

Financial provision requirements for EPA Licensed Facilities



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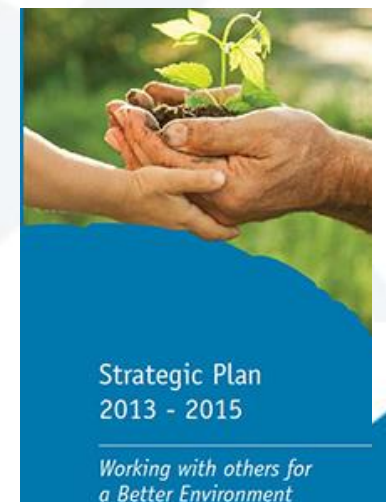
30th November 2016

General Points

- ❑ Environmental Liability is a priority for the EPA
- ❑ Licensed facilities carry known liabilities (associated with closure and aftercare) and potential liabilities (associated with incidents).
- ❑ Costs can be significant and run to tens of millions of pounds
- ❑ Extractive Waste Facilities (4) and Landfills are required under EU Directives to have Financial Provision
- ❑ Failure to make financial provision for these liabilities could lead to the State having to intervene following site closure, an incident or insolvency

EPA Strategy

- ❑ **EPA Strategy 2013 - 2015**
- ❑ **EPA Strategy 2016 - 2020**
- ❑ Adequate financial provision in place to manage environmental liabilities arising from the closure of potentially polluting activities
- ❑ Operators making the necessary investments in remediation and financial provision



Background

- ❑ Costings for environmental liabilities is a discrete task and is separate to FP
- ❑ Two types of EL costs; associated with
 - ❑ Closure & restoration/aftercare
 - ❑ Incidents
- ❑ *Guidance on assessing and costing environmental liabilities* (EPA, 2014).



Guidance on Financial Provision

Finalised September 2015

- ❑ Principles
- ❑ Overview of the FP process
- ❑ Acceptable FP Instruments
 - ❑ Secured Fund
 - ❑ On-demand performance bond
 - ❑ Parent Company Guarantees
 - ❑ Charge on Property
 - ❑ Environmental Liability Insurance

