



## Final Regulation Agency Background Document

<b>Agency Name:</b>	Department of Environmental Quality
<b>VAC Chapter Number:</b>	9 VAC 20-70
<b>Regulation Title:</b>	Old Title: Financial Assurance Regulations for Solid Waste Facilities New Title: Financial Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment Facilities
<b>Action Title:</b>	Amendment 2
<b>Date:</b>	Enter Date

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

### Summary

*Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.*

This regulatory amendment is being proposed to better protect the Commonwealth and local governments from the burden of costs associated with abandoned solid waste disposal, transfer, and treatment facilities. The amendment requires submission of documentation that better enables the department to verify that mechanisms are funded to the required amounts. Also the amendment incorporates statutory changes that have been enacted since the regulations were last amended. The regulations are also being updated to maintain consistency with federal regulations.

Facilities that have statistically exceeded groundwater protection standards will be required to provide an additional \$1 million of financial assurance using any of the available financial mechanisms. This money will be available to the department in the event of facility abandonment during the process of selecting a corrective action remedy.

In response to comments, the section requiring facilities exceeding groundwater protection standards to provide \$1 million of financial assurance is being modified to clarify when facilities will be required to provide the additional financial assurance and when a facility's obligation to provide the additional financial assurance ends. Also, the local government financial test is being modified. Local governments using a financial test that assures between 20% and 43% of their total annual revenue for environmental liabilities now will have the option of obtaining a letter of credit in addition to the options of establishing a restricted sinking fund or escrow account.

## Statement of Final Agency Action

*Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.*

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The Virginia Waste Management Board adopted the Proposed Financial Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment Facilities, Amendment 2 as final regulations on September 14, 2001.

## Basis

*Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.*

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### **State Authority**

Section 10.1-1402 of the Virginia Waste Management Act, Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Code of Virginia, authorizes the Virginia Waste Management Board to promulgate and enforce regulations necessary to carry out its powers and duties and the intent of the chapter and federal law. Specifically, § 10.1-1410 of the Act directs the Board to promulgate regulations which ensure that, if a solid waste treatment, transfer or disposal facility is abandoned, the costs associated with protecting the public health and safety from the consequences of such abandonment may be recovered from the person abandoning the facility.

During the 2000 General Assembly session, § 10.1-1410 of the Code of Virginia was amended to include transfer facilities (including facilities regulated under § 10.1-1454.1 of the Code of Virginia) in the universe of facilities required to provide financial assurance. The code was also amended to require insurance to be written by an insurer licensed pursuant to Chapter 10 (§ 38.2-1000 et seq.) of Title 38.2 of the Code of Virginia. This amendment incorporates the changes that were made to the code during the 2000 General Assembly. The web site addresses for the full text of sections cited above are:

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+10.1-1402> for Section 10.1-1402;  
<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+10.1-1410> for Section 10.1-1410;  
<http://leg1.state.va.us/cgi-bin/legp504.exe?001+ful+CHAP0137>; and  
<http://leg1.state.va.us/cgi-bin/legp504.exe?001+ful+CHAP0138> for the amendments to the Code of Virginia.

Any other amended details of the regulation not expressly mandated by state law are designed to set adequate levels of funding and otherwise insure that financial assurance is available in the event of facility abandonment. Virginia regulations require all landfills, material recovery facilities, medical waste treatment facilities, incinerators, and composting facilities to provide financial assurance. This amendment adds requirements for transfer stations, including facilities regulated under § 10.1-1454.1 of the Code of Virginia, to provide financial assurance to the department. The regulations are also being amended to change the local government financial test to require local governments that have total environmental liabilities between 20% to 43% of their total annual revenues to establish a restricted sinking fund or escrow account, or to obtain a letter of credit to fund the closure costs of the facility. Facilities required to monitor groundwater will also be required to provide an additional \$1 million of financial assurance with the department if they exceed groundwater protection standards.

### **Federal Authority**

Federal requirements for solid waste management facilities are found in the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et. seq. (RCRA) and the associated regulations, found at Parts 257 and 258 of Title 40, Code of Federal Regulations (40 CFR). RCRA section 6949a (c) provides for the promulgation of special criteria for municipal solid waste (MSW) landfills. These criteria are found in 40 CFR part 258. Among other requirements, the Administrator of the U. S. Environmental Protection Agency (EPA) has promulgated Subpart G of 40 CFR Part 258 (40 CFR §§ 258.70 to 258.75), which addresses financial assurance for MSW landfills.

Federal law and regulation mandates that states develop criteria for sanitary landfills, including MSW landfills. States may seek approval of their MSW landfill programs. By obtaining final approval, states are able to act as the primary implementation authority for the MSW landfill program under 40 CFR Part 258.

Except for financial assurance requirements (40 CFR Subpart G), EPA has approved the Commonwealth's MSW landfill program (approval effective May 31, 1994). This regulatory

amendment will allow the Commonwealth to apply for final program approval of its MSW landfill program.

The federal financial assurance requirements address only MSW landfills. State statute requires additional types of facilities to provide financial assurance. The website for 40 CFR 258 Subpart G is: <http://www.epa.gov/epahome/rules.html#codified>

The Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.

## Purpose

*Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.*

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This regulation must be amended to incorporate statutory changes, and to be more protective of the health, safety and welfare of the citizens of the Commonwealth.

The goals of this amendment are to enhance the department's ability to monitor the financial assurance being provided for solid waste management facilities and to ensure that funding is available for closure, post-closure, and corrective action costs. Cost estimates and financial mechanism information are to be submitted to the department for approval. Submission of this information assists the department with monitoring compliance with the regulations, which protect local governments and the Commonwealth from the burden of paying for closure of an abandoned facility.

Facilities that have statistically exceeded groundwater protection standards are also being required to provide an additional \$1 million using any of the available financial mechanisms. Currently years are passing between facilities detecting a statistically significant exceedance of groundwater protection standards and the selection of a corrective action remedy. During this period of time, facilities are not providing additional financial assurance, even though a problem has been detected at the facility that would potentially be expensive to correct. Under the current regulations, if an owner or operator abandons a facility prior to selecting a corrective remedy, no funding has been provided to the Commonwealth for corrective action in the case of facility abandonment. This requirement has been added to protect the Commonwealth from the facility postponing or delaying the selection of a corrective remedy to postpone providing corrective action financial assurance. The \$1 million would serve as a good faith payment and would encourage facilities to select a corrective remedy and provide financial assurance for the corrective action. This money will be returned to the facility after it is determined that a facility is no longer statistically exceeding groundwater protection standards or when a facility has provided financial assurance for the selected corrective action.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.*

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These regulations must be amended to incorporate statutory changes that have taken place since the regulations were last amended. The regulations are being amended to be more reliably protective of the Commonwealth in the cases of facility abandonment.

This amendment includes submission of documentation that enables DEQ to verify that mechanisms are funded to the required amounts. This amendment provides more reliable protection to the Commonwealth, that in the case of facility abandonment, the funding provided by the facility will be available for DEQ to conduct closure, post-closure or corrective action at the facility.

The local government financial test mechanism has been revised to require facilities that have total environmental liabilities between 20% to 43% of the local government's total annual revenues to establish a restricted sinking fund or escrow account, or obtain a letter of credit for the purpose of closure of the facility. This change strengthens the financial test by requiring a local government to commit money annually to cover future closure expenses. This better ensures that funds will be available for closure when it occurs and local governments with fewer cash reserves will not be caught unprepared when it is time to close the landfill. Previously there was no requirement for funds to be set aside for the closure costs of the facility if a locality was using the local government financial test.

Facilities that have statistically exceeded groundwater protection standards must provide an additional \$1 million using any of the available financial mechanisms. This money will be available to the department for additional financial assurance in the case of facility abandonment during the selection of a corrective action remedy or prior to entry into the corrective action program. This money will be returned to the facility after it has been determined that a facility is no longer statistically exceeding groundwater protection standards or when the facility has provided financial assurance for a selected corrective action remedy.

## Issues

*Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.*

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The primary advantage to the public and local government is the protection from having to pay for the closure and post-closure care of abandoned solid waste management facilities. The

regulations also protect the public and local government from hazards associated with abandoned facilities. There is no disadvantage to the public. By amending the regulations, the Board is continuing to protect human health and the environment.

The primary advantage to the Commonwealth is that the Commonwealth will be better protected from having to pay for the closure and post-closure costs associated with an abandoned solid waste management facility. The requirement to provide an additional \$1 million of financial assurance with the department upon exceeding groundwater protection standards further protects the department and the public from the expense of paying for costs associated with properly closing a facility. There are no disadvantages to the Commonwealth.

