



October 25, 2022
Financial Assurance – RCRA D
Division of Waste Management – Solid Waste Section

Department of Environmental Quality



Financial Assurance – RCRA D Discussion

Regulations

Change in 2020 Rules

- Solid Waste Management Facilities
- Allowable Mechanisms
- Transfer Stations
- New Rule Requirements

Section Financial Assurance Website

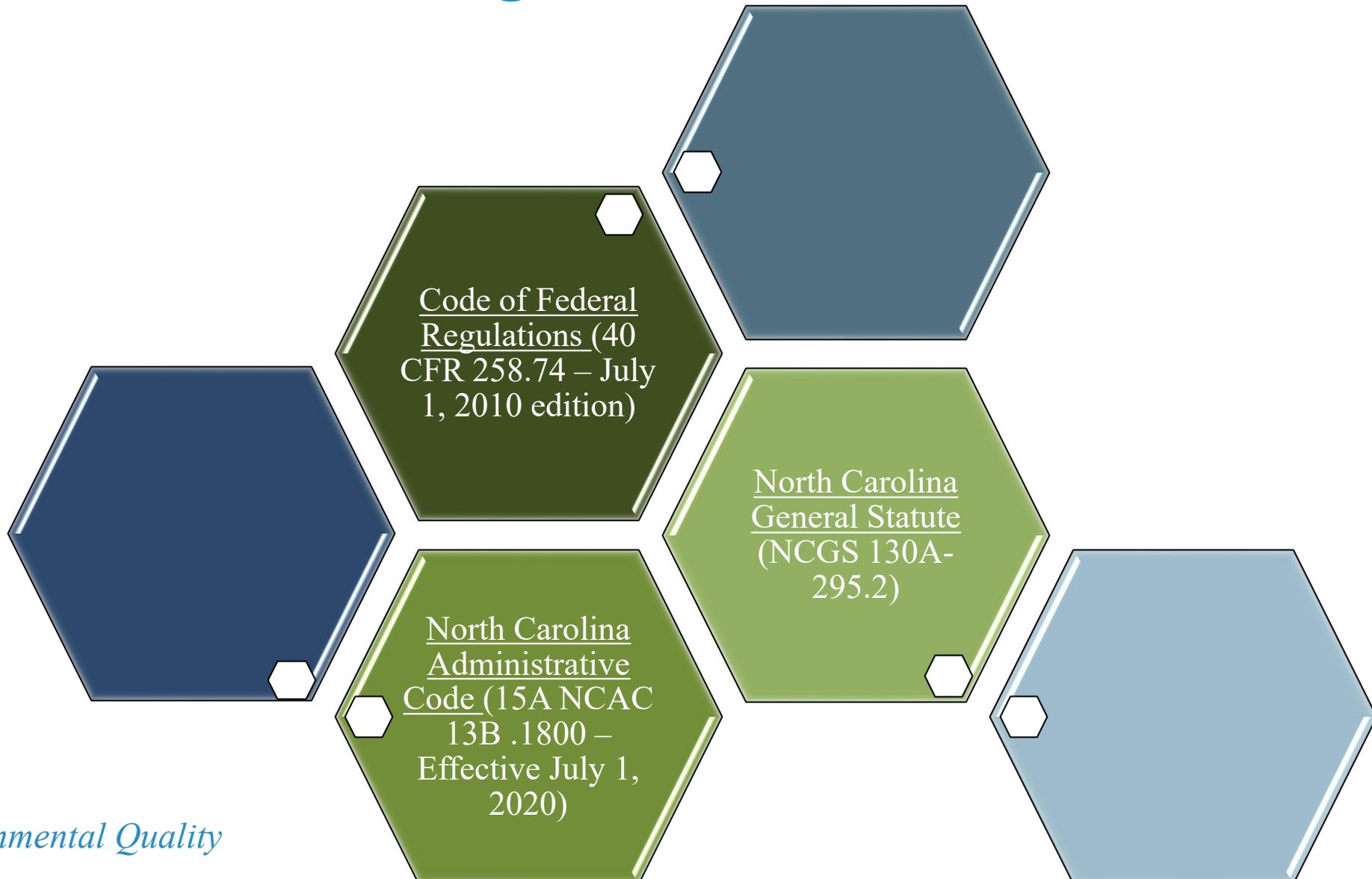
- <https://deq.nc.gov/SWSFA>

Financial Assurance Process

- Closure
- Post-Closure
- Current Corrective Action
- Potential Assessment and Corrective Action

