

SECTION .1800 - FINANCIAL ASSURANCE REQUIREMENTS FOR SOLID WASTE MANAGEMENT FACILITIES

15A NCAC 13B .1801 GENERAL REQUIREMENTS

(a) Owners and operators of solid waste management facilities permitted by the Division in accordance with this Subchapter shall establish financial assurance as an environmental liability in accordance with this Section, with the exception of the following:

- (1) municipal solid waste landfill facilities that stopped receiving waste before October 9, 1993;
- (2) construction and demolition landfill facilities that stopped receiving waste before June 30, 2008;
- (3) scrap tire collection sites and solid waste compost facilities that are owned and operated by local governments;
- (4) solid waste management facilities that accept only yard waste, land clearing waste, or inert debris, unless the owners or operators have a "history of significant or repeated violations" as defined by G.S. 130A-295.3(c);
- (5) septage management facilities permitted by the Division in accordance with Section .0800 of this Subchapter;
- (6) facility owners and operators that are State or federal government entities; and
- (7) Small Type III solid waste compost facilities as defined in Rule .1402 of this Subchapter.

(b) For the purposes of this Section, the term "sanitary landfill" shall include the following facilities unless the facility is exempt from establishing financial assurance pursuant to Paragraph (a) of this Rule:

- (1) industrial landfill facilities;
- (2) municipal solid waste landfill facilities;
- (3) construction and demolition landfill facilities; and
- (4) landfills for the exclusive disposal of scrap tires, also known as "tire monofills."

(c) Owners and operators required to place documents in the facility's operating record pursuant to this Section shall submit copies of the documents to the Division, except as provided for in Paragraph (d) of this Rule.

(d) Owners and operators of solid waste management facilities that are required to establish financial assurance in accordance with this Section shall use the mechanisms provided in Rule .1805 of this Section to provide funding for closure, post-closure care, a corrective action program, and potential assessment and corrective action. The instruments used for financial assurance mechanisms shall be submitted to the Division as original signed hard copies, and unless stated otherwise in Rule .1806 of this Section, the language of the mechanisms shall be identical to the mechanism templates provided in Rule .1806 of this Section.

(e) Owners and operators of solid waste management facilities that are required to establish financial assurance in accordance with this Section shall submit itemized cost estimates for closure activities in accordance with Rule .1802 of this Section.

(f) Owners and operators of sanitary landfills that are required to establish financial assurance in accordance with this Section shall submit itemized cost estimates for post-closure care activities in accordance with Rule .1803 of this Section.

(g) Owners and operators of solid waste management facilities that are required to undertake a corrective action program in accordance with the rules of this Subchapter shall submit itemized cost estimates for the corrective action program in accordance with Rule .1804 of this Section.

(h) 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.

(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.

(j) When 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 in accordance with the rules of this Section, 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.

History Note: Authority G.S. 130A-294; 130A-295.2;
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