

NEWMOA Conference Call Notes

Financial Assurance 11/10/09 10:00 AM

Participants: CT, ME, NH, RI, VT, NY, NJ Region I

Region I EPA lead project have Financial Assurance in accordance with EPA Regs.

VT: -6 permitted facility
-Various mechanisms in place including letters of credit and financial test.
-No specific person doing FA. Have had review assistance from EPA contractor.
-Planning to participate in upcoming EPA FA Webinar.

RI: -2 permitted facility with FA. Both have insurance coverage.
-A number of CA projects have FA also
-Interested in EPA contractor for FA review assistance. Contact for contractor is Jeff Gaines(?), EPA HQ.

NY: -TSDs (40-50 facilities) have FA requirements, variety of instruments used as specified in EPA Regs.
-CA facilities must provide FA. NY modifies wording in FA instrument to include coverage for CA
Many earlier CA instruments were written as post closure. Replacements define use as CA FA

CT- Mentioned new EPA Post Closure Regs. (Fed Register 2004?) Asked if anyone has adopted them. (May have FA language for CA)
-NY has not adopted new rule.

NJ- 20 TSDs Hundred of CA projects.
Not authorized for CA by EPA but has their own program that EPA has ok'd.
Their program has developed their own FA mechanisms with more room for flexibility.
They had to demonstrate to Reg. II that these FAs are comparable to EPAs.

Reg I- Responding to question if EPA was still considered a priority. They indicated that FA is still a priority. However, EPA plan to do enforcements for full FA reviews was killed.

CT- Questions. NJ flexible on instruments language
CT does not accept different mechanisms
Operating facilities use essentially same language as specified by EPA

- NY- Has had problems at times with Banks releasing money on facility's say-without permission of NY. No success in going after the banks for this.
- NH-
-Adopt Federal requirements for permitting (1 facility with a trust agreement).
-Remediation program has state FA requirements
-No corporate guarantee allowed. Net present Value not allowed.
LC, Bond, Insurance acceptable.
- ME-
-3 TSD facilities active plus 1 closing (Safety Kleen). One each LC, Insurance and Corp Guarantee. One Navy Facility (no FA).
-15 to 20 active CA sites and several Post Closure sites. FA for PC sites completed by LCs or Insurances. FA on some CA sites and others being evaluated. Mostly LCs and Insurances.
-Had recent problem with LC with short notice period (30days) for non-renewal, making replacement difficult for facility. New LC has 120 day notice period.
- CT-
-Home Grown Program – Audited by EPA recently. \$500 million FA in place for CT
-Remediation programs have FA requirements and trying to integrate FA into all programs.
-HW 6 permitted have FA except Navy
-CT uses same language as Fed
-More stringent than Feds. Submitted updates within 30 days
-CT web site- www.ct.gov/dep/financialassurance
-CT proposing new regs for FA
 - add state dedicated account
 - 90 day min. cancellation
 - Financial test – increase net worth to min of \$20 M, Higher bond rating.
-CT questions Cost estimate –are states using any tools to evaluate?
- Reg I -Using updated CostPro Program
-Other tricks?
- NH -Records review part of Permit review. Project Mgr reviews estimate supplied by applicant, adds inflation adjustment plus 10% contingency.
- NJ -Does not enter review into RCRAInfo as an FRR
- NY -Rely on project engineers to see if estimation are sufficient.
-Enters FA info into RCRAInfo
-Does not allow facility to lower cost estimate without full documentation, PM must review and approve changes.
- RI -Cost Est. 3rd party certified estimate as permit condition
Annual update using Price deflator (inflation factor) adjustment.

CT -5 yr permit with predetermined inflation factor estimate written into license.

NH -Requires Financial Assurance for UW handlers.

NJ -Has option for UW facilities FA based on states concerns.
(Only for actual recycling facilities).

Question- Would states like more Financial Assurance training?

-Several responses affirmative.

-Several states indicated they use local resources such as states AG office.