Regulations

Financial Assurance Regulations - Solid Waste Section



Change in 2020 Rules

- Solid Waste Management Facilities
- Allowable Mechanisms
- Transfer Stations
- New Rule Requirements

Financial Assurance – Required Solid Waste Management Facilities

Construction
and Demolition
Landfills
that accepted waste after
June 30, 2008

Incinerators

Industrial Solid
Waste Landfills

Medical
Facilities

Mixed Waste
Processors

Municipal Solid
Waste Landfills
that accepted waste after
October 9, 1993

Private
Compost
Facilities
(large Type III; small
and large Type IV)

Private Scrap
Tire Collection
Sites

Transfer
Stations

Tire Monofills -
landfills for the
exclusive disposal of
scrap tires

Treatment and
Processing
Facilities

Financial Assurance Mechanisms

Common Mechanisms for Public Facilities

MECHANISM # ONE	SUPPORTING MECHANISM # TWO
LOCAL GOVERNMENT TEST	
CAPITAL RESERVE FUND	

Common Mechanisms for Private Facilities

MECHANISM # ONE	SUPPORTING MECHANISM # TWO
SURETY BOND GUARANTEEING PAYMENT OR PERFORMANCE	STANDBY TRUST
LETTER OF CREDIT	STANDBY TRUST
TRUST FUND (interest accruing account)	
CORPORATE FINANCIAL TEST	
CORPORATE GUARANTEE	

Less Common Mechanisms for Private Facilities

MECHANISM # ONE	SUPPORTING MECHANISM # TWO
INSURANCE	

Financial Assurance Mechanism Annual Due Dates – Solid Waste Section

Public Entities

Capital Reserve

- December 31st (revised)

Local Government

- December 31st (revised)

Private Entities

Corporate Financial Test

- 90 days after fiscal year end

Corporate Guarantee

- 90 days after fiscal year end

Funded Trust

- Based on estimated time frame for life-of-site permit.
- For PACA, 5-year pay-in period.

Insurance

- Division Discretion.

Irrevocable Letter of Credit and Standby Trust

- 60 days prior to the anniversary effective date of the original Letter of Credit

Surety Bond and Standby Trust

- 60 days prior to the anniversary effective date of the original Surety Bond

Financial Assurance Rule Changes - Solid Waste Section

Annual Financial Assurance Cost Estimates:	Revised Financial Assurance Rules:	Sanitary Landfill Requirements, 15A NCAC 13B .1801(h):	Quinquennial Requirement, 15A NCAC 13B .1804(a)(1):
<ul style="list-style-type: none">• Closure, Post-Closure, Current Corrective Action (if applicable), Potential Assessment and Corrective Action (if applicable)• Annual inflationary increase• Submit an itemized cost estimate no less than 180 calendar days prior to the anniversary date of the financial assurance mechanism	<ul style="list-style-type: none">• Financial Assurance Rules were consolidated into one Rule Section: <u>15A NCAC 13B .1800</u>• Scrap Tire Processor requirements were changed to an itemized closure cost, instead of a \$1.50/tire and third-party liability.	<ul style="list-style-type: none">• No less than 180 days prior to the renewal date of the associated financial assurance mechanism<ul style="list-style-type: none">• (1) current description and size in acreage of any active portion of the facility that has closed since the previous financial assurance mechanism renewal; and• (2) a description of the acreage proposed to remain active and proposed to be closed in the year following the upcoming financial assurance mechanism renewal.	<ul style="list-style-type: none">• Once every five years, the owner and operator shall update the cost estimate of the corrective action program and submit the following information to the Division in writing:<ul style="list-style-type: none">• (A) a description of the remedial actions selected pursuant to Rule.0545(e) or Rule .1636 of this Subchapter that have not been completed;• (B) the number of years remaining for each remedial action until the remedial action is complete; and• (C) the updated cost estimate for the remaining remedial actions.

Financial Assurance – Transfer Stations



Closure Plan, 15A NCAC 13B .0404



a description of all activities, including the removal of any remaining solid wastes or materials from the site, activities required for the closure of the site, and abandonment of all on-site systems;



the cost estimate for closure and post-closure care activities



Sites shall comply with financial responsibility requirements in accordance with G.S. 130A-295.2 and Section .1800 of this Subchapter. If the Division requires the site to conduct post-closure care in accordance with Rule .0406(c) of this Section, the site shall maintain financial assurance during the post-closure care period until released from post-closure care by the Division.



