

“Handling of Early Collected Carbon Tax Charged held by Landfill Operators”

To	Department of Environment, Canberra repeal-consultation@environmnet.gov.au
From	Australian Landfill Owners Association (ALOA)
Date	06/02/2015
Re	ALOA’s response to the Discussion Paper “Handling of Early Collected Carbon Tax Charged held by Landfill Operators” (issued 17 December 2014)

Content

Introduction	2
Background - Comments in respect to the Clean Energy Act	2
Background - Comments in respect to the Repeal legislation	2
Landfill Owner’s Concerns	2
Response to the Discussion Paper	3
Question 1	3
Question 2	3
Question 3	4
Question 4	4
Question 5	4
Question 6	4
Conclusion	4
Appendix 1 – Refund Option Chart.....	5

Introduction

ALOA welcomes the discussion paper released by the Department of Environment on 17 December 2014 as it attempts to address the 'fall out' created by the Repeal of the Clean Energy Act in July, 2014 legislations.

It is on record that ALOA opposed the inclusion of the 'landfill' sector in the CPM (and the CPRS before it) because of the difficulty of providing for emissions that will occur over the next 100-140 years. However, the sector was included and now a response to 'untangle' the activities of the past two years is required urgently.

Background - Comments in respect to the Clean Energy Act

1. Landfill 'carbon' charges under the Clean Energy Act's Carbon Pricing Mechanism (CPM) were inconsistent due to:
 - a) The difficulty of forecasting the future carbon price and landfill gas collection rates.
 - b) Competition from 'uncovered' landfills.
 - c) Market pressure in the second year of the CPM to respond to the volatility of price forecasts created by the falling European ETS prices and numerous political statements made prior to the 2013 federal elections.
2. The Clean Energy Act did not require landfill operators to detail the quantum of their 'carbon' charges
3. For many customers carbon charges were made on the basis that the landfill operator would bear all future risk – both up and down – associated with the future carbon price.

Background - Comments in respect to the Repeal legislation

1. The Repeal legislation only requires all carbon costs be removed from July 2014.
2. There is no reference to the monies collected by the landfill industry to cover the long-term emission liabilities created under the CPM and includes no obligation to refund any monies collected for future liabilities.

Landfill Owner's Concerns

1. Landfill owners either formally contracted with clients – mainly local councils – in respect to the application of carbon charges, or priced regular commercial customers on the basis of assuming all risk – whether up or down – on the future carbon price/landfill gas collection rate.

As a result there are mixed views on the need for any refund for 'uncontracted' customers.

2. Landfill owners believe that if refunds are to be made it is important that the end customers – the waste generator or customer who ultimately paid the 'tax' – should be the recipients.
3. Landfill owners are concerned that emissions from waste landfilled in 2012/2013 may be involved in a future emissions trading scheme.

As a result before refunds are made to direct customers landfill owner will require a commitment from the direct customer to accept any future emission liability should it occur.

4. Landfill owners are concerned that notwithstanding that the CPM liability could be met by surrendering a mixture of domestic carbon units (ACCUs), European carbon units (EAUs) and other carbon units (CERs), the response to the refund is being discussed in dollars, not abatement units.

Response to the Discussion Paper

Question 1

Stakeholder views are sought on the proposed methods for determining the investment required, in particular:

- a) Which investment would be preferable, an abatement-based approach or a revenue-based approach"
- b) If an abatement-based approach, what is a reasonable proxy price to use

Response to part a)

The CPM was based on the surrender of carbon abatement units , so ALOA's preferred position is to base the scheme on abatement – rather than revenue – for those customers not covered by a specific contract.

Direct customer (councils) – refund in \$
Indirect customers – surrender abatement

Notwithstanding this preference, ALOA recognises that in some cases its members will prefer to use a direct revenue approach, and as such supports a flexible approach on this issue.

Response to part b)

The determination of future carbon liability costs for landfill liabilities under the CPM comprised an estimate of the domestic, European and international carbon prices and the expected landfill gas collection rate for the future.

Example

The earliest date abatement could be purchased (after the fixed price period) was 2015/16, whilst the maximum gas collection under NGERs was 75%.

