

Municipal Solid Waste Sanitary Landfill Financial Assurance Report Form: Guidelines

Financial Assurance to be submitted annually, no later than April 1st by all Municipal Solid Waste Landfill (MSWLF) permit holders, to comply with the requirements outlined in 567 IAC Chapter 113.14. Use of the Municipal Solid Waste Sanitary Landfill Financial Assurance Report Form provides permit holders a uniform means of submitting all required documentation to ensure facility closure and postclosure account balances and to provide financial assurance for facility closure, postclosure care and any required corrective action at MSWLFs.

Submittal of the completed and signed form, along with all required supporting documentation, establishes the permit holder's:

- Annual Financial Assurance Certification for closure in compliance with 567 IAC 113.14(3)"b" and 567 IAC Chapter 113.14(3)"c"
- Annual Financial Assurance Certification for postclosure care in compliance with 567 IAC 113.14(4)"b" and 567 IAC Chapter 113.14(4)"c"
- Annual Financial Statement and Closure and Postclosure Account Balances in compliance with Iowa Code sections 455B.306(7)"c" and 455B.306(9)"e"; 567 IAC 113.14(3); and 567 IAC 113.14(4)
- Statement confirming Initial Proof of Establishment of Closure and Postclosure Accounts by April 1, 2003, in compliance with 567 IAC 113.14(8)"f". Accounts established pursuant to paragraph 113.14(6)"a" for trust funds or paragraph 113.14(6)"i" for local government dedicated funds also satisfies the requirement of this subrule, and the permit holder shall not be required to establish additional closure and postclosure accounts
- Annual closure cost estimate of hiring a third party to close the MSWLF, in current dollars, certified by an Iowa-licensed professional engineer. Updated closure cost estimates must address, at a minimum, each of the cost line items defined in 567 IAC 113.14(3)"c" for reporting and review uniformity. Please provide closure site area acreage information with the estimates
- Annual postclosure cost estimate of hiring a third party to conduct postclosure care for the MSWLF, in current dollars, certified by an Iowa-licensed professional. Updated postclosure cost estimates must address, at a minimum, each of the cost line items defined in 113.14(4)"c" for reporting and review uniformity. Please provide postclosure site area acreage information with the estimates
- Financial Assurance for corrective action, if required, in compliance with 567 IAC 113.14(5) and the cost estimate of hiring a third party to perform the required corrective action described in the approved corrective action plan, in current dollars, certified by an Iowa-licensed professional engineer

The following documentation shall be submitted in support of the chosen financial assurance instrument for closure, postclosure care or corrective action, whichever is applicable.

Trust Fund - 567 IAC 113.14(6)"a"

- Copy of the executed trust fund agreement
- An account established pursuant to paragraph 113.14(6)"a" for trust funds or paragraph 113.14(6)"i" for local government dedicated funds also satisfies the requirements of subrule 113.14(8) and the permit holder shall not be required to establish closure and postclosure accounts in addition to said financial assurance accounts

Note: A secondary financial assurance mechanism to cover the unfunded portion of the closure or postclosure cost estimate(s) is not required for those utilizing Trust Funds or Local Government Dedicated Funds

Surety Bond Guaranteeing Payment or Performance – 567 IAC 113.14(6)"b"

- Copy of the executed surety bond in an amount at least equal to the amount for closure, postclosure care or corrective action, whichever is applicable
- Copy of a standby trust fund that meets the requirements of 113.14(6)"a" except the requirements for initial payment and subsequent annual payments specified in subparagraphs 113.14(6)"a"(2) through (5)

Letter of Credit – 567 IAC 113.14(6)"c"

- Copy of the letter of credit (LOC) that complies with the following terms as stated in 113.14(6)"c"(3):