Owner or Operator Shall Complete the Following, 15A NCAC 13B .0406



Leachate collection systems, if present, shall be closed in accordance with the leachate management plan incorporated into the permit by Rule .0404(d) of this Section.



The owner or operator shall complete any closure activities stated in the closure plan incorporated into the permit by Rule .0404(d) of this Section.

Financial Assurance - Transfer Stations

<i>Cost Estimate for Closure</i>	Unit	Quantity	Unit Rate	Amount
Mobilization/Demobilization			\$	\$
Pressure Washing			\$	\$
Leachate Disposal			\$	\$
Leachate Collection System Decommission			\$	\$
Signage			\$	\$
Waste Disposal - Cleanup, Hauling, Tipping Fee			\$	\$
Administration			\$	\$
<i>Additional Cost Items Not Included Above</i>				
Description	Unit	Quantity	Unit Rate	Amount
			\$	\$

https://edocs.deq.nc.gov/Forms/TransferStation_FA



Allen.Gaither@ncdenr.gov
 To chadparker@jacksonnc.org; Fox, Darlene
 Cc Moutos, Sarah; Stanley, Sherri; Gaither, Allen
 ⓘ You forwarded this message on 9/28/2022 8:43 AM.

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Tue 9/27/2022 11:08 AM



9/27/2022

Chad Parker
 Public Works Director
 Jackson County

RE: Approved Cost Estimate
 Transfer Station - Jackson County Transfer Station
 Jackson County

Dear Chad Parker,

A review of the Transfer Station Cost Estimate for 5003T-TRANSFER- Jackson County Transfer Station submitted on 9/12/2022 has been completed. The estimate meets the site-specific operations and appears to be appropriate.

Initial Review Comments: 20220914 - The Section appreciates the submittal of Jackson County's cost estimate for review. The Section accepts the cost estimate for further review by our permitting engineer.

Permitting Engineer's Review Comments: Cost estimates appear sufficient based on estimated average daily waste volume. As noted, facility Operations Plan must be revised to reflect approved cost estimates.

The Division of Waste Management - Solid Waste Section has reviewed and approved the provided cost estimate required for establishing financial assurance for a transfer station. The cost estimate is provided for your use.

Approved Cost Estimate = \$ 85500.00

At this time, you may work with your Finance Department Director and have the approved cost estimate incorporated into the December 2022 Local Government or Capital Reserve submittal to the Section. Financial Assurance mechanism templates, NC Rules for financial assurance, and inflation multipliers are among the pertinent information you can find at the Section's Financial Assurance website: <http://go.ncdenr.gov/fa>. Should you or your Finance Department require any assistance, feel free to reach out to Sarah Moutos at 919-707-8287 or Sarah.Moutos@ncdenr.gov.

Sincerely,

Sarah Moutos
 Environmental Program Consultant
 Division of Waste Management - Solid Waste Section

CC: Sherri Stanley
 Allen Gaither
 Darlene Fox

Section Financial Assurance Website

- <https://deq.nc.gov/SWSFA>

Solid Waste Section



Work for DEQ

DEQ is looking for top talent to share their knowledge, skills, and commitment to a strong, safe environment for our state and beyond.

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Safe Management of Non-hazardous Solid Waste

The Solid Waste Program regulates safe management of non-hazardous solid waste through guidance, technical assistance, regulations, permitting, environmental monitoring, compliance evaluation and enforcement. Waste types handled at these facilities include municipal solid waste, industrial waste, construction and demolition waste, land-clearing waste, scrap tires, medical waste, compost, and septage. The program is regulated by [Article 9 of Chapter 130A of the General Statutes](#) and the rules in [15A NCAC 13B](#). For information about hazardous solid waste, see the [Hazardous Waste Section](#) website.



[Applications for Solid Waste Permits & Approvals](#)

Learn about application requirements for permitted solid waste management facilities and other site notifications and approvals.



[Permitted Solid Waste Facility Information](#)

Find information pertaining to existing permitted solid waste management facilities, such as facility lists, and online documents.