The primary disadvantage to the regulated community, including local governments, is that they will be required to provide financial assurance for more facilities, including transfer stations including facilities regulated under § 10.1-1454.1 of the Code of Virginia. These facilities are required by statute to provide financial assurance. Also facilities that have statistically exceeded groundwater protection standards will be required to provide an additional \$1 million of financial assurance.

## Statement of Changes Made Since the Proposed Stage

*Please highlight any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication.*

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The name of the regulations is being changed from Financial Assurance Regulations for Solid Waste Facilities to Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities. This change will assist the regulated community with understanding the applicability of these regulations. Also terminology in the regulations was modified in places to be consistent throughout the regulation. In some places the words “corrective action” were added to clarify that the mechanisms can be used to provide financial assurance for closure, post-closure and/or corrective action. Language has also been added to the mechanism sections clarifying that documentation of the mechanism being used by the facility shall be placed in the facility’s operating record.

### 9 VAC 20-70-10 Definitions

The definition of “facility” has been clarified to state that transfer stations are considered facilities for the purpose of these regulations. The definition of “owner” has been changed to use terms used to describe business relationships. Definitions of “garbage and refuse collection and disposal system” and “secure access control” are being removed from the regulations since they are obsolete and are no longer used in the regulations. A definition of “current year expenses for closure” has been added.

### 9 VAC 20-70-50 Applicability of Chapter

References to the Transportation of Solid and Medical Wastes on State Waters Regulations have been removed. A reference to the Regulated Medical Waste Management Regulations has been clarified. This section now cites section numbers instead of articles and parts.

9 VAC 20-70-70 Suspensions and Revocations and 9 VAC 20-70-75 Forfeitures

References to the Transportation of Solid and Medical Wastes on State Waters Regulations have been removed.

9 VAC 20-70-81 General purpose and scope

The time frame for departmental review of financial assurance mechanisms was changed to 60 days. Also this section has been clarified to state that the mechanism shall be in the amount equal to the cost estimate approved by the department.

9 VAC 20-70-90 Closure, post-closure care and corrective action requirements

The wording was changed from “appeal” to “re-examination.” References to the Transportation of Solid and Medical Wastes on State Waters Regulations have been removed. A general statement was added to the section to remind owners and operators of the requirement to close facilities in accordance with all applicable regulations.

9 VAC 20-70-111 Cost estimate for facility closure

This section has been clarified to state that the owner or operator shall provide financial assurance in current dollars for the cost of closure of the unit.

9 VAC 20-70-112 Cost estimate for facility post-closure

This section has been changed to be consistent with the requirements of the Virginia Solid Waste Management Regulations (VSWMR). The VSWMR require revisions to post-closure care plans to be approved by the director. This section now states that the post-closure cost estimate and the amount of financial assurance must be increased within 30 days of the director approving a revision to the post-closure care plan. A copy of the post-closure estimate shall be maintained in the facility’s operating record.

9 VAC 20-70-113 Financial Assurance for Corrective Action

This section has been modified to include language detailing when the additional \$1 million of financial assurance must be provided to the department and when the facility will no longer be required to provide the \$1 million of financial assurance.

9 VAC 20-70-150 Trust fund

The owner or operator will not be required to provide the calculation for determining the payment into the trust fund and proof of the current trust balance 15 days prior to the anniversary date. The owner or operator is now only required to submit this information prior to the anniversary date. Also reimbursements from the trust fund will not be made until the pay in period is complete.

9 VAC 20-70-160 Surety bond guaranteeing payment or performance

A requirement was added for the owner or operator to submit evidence that the power of attorney of the attorney-in-fact executing the bond is recorded pursuant to § 38.2-2416 of the Code of Virginia. This is not a new requirement, but has been a statutory requirement of which many owners and operators were not aware. By including this information in the regulation, the department is clarifying the fact that this information is required to be submitted by statute.

Language has also been removed from this section. Final closure will be deemed to have been completed once the director determines that final closure, post-closure, or corrective action has been completed. Criteria for closure is found in the VSWMR and other applicable regulations.

Language addressing corrective action, that mirrors language currently in the section concerning closure and post-closure, has been added.

#### 9 VAC 20-70-170 Letter of Credit

This section has been clarified to state that the issuing institution is to deposit payments from the letter of credit into the standby trust. Payment from the trust must be approved by the director. Also when an owner or operator fails to perform closure, post-closure, or corrective action, the director shall cash the letter of credit.

#### 9 VAC 20-70-180 Certificate of deposit

The certificate of deposit shall be maintained until proper final closure, post-closure, or corrective action is completed. The original assignment and the certificate of deposit must be submitted to the department to demonstrate that the requirements of the regulations have been met.

Owners or operators using the certificate of deposit must establish a standby trust fund. A standby trust fund is needed to manage the funds from a certificate of deposit if the department must cash the certificate. Payments will be made by the issuing institution into the standby trust fund. Payments from the trust fund shall be approved by the director.

#### 9 VAC 20-70-190 Insurance

This section has been clarified to state when reimbursement for closure, post-closure or corrective action will be made. Owners and operators are also required to notify the director when they have filed for bankruptcy.

#### 9 VAC 20-70-200 Corporate financial test

A statement has been added to the section clarifying the items that shall be placed in the facility's operating record.

Also, since corporations can insure aboveground storage tanks using financial tests, the environmental liabilities associated with aboveground storage tanks must be considered when examining the total environmental liabilities of a corporation.

#### 9 VAC 20-70-210 Local government financial test

In addition to establishing a restricted sinking fund or escrow account, local governments whose environmental liabilities (insured by a financial test) are between 20% and 43% of their total annual revenue, will also have the option of obtaining a letter of credit for the cost of closing of the facility. The formula used to determine the amount of money to be placed in the restricted sinking fund or escrow account, or the amount of the letter of credit that must be obtained, has been included in this section.



9 VAC 20-70-220 Corporate guarantee

The certification referenced by this section is already addressed by the corporate financial test and does not need to be repeated in this section. This reference has been removed.

9 VAC 20-70-230 Local government guarantee

The certification referenced by this section is already addressed by the local government financial test and does not need to be repeated in this section. This reference has been removed.

9 VAC 20-70-290 Wording of Financial Mechanisms

The wording of mechanisms have been updated to include references to corrective action. Also the mechanisms have been modified for use with unpermitted facilities.

The department is clarifying that if the department prevails in an action to enforce a bond, interest accrued will be payable to the department.

The assignment of the Certificate of Deposit form has been rearranged.

References to regulations have been corrected in the Wording of the Letter from the Chief Financial Officer. Language in the letter from the Chief Financial Officer has been modified to be consistent with language in other sections of the regulations.

References in the Letter from the Local Government's Chief Financial Officer has been modified to include correct references to current Virginia Regulations. The option of obtaining a letter of credit has been added to the option of establishing a restricted sinking fund or escrow account.

The formula to determine the amount of funding for the restricted sinking fund, escrow account, or letter of credit has been clarified in 20-70-290 I.

## Public Comment

*Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.*

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In addition to seeking general comments on the regulations, the Board requested comments on the costs and benefits of the proposal. The Board also requested comments on how the revised financial test and the requirement of establishing a restricted sinking fund or escrow account would impact local governments' budgets.

The following is a summary of the comments received and the agency's response:

**General Comments**

A few comments of editorial nature were received. The department incorporated the editorial changes were appropriate.

One commenter disagreed with removing text from the enforcement and appeal section. In recent years the General Assembly has revised sections of the Code of Virginia that effect the department's enforcement authority. Since it has not been possible in the past to amend the regulations on an annual basis to maintain consistency between the statute and the regulations, this language is being removed. All enforcement actions and appeals will be governed under the Waste Management Act and the Administrative Process Act.

### **Time frames**

One commenter stated they saw no benefit from changing the time frame for filing the financial mechanism after a permit amendment (9 VAC 20-70-81 C). This section does not reference the time frame for filing a financial mechanism after a permit amendment, but references the amount of time a facility that becomes regulated as a result of a regulatory amendment has to provide financial assurance. Under federal regulations, 120 days is the standard amount of time allowed for facilities to obtain an alternate financial assurance mechanism. Virginia's regulations have been revised to make the time frame for submitting financial assurance mechanisms consistent throughout the regulations and consistent with federal regulations.

One commenter did not support the extension of time for departmental review of mechanisms from 45 to 120 days. With the staff currently available and the increased number of facilities regulated under the regulations, the department is not able to review documentation for all facilities in the current time frame. In response, the department is changing the time frame for review to 60 days. Facilities submitting the required information are deemed in compliance with the regulations until a review of the documentation has been completed.

