Division of Materials and Waste Management
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Construction and Demolition Debris Facility (C&DD) Financial Assurance Mechanisms

Ensuring compliance with financial assurance requirements is a high priority for Ohio EPA

Types of Acceptable Mechanisms

Trust Fund-Funded and Standby

The financial assurance funded trust fund works like a trust fund for a child: money goes into an account and a Trustee invests and manages the money. If there are expenses, the Trust can pay them as long as the required balance is maintained. Standby trust funds are required to be set up if an entity utilizes a payment bond, a performance bond, or a letter of credit as the primary mechanism.

Payment Bond

A payment bond is also known as a surety bond guaranteeing payment. These are secured through a bonding company. The entity and the bonding company would sign a contract and the entity would pay the bonding company a premium. The bonding company would sign a document that basically promises that the entity will do the closure (or post-closure or corrective action cleanup) like they are supposed to. If they don't, the bonding company promises to pay the amount of the cost estimate. The money would go into a standby trust fund and then it would work just like a normal trust fund. Payment bonds are not as common as they used to be, but there are still some companies that offer them. A standby trust agreement is also required for this form of financial assurance.

Performance Bond

A performance bond is the same thing as a surety bond guaranteeing performance and is very similar to a payment bond. The difference between a performance bond and a payment bond is what the bonding company promises to do. With a performance bond, the bonding company still promises that the entity will do the closure (or post-closure or corrective action cleanup). If they don't, the bonding company gets a choice: they can either pay the amount of the bond into the standby trust fund (just like the payment bond) or they can choose to hire a contractor and do the work themselves. A standby trust agreement is also required for this form of financial assurance.

Letter of Credit

Easy to find, fairly inexpensive, but requires good credit. A letter of credit promises that the bank will pay the amount of the letter of credit if Ohio EPA says it is due. Banks generally charge an annual fee of between two and five percent of the face value for a letter of credit, plus collateral. A standby trust agreement is also required for this form of financial assurance.

Insurance

Insurance can be hard to find for closure, post-closure, or corrective action financial assurance for solid waste-regulated entities. Most insurance mechanisms are from captive insurance companies. Using insurance for closure, post-closure or corrective action is more complicated and more difficult to find. Most insurance companies don't write these policies anymore.

If a facility would like to use insurance for financial assurance, Ohio EPA must approve the terms of the policy. This type of financial assurance does not need a standby trust agreement. This is NOT the same as an ACORD Form certificate of insurance routinely used in the insurance industry.

What is financial assurance?

Financial assurance is a financial instrument provided by an entity to ensure that resources are available to pay for the cost of closure and post-closure care of a C&DD facility if the owner or operator of a regulated facility is unable or unwilling to pay. The ***requirement for using standardized wording*** for the financial assurance instruments ensures that the State will be able to draw on the funds the instruments provide to pay for closing a facility properly and in a timely manner. In addition, the cost to the owner/operator of maintaining financial assurance should provide an incentive for good operating practices, because of the potential loss of collateral to the owner/operator if the instrument is drawn on.

Contact

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