[Special Wastes and Alternative Handling](#)

Learn about the management of special solid waste types such as tires, medical waste, electronics and household hazardous waste, and handling methods like composting.



[Compliance and Monitoring](#)

Learn about efforts to ensure compliance through inspections and monitoring, and prevention of illegal dumping of solid waste.



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Applications for Solid Waste Permits and Approvals

The Solid Waste Section is responsible not only for the permitting of solid waste management facilities that are required to obtain a permit in accordance with 15A NCAC 13B, but also for managing other programs that have applications or notifications that may not be related to a permitted solid waste management facility. Find guidance, forms, and application or notification requirements for permitting and various other solid waste programs.

Topics of Interest

- [Solid Waste Facility Permitting](#)
- [Disaster Debris Management Site Evaluation](#)
- [Electronics Management](#)
- [HHW Temporary Event Notifications](#)
- [Scrap Tires](#)
- [Septage Permitting](#)
- [Tax Certification Application for Recycling or Resource Recovery](#)
- [Yard Waste Notifications](#)

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Facility Permitting

Facility Permitting

Solid waste management facilities are required to obtain a permit in accordance with 15A NCAC 13B, and are permitted by the Solid Waste Section in the Division of Waste Management.

- [Environmental Monitoring](#)
- [Financial Assurance](#)
- [DEQ Environmental Justice Program](#)
 - [DWM Solid Waste Section Environmental Justice Guidance Document](#) ▾
 - [DWM Solid Waste Section Environmental Justice Workshop](#) ▾
- [Alternative Daily Cover Guidance](#) ▾
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Facility Permitting » Financial Assurance for Solid Waste Management Facilities

Financial Assurance for Solid Waste Management Facilities

North Carolina General Statute 130A-295.2 requires owners and operators of solid waste management facilities to demonstrate that the owner/operator will have the funds necessary to properly close the facility, provide post-closure care and maintenance, implement any corrective action plans, and fund potential assessment and corrective action costs for the permitted solid waste management facility. The requirements for financial assurance for solid waste management facilities can be found in N.C.G.S. 130A-295.2 and 15A NCAC 13B Section .1800. 15A NCAC 13B .1805 references the allowable mechanisms required to demonstrate financial assurance that are set forth in 40 CFR 258.74 (July 1, 2010 edition). The Division of Waste Management - Solid Waste Section is responsible for administering and enforcing these requirements.

Owners and operators of solid waste management facilities that are required to establish financial assurance can find references to applicable general statutes, rules, and federal regulations linked below:

- [N.C.G.S. 130A-295.2 Financial responsibility requirements for applicants and permit holders for solid waste management facilities](#)
- [15A NCAC 13B .1800 - Financial Assurance Requirements for Solid Waste Management Facilities \(Effective July 1, 2020\)](#)
- [40 CFR 258.74 \(July 1, 2010 edition\) - Allowable mechanisms](#)

Facility Permitting

[Environmental Justice](#)[Environmental Monitoring](#)[Financial Assurance for Solid Waste Management Facilities](#)[Rules and Regulations](#)

- + Solid Waste Management Facilities Requiring Financial Assurance
- + .1800 Rule Mechanisms for Private Companies
- + .1800 Rule Mechanisms for Local Governments and Municipalities
- + Potential Assessment and Corrective Action (PACA)
- + Recurring Solid Waste Management Facility Requirements
- + Annual Inflation Multiplier
- + Electronic Form Submittals For Approval

– Solid Waste Management Facilities Requiring Financial Assurance

As of July 1, 2020, the requirements in 15A NCAC 13B regarding financial assurance have been amended and moved to a new Section .1800. Under Section .1800, the solid waste management facilities that are required to establish financial assurance include, but are not limited to, the following:

- Compost Facilities (large Type III; small and large Type IV),
- Construction and Demolition Landfills that accepted waste after June 30, 2008,
- Incinerators,
- Industrial Solid Waste Landfills,
- Medical Facilities,
- Mixed Waste Processors,
- Municipal Solid Waste Landfills that accepted waste after October 9, 1993,
- Private Scrap Tire Collection Sites,
- Transfer Stations,
- Tire Monofills - landfills for the exclusive disposal of scrap tires, and
- Treatment and Processing Facilities.