Commenters requested the regulations be changed to state that DEQ would review requests for reductions in the amount of financial assurance in 45 days. The department will review all reduction requests in a timely manner.

A commenter requested the regulations be changed to state corrective action financial assurance would be required 120 days after the department approved a remedy. This is inconsistent with federal regulations; therefore the change will not be made.

### **Cost Estimates**

Commenters recommended changing default values to \$150,000 per acre of open disposal unit for sanitary landfills and \$100,000 per acre of open disposal unit for construction demolition debris and industrial landfills. Commenters stated that the amounts listed in the proposed regulations were too high. According to departmental experience, these values are not too high. The department uses a detailed, itemized spreadsheet to calculate the costs to have a third party properly close and care for a facility. The spreadsheet considers the cost of materials, labor, and monitoring of the facility.

Commenters stated that closure of areas not currently receiving waste should not be included in financial assurance closure amounts. Commenters recommended changing the regulations to require financial assurance to be provided for active units or units that are projected to be active

during the year (open acreage of disposal units). State regulations are consistent with federal regulations. 40 CFR 258.71(a)(1) requires financial assurance to be provided for the "largest area of all MSWLF units ever requiring a final cover in accordance with the closure plan." State regulations require the estimate to "equal the cost of final closure at the point in the facility's active life when the extent and manner of its operation would make closure most expensive, as indicated in its closure plan." (9 VAC 20-70-111A.1) This includes all areas that are permitted to receive waste. The suggested change would be inconsistent with federal financial assurance requirements and would be less protective of the Commonwealth in the case of facility abandonment. Owners and operators may benefit from operating disposal units in a phased approach to limit the amount of financial assurance required to be provided.

One commenter recommended changing the regulations to state closure cost estimates should be updated 30 days after a revised closure plan has been approved by DEQ. 9 VAC 20-80-250 E 3 requires closure plans to be amended any time changes in the operating plan or facility design affects the closure plan. The owner or operator must place the amended plan into the facility operating record and notify the director when an amended plan has been prepared. Updated closure plans may be placed in the facility operating record and must be submitted to the department for approval 180 days prior to construction related closure activities taking place at the facility. Owners or operators shall revise their closure cost estimate when revisions are made to their closure plans. Revisions to closure plans are self-implementing and departmental approval is not required until the owner or operator intends to close the facility. The suggested change is inconsistent with the current VSWMR and will not be made.

A commenter requested a clarification of the term "current cost" in 9 VAC 20-70-111 E. The sentence has been revised to state the "owner or operator of each solid waste management unit shall establish financial assurance in current dollars for the cost of closure of the unit in compliance with 9 VAC 20-70-140." This change makes the wording in this section more consistent with 40 CFR 258.71 (b). Previous sections clarify that the closure cost estimate must be in current dollars and that it must be for the point in the facility's life when the extent and manner of its operation would make closure most expensive.

Two commenters suggested changing the regulations to require cost estimates to be updated annually for inflation and to account for changes that have impacted the current cost estimate. The regulations already require cost estimates to be adjusted for inflation on an annual basis. The regulations also address reasons and procedures for increasing and decreasing cost estimates. Adding the suggested language may cause owners and operators to believe that they are required to re-calculate cost estimates annually. Requiring owners and operators to re-calculate cost estimates on an annual basis would be burdensome on owners and operators and would provide a very limited amount of additional protection of human health and the environment.

Two commenters suggested changing the first sentence of 9 VAC 20-70-112 A 3 to read "no later than 30 days after a DEQ-approved revision has been made to the post-closure plan or where an approved change in the solid waste disposal unit conditions has increased the maximum cost of post-closure care." In response, the regulation has been modified to state the owner or operator shall revise the post-closure care estimate and submit the estimate to the

department for approval within 30 days of the post-closure care plan being approved by the director. This is consistent with the requirements set forth in VSWMR.

One commenter suggests changing the wording of 9 VAC 20-70-113 B 2 to "no later than 30 days after DEQ-approved revisions have been made to corrective action plan or where a DEQ-approved change in the solid waste management unit conditions has increased the maximum costs of corrective action." Not all revisions of corrective action plans require departmental approval. The VSWMR allow for alternative measures to be implemented to achieve the goals of the corrective action remedy (9 VAC 20-80-310 C). Any increased costs associated with using alternative measures must be included in the corrective action cost estimate. Owners and operators shall update corrective action cost estimates within 30 days of revising the corrective action program or when conditions at the solid waste management unit increase the cost of corrective action.

### **Corrective Action- additional \$1 million of financial assurance upon exceeding GPS**

Commenters stated that this section needed to be clarified to state when the additional financial assurance would be required to be provided to the department and to state when the facility is no longer is required to provide the additional \$1 million financial assurance. The department has revised this section to clarify when the additional financial assurance is required and when the additional financial assurance will be released.

Multiple comments were received concerning the amount to be provided once groundwater protection standards are exceeded. Comments were received questioning the amount (\$1million) and suggesting that this requirement should not apply to all parties. The \$1 million amount is not an arbitrary amount. The department, in conjunction with the Army Corp of Engineers conducted a study of landfills in Virginia and the United States. In the study, corrective action costs occurring at landfills in the United States were examined. The range of corrective action costs was between \$1,624,850 and \$46,060,700. Based on this information, the department selected the default amount of \$1 million to be provided after exceeding groundwater protection standards. Local governments, along with private parties, must be responsible for paying for corrective action.

Additionally comments were received requesting that throughout the regulations, the language be modified to state that financial assurance for corrective action not be required to be provided until 120 days after the department approves a corrective action remedy. Since this change would be inconsistent with federal regulations, this change is not being made.

### **Mechanisms**

One commenter wanted to require the department to notify an owner or operator prior to cashing a mechanism. In order to protect the citizens of the Commonwealth, the department must have the authority to call or cash a mechanism quickly to protect human health and the environment. The requested change will not be made. The same commenter also requested the department to return mechanisms by certified mail within 10 days of being replaced. The department will

promptly return mechanisms to owners or operators when they are no longer required or have been replaced with adequate financial assurance.

A commenter had no objection to indicating the general potential source of funding closure of the facility but does not support the creation of a specific fund for this purpose. The department added the requirement of indicating the source of funding closure of the facility to obtain information from the owner or operator on their plans for funding closure of the facility. This reporting requirement does not require any funds to be established or maintained for the purpose of funding closure of the facility.

### **Financial Test**

Multiple commenters requested that the department clarify the language in this section concerning local governments that have environmental liabilities between 20% to 43% of their total annual revenue. Commenters also suggested adding the option of obtaining a letter of credit in addition to the option of establishing a restricted sinking fund or escrow account. The department has revised this section and has added the option of using a letter of credit in lieu of establishing a restricted sinking fund or escrow account. Additionally the department updated the local government financial test mechanism to assist local governments with determining if they are required to fund a restricted sinking fund, or escrow account, or obtain a letter of credit.

One commenter requested that no changes be made to the local government financial test. The purpose of the financial test is to demonstrate financial stability. In the current regulations, the Corporate Financial Test is more stringent than the Local Government Financial Test. The Corporate Financial Test requires corporations to have a tangible net worth in excess of \$10 million over the amount of environmental obligations covered by a financial test. By modifying the financial test, local governments' and corporations' financial stability are now evaluated using more similar criteria.

A commenter recommended changing the regulations to state that facilities are only required to provide financial assurance funding for the amount exceeding the 20% amount. The intent of modifying the local government financial test is to require less financially secure parties to plan responsibly for closure of a facility. The equation used to determine the amount of funding relates the percentage of landfill capacity used to the costs associated with closing the landfill. Establishing a fund with the amount exceeding the 20% does not adequately protect the Commonwealth from facility abandonment.

Commenter stated the first sentence of 20-70-230 C 4 is unclear and requested clarification on what is to be done with the certification from the local government's chief executive officer. This text was repetitive and unclear and has been removed from the section.

### **Impact on local government**

A local government requested that no changes be made to the regulations as they are for public entities. The local government stated that they have saved funds towards the landfill's closure/post-closure and the opening of a new landfill, but that the actual costs of these activities

will necessitate borrowing - not just saving or in the case of the proposed regulations, escrow accounts. Localities which are able to establish reserve accounts for large projects should not be required to follow procedures which require escrow or other costs to be paid in addition to the annual contribution to the reserve fund. In response, localities using the financial test that are insuring between 20 and 43% of their total annual revenue for environmental liabilities can use a restricted sinking fund, escrow account or letter of credit to assure the cost of closing the facility. All of these options provide additional protection of the Commonwealth while allowing a local government flexibility to manage their finances wisely.