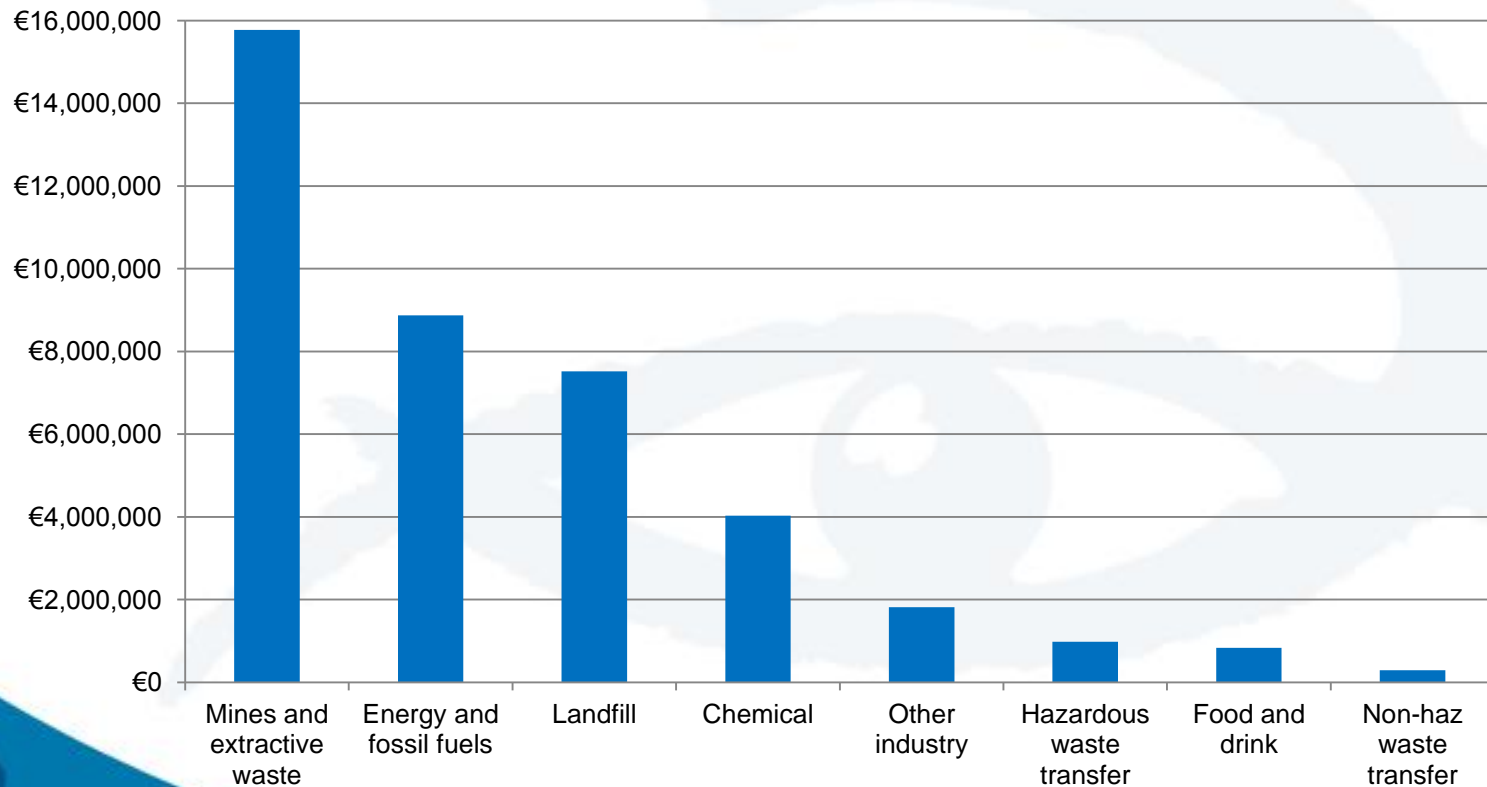


Current Position

- ❓ Good progress on determining/agreeing closure costings
- ❓ As a result of applying the guidance (unit rates etc) 1st estimate has risen from agreement level of 40% to over 70%
- ❓ In general, costings for incidents were coming in low
- ❓ In Waste Sector (n=30) CRAMP costings vary between €100k to €700k; average of €400k
- ❓ ELRA costings (all fire) vary between €870k and €1.35m; average of €1.2m
- ❓ Things to look out for; volumes of waste used in calculations too low; we did a few surveys to quantify things; not all waste types included in tables; not enough contingency (15-20%)

CRAMP Costing

Average closure liability



Financial Provision Principles

Secure

- The financial provision must be secure for the duration of the licensee's obligations (including in the event of an insolvency) under a licence so that funds are available to discharge the licensee's obligations.

Sufficient

- The financial provision must be sufficient to meet all of the licensee's obligations and must be adequate to cover the cost of closure and environmental liability risks.

Available when required

- The funds must be available to the EPA when required to discharge the licensee's obligations at the relevant time.

FP Mechanisms

FP types that the Agency may consider

- ❑ Secured fund
- ❑ On demand performance bond
- ❑ Parent Company Guarantee
- ❑ Charge on property
- ❑ Environmental Insurance

Agency will consider applications to assess FP on a case by case basis

- ❑ Templates on EPA website -
<http://www.epa.ie/pubs/advice/licensee/fptemplates/>
- ❑ Template for Bond, Account Charge & PCG
- ❑ No template for insurance but requirements (9 No.) set out

FP Mechanisms

Instrument	Inevitable closure	Other closure	Incidents/ ELRA	Template
Secured fund	✓	✓	✓	✓
On demand performance bond	✓	✓	✓	✓
Parent company guarantee	-	✓	✓	✓
Charge on property	✓	✓	✓	-
Environmental insurance	-	-	✓	-

Secured Fund

- ❑ Dedicated bank account, with a first ranking fixed charge in favour of the EPA
- ❑ Licensee can withdraw funds to carry out work
- ❑ Drawdown agreement needed in some cases
- ❑ Other cover for build up of fund
- ❑ Suitable FP for all liabilities

On-demand Performance Bond

- ❑ Promise by a surety to immediately pay if the licensee fails to meet its obligations under the licence
- ❑ Fixed period of time so they need to be renewed
- ❑ If not renewed in time, EPA entitled to call in surety
- ❑ Suitable FP for all liabilities
- ❑ Surety provider must be assessed – investment grade insurer ratings from Standard & Poors or Moodys