– .1800 Rule Mechanisms for Private Companies

- [Corporate Test](#) and [Special Report](#)
- [Corporate Guarantee](#) and [Special Report](#)
- [Insurance](#)
- [Letter of Credit](#) and [Standby Trust](#)
- [Payment Bond](#) and [Standby Trust](#)
- [Performance Bond](#) and [Standby Trust](#)
- [Trust Fund](#)

– .1800 Rule Mechanisms for Local Governments and Municipalities

- [Capital Reserve](#)
- [Local Government Test](#)

– Potential Assessment and Corrective Action (PACA)

Potential Assessment and Corrective Action (PACA) Law:

NCGS 130A 295.2:

(h) To meet the financial assurance requirements of this section, the owner or operator of a sanitary landfill, other than a sanitary landfill for the disposal of construction and demolition debris waste, shall establish financial assurance sufficient to cover a minimum of two million dollars (\$2,000,000) in costs for potential assessment and corrective action at the facility. The Department may require financial assurance in a higher amount and may increase the amount of financial assurance required of a permit holder at any time based upon the types of waste disposed in the landfill, the projected amount of waste to be disposed in the landfill, the location of the landfill, potential receptors of releases from the landfill, and inflation. The financial assurance requirements of this subsection are in addition to the other financial responsibility requirements set out in this section.

(h1) To meet the financial assurance requirements of this section, the owner or operator of a sanitary landfill for the disposal of construction and demolition debris waste shall establish financial assurance sufficient to cover a minimum of one million dollars (\$1,000,000) in costs for potential assessment and corrective action at the facility. The financial assurance requirements of this subsection are in addition to the other financial responsibility requirements set out in this section.

15A NCAC 13B .1801:

(i) Financial assurance for potential assessment and corrective action shall be established in accordance with G.S. 130A-295.2(h) and (h1), and shall be increased for inflation annually, concurrently with cost estimates for closure, post-closure care, and corrective action programs in accordance with Rules .1802(b)(1), .1803(b)(1), and .1804(b)(1) of this Section, respectively.

History of Statute Changes for Potential Assessment and Corrective Action:

In 2007, all sanitary landfills (Municipal Solid Waste Landfill (MSWLF), Construction Demolition Landfill (CDLF), and Industrial Landfill (INDUS)) were required to at a minimum, establish the environmental liability of potential assessment and corrective action (PACA) in the amount of \$3,000,000. This PACA requirement was in addition to the environmental liabilities of closure, post-closure, and current corrective action.

The PACA amount would be required to increase for inflation annually as stated in NCGS 130A-295.2 (h). (2007-550, s. 5(a)) [Session Law 2007-550, Senate Bill 1492](#) □

In 2011, the environmental liability amount for PACA of a minimum of \$3,000,000 was reduced to a minimum of \$2,000,000 for sanitary landfills. However, inflation was still required for this amount. (2011-262, s. 1) [Session Law 2011-262, House Bill 209](#) □

In 2014, sanitary landfills (MSWLF and INDUS) were still required to establish an environmental liability of a minimum of \$2,000,000 for PACA. However, CDLFs could reduce their PACA amount to a minimum of \$1,000,000. Inflation is still required for these amounts. (2014-120, s. 27.) [Session Law 2014-120, Senate Bill 734](#) □

Potential Assessment and Corrective Action Annual Costs:

Standalone MSWLF and INDUS shall use published inflation multipliers since 2011. Additionally, standalone CDLFs shall use inflation multipliers since 2014. Should an entity have a permitted MSWLF unit and a CDLF unit within the same facility boundary, then the legal entity would choose the higher \$2,000,000 minimum.

The following costs reflect annual PACA costs for updating facility mechanisms.

Year	Inflation Multiplier	Sanitary Landfill - Operational MSWL, INDUS, and combination of (MSWLF and CDLF within same facility boundary)
2011		\$2,000,000.00
2012	1.020	\$2,040,000.00
2013	1.019	\$2,078,760.00
2014	1.015	\$2,109,941.00
2015	1.014	\$2,139,480.58
2016	1.010	\$2,160,875.39
2017	1.013	\$2,188,966.77
2018	1.018	\$2,228,368.17
2019	1.022	\$2,277,392.27
2020	1.017	\$2,316,107.94
2021	1.012	\$2,343,901.23
2022	1.041	\$2,440,001.18

Showing 1 to 12 of 12 entries

Year	Inflation Multiplier	Sanitary Landfill - Operational CDLFs
2014		\$1,000,000.00
2015	1.014	\$1,014,000.00
2016	1.010	\$1,024,140.00
2017	1.013	\$1,037,453.82
2018	1.018	\$1,056,127.99
2019	1.022	\$1,079,362.80
2020	1.017	\$1,097,711.97
2021	1.012	\$1,110,884.51
2022	1.041	\$1,156,430.77

Showing 1 to 9 of 9 entries

Sanitary Landfills operating after the established Statute requirements would begin with the minimum PACA amount upon issuance of a Permit To Operate, and annually increase for inflation.