A local government stated that on large projects, localities finance the costs so that the funds are repaid annually and not necessarily provided up front. Providing high dollar amounts up front is often impossible given the tax base and other demands on local budgets. In response, many types of mechanisms are available for use by owners and operators to provide financial assurance. Some mechanisms require annual payments, such as a trust fund, while other mechanisms (for example, a letter of credit, surety bond, or financial test) require minimal funding to be provided up front. A variety of mechanisms are available to owners and operators so that they can evaluate their financial condition and choose a mechanism that fits with the owner and operator's financial plan. By providing the regulated community with numerous mechanisms by which to provide financial assurance, the regulations allow owners and operators the flexibility to choose a mechanism or mechanisms that fit into their financial situation.

One local government commented that localities should not be burdened with stringent landfill requirements, but that the department should understand that the public landfills are the responsibility of the localities and that the localities finance these services and projects as they do all others. Also a locality cannot leave the state and its responsibilities behind, as private contractors may be able to do. The locality also suggested that the department develop separate regulations for public vs. private landfills. In response, Virginia statute requires the promulgation of regulations for public and privately owned facilities. All facilities, private and public, are required to provide financial assurance. Virginia's Financial Assurance Regulations are modeled after federal regulations.

## Detail of Changes

*Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.*

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The name of the regulations is being changed from Financial Assurance Regulations for Solid Waste Facilities to Financial Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment Facilities. Terminology in the regulations was modified in places to be consistent throughout the regulation. In some places the words “corrective action” were added to clarify that mechanisms can be used to provide financial assurance for closure, post-closure and corrective action. Language has also been added to the mechanism sections stating that

documentation of the mechanism being used by the facility shall be placed in the facility's operating record.

#### 9 VAC 20-70-10 Definitions

This section has been amended to include additional definitions to clarify the regulations. The definitions for "shadow bond", "garbage and refuse collection and disposal system", and "secure access control" have been removed. Definitions for additional facilities that will be required to provide financial assurance have been added. The definitions for "owner" and "facility" have been modified. A definition of "current year expenses for closure" has also been added.

#### 9 VAC 20-70-41 Analysis of this chapter

This section is obsolete and has been removed. The periodic review of these regulations is now required under Executive Order No. 25 (98) and will be performed as required under the executive order.

#### 9 VAC 20-70-50 Applicability of chapter

This section was amended to include additional facilities required to provide financial assurance as a result of a statutory change. This amendment will add transfer stations and facilities regulated under § 10.1-1454.1 of the Code of Virginia to the universe of facilities required to provide financial assurance. A reference to the Regulated Medical Waste Management Regulations has been clarified. This section now cites section numbers instead of articles and parts.

#### 9 VAC 20-70-60 Enforcement and appeal procedures; offenses and penalties

The Waste Management Act has been amended since the financial assurance regulations were last updated. Changes were made to this section to make the regulations consistent with the Waste Management Act.

#### 9 VAC 20-70-70 Suspensions and Revocations

References to the Regulated Medical Waste Regulations, Vegetative and Yard Waste Composting Regulations and § 10.1-1454.1 of the Code of Virginia were added.

#### 9 VAC 20-70-75 Forfeitures

References to the Vegetative and Yard Waste Composting Regulations and § 10.1-1454.1 of the Code of Virginia were added.

#### 9 VAC 20-70-81 General purpose and scope

The time frame for departmental review of financial assurance mechanisms was changed to 60 days. Also this section has been clarified to state that the mechanism shall be in the amount equal to the cost estimate approved by the department.

#### 9 VAC 20-70-90 Closure, post-closure and corrective action requirements

During any re-examination of a determination of the amount of financial assurance required, the owner or operator of a landfill facility not closed shall demonstrate financial assurance. The amount of financial assurance shall be the lesser of the department's estimate or the following default amounts: \$200,000 per acre of fill for Sanitary Landfills or \$150,000 per acre of fill for

Construction Demolition Debris Landfills and Industrial Landfills. This change will protect the department from the burden of having to pay for facility closure in the case of abandonment while establishing a cost estimate for the facility. A general statement was added to the section to remind owners and operators of the requirement to close facilities in accordance with all applicable regulations

#### 9 VAC 20-70-111 Cost estimate for facility closure

This section is being amended to state cost estimates must be submitted to the director for approval. The director may also request an updated closure cost estimate at any time. Requests for reduction of the closure cost estimate shall be approved by the director. This section has also been clarified to state that the owner or operator shall provide financial assurance in current dollars for the cost of closure of the unit.

#### 9 VAC 20-70-112 Cost estimate for facility post-closure

This section has been changed to be consistent with the requirements of the Virginia Solid Waste Management Regulations (VSWMR). The VSWMR require revisions to post-closure care plans to be approved by the director. This section now states that the post-closure cost estimate and the amount of financial assurance must be increased within 30 days of the director approving a revision to the post-closure care plan. A copy of the post-closure estimate shall be maintained in the facility's operating record.

#### 9 VAC 20-70-113 Financial assurance for corrective action

Within 120 days of a facility finding or the director determining groundwater protection standards have been statistically exceeded, the facility must provide an additional \$1 million of financial assurance with the department using any of the mechanisms listed in Article 4 of the regulations. This money will be available to the department in the case of facility abandonment during the selection of a corrective action remedy. The facility will be released from this requirement after it is determined that a facility is no longer statistically exceeding groundwater protection standards or the facility provides financial assurance for a selected corrective action remedy. By requiring this additional financial assurance, the Commonwealth is being protected in case of facility abandonment prior to entry into the corrective action program. This section is also being amended to state corrective action cost estimates must be submitted to the director for approval. Requests for reduction of the corrective action cost estimate shall be approved by the director.

#### 9 VAC 20-70-150 Trust Fund

This section has been changed to clarify the formulas used to determine payments to be made into the trust fund. Documentation must be submitted to the department to verify that the correct amounts have been deposited into the trust fund. Owners and operators of solid waste management facilities other than landfills must deposit the full amount of the cost estimate into the trust fund at the time it is established.

The owner or operator will not be required to provide the calculation for determining the payment into the trust fund and proof of the current trust balance 15 days prior to the anniversary date. The facility is now only required to submit this information prior to the anniversary date. Also reimbursements from the trust fund will not be made until the pay in period is complete.



#### 9 VAC 20-70-160 Surety bond guaranteeing payment or performance

A statutory change now requires surety companies to be licensed pursuant to Chapter 10 of Title 38.2 of the Code of Virginia. This requirement has been added to this section. The section has also been amended to state that if the bond is not replaced 30 days prior to expiration, the director will cash the bond. A requirement was added for the owner or operator to submit evidence that the power of attorney of the attorney-in-fact executing the bond is recorded pursuant to § 38.2-2416 of the Code of Virginia. This is not a new requirement, but has been a statutory requirement of which many owners and operators were not aware. By including this information in the regulation, the department is clarifying the fact that this information is required to be submitted by statute.

Language has been removed from this section. Final closure will be deemed to have been completed once the director determines that final closure, post-closure, or corrective action has been completed. Criteria for closure is found in the VSWMR and other applicable regulations.

Language addressing corrective action, that mirrors language currently in the section concerning closure and post-closure, has been added.

#### 9 VAC 20-70-170 Letter of Credit

The section is being amended to require establishment of a standby trust. If the department cashes the letter of credit, the funds will be deposited into the standby trust. This section has been clarified to state that the issuing institution is to deposit payments from the letter of credit into the standby trust. Payment from the trust must be approved by the director. Also when an owner or operator fails to perform closure, post-closure, or corrective action, the director shall cash the letter of credit.

#### 9 VAC 20-70-180 ~~Deposit of acceptable collateral~~ Certificate of deposit

This section has been revised and re-titled Certificate of deposit. Federal regulations establish financial assurance mechanisms for MSW landfills, including sanitary landfills, but federal regulations do not include a certificate of deposit as an acceptable mechanism. To be consistent with federal regulations, the certificate of deposit mechanism will not be available for use by owners and operators of sanitary landfills. The certificate of deposit shall be maintained until proper closure, post-closure, or corrective action is completed. The original assignment and the certificate of deposit must be submitted to the department to demonstrate that the requirements of the regulations have been met. The section is also being amended to require establishment of a standby trust. If the department cashes the certificate of deposit, the funds will be deposited into the standby trust. Payments from the trust fund shall be approved by the director.

#### 9 VAC 20-70-190 Insurance

A statutory change now requires insurance companies to be licensed pursuant to Chapter 10 of Title 38.2 of the Code of Virginia. This requirement has been added to this section. This section has been clarified to state when reimbursement for closure, post-closure or corrective action will be made. Owners and operators are also required to notify the director when they have filed for bankruptcy.

