

2025 NDDEQ Solid Waste Financial Assurance Workshop

Presentation Objectives

- › Overview
- › Open Area
- › The Webpage
- › Rounding Policy
- › Annual Submittal
- › The Form
- › Mechanisms
- › Liability Requirements
- › Changing Allowable Acreage
- › Release of Financial Assurance
- › Costs Per Acre Comparisons
- › Most Common Deficiencies

Overview

Overview

- › Financial assurance is required for all solid waste disposal facilities with the exception of inert waste landfills (NDAC Subsection 33.1-20-14-01(1))
- › Financial assurance must be in place prior to acceptance of solid waste (NDAC Subsection 33.1-20-14-01(2))
- › Use of multiple mechanisms is allowed (NDAC Subsection 33.1-20-14-01(3))

Overview

- › Cost estimates for closure and postclosure must be for the costs of hiring a 3rd party to complete closure and postclosure (NDAC Subsection 33.1-20-14-02(1)):
 - Initial cost estimates must be in current dollars, adjusted annually for inflation (NDAC Subdivision 33.1-20-14-02(1)(a))
 - Cost estimate for closure must equal the cost of closing the largest area requiring final cover during the active life of the facility (NDAC Subdivision 33.1-20-14-02(1)(b))

Overview

- › Cost estimates for closure and postclosure must be for the costs of hiring a 3rd party to complete closure and postclosure (NDAC Subsection 33.1-20-14-02(1)):
 - If changes in the closure plan or postclosure plan increase the maximum costs of closure or postclosure care, the cost estimates must be increased (NDAC Subdivision 33.1-20-14-02(1)(c))
 - Cost estimate for postclosure must account for the total costs of postclosure care over the entire postclosure period (NDAC Subdivision 33.1-20-14-02(1)(d))

Overview

- › New closure or postclosure cost estimates must be prepared when any of the following occurs (NDAC Subsection 33.1-20-14-02(2)):
 - Changes in the operating plans or facility design affect the closure or postclosure plans (NDAC Subdivision 33.1-20-14-02(2)(a))
 - There is a change in the expected year of closure (NDAC Subdivision 33.1-20-14-02(2)(b))
 - The Department directs the owner or operator to revise the closure or postclosure plan (NDAC Subdivision 33.1-20-14-02(2)(c))

Open Area

Open Area

- › Current open area versus maximum permitted open area
 - Current open area = what is open as of today
 - Maximum permitted open area = largest open area that will require closure during the life of the facility
- › Cost estimate for closure must equal the cost of closing the largest area requiring final cover during the active life of the facility (NDAC Subdivision 33.1-20-14-02(1)(b))

Open Area

- › 2025 Annual Financial Assurance Summary Form will ask for:
 - Open area covered by closure cost estimate
 - Current open area
 - Maximum allowed open area (according to the facility's permit)

d. The Maximum Allowed Open Area (according to the facility's permit):

Maximum Allowed Open Area (Permitted Area)	Acres (xx.xx) 25.00
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e. Current Estimated Open Area:

Current Estimate Open Area (Constructed Footprint minus Certified Closed Areas)	Acres (xx.xx) 17.50
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The Webpage

How to access the webpage: Links

- › <https://deq.nd.gov/>
- › Direct Link:
 - <https://deq.nd.gov/WM/Solidwasteprogram/FinancialAssurance/>

How to access the webpage

[Electronic Reporting & Permit Systems](#)

- [Report a Spill](#)
- [Sustainability](#)
- [Environmental Topics A-Z](#)
- [Inspections and Enforcements](#)
- [Risk Based Corrective Action](#)
- [Public Comments, Meetings & Notices](#)
- [Calendar and Events](#)
- [Rules and Regulations](#)
- [Forms](#)
- [Publications](#)
- [Press Releases](#)
- [Open Records](#)
- [Legislative Testimony](#)
- [Employment Opportunities](#)
- [Nondiscrimination Policy](#)
- [Environmental Audits](#)
- [Environmental Review Advisory Council](#)

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DEQ Divisions

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- [Waste Management](#)**
- [Water Quality](#)
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Welcome to the Department of Environmental Quality (DEQ)

The North Dakota Department of Environmental Quality's Vision is for a sustainable, high quality environment for current and future generations. Our Mission is to conserve and protect the quality of North Dakota's air, land and water resources following science and the law.

In cooperation with the general public, industry and government at all levels, the department implements protective programs and standards to help maintain and improve environmental quality.

Current Topics

- [Lead & Copper Rule Public Webinar Recording](#)
- [Chemistry Lab Fee Increase Letter](#)
- [PFAS Information and ND Testing Studies](#)
- [Compliance Letter: Underground Storage Tanks](#)
- [State Revolving Fund Lead and Copper Rule Fact Sheet](#)
- [State's Open Burning Regulations Reminder](#)