- LOC must be irrevocable and issued for a period of at least one year in an amount at least equal to the estimated costs for closure, postclosure care, or corrective action, whichever is applicable
- LOC must provide that the expiration date will be automatically extended for a period of at least one year unless the issuing institution has cancelled the letter of credit 120 days in advance of cancellation
- Letter from the MSWLF owner or operator referring to the LOC by number, issuing institution, and date, and providing the name and address of the facility, and the amount of funds assured

Insurance – 567 IAC 113.14(6)“d”

- Copy of the executed insurance policy that is issued for an amount at least equal to the estimated costs for closure, postclosure care, or corrective action, whichever is applicable. The insurance policy must:
 - Guarantee that funds will be available to close the MSWLF unit whenever final closure occurs or to provide postclosure care for the MSWLF unit whenever the postclosure care period begins, whichever is applicable
 - Guarantee that once closure or postclosure care begins, the insurer will be responsible for the paying out of the funds to the owner or operator or other person authorized to conduct closure or postclosure care, up to an amount equal to the face amount of the policy
 - Contain a provision allowing assignment of the policy to a successor owner or operator.
 - Provide that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium

Corporate Financial Test – 567 IAC 113.14(6)“e”

- Letter signed by a certified public accountant and based upon a certified audit that:
 - Lists all the current closure, postclosure care or corrective action cost estimates covered by a financial test
 - Provides evidence demonstrating that the owner or operator firm satisfies one of the following three conditions as listed under 113.14(6)“e”(1):
 - 1) A current rating for its senior unsubordinated debt of AAA, AA, A, or BBB as issued by Standard & Poor’s or Aaa, Aa, A or Baa as issued by Moody’s; or
 - 2) A ratio of less than 1.5 comparing total liabilities to net worth (net worth calculations may not include future permitted capacity of the subject landfill as an asset); or
 - 3) A ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus \$10 million, to total liabilities
 - Lists that the tangible net worth, excluding future permitted capacity of the subject landfill, of the owner or operator is greater than the sum of the current closure, postclosure care, or corrective action cost estimates and any other environmental obligations covered by the financial test plus \$10 million;
 - Lists that the owner or operator has, located in the United States, assets, excluding future permitted capacity of the subject landfill, amounting to at least the sum of current closure, postclosure care, and corrective action cost estimates and any other environmental obligations covered by a financial test
- A special report from the owner’s or operator’s independent certified public accountant is required, if the certified public accountant’s letter includes financial data satisfying subparagraph 113.14(6)“e”(1) that differs from data in the audited financial statements, stating the reasons for any differences
- Copy of the independent certified public accountant’s unqualified opinion of the owner’s or operator’s financial statements for the latest completed fiscal year

Local Government Financial Test – 567 IAC 113.14(6)“f”

- Letter signed by the local government’s chief financial officer that:
 - Lists all the current closure, postclosure care or correction active cost estimates covered by a financial test
 - Provides evidence and certifies that the local government meets the following conditions as listed under 113.14(6)“f”(1)“1”:
 - 1) If the owner or operator has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, the owner or operator must have a current rating of Aaa, Aa, A, or Baa, as issued by

- Moody's, or AAA, AA, A, or BBB, as issued by Standard & Poor's on all such general obligation bonds; or
- 2) A ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05, and a ratio of annual debt service to total expenditures less than or equal to 0.20 based on most recent audited annual financial statement
- o States that the financial statements were prepared in conformity with Generally Accepted Accounting Principles or Other Comprehensive Basis of Accounting and have had its financial statements audited by an independent certified public accountant or the office of the auditor of the state of Iowa
- o Provides evidence that the local government is not currently in default on any outstanding general obligation bonds, has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard & Poor's, did not operate at a deficit equal to 5 percent or more of total annual revenue in each of the past two fiscal years or received an adverse opinion or disclaimer of opinion from the independent certified public accountant or office of the auditor of the state of Iowa
- o Certifies that disclosure of the closure and postclosure care costs assured through the financial test will be included into its next annual audit report prior to the initial receipt of waste at the facility or prior to cancellation of an alternative financial assurance mechanism, whichever is later. For closure and postclosure costs, conformance with Government Accounting Standards Board Statement 18 ensures compliance with this public notice component
- o Provides evidence that the costs to be assured are not greater than 43 percent of the local government's total annual revenue (must obtain an alternate financial assurance instrument for costs that exceed 43 percent of the local government's total annual revenue)
- Copy of the local government's annual financial report