#### 9 VAC 20-70-200 Corporate financial test

In order to use the corporate financial test, the department is requiring the submission of documentation demonstrating the current bond rating for the corporation. A statement has been added to the section clarifying the items that shall be placed in the facility's operating record. The corporation must also submit a copy of the audited financial statements and a certification stating the current method for funding closure and post-closure of the facility. Also corporations can use a financial test to assure aboveground storage tanks; therefore the environmental liabilities associated with aboveground storage tanks will be considered when examining the total environmental liabilities of a corporation.

#### 9 VAC 20-70-210 Local government financial test

The local government financial test mechanism has been revised. Local governments that have environmental liabilities that total between 20% to 43% of their total annual revenue are required to establish a restricted sinking fund or escrow account, or to obtain a letter of credit for closure of the facility. This change strengthens the financial test by requiring localities to plan for closure of the facility. Previously there was no requirement for funds to be set aside for the closure costs of the facility if a locality was using a financial test. The local government must submit documentation demonstrating the current bond rating if available and a certification stating the current method for funding closure and post-closure of the facility. The formula used to determine the amount of money to be placed in the restricted sinking fund or escrow account, or the amount of the letter of credit that must be obtained has been included in this section.

#### 9 VAC 20-70-240 Other mechanisms

This section was removed. Since the addition of this section, the department has not approved use of an alternate mechanism. The current mechanisms are thought to provide facilities with a variety of mechanisms to use to provide financial assurance that are protective of the Commonwealth.

#### 9 VAC 20-70-280 Discounting

This section has been removed from the regulation. Removal of discounting is believed to be more protective of the Commonwealth.

#### 9 VAC 20-70-290 Wording of financial mechanisms

This section has been added to the regulation to list the wording of documents that must be submitted to the department. This section has been added to clarify the documentation associated with the financial mechanisms.

The wording of mechanisms have been updated to include references to corrective action. Also the mechanisms have been modified for use with unpermitted facilities.

The department is clarifying that if the department prevails in an action to enforce the bond, interest accrued will be payable to the department.

The assignment of the Certificate of Deposit form has been rearranged.

References to regulations have been corrected in the Wording of the Letter from the Chief Financial Officer. Language in the letter from the Chief Financial Officer has been modified to be consistent with language in other sections of the regulations.

References in the Letter from the Local Government's Chief Financial Officer has been modified to include correct references to current Virginia Regulations. Also, the option of obtaining a letter of credit has been added to the option of establishing a restricted sinking fund or escrow account.

The formula to determine the amount of funding of the restricted sinking fund, escrow account, or letter of credit has been clarified in 20-70-290 I.

### Family Impact Statement

*Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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This regulatory amendment will affect the institution of the family by better protecting human health and the environment.

Attachment

Response to Public Comment

Amendment 2 to Financial Assurance Regulations for Solid Waste Facilities  
9 VAC 20-70-10 et seq.

New name: Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment  
Facilities

**9 VAC 20-70-50. Applicability of Chapter**

12A- 9 VAC 20-70-50 D Second and third sentences should be consistent. Specifically, we  
recommend that the word “responsible” not be changed in the second sentence to “liable.”

**Response:**

The department intended to replace the word "responsible" with the word "liable." In response to this  
comment, the second usage of the word "responsible" has also been replaced with the word "liable."

**9 VAC 20-70-60. Enforcement and appeal procedures; offenses and penalties**

12A- 9 VAC 20-70-60 C We recommend not striking the last sentence. We see no benefit with  
its omission.

**Response:**

The legislature has amended the department’s enforcement authority several times in  
recent years, and since the regulations are not generally amended that frequently, the  
department is removing the procedures included in the current statutes from these  
regulations. This change will eliminate confusion in the regulated community over the  
procedures the department will follow when pursuing enforcement actions or issuing  
orders. All enforcement actions and appeals will be governed by the Waste Management  
Act and the Administrative Process Act.

**9 VAC 20-70-81. General purpose and scope**

12A- 9 VAC 20-70-81 C We recommend no change in the time to file the financial assurance  
mechanism after a permit amendment. We see no benefit from this change.

**Response:**

20-70-81 C does not reference the time frame for filing a financial mechanism after a  
permit amendment, but references the amount of time a facility that becomes regulated as

a result of a regulatory amendment has to provide financial assurance. Under Title 40 of the Code of Federal Regulations (CFR) 258.74, 120 days is the standard amount of time allowed for facilities to obtain an alternate financial assurance mechanism. Virginia's regulations have been revised to make the time frame for submitting financial assurance mechanisms consistent throughout.

12A- 9 VAC 20-70-81 D We do not support the extension of time from 45 to 120 days. Once DEQ determines that the financial assurance submission is complete, the director's tentative decision should be performed within 45 days.

**Response:**

The department currently receives financial test documentation from over 100 localities at one time. With the staff currently available, and the increased number of facilities regulated under these regulations the department is not able to review all documentation for all facilities in the current timeframe (45 days). As a result of this regulatory amendment, additional facilities will be required to provide financial assurance. In response, the department is changing the timeframe for review to 60 days. The department will review all submissions in a timely manner for completeness and compliance with the regulation. Facilities submitting the required information are deemed in compliance with the regulation until a review of the documentation has been completed.

**9 VAC 20-70-90. Closure, post-closure care and corrective action requirements**

13A- Default amounts appear to be conservatively high estimates. Recommends using \$150,000 per acre for Sanitary landfills and \$100,000 per acre for CDD landfills and Industrial landfills.

12A- 9 VAC 20-70-90 D 2 The default amounts appear to be conservatively high estimates. We recommend that the default values be \$150,000 per acre for Sanitary landfills and \$100,000 per acre for CDD and Industrial landfills. In addition, we recommend adding the wording "per acre of open disposal unit" for all landfills. Specifically 2.a. and 2.b. should read:

- a. \$150,000 per acre of open disposal unit for Sanitary Landfills.
- b. \$100,000 per acre of open disposal unit for Construction Demolition Debris Landfills and Industrial Landfills.

**Response:**

The values listed in 20-70-90 D 2 are to be used in the case of the department re-examining a cost estimate provided by a facility. The amount to be provided is the lesser of: the amount requested by the director or the amounts listed in this section. According to departmental experience, these values are not conservatively high. The department uses a detailed, itemized spreadsheet to calculate the costs to have a third party properly close and care for a facility. The spreadsheet considers the cost of materials, labor, and

monitoring of the facility. The commenter should be aware that the department may request an amount less than the amounts listed in this section.

## **9 VAC 20-70-111. Cost estimate for facility closure**

2A- Section A 1 should be revised to read "the estimate shall equal the cost of final closure of the facility and all areas active or unclosed at the time of owner insolvency or abandonment."

1C and 10A- Amend this section to read "The estimate shall equal the cost of final closure of the facility and all areas active or unclosed at the beginning of every year. Waste management units that are not active and are not projected to be active during the year of estimate submittal shall not be included in the financial assurance estimate."

12A- 9 VAC 20-70-111 A 1 We recommend adding an option to financially assure only the open acreage of the disposal unit, rewording this sentence to read: "The estimate shall equal the lesser of the cost of final closure for (i) the point in the facility's active life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan, or (ii) the open acreage of disposal unit(s) for the current year."

12A- 9 VAC 20-70-111 B In the event owners or operators progressively close disposal units or open new units, we recommend modifying the first sentence to read: "During the active life of the facility, the owner or operator shall adjust the closure cost estimate annually for inflation and to account for any change in the open acreage of disposal unit(s). Such annual adjustment shall be made within 60 days prior to the anniversary date of the establishment of the financial mechanisms used to comply with this regulation."

12A- 9 VAC 20-70-111 B In the event the open acreage of disposal unit(s) changes for the current year, we recommend keeping the wording "by recalculating the maximum costs of closure in current dollars, or..."

12A- 9 VAC 20-70-111 F We recommend adding wording so the first sentence reads: "...at any time during the active life of the unit, or if the cost estimate exceeds the cost to close the open acreage of disposal unit(s)."

### **Response:**

State regulations are consistent with federal regulations. 40 CFR 258.71(a)(1) requires financial assurance to be provided for the "largest area of all MSWLF units ever requiring a final cover in accordance with the closure plan." 9 VAC 20-70-111 A 1 requires the estimate to "equal the cost of final closure at the point in the facility's active life when the extent and manner of it's operation would make closure most expensive, as indicated in it's closure plan." Calculating cost estimates based on the most expensive point in closure, requires an owner or operator to demonstrate that he has the financial capability of closing the facility at its most expensive point before any waste is deposited in the landfill. The existing requirement is more protective of human health and the environment; therefore, the department will not modify the existing text.