New or Changed Rules

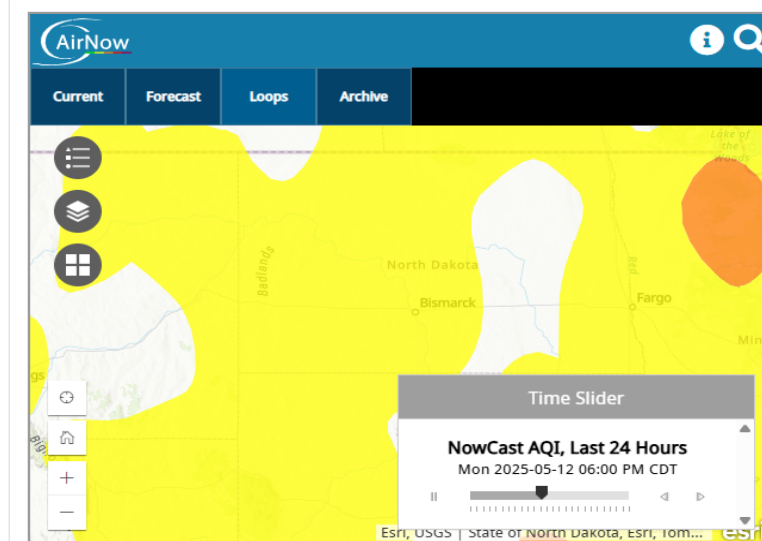


Need more information or have questions? Please call the North Dakota Department of Environmental Quality at 701-328-5150.

You may also [subscribe to the email list for public notices](#) to receive updates about new or changed rules. For information on Environmental Protection Agency regulations, please see: <https://www.epa.gov/laws-regulations/regulations>.

Environment at a Glance

Current Air Conditions



How to access the webpage

Division of Waste Management

The programs in the North Dakota Department of Environmental Quality's Division of Waste Management work to protect and improve the state's natural environment for all. This is done by enforcing state and federal environmental laws designed to regulate where and how materials are stored and their ultimate disposal. The division also works to encourage waste reduction, recycling and beneficial reuse.



Chuck Hyatt

Director, Division of Waste Management

[Learn more about the division](#)

 Notice: [Waste Management Public Notices can be found here](#)

Programs

Hazardous Waste Program

- Law
- Rules
 - July 1, 2021 Rule Update Summary
- Brownfields
- Polychlorinated
- Permitted Facilities
- State/EPA Site Information
 - transport, dispose or recycle
- Biennial Report - Due March 1, 2024
- Household Hazardous Waste
- Inspections
- Compliance Assistance **New**
- Pharmaceuticals

Solid Waste Program

- Law
- Rules
- Abandoned Motor Vehicle (scrap metal)
- Coal Combustion Residuals (CCR)
- Contact Information **New**
- **Financial Assurance**
- Infectious Waste
- Medication / Pharmaceutical Waste
- Permit Applications in Progress
- Pollution Prevention
- Region Map **New**
- Recycling
- Training
- Transportation
 - Online Waste Hauler Permit Application

Underground Storage Tank Program

- Law (Scroll to page 7 [23.1-04-06.])
- Rules
- UST Online Services
 - Operator Training
 - New Operator Application
 - Certificate Of Compliance
 - Reports
- Summary Information On Underground Storage Tanks
- Antifreeze Regulation
- Petroleum And Fuel Products



Webpage



Solid Waste Program Financial Assurance

Note: This webpage is strictly for Solid Waste Program Financial Assurance. Contact the other programs within the North Dakota Department of Environmental Quality (Department) for any financial assurance questions pertaining to those programs.

Questions for Solid Waste Program Financial Assurance may be addressed to [Diana Trussell](#) at 701-328-5164 or the Solid Waste Program at 701-328-5166 or solidwaste@nd.gov.



Other Department Programs with Financial Assurance

Groundwater Protection Program	+
Hazardous Waste Program	+
Radiation Control	+
Underground Storage Tank Program	+



Financial Assurance

What is Financial Assurance?

Financial Assurance is a financial mechanism or instrument provided by an entity to ensure timely environmental cleanup should an owner or operator be unable or unwilling to perform required environmental actions.

Why is Financial Assurance required for the Solid Waste Program?

North Dakota Century Code (NDCC) Subsection 23.1-08-09(1) requires that any entity that controls the permitholder [for solid waste management facilities] agrees to accept responsibility for any remedial measures, closure and postclosure care, or penalties incurred by the permitholder.

North Dakota Administrative Code (NDAC) Chapter 33.1-20-14 Financial Assurance Requirements identifies these requirements for the Solid Waste Program.

Webpage



Important Information

How do I update the Solid Waste Program Financial Assurance Contact for my facility(ies)?



When is the Solid Waste Program Annual Financial Assurance due?



Where do I send Solid Waste Program financial assurance?



Can a facility utilize multiple mechanisms?



What is the current inflation factor?



Policy Memos and Guidance Documents

Policy Memos



Guidance Documents



[Annual Summary Info Form Guidance](#)

[Guideline 18 Financial Assurance](#)

[Guideline 19 Liability Requirements](#)

[Guideline 20 Closure Post Closure Care Costs](#)



Forms and Templates



Webpage



Forms and Templates

Forms

[Solid Waste Program Annual Financial Assurance Summary Form](#)
[Contact Information](#)

Mechanism Verbiage (Word Templates)

Closure/Postclosure (C-PC) Care

[C-PC Trust](#)
[C-PC Surety Bond](#)
[C-PC Irrevocable Letter of Credit](#)
[C-PC Insurance Policy](#)
[C-PC Financial Test and Corporate Guarantee](#)

Liability Coverage

[Liability Trust](#)
[Liability Surety Bond](#)
[Liability Irrevocable Letter of Credit \(Stand-alone & Combination with Standby Trust\)](#)
[Liability Insurance Policy](#)

Liability Coverage & Liability Coverage and Closure/Postclosure Care

[Liability Financial Test and Corporate Guarantee](#)