Parent Company Guarantee

- ❑ Legally binding commitment by a licensee's parent company
- ❑ Parent will fulfil the licensee's obligations if licensee fails to do so
- ❑ Suitable for all liabilities except inevitable closure once parent acceptable to the EPA
- ❑ Four stage process
 1. Financial standing
 2. Legal standing
 3. Execution on guarantee
 4. Ongoing demonstration of financial strength

Charge on Property

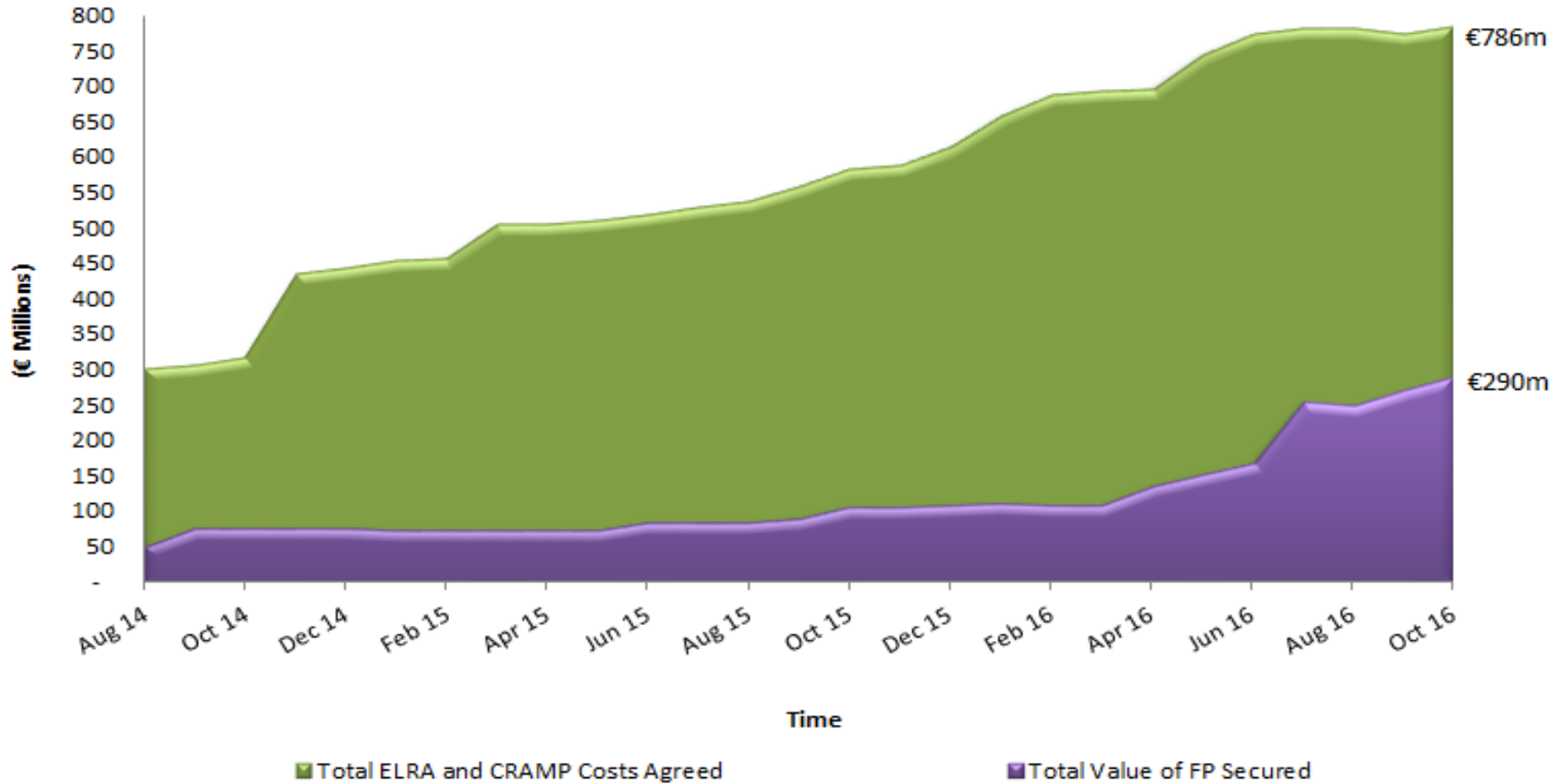
- ❑ First ranking mortgage/charge over a specific piece of real estate in favour of the EPA
- ❑ EPA have access to the real estate if licensee fails to meet its obligations
- ❑ Suitable FP for all liabilities
- ❑ EPA will only accept a certain % of the property's valuation