Questions can be directed to Sarah Moutos, Environmental Program Consultant at 919-707-8287 or Sarah.Moutos@ncdenr.gov . Additionally, Sherri Stanley, Permitting Branch Head at 919-707-8235 or Sherri.Stanley@ncdenr.gov .

– Recurring Solid Waste Management Facility Requirements

As of June 1, 2020, annual and quinquennial financial assurance requirements for solid waste management facilities have been revised. Below are those requirements:

Annual Requirements:

Financial Assurance Cost:

Annually, the owner and operator of a solid waste management facility shall increase for inflation the current costs for closure, post-closure, current corrective action program, and potential assessment and corrective action. In lieu of an increase for inflation, the owner and operator shall provide an itemized cost estimate for Division approval no less than 180 calendar days prior to the anniversary of the date of the financial assurance mechanism was established.

Revised Mechanism Due Dates:

- Owners and operators using the corporate financial test or corporate guarantee as set forth in Rule .1805(e) of this Section shall submit the adjusted financial assurance mechanism to the Division no more than 90 calendar days following the close of the corporate entity's fiscal year that is stated in the mechanism.
- Owners and operators using a financial assurance mechanism set forth in Rule .1805(e) of this Section other than the local government financial test, capital reserve fund, corporate financial test, or corporate guarantee shall submit the adjusted financial assurance mechanism to the Division no less than 60 calendar days before the anniversary of the initial date that the financial assurance mechanism was established.
- Owners and operators using the local government financial test or the capital reserve fund as set forth in Rule .1805(e) of this Section shall submit the adjusted financial assurance mechanism to the Division prior to December 31, after the end of the local government's fiscal year.

Inflation Multiplier:

The owner and operator of a solid waste management facility is required to adjust a cost estimate or the amount of financial assurance for inflation. The adjustment for inflation shall be made by using the US Department of Commerce, Bureau of Economic Analysis Gross Domestic Product, implicit price deflator. The implicit price deflator that shall be used to adjust for inflation shall be published on the Division's website at <http://go.ncdenr.gov/fa> by January 30 of each year. Financial assurance mechanisms that renew in January shall use the previous year's implicit price deflator.

Request for Reduction in Cost:

The owner and operator may request to reduce the closure, post-closure or corrective action program cost estimates and the amount of financial assurance if the cost estimate exceeds the maximum cost of closure, post-closure, or corrective action program at any time during the active life of the facility by submitting a cost estimate and a written justification for the reduction to the Division for approval no less than 180 calendar days prior to the anniversary of the date the financial assurance mechanism was established. No reduction of the cost or the amount of financial assurance shall be allowed without written approval from the Division.

Sanitary Landfill Requirement:

Owners and operators of sanitary landfills permitted by the Division in accordance with Rule .0207 of this Subchapter shall annually submit the following information to the Division no less than 180 calendar days prior to the renewal date of the financial assurance mechanisms for the facility:

- (1) current description and size in acreage of any active portion of the facility that has closed since the previous financial assurance mechanism renewal; and
- (2) a description of the acreage proposed to remain active and proposed to be closed in the year following the upcoming financial assurance mechanism renewal.

Quinquennial Requirements:

Current Corrective Action Requirement:

Once every five years, the owner and operator shall update the cost estimate of the corrective action program and submit the following information to the Division in writing:

- (A) a description of the remedial actions selected pursuant to Rule.0545(e) or Rule .1636 of this Subchapter that have not been completed;
- (B) the number of years remaining for each remedial action until the remedial action is complete; and
- (C) the updated cost estimate for the remaining remedial actions.