12A- 9 VAC 20-70-111 C We recommend adding wording so the first sentence reads: “...revise the closure cost estimate no later than 30 days after a DEQ-approved revision has been made to the closure plan...”

12A- 9 VAC 20-70-111 C We recommend adding wording so the second sentence reads:“...no later than 30 days after the closure plan revision(s) have been approved by DEQ, if the change....

**Response:**

9 VAC 20-80-250 E 3 requires closure plans to be amended any time changes in the operating plan or facility design affects the closure plan. The owner or operator must place the amended plan into the facility operating record and notify the director when an amended plan has been prepared and placed into the operating record. However, the regulation does not require departmental approval of each change to a closure plan. Previously non-approved closure plans must be submitted to the department for approval 180 days prior to construction related closure activities taking place at the facility, therefore it is not appropriate to wait for departmental approval of the revised closure plan prior to amending the financial assurance mechanism. Financial assurance must remain current and the cost estimate should be updated to reflect the current costs to close the facility. The suggested change is inconsistent with current Virginia Solid Waste Management Regulations (VSWMR).

12A- 9 VAC 20-70-111 E Please clarify or define what is meant by “current cost.” Is it reflective of the cost in “today’s” dollars or is it reflective of the cost to close the active or open acreage of the facility?

**Response:**

The sentence has been revised to state the "owner or operator of each solid waste management unit shall establish financial assurance in current dollars for the cost of closure of the unit in compliance with 9 VAC 20-70-140." This change makes the wording in this section more consistent with 40 CFR 258.71 (b). Previous sections clarify that the closure cost estimate must be in current dollars and it must be for the point in the facility's life when the extent and manner of it's operation would make closure most expensive.

12A- 9 VAC 20-70-111 F To be consistent with Section 20-70-81 D, replace the last sentence in its entirety with: “The owner or operator shall be notified in writing within 45 days of receipt of a complete financial assurance reduction request of the tentative decision to accept or reject the proposed evidence.”

**Response:**

In order for the department to approve a reduction in the amount of financial assurance being provided, many documents must be reviewed. Inspectors, permit writers and staff

of the Office of Financial Assurance must coordinate a review. Some reviews may be more complex than others and the department must be sure that adequate financial assurance is being provided prior to releasing or reducing the amount of financial assurance required. The department will review all requests for reductions in financial assurance in a timely manner.

## **9 VAC 20-70-112. Cost estimate for facility post-closure**

12A- 9 VAC 20-70-112 A 2 In the event that changes occur that impact post-closure costs, such as a change in the number of compliance monitoring points, we recommend adding the wording so the first sentence reads: “...adjust the post-closure cost estimate annually for inflation and to account for changes that impact current post-closure costs. Such adjustments are to be made within 60 days...”.

### **Response:**

Adding this language would require facilities to adjust the post-closure cost estimate annually to account for changes that impact post-closure costs. Post-closure cost estimates must be adjusted annually for inflation. This adjustment is made by multiplying the post closure cost estimate by an inflation factor. Additional adjustments of the post closure cost estimate may not be necessary on an annual basis. The regulations already address in 9 VAC 20-70-112 A 3 and 9 VAC 20-70-112 A 4 reasons for increasing and decreasing the post-closure estimate and set forth procedures for increasing and decreasing the amount of the post-closure cost estimate. Including the suggested language would add additional requirements on owners and operators that would not provide additional protection of human health and the environment. Facilities may find it beneficial to review and request reductions in the post-closure cost estimate less frequently due to the resources required to be expended to request a reduction.

12A- 9 VAC 20-70-112.A 3 We recommend adding wording so the first sentence reads: “...no later than 30 days after a DEQ-approved revision has been made to the post-closure plan or where an approved change in the solid waste disposal unit conditions has increased the maximum cost of post-closure care.”

### **Response:**

VSWMR require post-closure care plans to be submitted for review and approval by the director whenever a post-closure care plan has been amended. Post closure plans must be approved prior to implementation. The financial assurance regulations are being revised to state when a post closure care plan has been revised, the owner or operator shall revise the post closure care estimate and submit the estimate to the department for approval within 30 days of the post closure care plan being approved.

12A- 9 VAC 20-70-112.A 4 To be consistent with Section 20-70-81 D, replace the last sentence in its entirety with: “The owner or operator shall be notified in writing within 45 days of receipt



of a complete financial assurance reduction request of the tentative decision to accept or reject the proposed evidence.”

**Response:**

In order for the department to approve a reduction in the amount of financial assurance being provided, many documents must be reviewed. Inspectors, permit writers, and staff of the Office of Financial Assurance must coordinate a review. Some reviews may be more complex than others and the department must be sure that adequate financial assurance is being provided prior to releasing or reducing the amount of financial assurance required. The department will review all requests for reductions in financial assurance in a timely manner.

**9 VAC 20-70-113. Financial Assurance for corrective action**

6A- Requests local governments to be exempted from the groundwater protection standards (GPS) financial assurance requirement.

15A- Opposed to the requirement of providing \$1 million financial assurance upon exceeding groundwater protection standards.

13A- States that facilities currently providing over \$3 million in financial assurance should not be required to provide the additional amount of financial assurance upon exceeding groundwater protection standards. Facilities with greater than \$3 million in financial assurance are highly unlikely to walk away from the investment.

**Response:**

After examining the financial assurance regulations, it was found that the financial assurance regulations could be more protective of the Commonwealth. Currently years are passing between facilities detecting a statistically significant exceedance of groundwater protection standards and the selection of a corrective action remedy. During this period of time, facilities are not providing additional financial assurance, even though a problem has been detected at the facility that would potentially be expensive to correct. Local governments, along with private parties, must be responsible for paying for corrective action. Under the current regulations, if an owner or operator abandons a facility prior to selecting a corrective remedy, no funding has been provided to the Commonwealth for corrective action in the case of facility abandonment. This requirement has been added to protect the Commonwealth from the facility postponing or delaying the selection of a corrective remedy to postpone providing corrective action financial assurance. The \$1 million would serve as a good faith payment and would encourage facilities to select a corrective remedy and provide financial assurance for the corrective action.

13A- Consider exempting facilities that carry environmental legal liability insurance to be exempt from posting the additional \$1 million financial assurance. The public is protected by the policy in the case of facility abandonment.

**Response:**

The Commonwealth would not be adequately protected if facilities carrying environmental legal liability insurance were exempted from providing the required additional \$1 million financial assurance upon statistically exceeding groundwater protection standards. Liability insurance is not solely payable to the Commonwealth, but to any party, and the policies often cover only bodily injury and property damage and exclude remediation costs. Furthermore, there is no guarantee that the department will receive payment from the insurance. Claims from third parties may exhaust the policy limit before the department received the full \$1 million to apply towards the necessary corrective action.

13A- Commenter feels that the \$1 million amount is an arbitrary amount

**Response:**

The \$1 million amount is not an arbitrary amount. The department, in conjunction with the Army Corp of Engineers conducted a study of landfills in Virginia and the United States. In the study, corrective action costs occurring at landfills in the United States were examined. The range of corrective action costs was between \$1,624,850 and \$46,060,700. Based on this information, the department selected the default amount of \$1 million to be provided after exceeding groundwater protection standards.

12A- Commenter is generally opposed to the requirement of providing additional financial assurance when GPS are exceeded. Requested justification of the \$1 million amount. Commenter recommends clarifying in the regulations that only an exceedance of a DEQ-approved and permitted GPS triggers the requirement to provide an additional \$1 million financial assurance. Commenter also suggested a reasonable time should be given to secure funding for the required \$1,000,000 financial assurance and suggested giving public facilities that have environmental liability greater than 20% of their total annual revenue until the beginning of their next fiscal year to secure this funding. If the next fiscal year will occur within 120 days of the GPS exceedance, or within some similarly limited timeframe, then we recommend allowing until the beginning of the subsequent fiscal year. Commenter also states that the regulations should contain criteria for releasing a facility from this requirement.

12A and 15A- recommended rewording 9 VAC 20-70-113 A to read: “Within 180 days of [or some other reasonable timeframe, such as the beginning of the next fiscal year, as discussed above] statistically exceeding DEQ-approved and permitted Groundwater Protection Standards established as required by 9 VAC 20-80-250 D 6, or Appendix 5.6 D of 9 VAC 20-80-10 et seq. as applicable, an owner or operator of a landfill or other unit subject to groundwater monitoring shall post \$1,000,000 in additional financial assurance with the department using the mechanisms listed under Article 4. The facility will be released from the \$1,000,000

requirement after the corrective action financial assurance as required by 9 VAC 20-70-113 B is posted with the department.”

