not be the best approach and views this as placeholder language pending defining a different approach for this for 30 year FAMs and post-30 year FAMs.
- How would the 30 year rolling average FAM approach in New York affect the cost of a FAM compared with MassDEP’s approach?
 - We have not seen these specific FAMs so do not know for sure how this would affect the cost of FAMs.
- When MassDEP says “the original FAM amount”, what is this referring to?
 - This is intended to be the amount of the post-closure FAM when the facility is first closed.
- It would be helpful if MassDEP could provide a worksheet or guidelines for how MassDEP approaches setting amounts of FAMs.
- How would additional monitoring requirements affect the FAM amount calculation?
 - This would be expected to increase the cost of FAMs, and if monitoring was decreased it is likely the FAM would also.
- From the standpoint of municipalities, it is helpful to understand potential changes in FAMs and post closure requirements for landfills.
 - MassDEP clarified that MassDEP does not have FAMs in place for municipally owned landfills, but recognized the importance of giving municipalities advance notice of additional post-closure requirements where possible. For example,

MassDEP is beginning to implement a tiered approach to PFAS testing at closed landfills.

- With the exception of FAM requirements, would landfill post-closure requirements for closed landfills apply to all landfills, including municipally owned landfills?
 - Yes, that is correct, although specific requirements may vary depending on site-specific factors.

We also discussed solid waste regulatory and permitting requirements for a proposed landfill that would accept only soils. In Massachusetts and throughout the Northeast US, capacity to manage soils from development projects is becoming increasingly constrained. Management options for soils vary depending on the level of contamination. In some cases, both now and in the past, soils have been managed at landfills, either accepted as daily cover or as waste for disposal. These options are becoming increasingly limited. Companies that are involved with the management of these soils have raised a number of regulatory and policy proposals with MassDEP relative to the management of soils.

Relative to solid waste regulations, MassDEP is considering whether/how landfill siting and permitting requirements should be different for a landfill if it were to accept only soils.

Participants raised the following comments relative to regulation of “soils only landfills”:

- It is good that MassDEP is looking at these policy and regulatory issues. Capacity to manage soils from development projects is extremely limited and is having negative impacts on development projects in Massachusetts.
- Where possible, soils should be directed to other uses or applications, such as reused on construction sites or for other construction uses aside from landfills.
 - MassDEP agrees and much of soil that is generated is used in ways that do not require it going to a solid waste facility.
- Obtaining municipal siting approval is often a bigger hurdle than MassDEP’s site suitability report or permitting. It is important that any siting pathways for soils only landfills do not rule out other possible approaches for approving such a facility, for example via an administrative consent order.
- On a related note, it is important that municipal governments understand the importance of these types of facilities for supporting housing development and other important construction projects. Community acceptance is critical for any project like this.
- We may be able to learn from data from previous soils deposition projects in Massachusetts and elsewhere.
- If MassDEP wants to consider providing flexibility on certain siting criteria for purposes of a site suitability report, we need to keep in mind that certain criteria in the regulations are not allowed to be waived. We may want to consider whether that could be changed in regulation revisions.
- As far as design and operational requirements, the most important issues are stormwater management, traffic management and dust control.

- Controls that seem less important and relevant include landfill gas control, vector controls, and windblown litter management. Also, it was suggested that leachate collection is not as critical for a soils only landfill.
- MassDEP pointed out that any solid waste landfill would need to meet RCRA Subtitle D design standards, which would include at a minimum a single composite liner. Participants questioned whether this would be necessary, particularly if the landfill were accepting soils with low levels of contaminants. MassDEP does not anticipate that a permitted soil only landfill would accept uncontaminated or slightly contaminated soils since there would likely be other outlets at lower prices for that material.
- It would be helpful to have a flow chart diagram that shows the management options and requirements for different categories of soils.

MassDEP expects to schedule the next meeting of this workgroup in late May or early June. Specific topics for discussion include specific reporting requirements for recycling facilities, including MRFs, PFAS sampling and response approach for landfills, and other waste management capacity related discussions.