

Solid Waste Financial Assurance Work Group June 17, 2011 Meeting Summary

Participants

Dan Batts, Landfill Management
Noel Bush, City of Midland Landfill (conference call)
Dawn Cleary, GM
Tom Horton, Waste Management
Ray Ilka, GM – SMCO
Dan Kendall, Kent County DPW (conference call)
Becky Kocsis, DEQ
Dennis Leonard, DTE Energy
Richard Menard, Verso Paper (conference call)
Rhonda Oyer, DEQ
Rich Paajanen, Waste Management
Don Pyle, DSWMA
Margie Ring, DEQ
Cortney Schmidt, St. Mary's Cement
Kim Smelker, Granger
Kevin Somero, Waste Management
Steve Sliver, DEQ
Kathy Zack, Cornish, Zack, Hill & Associates

Meeting Materials

- Draft May 6, 2011, meeting summary.
- Updated Part 115 financial assurance amendments framework (3/25/11)
- Part 115 Amendments, draft for discussion (6/17/11)
- List of existing type III landfills – increased financial assurance amount if calculated as for Type II (5/19/11)
- List of forfeited bonds.
- Summary table of types and numbers of financial mechanisms.

Discussion Points

- The May 6 meeting summary was edited.
- Kathy Zack has agreed to join the group, representing insurers and sureties. The DEQ contacted the Michigan Bankers Association but has not been successful enlisting support from a representative of financial institutions. **Granger is trying to find a representative of financial institutions, and other work group members were encouraged to try as well. The DEQ will send Kathy a list of banks that provide financial mechanisms.**
- Having Type III landfills calculate costs in a manner similar to Type II landfills (standardized costs or third-party costs) provides a more realistic estimate of closure, postclosure, and corrective action costs.
- There is some concern about how former closed areas at Type III landfills would be addressed under proposed financial assurance changes. Because financial assurance at Type III landfills is currently capped at \$1

**Solid Waste Financial Assurance Work Group
June 17, 2011 Meeting Summary**

million, the closure status of cells at the larger landfills (e.g., coal ash impoundments) has not been an issue, and some landfills include all of the disposal area, including those that have not been used since prior to the establishment of closure requirements, in the license. Subjecting these historical areas to Type II landfill cost estimating would require 20% of closure costs be covered today. **The DEQ will come back with a proposal for how to address historical closed areas (closed prior to 1979, closed prior to 1993, etc.).**

- The DEQ filled in the missing cost estimate information for Type III landfills on the table showing the difference between current and proposed cost estimate requirements. It was noted that the recalculated Type III cost estimates do not include surface water monitoring, which has been used in lieu of groundwater monitoring at some sites. The DEQ has proposed amending the statute to add the surface water monitoring to the postclosure costs.
- It is not likely that the proposed amendment to require financial assurance for corrective action upon confirmation of a release to groundwater and prior to approval of any remedial action plan would result in a more timely corrective action program. The marginal operations that would have trouble conducting the investigations and developing the remedial measures in a timely manner would also have trouble obtaining the additional financial assurance.
- An evaluation of bond forfeitures over the past 21 years indicates a relatively good loss ratio of less than 1 percent, which is important for considering alternatives to the current PCF and bond model of providing financial assurance. **Alternatives that could be explored include some sort of pooling or group coverage through association or shared exposure.** This could be an insurance product, although the downside would be slow payment of claims. The pooled coverage would not be borne by a single insurer; rather it would be coinsurance or reinsurance and therefore shared among multiple insurers. Industry may not be comfortable with a pooling relationship because of not being sure about risks of other landfills, and that it would be unlikely that “bad actors” could participate in the pool.
- Industry is interested in having options for providing financial assurance; keeping current mechanisms and possibly adding others. Having options keeps the market – and prices - competitive.
- Dennis Leonard will explore whether the Part 115 trust fund would meet PSC requirements, and therefore be a way to avoid possible duplicate financial assurance.
- The DEQ will develop a framework for financial mechanisms and then industry will share that with their bankers to see if other options might be available.
- The next meeting will be scheduled based on a Doodle poll of members.