15A- recommend language be clarified so that only a confirmed exceedance of a DEQ-approved and Permitted GPS triggers this requirement.

13A- facilities exceeding GPS should have an adequate amount of time (6 months), to evaluate the potential causes of an exceedance prior to providing an additional \$1 million financial assurance. Alternate sources should be evaluated and the facility should only be required to provide this additional amount if it has been determined that the source of the exceedance was the facility.

15 A- requests the owner be allowed a time period to evaluate potential cost for corrective action and submit a cost to DEQ for approval which may be more or less than the \$1 million figure

8A- regulation should be clarified to state the \$1 Million financial assurance requirement becomes null upon approval of a corrective action plan and its corresponding financial assurance requirement.

**Response:**

The department agrees that a timeframe for submitting the additional \$1 million is needed. Facilities will have 120 days from learning or the director determining a statistically significant exceedance of groundwater protection standards has occurred to provide an additional \$1 million financial assurance. The department also agrees that language to release a facility from this requirement is needed and criteria for releasing a facility from this requirement has been added to the regulations. During this time period, the owner or operator shall have the option of selecting a corrective action remedy and providing financial assurance for corrective action.

11A- Suggests changing the wording to "provide \$1 million dollars of financial assurance using the mechanisms listed under Article 4"

**Response:**

The department has changed the word "post" to the word "provide."

12A and 15A- 9 VAC 20-70-113 B 1 In the event that changes occur that impact corrective action costs, such as a change in corrective action technologies, we recommend adding the wording so the first sentence reads: "...adjust the corrective action cost estimate annually for inflation, and to account for changes that have impacted current corrective action costs. Such adjustments shall be made within 60 days...".

**Response:**

Adding this language would require facilities to adjust the corrective action cost estimate annually to account for changes that impact corrective action costs. Annual adjustments of the corrective action cost estimate are not necessary. The regulations already address in 9 VAC 20-70-113 B 2 and B 3 reasons for increasing and decreasing the corrective action cost estimate. This change would add additional requirements on owners and operators that would not provide additional protection of human health and the environment.

12A and 15A- 9 VAC 20-70-113 B 2 We recommend adding wording so the first sentence reads: "...no later than 30 days after DEQ-approved revisions have been made to the corrective action plan or where a DEQ-approved change in the solid waste management unit conditions has increased the maximum costs of corrective action."

**Response:**

Not all revisions of corrective action plans require departmental approval. VSWMR allow for alternative measures to be implemented to achieve the goals of the corrective action remedy (9 VAC 20-80-310 C). Any increased costs associated with using alternative measures must be included in the corrective action costs estimate. Owners and operators shall update corrective action cost estimates within 30 days of revising the corrective action program or when conditions at a solid waste management unit increase the cost of corrective action.

12A and 15A- 9 VAC 20-70-113 B 3 To be consistent with Section 20-70-81 D, replace the last sentence in its entirety with: "The owner or operator shall be notified in writing within 45 days of receipt of a complete financial assurance reduction request of the tentative decision to accept or reject the proposed evidence."

**Response:**

In order for the department to approve a reduction in the amount of financial assurance being provided, many documents must be reviewed. Inspectors, permit writers, and staff

of the Office of Financial Assurance must coordinate a review. Some reviews may be more complex than others and the department must be sure that adequate financial assurance is being provided prior to releasing or reducing the amount of financial assurance required. The department will review all requests for reductions in financial assurance in a timely manner.

12A and 15A - 9 VAC 20-70-113 C We recommend adding the following sentence after the first sentence of this section: “Once the owner has posted the corrective action plan financial assurance, the department will immediately release the \$1,000,000 GPS financial assurance.”

**Response:**

The department agrees that language needs to be included in the regulation to specify when the \$1,000,000 GPS financial assurance is released. Language has been added to this section to state when the funds are to be returned to the owner or operator.

**9 VAC 20-70-150. Trust Fund**

12A- 9 VAC 20-70-150 D We recommend rewording the last sentence to read: “The initial payment into the trust fund shall be made no later than 120 days after the corrective action remedy has been approved by the department.”

**Response:**

This change would be inconsistent with 40 CFR 258. Financial assurance is required for corrective action when a corrective remedy is selected, not when the corrective remedy is approved by the department. No change will be made.

**9 VAC 20-70-160. Surety bond guaranteeing payment or performance**

12A- 9 VAC 20-70-160 A 2 We recommend rewording this sentence to read: “The bond shall be effective before the initial receipt of waste; January 7, 1998; or the expiration date of the previous assurance mechanism, whichever is later, or no later than 120 days after the corrective remedy has been approved by the department.”

**Response:**

This change would be inconsistent with 40 CFR 258. Financial assurance is required for corrective action when a corrective remedy is selected, not when the corrective remedy is approved by the department. No change will be made.

12A- 9 VAC 20-70-160 J To be consistent with Section 20-70-81 D, add the following wording after the last sentence: “The owner or operator shall be notified in writing within 45 days of

receipt of a complete financial assurance reduction request of the tentative decision to accept or reject the proposed evidence.”

**Response:**

In order for the department to approve a reduction in the amount of financial assurance being provided, many documents must be reviewed. Inspectors, permit writers, and staff of the Office of Financial Assurance must coordinate a review. Some reviews may be more complex than others and the department must be sure that adequate financial assurance is being provided prior to releasing or reducing the amount of financial assurance required. The department will review all requests for reductions in financial assurance in a timely manner.

12A- 9 VAC 20-70-160 N We recommend rewording this sentence to read: “Within 10 days, the director will notify the surety company by certified mail if the owner or operator provides alternate financial assurance as specified in this article.”

**Response:**

The department will notify the surety when the owner or operator has provided alternate financial assurance that is acceptable to the department. According to the regulations, the department has 60 days to review a mechanism and accept or reject a mechanism. The department will act promptly to return surety bonds to the issuing institutions.

12A- 9 VAC 20-70-160 Q We recommend rewording this section to read: “The director shall notify by certified mail the owner or operator 30 days prior the director’s intention to call or cash a surety bond. The director shall call or cash the surety bond if it is not replaced 10 days prior to expiration with alternate financial assurance acceptable to the director, or if the owner or operator fails to fulfill the conditions of the bond.”

**Response:**

The director should not be required to notify a owner or operator prior to calling or cashing a mechanism. In some instances the director may need to act promptly to cash a mechanism prior to the mechanism expiring. In these cases, the delay in cashing a mechanism may result in the loss of the financial mechanism, and in the event of an abandonment, the loss of the funding source for facility closure. The director must have the authority to cash the bond quickly to protect human health and the environment. The department requires more than 10 days to prepare the documents and perform the necessary coordination to cash a financial mechanism.

## 9 VAC 20-70-170. Letter of Credit

12A- 9 VAC 20-70-170 A We recommend rewording the second sentence to read: “The letter of credit shall be effective before the initial receipt of waste; January 7, 1998, whichever is later, in case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been approved by the department.”

### **Response:**

This change would be inconsistent with 40 CFR 258. Financial assurance is required for corrective action when a corrective remedy is selected, not when the corrective remedy is approved by the department. No change will be made.

12A- 9 VAC 20-70-170 C To be consistent with Section 20-70-81 D, add the following wording before the last sentence: “The owner or operator shall be notified in writing within 45 days of receipt of a complete financial assurance reduction request of the tentative decision to accept or reject the proposed evidence.”

### **Response:**

In order for the department to approve a reduction in the amount of financial assurance being provided, many documents must be reviewed. Inspectors, permit writers, and staff of the Office of Financial Assurance must coordinate a review. Some reviews may be more complex than others and the department must be sure that adequate financial assurance is being provided prior to releasing or reducing the amount of financial assurance required. The department will review all requests for reductions in financial assurance in a timely manner.

12A- 9 VAC 20-70-170 D We recommend rewording this section to read: “The director shall notify by certified mail the owner or operator 30 days prior of the director’s intention to call or cash a letter of credit. Following a determination that the owner or operator has failed to perform closure, post-closure or corrective action in accordance with the approved plan or other permit or order requirements, the director shall call or cash the letter of credit.”

### **Response:**

The director should not be required to notify a owner or operator prior to calling or cashing a mechanism. In some instances the director may need to act promptly to cash a mechanism prior to the mechanism expiring. In these cases, the delay in cashing a mechanism may result in the loss of the financial mechanism, and in the event of an abandonment, the loss of the funding source for facility closure. The director must have the authority to cash the letter of credit quickly to protect human health and the environment.

