Advocacy Position Statement

URBAN INFILLING IMPACTS ON SOLID WASTE FACILITIES

Statement of Purpose
The American Public Works Association seeks to inform elected officials, regulators, policy-makers and decision-makers and the public at-large of its stated position on urban infilling impacts on solid waste facilities.

Statement of Position
Research is needed to evaluate rational buffering and setback requirements to minimize land use compatibility complaints, the potential loss of valuable solid waste capacity, and increased disposal costs. The issue is further complicated by the fact that often those impacts are perceived impacts.

Background and Rationale
Landfills, transfer stations, material recovery facilities, and waste-to-energy plants are essential public facilities. Over the last few years, communities have invested literally tens of billions of dollars constructing such solid waste facilities in order to respond to the nation’s increasing needs for disposal and recycling capacity. These facilities have been designed under the most restrictive federal, state, and local environmental regulations. Further, since these facilities have been considered by the public to be locally unacceptable land uses (LULUS) at the time of their initial siting, the land use and zoning hearings associated with siting have often been controversial.

As the nation becomes more urbanized, sites once considered remote are now located in areas increasingly ripe for development or re-development. In order to site solid waste facilities local governments have installed public works infrastructures such as roads and utilities reducing the costs for owners of adjacent parcels. Consequently, we see lands adjacent to solid waste facilities being considered for developments such as residential communities and commercial and industrial projects. Thus, the potential opportunity for nuisance complaints against the existing solid waste facility operations has become an increasing reality in many areas of the nation. There have been some instances in recent years where public and private owners/operators of solid waste facilities have been forced
to close their facilities pre-maturely, resulting in a loss of valuable solid waste capacity and increased cost for solid waste disposal.

The Federal Environmental Protection Agency (EPA) in its Subtitle D Solid Waste Disposal Criteria and all of the states have established strict regulations governing the design, construction and operation of sanitary landfills. Also, most of the states have established regulations regarding other solid waste management facilities. For the most part, the purposes of these rules and regulations are to assure protection of public health and safety as well as the environment. Almost all these regulations include siting standards for solid waste facilities, which are usually stated as prohibitions or restrictions.

Other Federal and state regulations exist that may affect the siting of solid waste facilities. These include the Clean Air Act, the Endangered Species Act, regulations protecting national and state parks and historic areas, land preservation, etc. While some of these regulations require consideration of nearby land uses, they are limited and are directed to protection of legislatively designated areas of federal and/or state concern.

It is important to point out that for all the rules and regulations, there is a presumption that if the solid waste facility complies with the siting standards and is constructed and operated in accordance with design, construction and operating standards, it will not impact public health and safety nor impact the environment.

As stated above, siting standards contained in federal and state solid waste facility regulations do not directly address compatibility with surrounding land uses, and more specifically, proximity to residential development. There are two primary reasons that this has occurred. First, the regulations, and associated siting standards are based upon meeting groundwater and surface water standards, air quality criteria, and protection of specific resources such as wetlands. The design, construction and operating requirements are based upon meeting and exceeding these standards. The regulatory standards are based upon modeling, engineering analyses, and scientific studies that can demonstrate compliance. The regulations are based upon quantifiable and measurable procedures that have been demonstrated, and which are defensible, to achieve the desired end. Land use considerations, particularly impacts on residential uses, are extremely difficult to quantify and measure in a defensible manner. The presumption is that the solid waste facility will be operated properly; however off-site impacts may occasionally occur. While some studies have been undertaken to try and measure these impacts, they tend to be very site specific and have difficulty in defining measurable results that may be applied in a broad sense.

In summary, federal and state regulations setting siting criteria for solid waste facilities are primarily focused on protection of public health and safety and the environment. They are based upon quantifiable and measurable standards. Land use compatibility is generally considered a local decision. Many of the factors considered in determining land use compatibility, particularly between solid waste facilities and residential uses, are not directly quantifiable and measurable. Decisions are made by local policy makers with respect to setting land use compatibility standards. Courts have shown a strong
reluctance to overturn such decisions and substitute their judgment for local officials on these issues.

Solid waste facilities exhibit all of the major facets of industrial type operations. They can generate fugitive dusts, odors, noise, result in high traffic levels, and attract vectors. Operating such facilities at the peak of efficiency and under stringent federal, state, and local environmental regulations can nonetheless result in varying degrees of these impacts. As this paper has illustrated, most siting standards nationwide have focused on the compatibility of solid waste facilities with nearby land uses through the use of buffering or setbacks. Few, if any, localities have addressed the rational basis for urban infilling developments or re-developments desiring to site in proximity to existing solid waste facilities. Balancing the needs of economic growth and increased tax base against the need to preserve valuable solid waste capacity poses a real dilemma for public officials. Political issues aside, current zoning law allows such officials to establish buffering or setback limits using only a rational basis rather than requiring a firm analytical or quantitative methodology.

As the nation continues to experience urban infilling in areas once believed to be remote, communities will be faced with potential property owner complaints, health and safety issues and environmental concerns related to living near solid waste facilities. Antecedental evidence from trade journals, newsletters, and word of mouth suggests that urban infilling is becoming a significant problem in many areas, although there is limited reliable information and data currently available. Further, little, if any, academic research is being conducted to measure typical operational impacts of solid waste facilities with varying setback distances from different land uses. The issue is further complicated by the fact that often these impacts are “perceived impacts”. APWA firmly believes that as urban infilling development or re-development continues solid waste managers, political decision makers and environmental/land use regulators will need reliable data and information to balance the needs for continued economic growth while protecting the long-term ability of solid waste managers to continue operation of these critical public facilities.

Sponsor
Solid Waste Management Committee