Other Templates

[C-PC Trust Amendment Example](#)
[NOTICE - Failure to Fulfill Financial Test Example](#)

Rounding Policy

Rounding Policy Link

- › <https://deq.nd.gov/Publications/WM/SW/FinancialAssurance/FinancialRoundingPolicy.pdf>

Rounding Policy

- › Standard rounding to the nearest penny
 - Look at the number to the right of the full cents.
 - › 148,587.48⁵
 - If the number is five (5) or more, increase the cents by one (1). If the number is four (4) or less, keep the cents the same.
 - › 148,587.48⁵ -> 148,587.4⁹
 - › 771,332.12¹ -> 771,332.1²
 - Can always put more funds than the cost estimate to maintain compliance

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Example #1

› \$407,322.25 with an inflation factor of 1.029

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Example #1

- › \$419,134.595
- › \$419,134.60

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Example #2

› \$701,472.12 with an inflation factor of 1.011

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Example #2

- › \$709,188.313
- › \$709,188.31

Annual Submittal

Annual Submittal

- › Department will be sending out:
 - Letters to each facility with the maximum allowed open area by permit
 - Memos with the inflation factor and annual submittal requirements
- › Must include ALL of the required documentation in one submittal by the due date
- › Each year the closure cost estimate and postclosure cost estimate must be adjusted for inflation (NDAC Subsection 33.1-20-14-04(1))

Annual Submittal

- › The following information must be submitted to the Department by August 31st each year (NDAC Subsection 33.1-20-14-04(2) and NDAC Subdivisions 33.1-20-14-04(2)(a)-(f)):
 - Updated inflation adjusted closure cost estimate and postclosure cost estimate
 - A summary of financial assurance in place
 - Submittal date of the most recent detailed cost estimates for closure and postclosure
 - Maximum allowed open area and quantities
 - Current estimated open area and quantities
 - Mechanisms in use

The Form

Guidance & Form Links

- › Form: <https://deq.nd.gov/Publications/WM/SW/FinancialAssurance/AnnualSummaryInfoForm.pdf>
- › Guidance: <https://deq.nd.gov/Publications/WM/SW/FinancialAssurance/AnnualSummaryInfoFormGuidance.pdf>



2025 ANNUAL FINANCIAL ASSURANCE SUMMARY
NORTH DAKOTA DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WASTE MANAGEMENT – SOLID WASTE PROGRAM
05/2025

Telephone: 701-328-5166
Fax: 701-328-5200
Email: solidwaste@nd.gov
Website: <https://deq.nd.gov/wm>

Please read the guidance instructions. Include additional information/attachments as necessary.

Facility Name	
Permit Number	Submittal Year 2025

NDAC Subsection 33.1-20-14-04(2)

- a. Updated Inflation Adjusted Closure Cost Estimate (for maximum allowed open area according to the facility's permit) and Postclosure Cost Estimate (Review the Department's Rounding Policy <https://deq.nd.gov/WWM/Solidwasteprogram/FinancialAssurance/> and complete this section accordingly.)

Closure Cost Estimate (Adjusted for Inflation)*:

Open Area Covered by Closure Cost Estimate (in acres):

*If in postclosure status, place "0" Complete one category.

- ☐ Closure Option 1: Inflation Adjusted Cost (show calculation)

Previous Year's Cost Estimate Numbers		Inflation Factor		Inflation Adjusted Cost Estimate	
	X	1.024	=		
Clicking this box indicates you acknowledge the Full Inflation Adjustment Summary Table is attached.					
Comments:					

- ☐ Closure Option 2: New Cost Estimate in Current Dollars

Submittal must include Current Dollar Third-Party Detailed Cost Estimate Spreadsheet(s).
Comments:

Postclosure Cost Estimate (Adjusted for Inflation):

Total Area Covered by Postclosure Cost Estimate (in acres):

Complete one category:

- ☐ Postclosure Option 1: Inflation Adjusted Cost (show calculation)

Previous Year's Cost Estimate Numbers		Inflation Factor		Inflation Adjusted Cost Estimate	
	X	1.024	=		
Clicking this box indicates you acknowledge the Full Inflation Adjustment Summary Table is attached.					
Comments:					

- ☐ Postclosure Option 2: New Cost Estimate in Current Dollars

Submittal must include Current Dollar Third-Party Detailed Cost Estimate Spreadsheet(s).
Comments:

Total Closure & Postclosure Amount (Adjusted for Inflation):

- b. Summary Of Financial Assurance In Place (Check all that apply & Include documentation, if applicable).

Management Unit		Qty	Cost Estimate(s) Coverage	
	Landfill		Closure	Postclosure
	Surface Impoundment(s) [waste in place]		Closure	Postclosure
	Surface Impoundment(s) [clean closed]		Closure	Postclosure
	Land Treatment Area(s)		Closure	Postclosure
	Other (Specify)		Closure	Postclosure
	Other (Specify)		Closure	Postclosure
Financial assurance for corrective action. (NDAC Section 33.1-20-14-05)				
Liability requirements for industrial waste landfills. (NDAC Section 33.1-20-14-06)				
Comments				

- c. The Submittal Date of The Most Recent Detailed Cost Estimates For Closure and Postclosure:

	Submittal Date	Year Cost Estimate Was Prepared
Closure (mm/dd/yyyy)		
Postclosure (mm/dd/yyyy)		

- d. The Maximum Allowed Open Area (according to the facility's permit):

Maximum Allowed Open Area (Permitted Area)	Acres (xx.xx)
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- e. Current Estimated Open Area:

Current Estimate Open Area (Constructed Footprint minus Certified Closed Areas)	Acres (xx.xx)
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- f. Mechanisms In Use (Check all that apply. Include all required mechanism update documentation with your annual submittal.)