Corporate Guarantee – 567 IAC 113.14(6)“g”

- Certified copy of the corporate guarantee that states the following:
 - o If the owner or operator fails to perform closure, postclosure care, or corrective action of a facility covered by the guarantee, or fails to obtain alternate financial assurance within 90 days of notice of intent to cancel pursuant to 113.14(6)“g”(3)“2” and “3,” the guarantor will:
 - 1) Perform, or pay a third party to perform, closure, postclosure care, or corrective action as required; or
 - 2) Establish a fully funded trust fund as specified in subrule 113.14(6)“a” in the name of the owner or operator; or
 - 3) Obtain alternate financial assurance as required by 113.14(6)“g”(3)“3”
 - o The guarantee will remain in force for as long as the owner or operator must comply with the applicable financial assurance requirements
 - o If notice of cancellation is given, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the department, provide to the department adequate proof of alternate financial assurance, notice from the guarantor of withdrawal of the cancellation, or proof of the establishment of a fully funded trust fund pursuant to subrule 113.14(6)“a”
- The guarantor must also meet the requirements of the Corporate Financial Test

Local Government Guarantee – 567 IAC 113.14(6)“h”

- Certified copy of the local government guarantee that states the following:
 - o If the owner or operator fails to perform closure, postclosure care, or corrective action of a facility covered by the guarantee or fails to obtain alternate financial assurance within 90 days of notice of intent to cancel pursuant to 113.14(6)“h”(1)“2” and “3”, the guarantor will:
 - 1) Perform, or pay a third party to perform, closure, postclosure care, or corrective action as required; or
 - 2) Establish a fully funded trust fund as specified in subrule 113.14(6)“a” in the name of the owner or operator; or
 - 3) Obtain alternate financial assurance as required by 113.14(6)“h”(1)“3”
 - o The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the department
 - o If notice of cancellation is given, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the department, provide to the

department adequate proof of alternate financial assurance, notice from the guarantor of withdrawal of the cancellation, or proof of the establishment of a fully funded trust fund pursuant to subrule 113.14(6)“a”

- The guarantor must also meet the requirements of the Local Government Financial Test

Local Government Dedicated Fund – 567 IAC 113.14(6)“i”

- Documentation of establishment of a dedicated fund or account that complies with subparagraph 113.14(6)“i”(1) or (2) and all other provisions of subrule 113.14(6)“i”
- An account established pursuant to paragraph 113.14(6)“a” for trust funds or paragraph 113.14(6)“i” for local government dedicated funds also satisfies the requirements of subrule 113.14(8) and the permit holder shall not be required to establish closure and postclosure accounts in addition to said financial assurance accounts

Note: A secondary financial assurance mechanism to cover the unfunded portion of the closure or postclosure cost estimate(s) is not required for those utilizing Trust Funds or Local Government Dedicated Funds

Financial Assurance Exemptions:

- The Municipal Solid Waste Sanitary Landfill Financial Assurance Report Form applies only to municipal solid waste landfill facilities that did not stop accepting waste for the purpose of closure by August 24, 1994, and does not
- The Municipal Solid Waste Sanitary Landfill Financial Assurance Report Form does not apply to properly exempted state and federal government entities

Please submit one copy of the completed form and supporting documentation to:

Planning, Permitting & Engineering Services
Iowa Department of Natural Resources
Wallace State Office Building
502 East 9th Street
Des Moines, IA 50319

Questions? Call or email: Chad A. Stobbe at (515) 242-5851 or Chad.Stobbe@dnr.iowa.gov