

# Arkansas Solid Waste Landfill Post-Closure Trust Fund (PCTF)

## Eligibility and Updates



# Arkansas Solid Waste Landfill Post-Closure Trust Fund (PCTF)

- How does it relate/effect you and your clients.
- A little history for a perspective of why.
- A lot of what PCTF is not.



# Overview

1. Need for Solid Waste Management (federal laws – 1970's and 1980's)
2. Origins of Better Solid Waste Management (sustainability)
3. State's Response to Federal Requirements
4. PCTF Eligibility – Broad View
5. Eligibility and Prioritization
6. Changes and Updates



# The Need

Koshe 2017 (Ethiopia)



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# Origins

Enacted federal amendments to RCRA in 1984 (HSWA) calling for waste minimization and set more detailed solid waste standards. Subsequent federal regulations in 1991 laid out specifics of landfill design, maintainance and long term care. It also set deadlines.

In Arkansas, the solid waste management statutes were limited. The 1984 version of Reg. 22 had minimal language for closure and post-closure care. A complete regulation revamp was initiated in early 1990's New laws were passed and put in-place to develop and establish regs/rules.



# Origins

Along with design and operational standards came landfill closure and post-closure standards. Many sites classified as "open dumps" or unpermitted landfills.

**AR Landfill PCTF** began with Act 747 of 1991. Since modified in 1993, 1993, 1997, 1999, 2005, 2007, 2011, 2014, 2015, 2016, 2020, 2021 (almost 40 changes).

Codified in A.C.A. Title 8 – Env. Law, Chapter 6 – Disposal of Solid Waste and Other Refuse, Subchapter 10 – Landfill PCTF [8-6-1001 et. seq.].



# Origins

PCTF was established to perform corrective action at a site to prevent or abate contamination.

Numerous changes – appropriation changes, funding changes (incoming revenue, max. \$ cap), fund use changes). Impacts to solid waste management as a whole (advantages and disadvantages - disincentives for **post-closure care**).





# What is Not Post-Closure Care



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# State Response to Federal

After federal HSWA in 1984 (waste minimization) came federal regulations 40 CFR 257 and 258 (location restrictions, design and operating, financial assurance, closure and post closure, etc...).

Post-closure care for 30 years (municipal waste) after closure. (matched hazardous waste landfills).



# State Response to Federal

Prior to the 1995 no real State reg/rule for a specific period of post closure care required – only “follow 40 CFR 257 and 258”.

There was a requirement for maintaining final cover for 2 years under the operational standards.



# State Response to Federal

It wasn't until the State deadlines in the 1990's for closure and implementation of closure and post-closure rules that real attention/concern developed.

Finally late 1990's most landfills had either closed with a shorter post-closure care period because they met the deadline, or complied with the new permitting and closure and post-closure standards.





# What the PCTF Is Not:

- Not a fund for routine use
- Primarily for use by DEQ
- Not for sites other than landfills and waste tire
- Not a release of responsibility of owner/operator



# Eligibility – Broad View

A.C.A. 8-6-1001 et.seq. (a.k.a. PCTF) says:

Landfill eligibility criteria:

1. "previously operated" as a landfill
2. "certified closed" – regardless when ceased operation
3. must not be contiguous to operating unit



# Eligibility – Broad View

**A.C.A. 8-6-1001 et.seq. (a.k.a. PCTF) says:**

**Waste tire facility eligibility criteria:**

- 1. solid waste district owned or operated**
- 2. district lacks funds to complete closure**