Financial Test including: <ul style="list-style-type: none">Letter from Chief Financial OfficerAlternative I or Alternative IICopy of Independent Certified Public Accountant's Report for latest fiscal yearReport from Independent Certified Public Accountant to Owner/Operator	Trust including: <ul style="list-style-type: none">Amended Trust<ul style="list-style-type: none">Updated Exhibit AUpdated Schedule AUpdated Schedule B	Bond including: <ul style="list-style-type: none">Updated Bond or Bond RiderAmended Standby Trust Agreement<ul style="list-style-type: none">Updated Exhibit AUpdated Schedule AUpdated Schedule B
Corporate Guarantee including: <ul style="list-style-type: none">Corporate GuaranteeLetter from Chief Financial OfficerAlternative I or Alternative IICopy of Independent Certified Public Accountant's Report for latest fiscal yearReport from Independent Certified Public Accountant to Owner/Operator	Irrevocable Letter of Credit <ul style="list-style-type: none">Updated Letter of CreditAmended Standby Trust Agreement<ul style="list-style-type: none">Updated Exhibit AUpdated Schedule AUpdated Schedule B	Insurance Policy <ul style="list-style-type: none">Updated Insurance Policy
Note: Be sure to also check and include the mechanism updates for industrial liability requirements, if applicable. Use the comments box below to identify which mechanism(s) are utilized for industrial liability.		

Comments:

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Facility Name & Permit Number



2025 ANNUAL FINANCIAL ASSURANCE SUMMARY

NORTH DAKOTA DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WASTE MANAGEMENT – SOLID WASTE PROGRAM
05/2025

Telephone: 701-328-5166

Fax: 701-328-5200

Email: solidwaste@nd.gov

Website: <https://deq.nd.gov/wm>

Please read the guidance instructions. Include additional information/attachments as necessary.

Facility Name Mark's Industrial Waste Landfill	
Permit Number 9887	Submittal Year 2025

Closure Option 1

NDAC Subsection 33.1-20-14-04(2)

- a. Updated Inflation Adjusted Closure Cost Estimate **(for maximum allowed open area according to the facility's permit)** and Postclosure Cost Estimate (*Review the Department's Rounding Policy <https://deq.nd.gov/WM/Solidwasteprogram/FinancialAssurance/> and complete this section accordingly.*)

Closure Cost Estimate (Adjusted for Inflation)*: \$729,942.94

Open Area Covered by Closure Cost Estimate (in acres): 25 acres

**If in postclosure status, place "0" Complete one category:*



Closure Option 1: Inflation Adjusted Cost (*show calculation*)

Previous Year's Cost Estimate Numbers		Inflation Factor		Inflation Adjusted Cost Estimate	
\$712,834.90	X	1.024	=	\$729,942.94	
Clicking this box indicates you acknowledge the Full Inflation Adjustment Summary Table is attached.					
Comments:					



Closure Option 2: New Cost Estimate in Current Dollars

Submittal must include Current Dollar Third-Party Detailed Cost Estimate Spreadsheet(s).

Comments:

Closure Option 2

NDAC Subsection 33.1-20-14-04(2)

- a. Updated Inflation Adjusted Closure Cost Estimate (for maximum allowed open area according to the facility's permit) and Postclosure Cost Estimate (Review the Department's Rounding Policy <https://deq.nd.gov/WWM/Solidwasteprogram/FinancialAssurance/> and complete this section accordingly.)

Closure Cost Estimate (Adjusted for Inflation)*: \$729,942.94

Open Area Covered by Closure Cost Estimate (in acres): 25 acres

*If in postclosure status, place "0" Complete one category:

☐

Closure Option 1: Inflation Adjusted Cost (show calculation)

Previous Year's Cost Estimate Numbers		Inflation Factor		Inflation Adjusted Cost Estimate	
	X	1.024	=		
Clicking this box indicates you acknowledge the Full Inflation Adjustment Summary Table is attached.					
Comments:					



Closure Option 2: New Cost Estimate in Current Dollars

Submittal must include Current Dollar Third-Party Detailed Cost Estimate Spreadsheet(s).

Comments:

Postclosure Option 1

Postclosure Cost Estimate (Adjusted for Inflation):

\$327,327.59

Total Area Covered by Postclosure Cost Estimate (in acres):

25 acres

Complete one category:



Postclosure Option 1: Inflation Adjusted Cost (*show calculation*)

Previous Year's Cost Estimate Numbers		Inflation Factor		Inflation Adjusted Cost Estimate
\$319,655.85	X	1.024	=	\$327,327.59
Clicking this box indicates you acknowledge the Full Inflation Adjustment Summary Table is attached.				
Comments:				



Postclosure Option 2: New Cost Estimate in Current Dollars

Submittal must include Current Dollar Third-Party Detailed Cost Estimate Spreadsheet(s).