Insurance

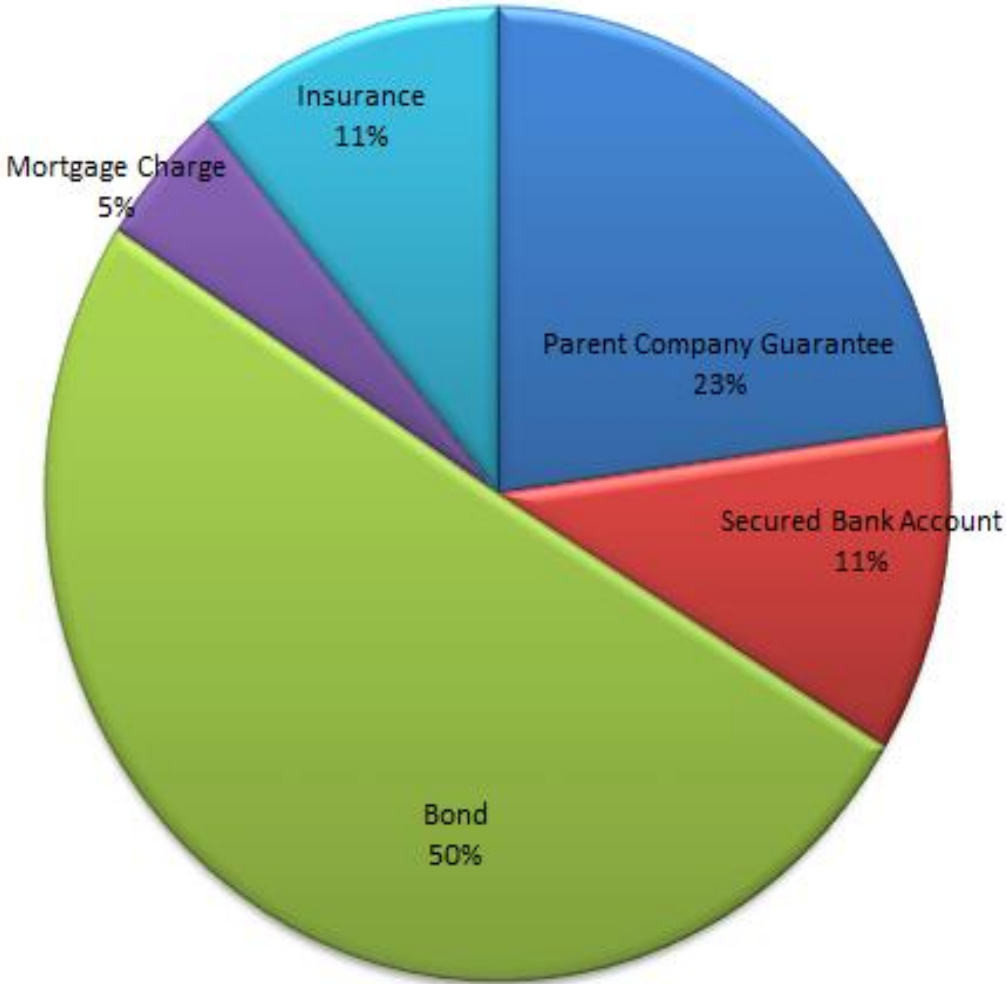
- ❑ EPA had concerns on a number of areas
 - ❑ Disclosure
 - ❑ Payment of premia
 - ❑ Insolvency
- ❑ Concerns addressed in prolonged discussions with insurance industry
- ❑ Had hoped to develop a template policy but did not prove possible
- ❑ Section 4.6 of guidance sets out 9 requirements of insurance policies

Position to end October 2016

ELRA, CRAMP and FP agreed



Type of Financial Provision Secured (as % of Financial Provision Value)



Good Environmental Outcomes



Summary

- ❑ Guidance on determination of costings finalised over two years
- ❑ FP Guidance finalised over a year now and EPA has developed templates further in that period
- ❑ Is an enforcement priority and, with all elements now in place, EPA will be following through on licence requirements.