# Eligibility and Prioritization

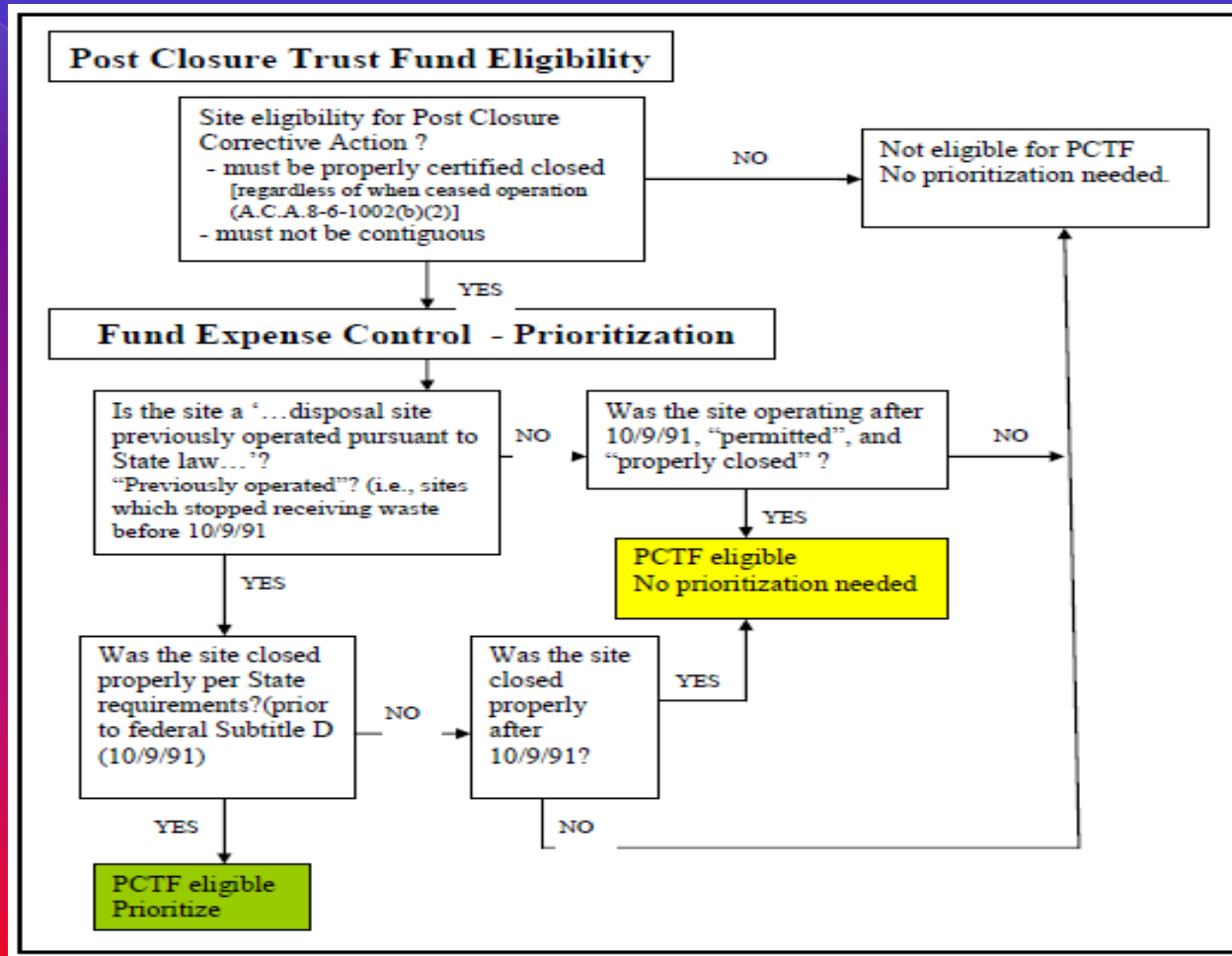
**Mid-life crisis for the program:**

**Act 757 of 2007 - any action over \$50k per site at closed landfills had to be prioritized and approved by APC&EC.**

**Act 757 of 2009 - restricted maximum correction action expense to \$2M per fiscal year.**



# Eligibility and Prioritization



# Eligibility and Prioritization

**APC&EC approved the prioritization in 2011.**

**145 closed sites with environmental concerns were identified.**

**Almost immediately, work began in earnest on corrective action at landfills.**





# Changes/Updates

2014 to Present:

In the meantime, changes were made in the availability of the PCTF fund for broader use.

In 2014 (Act 274 – DEQ's Appropriation Act) made the PCTF available for "closure" at sites owned/operated by solid waste management districts.



# Changes/Updates

Districts had to meet certain criteria (e.g., filing for bankruptcy, lack of resources), and had to repay the PCTF if DEQ chose to pursue legal action. Not in Subchapter 10 of PCTF statute.

In 2015 (Act 1037) waste tire processing and disposal facilities owned by solid waste districts were also added. Was put into statute.



# Changes/Updates

Use of the PCTF for landfill closure and waste tire sites was a major shift in the way the PCTF had been used. Changed the whole dynamic (planning/execution) of managing and using the fund.

More recent changes came in 2016, 2020 and 2021.



# Changes/Updates

Act 249 of 2016 reemphasized the lifting of fund use restrictions, by clarifying "nevertheless".

In 2020 (Act 89) removed the option of DEQ taking civil action against solid waste districts to recover costs for closure or post-closure care, BUT there is still an overall caveat in the statute for post-closure care, and DEQ may pursue collection and recovery.





# Changes/Updates

And in 2021, Act 1000 did 2 things – raised the \$50k prioritization to \$2M per site, and removed the \$2M maximum limit on annual expense from the fund.

Act 1000 also, remove the word “closure” in the narrative regarding use of the fund due to solid waste districts unable to perform closure or post-closure care. Use of the fund to close waste tire processing or disposal facilities remained.



# Changes/Updates

Even though use of the fund to close waste tire processing or disposal sites remains, it does not include post-closure care of these sites.

So, PCTF for the district owned landfills => coverage for post-closure care only;  
district owned waste tire processing and disposal sites => coverage for closure only.



# SUMMARY

There have been many changes to the Post-Closure Trust Fund over 30 years.

Originally set up as a safety net or insurance policy for owners/operators of landfills.

It is still that, but much more now; and more to come!





# SUMMARY

The trust fund is for landfill owners/operators, and there are special consideration for district owned landfills and waste tire facilities.

But facilities (no matter who) have to be operate, close and maintain the facility properly. Otherwise the "safety net" will be a difficult option if there is a problem in the future.



# QUESTIONS

Clark McWilliams  
Star Valley Consulting  
(501) 249-4935  
[mcwilliamsclark@gmail.com](mailto:mcwilliamsclark@gmail.com)