Comments:

Postclosure Option 2

Postclosure Cost Estimate (Adjusted for Inflation):

\$327,327.59

Total Area Covered by Postclosure Cost Estimate (in acres):

25 acres

Complete one category:

☐

Postclosure Option 1: Inflation Adjusted Cost (*show calculation*)

Previous Year's Cost Estimate Numbers		Inflation Factor		Inflation Adjusted Cost Estimate	
	X	1.024	=		
Clicking this box indicates you acknowledge the Full Inflation Adjustment Summary Table is attached.					
Comments:					

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Postclosure Option 2: New Cost Estimate in Current Dollars

Submittal must include Current Dollar Third-Party Detailed Cost Estimate Spreadsheet(s).

Comments:

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Total Closure & Postclosure Amount

Closure Cost Estimate (Adjusted for Inflation)*:

\$729,942.94

+

Postclosure Cost Estimate (Adjusted for Inflation):

\$327,327.59

=

Total Closure & Postclosure Amount (Adjusted for Inflation):

\$1,057,270.53

Summary Of Financial Assurance In Place

b. Summary Of Financial Assurance In Place (Check all that apply & Include documentation, if applicable).

✓	Management Unit	Qty	✓	Cost Estimate(s)	Coverage
✓	Landfill	1	✓	Closure	✓ Postclosure
	Surface Impoundment(s) [waste in place]			Closure	Postclosure
	Surface Impoundment(s) [clean closed]			Closure	Postclosure
	Land Treatment Area(s)			Closure	Postclosure
	Other (Specify)			Closure	Postclosure
	Other (Specify)			Closure	Postclosure
	Financial assurance for corrective action. (NDAC Section 33.1-20-14-05)				
✓	Liability requirements for industrial waste landfills. (NDAC Section 33.1-20-14-06)				
Comments					

Submittal Dates

c. The Submittal Date of The Most Recent Detailed Cost Estimates For Closure and Postclosure:

	Submittal Date	Year Cost Estimate Was Prepared
Closure (mm/dd/yyyy)	7/3/2025	2025
Postclosure (mm/dd/yyyy)	7/3/2025	2025

- Make sure to submit your financial assurance forms & attachments by August 31st!

Maximum Allowed Open Area & Current Estimated Open Area

d. The Maximum Allowed Open Area (according to the facility's permit):

Maximum Allowed Open Area (Permitted Area)	Acres (xx.xx) 25.00
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e. Current Estimated Open Area:

Current Estimate Open Area (Constructed Footprint minus Certified Closed Areas)	Acres (xx.xx) 17.50
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Mechanisms in Use

- › The mechanisms section will now include a list of the minimum required attachment needed for each mechanism

f. Mechanisms In Use (Check all that apply. Include all required mechanism update documentation with your annual submittal.)

	Financial Test including: <ul style="list-style-type: none"> • Letter from Chief Financial Officer • Alternative I or Alternative II • Copy of Independent Certified Public Accountant's Report for latest fiscal year • Report from Independent Certified Public Accountant to Owner/Operator 	✓	Trust including: <ul style="list-style-type: none"> • Amended Trust <ul style="list-style-type: none"> ○ Updated Exhibit A ○ Updated Schedule A ○ Updated Schedule B 		Bond including: <ul style="list-style-type: none"> • Updated Bond or Bond Rider • Amended Standby Trust Agreement <ul style="list-style-type: none"> ○ Updated Exhibit A ○ Updated Schedule A ○ Updated Schedule B
	Corporate Guarantee including: <ul style="list-style-type: none"> • Corporate Guarantee • Letter from Chief Financial Officer • Alternative I or Alternative II • Copy of Independent Certified Public Accountant's Report for latest fiscal year • Report from Independent Certified Public Accountant to Owner/Operator 		Irrevocable Letter of Credit <ul style="list-style-type: none"> • Updated Letter of Credit • Amended Standby Trust Agreement <ul style="list-style-type: none"> ○ Updated Exhibit A ○ Updated Schedule A ○ Updated Schedule B 		Insurance Policy <ul style="list-style-type: none"> • Updated Insurance Policy

Note: Be sure to also check and include the mechanism updates for industrial liability requirements, if applicable. Use the comments box below to identify which mechanism(s) are utilized for industrial liability.

Mechanisms

Trust Fund/Standby Trust Fund

- › Trust Fund/Standby Trust Fund (NDAC Subsection 33.1-20-14-07(1))
- › Trust Agreement and Certification of Acknowledgement

<https://deq.nd.gov/Publications/WM/SW/FinancialAssurance/word/ClosurePostClosureTrust.docx>

Trust Fund/Standby Trust Fund

› Exhibit A – update if there are changes

EXHIBIT A

The following persons, acting singly or collectively, shall have the right to issue instructions to the Trustee pursuant to Section 14 of the Agreement:

Original Trust Agreement date: [xx/xx/xxxx]

Exhibit Revision date: [xx/xx/xxxx]

[Utilize Department information identified below unless otherwise directed by the Department]

<u>Name</u>	<u>Title</u>	<u>Address</u>
[Department Authorized Staff]	Division Director, Division of Waste Management, North Dakota Department of Environmental Quality	4201 Normandy St. Bismarck, ND 58503-1324
[Other Authorized Facility Name]	[Title]	[Address]

[If more than one person has been designated by the GRANTOR to provide orders, requests, and instructions to the TRUSTEE, provide the name, title, and address for each person.]

Trust Fund/Standby Trust Fund

- › Schedule A – Update each year to reflect new closure/post-closure cost estimates

SCHEDULE A

On Schedule A, for each facility list the name, address, unit(s), and the current final closure, post-closure care cost estimates, or portions thereof, for which financial assurance is demonstrated by this agreement.