As neither the future carbon price and the landfill gas collection rate are known, ALOA believes the best option to convert the abatement liability to a dollar value is to use the most recent known data – the 2013/14 gas collection rate (as reported under NGERs) and the 2013/14 European emission unit average price in Australian dollars during 2013/14.

Question 2

Stakeholder views are sought on:

- a) Whether any legal or commercial impediments to landfill operators disclosing the value of the fund held; and
- b) The preferred method by which public disclosure occurs (for example through the annual reports of participants, or on their websites).

Response to Part a

ALOA believes that as there was no requirement to quantify the quantum of carbon charges under the Clean Energy Act, then there should be none in respect to providing a solution to the refund issue.

Further, ALOA believes that any disclosure of this commercial-in- confidence information could lead to market instability and therefore should be avoided.

However, ALOA recognises that some landfill owners – especially local government owners – have already provided this information.

Response to Part b

ALOA does not support any public disclosure of commercial - in- confidence material.

Question 3

Stakeholder views are sought regarding the factors that should be considered in setting criteria for emissions abatement projects allowed under the framework.

In respect to the criteria for the emission abatement projects allowed under the scheme, ALOA believes each project should:

- a) Create new "additional" abatement;
- b) Be of sufficient size to create a reasonable balance between abatement generated and the project administration and compliance costs;
- c) Have an operating 'abatement' cost in line with current renewable energy generation costs.

Question 4

Stakeholder views are sought on the appropriate verification and disclosure requirements for investment projects.

ALOA believes landfill owners should report to the Clean Energy Regulator regarding their liability and confirm their proposed response to both direct and indirect customers.

In respect to direct customers, this should then be confirmed by the landfill owner's accounting auditors.

In respect to indirect customers, the response will be either the surrender of ACCUs (to the Clean Energy Regulator) or investment in new additional abatement project(s). In both cases verification will be required by a NGER auditor to confirm the total liability and the eligibility of the abatement project(s).

In the case of investment in new abatement, this will then also need to be confirmed by the landfill owner's accounting auditors.

Question 5

Stakeholder views are sought on the reasonable value of administration and compliance costs.

ALOA believes that the reasonable value of administrative and compliance costs (surrender of ACCUs for 2 year emission from waste received in 2012/13) is between 10%-15% of the charges applied during 2012/13 and 2013/14.

Question 6

Stakeholder views are sought on whether the proposed timeframe for investments by 31 December 2016 is appropriate.

ALOA believes that the proposed timeframe to commit to investment by 31 December 2016 is appropriate, but it believes that the final surrender date for ACCUs should be 30 June 2020.

This later date for the surrender of domestic abatement - assuming forward purchasing is in place by December 2016 - will offer a greater opportunity to adopt the ACCU surrender option.

Conclusion

ALOA is supportive of the voluntary framework outlined in the Department's consultation paper and urges the Government to provide the proposed 'framework' document as soon as practical.

For further information in respect to this submission please email info@aloe.com.au

Regards



Max Spedding
CEO

ALOA

Appendix 1 – Refund Option Chart

Landfill owners can:

1) Discharge all contracted obligations in respect to the refund of monies collected to meet their long term obligations under the Clean energy Act.

OR

2) Voluntarily adopt the Government refund Framework and:

A. Discharge all contracted obligations in respect to the refund of monies collected to meet their long term obligations under the Clean Energy Act.

PLUS

B. For all 'direct' customer (mainly local government councils) refund¹ all monies collected less their compliance and reasonable administration costs.

¹subject to agreement that any future liability for 2012/13-2013/14 emission will be paid by the direct customers.

PLUS (Abatement Option)

C1. For all 'indirect' customers surrender to the Clean Energy Regulator (CER) domestic abatement credits (ACCUs)² or other approved units equal to the current emission liability created by the Clean Energy Act before 30 June 2020.

² potentially available by entering into forward purchasing arrangements with the landfill gas combustion industry.

OR

Should domestic abatement credits not be available landfill owners will need to commit to invest the 'abatement' dollar value³ in new additional abatement activities before 31 December 2016.³

³the liability (tonnes CO2-e) x the proxy price for the landfill gas collection rate used to calculate the liability.

OR

A combination of the surrender or investment options in this option C.

OR PLUS (Revenue Option)

C2. For all 'indirect' customers commit to invest the value of the monies collected less the compliance and reasonable administration costs to new abatement activities before 31 December 2016