

# Marquette County Solid Waste Management Authority

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## MEMORANDUM

**TO:** Liz Browne, MDEQ  
**FROM:** Bradley A. Austin  
**DATE:** December 22, 2017  
**SUBJECT:** Comments to Draft Bill #3

## **BOARD OF TRUSTEES**

Randall Yelle, Chairperson  
Dennis Honch, Vice Chairperson  
Brett Schwenke, Trustee  
Carr Baldwin, Trustee  
Amy Manning, Treasurer  
Deborah Pellow, Secretary  
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Upon review of Draft Bill # 3 to Part 115 of PA 451 of 1994 (Natural Resources and Environmental Protection Act), MCL 324.11501 et seq, the Marquette County Solid Waste Management Authority submits the following comments.

Sections 11523 and 11523a concern Financial Assurance of the operating entity. The proposed amendment significantly raises the Financial Assurance required by operating entities. We understand the need to have financial security in place, so that the funds necessary to close a facility are in place, regardless of the solvency of the operating entity. This is essential for private entities, which otherwise could become insolvent and unable to provide the funding necessary to close a facility. This is not the case with public municipal entities. Public entities should not have the same requirements.

The Marquette County Solid Waste Management Authority is comprised of the three cities and nineteen townships situated in Marquette County. All of these 22 constituent municipalities have pledged their full faith and credit, jointly and severally, to the Marquette County Solid Waste Management Authority.

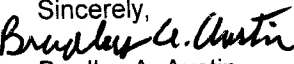
In other words, public landfills do not pose the same concern of having financial assurance as private landfills pose. Accordingly, the Act should not treat public landfills the same as private landfills.

Section 11523a allows a Financial Test, that can reduce the Financial Assurance by up to 70% (according to the proposed amendment, a greater amount will be allowed in two years), in accordance with R 299.9709 of the Michigan Administrative Code. The Financial Test is directed at the assets of the operating entity and not the assets of the owners of the operating entity. Although R 299.9709 allows corporate guarantees, it fails to address municipal guarantees. The following language should be added to the end of Section 11523a(1) of the proposed amendment:

If the owner is a municipality, or municipalities, then if the owner provides its full faith and credit, jointly and severally, the financial assurance required shall be reduced by 10% of the total Assessed Value of the municipality, or municipalities.

In addition, the increases in Financial Assurance included in this proposed amendment should be subject to new applications only. The current licensed public operations relied on the present financial requirements and imposing these significant increases on existing public facilities, will only serve to unnecessarily increase costs to the public.

The Authority Director, Board Members, and Counsel are happy to attend any hearing and provide support for the suggested changes.

Sincerely,  
  
Bradley A. Austin  
Director of Operations, MCSWMA

Cc: Randall Yelle, MCSWMA Board Chairman