Original Trust Agreement date: [xx/xx/xxxx]

Schedule Revision date: [xx/xx/xxxx]

Name and address of Facility(ies):

Name: _____

Address: _____

City, State, Zip: _____

Business Contact person: _____

Contact phone: _____

Permit number: _____

Closure cost estimate: \$ _____

Post-closure cost estimate \$ _____

Total cost estimates \$ _____

[If this Agreement demonstrates financial assurance for more than one facility, provide the name, address, and closure and/or postclosure estimated for each facility.]

Trust Fund/Standby Trust Fund

- › Schedule B – Update each year to reflect new total amount of funds

SCHEDULE B

On Schedule B, list the amount the trust is funded. If the trust is a standby trust, list the amount the trust would have in it, if it were funded. Select from **one or more** of the options below according to the type of financial assurance used. If none of the options pertain, contact the Department.

Original Trust Agreement date: [xx/xx/xxxx]

Schedule Revision date: [xx/xx/xxxx]

Option 1

SCHEDULE B-Fully Funded

This trust fund is funded on [Date] in the amount of [Dollar amount spelled out] U.S. dollars (\$___).

Option 2

SCHEDULE B-Surety Bond

The corpus of this trust is now empty and when funded the amount will be [Dollar amount spelled out] U.S. dollars (\$___) from [Name of surety bond company]. The surety bond number is ____.

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Trust Fund/Standby Trust Fund

› Schedule B

Option 3

SCHEDULE B-Letter of Credit

The corpus of this trust is now empty and when funded the amount will be [Dollar amount spelled out] U.S. dollars (\$) from [Name of financial institution]. The letter of credit number is .

Option 4

Schedule B-Payment into Trust

This trust is funded on the [Day] day of [Month], [Year], in the amount of [Dollar amount spelled out] U.S. dollars (\$).

This amount represents the first payment into the trust as provided in NDAC Subdivision 33.1-20-14-07(1)(c).

The second installment in the amount of [Dollar amount spelled out] U.S. dollars (\$) will be deposited into the trust on or before [Date].

The third and final installation in the amount of [Dollar amount spelled out] U.S. dollars (\$) will be deposited into the trust on or before [Date].

Surety Bond

- › Bond – Guarantee Bond or Performance Bond (NDAC Subsection 33.1-20-14-07(2))
 - Surety company issuing bond must be among those acceptable sureties on federal bonds in Circular 570 of the US Dept. of Treasury and authorized to do business within North Dakota
- › Standby Trust Fund

<https://deq.nd.gov/Publications/WM/SW/FinancialAssurance/word/ClosurePostClosureSuretyBond.docx>

Surety Bond

› Bond

- Updated bond or bond rider each year
- Standby Trust Agreement – if changes were made
 - › Exhibit A – Update if there are changes
 - › Schedule A – Update each year to reflect new closure/post-closure cost estimates
 - › Schedule B – Update each year to reflect new total amount of funds

Irrevocable Letter of Credit

- › Letter of Credit (NDAC Subsection 33.1-20-14-07(3))
 - Issuing institution must have authority to issue letters of credit in ND and its operations must be regulated and examined by a federal or state agency
 - Must be irrevocable and issued for at least one year with expiration date that will be automatically extended for one year
- › Standby Trust Fund

<https://deg.nd.gov/Publications/WM/SW/FinancialAssurance/word/ClosurePostClosureIrrevocableLetterofCredit.docx>

Irrevocable Letter of Credit

- › Updated Letter of Credit
 - Standby Trust Agreement – if changes were made
 - › Exhibit A – Update if there are changes
 - › Schedule A – Update each year to reflect new closure/post-closure cost estimates
 - › Schedule B – Update each year to reflect new total amount of funds

Insurance Policy

- › Insurance Policy (NDAC Subsection 33.1-20-14-07(4))
 - Licensed to transact business in ND or eligible to provide insurance as an excess or surplus lines insurer in one or more states
 - Insurer may not cancel, terminate, or fail to renew the policy, except for failure to pay the premium. The automatic renewal of the policy must provide the insured with the option of renewal at the face amount of the expiring policy.

<https://deq.nd.gov/Publications/WM/SW/FinancialAssurance/word/ClosurePostClosureInsurancePolicy.docx>

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Insurance Policy

- › Updated Insurance Policy – must be provided each year

Financial Test

- › Financial Test (NDAC Subsection 33.1-20-14-07(5))
 - Ratio of current assets to current liabilities greater than 1.5
OR
 - Current rating for the owner's or operator's most recent bond issuance of:
 - › AAA, AA, A, or BBB as issued by Standard and Poor's
 - › Aaa, Aa, A, or Baa as issued by Moody's
 - Net working capital and tangible net worth each at least 4 times the sum of current cost estimates for closure or post-closure, whichever is applicable
 - Tangible net worth of at least \$2 million dollars
 - Assets located in the US amounting to at least 4 times the current cost estimates for closure or postclosure care, whichever is applicable

Financial Test

› Financial Test

- Letter from Chief Financial Officer
- Alternative I
- Alternative II

<https://deq.nd.gov/Publications/WM/SW/FinancialAssurance/word/ClosurePostClosureFinancialTestandCorporateGuarantee.docx>

Financial Test

- › Letter from Chief Financial Officer
- › Alternative I or Alternative II
- › Copy of an independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest fiscal year