– Annual Inflation Multiplier

- Effective January 1, 2022, the inflation factor price deflator/multiplier = 1.041
- Effective January 1, 2021, the inflation factor price deflator/multiplier = 1.012
- Effective January 1, 2020, the inflation factor price deflator/multiplier = 1.017
- Effective April 1, 2019, the inflation factor price deflator/multiplier = 1.022 *
- Effective January 1, 2018, the inflation factor price deflator/multiplier = 1.018
- Effective January 1, 2017, the inflation factor price deflator/multiplier = 1.013
- Effective January 1, 2016, the inflation factor price deflator/multiplier = 1.010
- Effective January 1, 2015, the inflation factor price deflator/multiplier = 1.014
- Effective January 1, 2014, the inflation factor price deflator/multiplier = 1.015

Financial Assurance Mechanisms must contain, when applicable, inflation-adjusted cost estimates for closure, post-closure care, corrective action, and potential assessment and corrective action (PACA), or a new cost estimate. If an inflation-adjusted cost estimate is to be used, it must be based on U.S. Department of Commerce, Bureau of Economic Analysis Gross Domestic Product implicit price deflator.

(*) Due to the federal shutdown, the annual factor for January 1, 2019 was not released until April 1, 2019. Facilities that had adjustment deadlines between January 2019 and March 2019 are required to use the inflation factor price deflator/multiplier of 1.018.

– Electronic Form Submittals For Approval

- [Current Corrective Action Cost Estimate Form](#) □
- [Local Government / Capital Reserve Test Submittal Form](#) □
- [Transfer Station Closure Cost Estimate Form](#) □
- In post-closure care request for reduction



Financial Assurance Process

- Closure
- Post-Closure
- Current Corrective Action
- Potential Assessment and Corrective Action

Financial Assurance Rule Process – Closure 15A NCAC 13B .1802

Submittal of Cost Estimates

Sanitary Landfills

Permit to Operate - allowable operational acreage

“...with the permit application an itemized cost estimate of the cost of hiring a third party to close the sanitary landfill in accordance with the facility's closure plan.”

Other Than Sanitary Landfills

Calculated by multiplying the maximum tonnage of waste permitted to be stored on site by the cost per ton for a third party to remove the waste, transport it, and dispose of it at the nearest facility permitted by the Division to receive such waste.

* include estimates for all waste types that are permitted to be stored on site.”

* Other requirements may be dictated as such, for instance in the revised transfer station rules.

For private compost facilities, provide an itemized cost, including the max amount of waste onsite, removal, transportation, and disposal costs to a landfill or other compost site.

Financial Assurance Rule Process – Closure 15A NCAC 13B .1802

Adjustments to the Closure Cost Estimate

During the active life of the facility, **annually adjust for inflation.**

Increase the closure cost estimate for financial assurance and submit to the Division if changes to the closure plan or facility conditions increase the maximum cost of closure at any time during.

Reduce the closure cost estimate and financial assurance if the cost estimate exceeds the maximum cost of closure at any time during the active life of the facility.

* Submit a ***revised closure cost estimate*** and a ***written justification*** for the reduction to the Division for approval no less than ***180 calendar days prior to the anniversary*** of the date the financial assurance mechanism was established.

Financial Assurance Process – Post-Closure Care, 15A NCAC 13B .1803

Submittal of Cost Estimate

Submit an itemized post-closure care cost estimate with the permit application for financial assurance

* The cost estimate should be for **the cost of hiring a third party to conduct post-closure care** for the sanitary landfill in compliance with the post-closure care plan

The post-closure care cost estimate used to demonstrate financial assurance shall account for the **total costs of conducting post-closure care for any closed and active portions of the facility, including annual and periodic costs** as described in the post-closure care plan over the entire post-closure care period.

Financial Assurance Process – Post-Closure Care, 15A NCAC 13B .1803

***Adjustments to
the Post-Closure
Cost Estimate
prior to certified
closure of unit.***

**annually adjust the
post-closure care cost
estimate for inflation.**

owner and operator shall **increase the post-closure care cost estimate and submit to the Division** if changes to the post-closure care plan or facility conditions increase the maximum cost of post-closure care at any time during the remaining active life of the facility.

Financial Assurance Process – Post-Closure Care, 15A NCAC 13B .1803

Adjustments to the post-closure cost estimate while in Post- Closure Care

Request to **reduce the post-closure care cost estimate if the cost estimate exceeds the maximum cost of post-closure care.**

- * Submit a ***revised post-closure care cost estimate*** and a ***written justification*** for the reduction to the Division for approval **no less than 180 calendar days prior to the anniversary of the date the financial assurance mechanism was established.**
- * Ensure the **written justification includes an itemized cost of expenditures.**
- * Ensure you are **adjusting for current cost of O&M**
- * Ensure you are also adding inflation.

