

**15A NCAC 13B .1804 FINANCIAL ASSURANCE COST ESTIMATE REQUIREMENTS FOR CORRECTIVE ACTION PROGRAMS**

(a) Owners and operators shall meet the following requirements for corrective action program cost estimate calculations:

- (1) The owner and operator of a sanitary landfill required by the Division to undertake a corrective action program in accordance with Rules .0545 or .1637 of this Subchapter shall have an itemized cost estimate of the cost of hiring a third party to implement the corrective action program. The corrective action program cost estimate shall be adjusted in accordance with Subparagraphs (b)(1) and (b)(2) of this Rule. The cost estimate shall include the total costs of the corrective action program for the entire corrective action period. The owner and operator shall submit the cost estimate to the Division for approval and shall place the approved cost estimate in the operating record. The cost estimate shall be approved if it is in compliance with the rules of this Section, Rule .0545 or Rules .1635 through .1637 of this Subchapter, and 15A NCAC 02L. 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.
- (2) In addition to the requirements for the corrective action program set forth in Subparagraph (1) of this Paragraph, the owner and operator of a sanitary landfill required to establish financial assurance in accordance with this Section shall comply with the requirements for potential assessment and corrective action set forth in G.S. 130A-295.2(h) and (h1).

(b) Owners and operators shall meet the following requirements for adjustments to the corrective action cost estimate and the amount of financial assurance:

- (1) During the active life of the facility, the owner and operator shall annually adjust the cost estimates for the corrective action program and potential assessment and corrective action and the amount of financial assurance for inflation. Owners and operators using the local government financial test or capital reserve fund as set forth in Rule .1805(e) of this Section shall submit the adjusted financial assurance mechanism for the corrective action program and potential assessment and corrective action to the Division prior to December 31, after the end of the local government's fiscal year. 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 mechanisms for the corrective action program and potential assessment and corrective action 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 provided 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 the financial assurance mechanism was established.
- (2) The owner and operator shall increase the cost estimate for the corrective action program and the amount of financial assurance and submit the revised cost estimate to the Division if changes to the corrective action program or facility conditions increase the maximum cost of corrective action program at any time during the remaining active life of the facility.
- (3) The owner and operator may request to reduce the cost estimate for the corrective action program and the amount of financial assurance if the cost estimate exceeds the maximum cost of the corrective action program at any time during the active life of the facility by submitting a revised cost estimate for the corrective action program 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 corrective action program cost estimate or the amount of financial assurance shall be allowed without written approval from the Division. The reduction justification and the Division approval shall be placed in the facility's operating record. In making the determination on approval of the request, the Division shall consider the following factors for the facility:
  - (A) completion of or changes to corrective action program activities or other circumstances;

- (B) changes to third party corrective action program costs;
- (C) compliance status of the owner and operator; and
- (D) environmental monitoring data.

(c) Owners and operators of sanitary landfills that are required to undertake a corrective action program under Rules .0545 or .1637 of this Subchapter shall establish financial assurance in accordance with this Section for the most recent corrective action program in compliance with G.S. 130A-295.2(f). The owner and operator shall provide continuous coverage for the corrective action program until released from financial assurance requirements for the corrective action program by demonstrating compliance with the facility's permit and corrective action plan, 15A NCAC 02L, and Rule .0545(m) and (n) of this Subchapter for construction and demolition landfill facilities, and Rule .1637(f) and (g) of this Subchapter for municipal solid waste landfill facilities.

(d) Maintenance of financial assurance in the amounts required by this Rule does not limit the responsibility of owners or operators for the full cost of site closure and clean up, the expenses of any on-site or off-site 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.

*History Note:* Authority G.S. 130A-294; 130A-295.2;  
Eff. July 1, 2020.