

**15A NCAC 13B .1802 FINANCIAL ASSURANCE COST ESTIMATE REQUIREMENTS FOR CLOSURE**

(a) Owner and operators shall meet the following requirements for closure cost estimate calculations:

- (1) Owners and operators of solid waste management facilities other than sanitary landfills that are required to establish financial assurance in accordance with this Section shall submit to the Division with the permit application an itemized cost estimate for financial assurance for closure of the facility. The closure cost estimate shall be adjusted in accordance with Subparagraphs (b)(1) and (b)(2) of this Rule. The closure cost estimate shall be 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. The calculations shall include estimates for all waste types that are permitted by the Division in accordance with this Subchapter to be stored on site.
- (2) Owners and operators of sanitary landfills that are required to establish financial assurance in accordance with this Section shall submit to the Division 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 required in accordance with this Subchapter. The closure cost estimate shall be adjusted in accordance with Paragraph (b) of this Rule. A copy of the closure cost estimate shall be placed in the closure plan and the facility's operating record.

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

- (1) During the active life of the facility, the owner and operator shall annually adjust the closure cost estimate 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 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 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.
- (2) The owner and operator shall increase the closure cost estimate and the amount of financial assurance and submit the revised closure cost estimate to the Division if changes to the closure plan or facility conditions increase the maximum cost of closure at any time during the remaining active life of the facility.
- (3) The owner and operator may request to reduce the closure cost estimate and the amount of financial assurance if the cost estimate exceeds the maximum cost of closure at any time during the active life of the facility by submitting 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. No reduction of the closure 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) changes to operations, closure activities, or other circumstances;
  - (B) changes to third party closure costs;
  - (C) compliance status of the owner and operator; and
  - (D) environmental monitoring data.

(c) Owners and operators of solid waste management facilities that are required to establish financial assurance in accordance with this Section shall establish financial assurance for closure of the facility in compliance with G.S. 130A-295.2(f). Owners and operators of sanitary landfills shall provide continuous coverage for closure until released from financial assurance requirements for closure by demonstrating compliance with the facility's permit and closure plan, with the closure letter issued to the facility by the Division, and with Rule .0543 of this Subchapter for construction and demolition landfill facilities, Rule .1627(c) of this Subchapter for municipal solid waste landfill

facilities, and Rule .0510 of this Subchapter for other sanitary landfills. Owners and operators of solid waste management facilities other than sanitary landfills shall provide continuous coverage for closure until released from financial assurance requirements for closure by demonstrating that the closure requirements for the respective facility type set forth in this Subchapter and the requirements in the facility's permit and closure plan have been met.

(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.