No reduction of the post-closure care cost estimate or the amount of financial assurance shall be allowed without written approval from the Division.

Financial Assurance Process – Current Corrective Action Plan

Quinquennial Requirements:

Current Corrective Action Requirement:

Once every five years, the owner and operator shall update the cost estimate of the corrective action program and submit the following information to the Division in writing:

- (A) a description of the remedial actions selected pursuant to Rule.0545(e) or Rule .1636 of this Subchapter that have not been completed;
- (B) the number of years remaining for each remedial action until the remedial action is complete; and
- (C) the updated cost estimate for the remaining remedial actions.

Financial Assurance Process – Current Corrective Action Plan



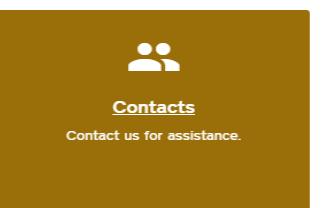
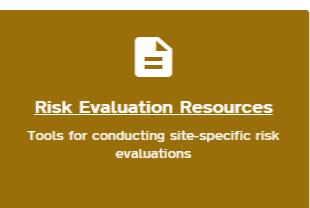
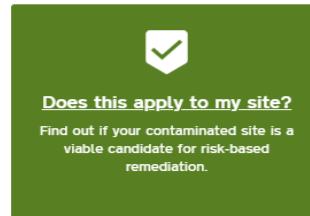
- Risked Based Remediation Option – <https://deq.nc.gov/permits-rules/risk-based-remediation>

Risk-Based Remediation

Introduction

Session Law 2015-286 allows risk-based remediation as a cleanup option at contaminated sites where the use of remedial actions and land-use controls can reliably ensure that affected properties are safe for their intended use. In addition to DEQ's Underground Storage Tank, Dry-cleaning Solvent Cleanup Act, and the Pre-Regulatory Land Fill Programs, risk-based remediation can now be considered in all DEQ environmental cleanup programs, except those subject to remediation pursuant to the Coal Ash Management Act of 2014 and the requirements of animal waste management systems.

A risk-based remedial alternative is best suited for sites where groundwater monitoring indicates that plume migration is stable or predictable, all unacceptable risk can be mitigated through engineered and/or institutional controls, and owners of all affected or potentially affected properties consent to the institutional controls.



Financial Assurance Process – Potential Assessment and Corrective Action

NCGS 130A 295.2(h), sanitary landfills are required to establish potential assessment and corrective action costs. This financial assurance requirement is in addition to other financial responsibility requirements.

15A NCAC 13B .1801:

- (i) Financial assurance for potential assessment and corrective action shall be established in accordance with G.S. 130A-295.2(h) and (h1), and shall be increased for inflation annually, concurrently with cost estimates for closure, post-closure care, and corrective action programs in accordance with Rules .1802(b)(1), .1803(b)(1), and .1804(b)(1) of this Section, respectively.

In Conclusion

- Per Statute, funds should be readily available to the State to access should we need to complete closure, post-closure or any current corrective action program at the site. The financial assurance program is here to protect North Carolina from having to find the funds to protect human health and the environment at your facility.
- Utilize the request for financial assurance reduction as we will not allow an annual reduction without approval of this request.
- Post-closure care costs may be increased or reduced, and the Section shall consider the following during our review, but not limited to changes to the ops plan, post-closure care activities, third party costs, compliance status, and environmental monitoring.
- The Section requests you review your current corrective action plans and fully understand the timeline you will be in an active corrective action plan. Would risk-based remediation be a more efficient plan to be able to close out a site?
- Review our financial assurance website (<https://deq.nc.gov/SWSFA>) for your annual needs (inflation, electronic forms, PACA estimates, etc.).
- Maintenance of financial assurance in the amounts required by Rule does not limit the responsibility of the owner for the full cost of site closure and clean up, the expenses of any onsite or offsite environmental restoration necessitated by activities at the facility, and liability for all damages to third parties or private or public properties caused by the establishment and operation of the facility.



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<https://deq.nc.gov/SWSFA>