Financial Test

- › Report from an independent certified public accountant to the owner or operator stating that:
 - The accountant has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited yearend financial statements for the latest fiscal year; and
 - In connection with that procedure, no matters came to lead the accountant to believe that specified data should be adjusted

Corporate Guarantee

- › Corporate Guarantee (NDAC Subsection 33.1-20-14-07(5))
 - Direct or higher-tier parent corporation of the owner or operator
 - OR
 - Firm whose parent corporation is also the parent corporation of the owner or operator
 - OR
 - Firm with a substantial business relationship with the owner or operator
 - Written Guarantee

<https://deq.nd.gov/Publications/WM/SW/FinancialAssurance/word/ClosurePostClosureFinancialTestandCorporateGuarantee.docx>

Corporate Guarantee

- › Corporate Guarantee plus Financial Test documentation
 - Letter from Chief Financial Officer
 - Alternative I or Alternative II
 - Copy of an independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest fiscal year

Corporate Guarantee

- › Corporate Guarantee plus Financial Test documentation
 - Report from an independent certified public accountant to the owner or operator stating that:
 - › The accountant has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited yearend financial statements for the latest fiscal year; and
 - › In connection with that procedure, no matters came to lead the accountant to believe that specified data should be adjusted

Liability Requirements

Liability Requirements

- › Required for owners or operators of industrial waste landfills (NDAC Section 33.1-20-14-06)
- › Must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility
- › Liability coverage for sudden accidental occurrences in the amount of at least \$1 million per occurrence with an annual aggregate of at least \$2 million, exclusive of legal defense costs

Liability Requirements

- › Trust

<https://deq.nd.gov/Publications/WM/SW/FinancialAssurance/word/LiabilityTrust.docx>

- › Surety Bond

<https://deq.nd.gov/Publications/WM/SW/FinancialAssurance/word/LiabilitySuretyBond.docx>

- › Irrevocable Letter of credit

<https://deq.nd.gov/Publications/WM/SW/FinancialAssurance/word/LiabilityIrrevocableLetterofCredit.docx>

Liability Requirements

- › Insurance Policy

<https://deq.nd.gov/Publications/WM/SW/FinancialAssurance/word/LiabilityInsurancePolicy.docx>

- › Financial Test and Corporate Guarantee

<https://deq.nd.gov/Publications/WM/SW/FinancialAssurance/word/LiabilityFinancialTestandCorporateGuarantee.docx>

Changing Allowable Open Acreage

Open Acreage

- › The amount of open acreage your facility is allowed is determined during permitting (NDAC Subdivision 33.1-20-14-02(1)(b)):
 - Plan of Operations
 - Closure/Postclosure Plan
- › Newer permits specifically call out the amount of open acreage you are allowed

F.16. Sequential closure of solid waste disposal units shall be implemented as described in the approved closure plan.

The largest approved open area is 40 acres before sequential partial closure must be initiated. (NDAC Subdivision 33.1-20-04.1-03(1)(g) and NDAC Subsection 33.1-20-04.1-05(2))

Open Acreage

- › To increase or decrease the amount of open acreage, you must submit the following to Department:
 - Written request showing the increase or decrease and reason for the request
 - Revised cost estimates for closure
- › The submittal must be sent to:
 - solidwaste@nd.gov AND your assigned Department inspectors
 - OR
 - Mailed to:
 - Diana Trussell
 - NDDEQ – Solid Waste Program
 - 4201 Normandy St., 2nd Floor
 - Bismarck, ND 58503

Open Acreage

- › The Department will respond in writing either approving or denying the request to change the open acreage.
- › If approved, you will need to submit updated financial assurance documents based on your facility's financial assurance mechanism(s)

Release of Financial Assurance

Release of Financial Assurance

- › Financial assurance can be released partially or fully
 - Change in mechanism
 - Decrease in financial assurance required
 - Completion of closure
 - Completion of postclosure
- › Request for release must be submitted in writing to the Department
- › The Department will review and respond in writing either approving or denying the release
 - The owner or operator will be notified in writing
 - The financial institution or insurance company will be notified in writing

Costs Per Acre Comparisons

Costs Per Acre Comparisons – Closure Costs

› Industrial Landfills

- Allowable Open Acres:

- › 4.13 acres to 55 acres (average = 28 acres)

- Closure Costs per Acre:

- › \$11,405 per acre to \$247,586 per acre (average = \$130,099 per acre)

› MSW Landfills

- Allowable Open Acres:

- › 5.8 acres to 80 acres (average = 31 acres)

- Closure Costs per Acre:

- › \$43,507 per acre to \$108,061 per acre (average = \$69,650 per acre)

Costs Per Acre Comparisons – Closure Costs

- › Oilfield Special Waste Landfills
 - Allowable Open Acres:
 - › 5.9 acres to 62.87 acres (average = 20 acres)
 - Closure Costs per Acre:
 - › \$29,400 per acre to \$84,321 per acre (average = \$41,477 per acre)

- › Power Plants – Special Waste Landfills & Surface Impoundments (includes CCR)
 - Allowable Open Acres:
 - › 6 acres to 269 acres (average = 81 acres)
 - Closure Costs per Acre:
 - › \$41,493.29 per acre to \$394,996.51 per acre (average = \$113,874 per acre)

Costs Per Acre Comparisons – Postclosure Costs

› Industrial Landfills

– Postclosure Area Acres:

