

INTRADEPARTMENTAL MEMORANDUM

FILE: Financial Assurance

TO: Facilities Who May Have Financial Assurance With Both the Radiation Control Program and the Solid Waste Program

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SUBJECT: Separation of Standby Trust Agreements and Accounts

DATE: June 24, 2022

The North Dakota Department of Environmental Quality, Division of Waste Management (Department) has recently reviewed the Radiation Control and Solid Waste Program's (Programs) financial assurance documentation for several of their licensees and permittees currently maintaining common standby trust accounts. As each of the Programs have varying time schedules for financial assurance amount evaluations and renewals, and documentation requirements, the Division saw the need for adjustments to the standby trust policies.

In most cases, the Radiation Control Program sets forth one-time financial assurance costs and allows for automatic renewal of the financial assurance documents (i.e., surety bond, letter of credit). Licensees maintaining financial assurance amounts determined by a decommissioning funding plan are required to resubmit the decommissioning funding plan at the time of license renewal and at intervals not to exceed 3 years. The resubmittals reflect adjustments as necessary to account for changes in costs. These changes would subsequently require amendments/revisions to the respective standby trust agreements.

The Solid Waste Program requires the permittee's financial assurance to be annually recalculated to reflect inflation and ultimately, at a minimum, the standby trust agreement schedules must be revised annually to reflect the new financial assurance values.

In addition, the verbiage in each of the Program's standby trust agreements is specific to each of the Program's requirements. The current standby trust agreements are not adequately worded to satisfy the requirements of multiple programs.

In response to the review, the Department has determined it is necessary for licensees and permittees to maintain separate standby trust agreements and accounts for each of the Programs to avoid any conflicts or delays in satisfying the requirements for closure/post-closure and decommissioning.

Licensees and permittees currently maintaining a single standby trust account for multiple programs will be required to provide separate standby trust accounts and standby trust agreements for each of the programs. The Department will no longer allow standby trust accounts and agreements to cross over multiple programs. Licensees and permittees currently possessing common standby trust agreements and accounts are hereby required to obtain separate standby trust agreements and accounts by August 31, 2022.

If you have any questions, please contact Diana Trussell of the Solid Waste Program at 701-328-5164 or dtrussell@nd.gov or David Stradinger at the Radiation Control Program at 701-328-6410 or dstradinger@nd.gov.