



NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

ENVIRONMENTAL GUIDANCE DOCUMENT

05-175q

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GUIDANCE DOCUMENT FOR THE ENTERPRISE FUND

In order to assure cost recovery and a more equitable distribution of costs of solid waste services, many local governments have removed their solid waste operations from the General Fund, where the cost of waste management is often bundled with other general service costs, and started accounting for solid waste management services as a separate "enterprise fund." Effectively, governments have started viewing solid waste management services as a separate cost center with its own capital program and system of fees and charges to allow for the cost center to operate on a stand alone basis.

An enterprise fund for governmental activities is a self-sustaining cost center that operates similar to private business operations. The primary purpose of establishing the fund is to isolate all solid waste revenues and expenditures for purposes of accountability. Costs are clearly identified and recovered, and citizens can better understand the full cost of the solid waste management system.

Under an enterprise fund, all system revenues are deposited in the enterprise fund and pledged to the payment of system obligations, including administration, debt service, operations, maintenance, development, renewal and replacement of system components, provide for closure and post-closure funds, and, in some cases, provide for rate stabilization amounts. The accounting of an enterprise fund is segregated from all other community obligations and operations, including the General Fund. The accrual basis of accounting is used for enterprise funds, which matches revenues with expenses and reflects long-term commitments. Enterprise funds recognize accrued interest and depreciation as periodic expenses.

ENTERPRISE FUND FINANCIAL ASSURANCE MECHANISM

An Enterprise Fund is an alternate mechanism for local governments to demonstrate financial assurance that may be allowed on a case-by-case basis. This mechanism allows local governments to arrange satisfactory financial assurance within their governmental structure. For an enterprise fund to provide proper financial protection several conditions must be met. A specific portion of the fund must be dedicated to the closure and/or post-closure care of a specific facility, and the amount assured must be tied to the cost estimates for that facility. To provide security over time and ensure funds are readily available the monies from the enterprise fund must be dedicated to closure and/or post-closure care and deposited into a mechanism offering protection "equivalent to" a trust fund.

An Enterprise Fund mechanism requires the accrual of funds similar to a trust fund. On each anniversary of the establishment of the fund, the balance must be increased by at least the amount that would be deposited in a trust fund. The fund must be fully funded, equal to the current closure and/or post-closure cost estimate(s) when the facility closes.

To demonstrate to NDEQ that an enterprise fund satisfies the regulations, several pieces of documentation must be prepared and submitted to NDEQ.

1. To indicate that the governing body accepts the obligations and requirements of the regulations
an originally signed resolution with the following criteria must be provided to NDEQ:
 - a) a copy of the formally adopted resolution directing that the enterprise fund be established with separate accounts or reserved (restricted) funds specifically for closure and/or post-closure care;
 - b) that the governing body recognizes the financial responsibility for closure and post-closure of the landfill and agrees to comply with Title 132, Chapter 8 financial assurance regulations and expresses its commitment to meet its financial obligations for closure and post-closure of the landfill;
 - c) that the governing body directs the City/County Treasurer or Chief Financial Officer to deposit and retain the funds set aside for closure and post-closure and maintain those funds to be used to pay only closure and post-closure care costs of the landfill;
 - d) that the funds shall be and remain inviolate against all other claims, including claims of the city/county or the governing board or the creditors thereof, it being the intent of the resolution that the financial assurance mechanism established will provide equivalent protection to a trust fund;
 - e) that the assured amount of funds will be available in a timely manner for closure and/or post-closure care of the landfill;
 - f) that the payments from the mechanism shall be made by the county/city treasurer or chief financial officer, as required by the Director of Public Works for the payment of closure and/or post-closure activities of the landfill as identified in the approved closure and/or post-closure plans;
 - g) that payments into the reserved accounts will be made annually according to the "pay-in" formula for trust funds in Title 132;
 - h) that the governing body authorizes NDEQ to direct the county/city treasurer or chief financial officer to pay the closure or post-closure costs if NDEQ determines the owner/operator has failed, or is failing, to perform closure or post-closure according to the approved closure or post-closure plan(s) and the county/city treasurer or chief financial officer is obligated to comply if so directed; and
 - i) that the local government will provide annual cost estimates and documentation as described in Number 3 below.
2. To demonstrate to NDEQ that the appropriate depository mechanism within the enterprise fund has been established, a letter from the county/city treasurer or chief financial officer must be submitted to NDEQ annually. The letter must state that the depository mechanism has been created and that he/she intends to comply with the following conditions:

- a. The funds deposited into the closure/post-closure accounts will be used exclusively to finance closure and/or post-closure care and will remain inviolate against all other claims, including any claims by the owner/operator, the local government's governing body, and the creditors of the owner/operator and its governing body;
 - b. the funds deposited will be invested according to the laws of the State and the county/city treasurer or chief financial officer will use investment discretion similar to a trustee; and
 - c. the governing body authorizes NDEQ to direct the county/city treasurer or chief financial officer to pay closure or post-closure care costs, under the resolution described above, in a timely manner, if so directed.
2. To demonstrate that the local government has complied with the terms of the resolution and Title 132, Chapter 8, certification from an authorized official such as the city manager, public works director, or city/county clerk must be submitted annually, within 30 days of the date of the resolution, to NDEQ with the following criteria:
- a. that the payment into the accounts has been made and where those funds are held;
 - b. the current account balance of the closure account and the post-closure account;
 - c. the formula used for determining the pay-in amount; and
 - d. annual cost estimate updates for inflation.

In addition, the local government must submit the most recent comprehensive annual financial report for the local government, including the enterprise fund accounts with adherence to the Governmental Accounting Standards Board (GASB) Statement No. 18 (Accounting for Municipal Solid Waste Landfill Closure and Post-Closure Care Costs).

Disclosures should include:

- the type of requirements (closure, post-closure, and/or remedial action);
- the source of the requirements (Nebraska Administrative Code (Title 132-Integrated Solid Waste Management Regulations, the Nebraska Environmental Protection Act, and the Integrated Solid Waste Management Act);
- the name of the specific facility covered;
- the corresponding cost estimates;
- the amount of closure, post-closure, or remedial action liability recognized at the balance sheet date;
- The estimated remaining costs not yet recognized;
- The estimated landfill capacity and useful life in years; and
- The financial assurance method being used.

The comprehensive annual financial disclosures will most likely be included in the financial section as a footnote to the annual financial statements and must conform to Government Accounting Standards Board Statement # 18.

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