› 18 acres to 100 acres (average = 48 acres)

– Postclosure Costs per Acre:

› \$8,567.20 per acre to \$201,360.00 per acre (average = \$86,688 per acre)

› MSW Landfills

– Postclosure Area Acres:

› 15 acres to 190 acres (average = 87 acres)

– Postclosure Costs per Acre:

› \$8,357.59 per acre to \$59,739.84 per acre (average = \$28,708 per acre)

Costs Per Acre Comparisons – Postclosure Costs

- › Oilfield Special Waste Landfills
 - Postclosure Area Acres:
 - › 19 acres to 80 acres (average = 55 acres)
 - Postclosure Costs per Acre:
 - › \$10,643.26 per acre to \$47,556.35 per acre (average = \$27,472 per acre)

- › Power Plants – Special Waste Landfills & Surface Impoundments (includes CCR)
 - Postclosure Area Acres:
 - › 6 acres to 320 acres (average = 99 acres)
 - Postclosure Costs per Acre:
 - › \$2,828.13 per acre to \$126,330.78 per acre (average = \$27,881 per acre)

Most Common Deficiencies

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What's wrong here?

Closure Cost Estimate (Adjusted for Inflation)*:

\$594,291.42

Open Area Covered by Closure Cost Estimate (in acres):

13.5 acres

d. The Maximum Allowed Open Area (according to the facility's permit):

Maximum Allowed Open Area (Permitted Area)	Acres (xx.xx) 20.00
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e. Current Estimated Open Area:

Current Estimate Open Area (Constructed Footprint minus Certified Closed Areas)	Acres (xx.xx) 13.5
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Maximum Open Area

- Deficiency
 - The financial assurance must cover the maximum allowed open area by the permit, not the current open area of the landfill.

d. The Maximum Allowed Open Area (according to the facility's permit):

Maximum Allowed Open Area (Permitted Area)	Acres (xx.xx) 20.00
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e. Current Estimated Open Area:

Current Estimate Open Area (Constructed Footprint minus Certified Closed Areas)	Acres (xx.xx) 13.5
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What's wrong here?

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Closure Option 1: Inflation Adjusted Cost (*show calculation*)

Previous Year's Cost Estimate Numbers		Inflation Factor		Inflation Adjusted Cost Estimate	
\$411,920.23	X	1.024	=	\$421,806.31	
Clicking this box indicates you acknowledge the Full Inflation Adjustment Summary Table is attached.					
Comments:					

Rounding Policy

- Deficiency
 - Adequate financial assurance is not demonstrated.
- › $411,920.23 \times 1.024 = 421.806.315$
- › $421.806.315 \rightarrow 421.806.32$
- › Standard rounding to the nearest penny
 - If the number is five (5) or more, increase the cents by one (1).
 - If the number is four (4) or less, keep the cents the same.
- › Can also have more financial assurance than required to be safe

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What's wrong here?

Website: <https://deq.nd.gov/wm>

Please read the guidance instructions. Include additional information/attachments as necessary.

Facility Name Mark's Industrial Waste Landfill	
Permit Number 0792, 0781, 9291, 9887	Submittal Year 2025

Form submittals

- › Remember to keep each permit number separate for each form!
- › Mark will need 4 separate forms for 4 permits.

Facility Name Mark's Industrial Waste Landfill	
Permit Number 0792	Submittal Year 2025

Facility Name Mark's Industrial Waste Landfill	
Permit Number 0781	Submittal Year 2025

Facility Name Mark's Industrial Waste Landfill	
Permit Number 9291	Submittal Year 2025

Facility Name Mark's Industrial Waste Landfill	
Permit Number 9887	Submittal Year 2025

Required Mechanism Update Documentation

› Deficiency:

- Not submitting ALL of the required mechanism update documentation

f. Mechanisms In Use (Check all that apply. Include all required mechanism update documentation with your annual submittal.)

<p>Financial Test including:</p> <ul style="list-style-type: none"> • Letter from Chief Financial Officer • Alternative I or Alternative II • Copy of Independent Certified Public Accountant's Report for latest fiscal year • Report from Independent Certified Public Accountant to Owner/Operator 		<p>Trust including:</p> <ul style="list-style-type: none"> • Amended Trust <ul style="list-style-type: none"> ○ Updated Exhibit A ○ Updated Schedule A ○ Updated Schedule B 		<p>Bond including:</p> <ul style="list-style-type: none"> • Updated Bond or Bond Rider • Amended Standby Trust Agreement <ul style="list-style-type: none"> ○ Updated Exhibit A ○ Updated Schedule A ○ Updated Schedule B
<p>Corporate Guarantee including:</p> <ul style="list-style-type: none"> • Corporate Guarantee • Letter from Chief Financial Officer • Alternative I or Alternative II • Copy of Independent Certified Public Accountant's Report for latest fiscal year • Report from Independent Certified Public Accountant to Owner/Operator 		<p>Irrevocable Letter of Credit</p> <ul style="list-style-type: none"> • Updated Letter of Credit • Amended Standby Trust Agreement <ul style="list-style-type: none"> ○ Updated Exhibit A ○ Updated Schedule A ○ Updated Schedule B 		<p>Insurance Policy</p> <ul style="list-style-type: none"> • Updated Insurance Policy

Note: Be sure to also check and include the mechanism updates for industrial liability requirements, if applicable. Use the comments box below to identify which mechanism(s) are utilized for industrial liability.

Questions?

Contact Information

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