12A- 9 VAC 20-70-170 F We recommend rewording this sentence to read: “Within 10 days, the director shall return the original letter of credit by certified mail to the issuing institution for termination when:”

**Response:**

In accordance with 9 VAC 20-70-81 D, the department has 60 days to review a mechanism for compliance with the regulations. The department will act promptly to return mechanisms that have been released to the issuing institution for termination.

12A- 9 VAC 20-70-170 I We recommend rewording this section to read: “The director shall notify by certified mail the owner or operator 30 days prior of the director’s intention to call or cash the letter of credit. The director shall call or cash the letter of credit if it is not replaced 10 days prior to expiration with alternate financial assurance acceptable to the director.”

**Response:**

The director should not be required to notify a owner or operator prior to calling or cashing a mechanism. In some instances the director may need to act promptly to cash a mechanism prior to the mechanism expiring. In these cases, the delay in cashing a mechanism may result in the loss of the financial mechanism, and in the event of an abandonment, the loss of the funding source for facility closure. The director must have the authority to cash the letter of credit quickly to protect human health and the environment.

**9 VAC 20-70-180. Certificate of Deposit**

12A- 9 VAC 20-70-180 C We recommend rewording this section to read: “The director shall notify by certified mail the owner or operator 30 days prior the director’s intention to call or cash the certificate of deposit. The director shall call or cash the certificate of deposit in the event of failure of the owner or operator to comply with the final closure, post closure care or corrective action requirements.”

**Response:**

The director should not be required to notify a owner or operator prior to calling or cashing a mechanism. In some instances the director may need to act promptly to cash a mechanism prior to the mechanism expiring. In these cases, the delay in cashing a mechanism may result in the loss of the financial mechanism, and in the event of an abandonment, the loss of the funding source for facility closure. The director must have the authority to cash the letter of credit quickly to protect human health and the environment.



## **9 VAC 20-70-190. Insurance**

12A- 9 VAC 20-70-190 A We recommend rewording the second sentence to read: “The insurance shall be effective before the initial receipt of waste; January 7, 1998, whichever is later, in case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been approved by the department.”

### **Response:**

This change would be inconsistent with 40 CFR 258. Financial Assurance is required for corrective action when a corrective remedy is selected, not when the corrective remedy is approved by the department. No change will be made.

12A- 9 VAC 20-70-190 D To be consistent with Section 20-70-81 D, add the following wording before the last sentence: “The owner or operator shall be notified in writing within 45 days of receipt of a complete financial assurance reduction request of the tentative decision to accept or reject the proposed evidence.”

### **Response:**

In order for the department to approve a reduction in the amount of financial assurance being provided, many documents must be reviewed. Inspectors, permit writers, and staff of the Office of Financial Assurance must coordinate a review. Some reviews may be more complex than others and the department must be sure that adequate financial assurance is being provided prior to releasing or reducing the amount of financial assurance required. The department will review all requests for reductions in financial assurance in a timely manner.

## **9 VAC 20-70-200. Corporate financial test**

14A- 20-70-200 2 a (5) – Commenter had no objection to indicating the general potential source of funding closure of the facility, but does not support the siting of a specific fund being maintained for this purpose.

### **Response:**

The department added the requirement of indicating the source of funding closure of the facility to obtain information from the owner or operator on their plans for funding closure of the facility. This provision does not require any funds to be established or maintained for the purpose of funding closure of the facility.

12A- 9 VAC 20-70-200 2 b We recommend rewording the first sentence to read: “An owner or operator shall submit the items specified in subdivision 2 of this section before the initial receipt of waste; January 7, 1998, whichever is later, in case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been approved by the department.”

### **Response:**

This change would be inconsistent with 40 CFR 258. Financial Assurance is required for corrective action when a corrective remedy is selected, not when the corrective remedy is approved by the department. No change will be made.

## **9 VAC 20-70-210. Local government financial test**

5A, 1B, 7A, 10A- Commenters suggested the department clarify the language in this section concerning facilities that have environmental liabilities between 20% to 43% of their total annual revenue.

### **Response:**

This section has been revised to clarify the requirements of the Local Government Financial Test.

12A- 9 VAC 20-70-210 2 We recommend rewording the fourth sentence to read: “A reference to corrective action cost shall be placed in CAFR no later than 120 days after the corrective action remedy has been approved by the department in accordance with 9 VAC 20-80-310.”

### **Response:**

This change would be inconsistent with 40 CFR 258. Financial assurance is required for corrective action when a corrective remedy is selected, not when the corrective remedy is approved by the department. No change will be made.

12A- 9 VAC 20-70-210 3 b (2) We recommend rewording this sentence to read: “In the case of corrective action, not later than 120 days after the corrective action remedy has been approved by the department in accordance with 9 VAC 20-80-310.”

### **Response:**

This change would be inconsistent with 40 CFR 258. Financial assurance is required for corrective action when a corrective remedy is selected, not when the corrective remedy is approved by the department. No change will be made.

12A- 9 VAC 20-70-210 4 c & d When required as an addition to a local government’s financial test, it is unclear whether the restricted sinking fund or third-party escrow account mechanisms must fund the entire financial assurance amount, or only the amount exceeding 20% of total revenues. We recommend that facilities only be required to fund the financial assurance amount exceeding the 20% of total revenues.

**Response:**

To clarify that local governments exceeding the 20% mark must provide alternate funding for the entire amount of closure, the department has included in this section the formula to be used to calculate the funding amount of the restricted sinking fund, escrow account or the amount of the letter of credit. The formula was previously listed in 9 VAC 20-70-290 I. The formula relates the percentage of a facility's capacity filled to date to the costs associated with closing the entire facility. The owner or operator is required to place funds into a restricted sinking fund or escrow account, or obtain a letter of credit for the cost of closing a portion of the facility. If owners and operators were only required to place funds exceeding the 20% amount, adequate funding would not be available to protect the Commonwealth from paying for costs associated with facility abandonment.

1A, 3A, 4A, 5A, 7A, 10A, 12A- Commenters supported adding the option of a letter of credit to the options listed under section 210 to include a letter of credit as an alternative to funding a restricted sinking fund or escrow account.

**Response:**

The option of a letter of credit has been added as an alternative to funding a restricted sinking fund or escrow account.

6A- Requests that no changes be made to the local government financial test.

**Response:**

When revising the regulations, the department examined the Local Government Financial Test and the Corporate Financial Test. The purpose of the financial test is to demonstrate financial stability. In the current regulations, the Corporate Financial Test is more stringent than the Local Government Financial Test. The Corporate Financial Test requires corporations to have a tangible net worth in excess of \$10 million over the amount of environmental obligations covered by a financial test. By modifying the financial test, local governments' and corporations' financial standing are now evaluated using more similar criteria.

**9 VAC 20-70-220. Corporate guarantee.**

12A- 9 VAC 20-70-220 C 3 We recommend rewording the first sentence to read: "...no later than 120 days after the corrective action remedy has been approved by the department."

**Response:**

This change would be inconsistent with 40 CFR 258. Financial assurance is required for corrective action when a corrective remedy is selected, not when the corrective remedy is approved by the department. No change will be made.

**9 VAC 20-70-230. Local government guarantee.**

12A- 9 VAC 20-70-230 B We recommend rewording the first sentence to read: “...no later than 120 days after the corrective action remedy has been approved by the department.”

**Response:**

This change would be inconsistent with 40 CFR 258. Financial assurance is required for corrective action when a corrective remedy is selected, not when the corrective remedy is approved by the department. No change will be made.

12A- 9 VAC 20-70-230 C 4 The first sentence is unclear; what is to be done with the certification from the local government’s chief executive officer?

**Response:**

The certification from the local government's chief executive officer should be submitted to the department. This sentence has been removed from the section since this requirement has been listed under the local government financial test and the guarantor must meet the requirements of the local government financial test.

**General Comments**

9A- requests that no changes be made to the regulations as they are for public entities. Franklin County states that they have saved funds towards the landfill's closure/post-closure and the opening of a new landfill, but that the actual costs of these activities will necessitate borrowing- not just saving or in the case of the proposed regulations, escrow accounts. Localities which are able to establish reserve accounts for large projects should not be required to follow procedures which require escrow or other costs to be paid in addition to the annual contribution to the reserve fund.

**Response:**

Localities using the financial test that are insuring between 20% and 43% of their total annual revenue for environmental liabilities can use a restricted sinking fund, escrow account or letter of credit to assure the cost of closing the facility. All of these options provide additional protection of the Commonwealth while allowing a local government flexibility to manage their finances wisely.

9A- Commenter states that on large projects, localities finance the costs so that the funds are repaid annually and not necessarily provided up front. Providing high dollar amounts up front is often impossible given the tax base and other demands on local budgets.

**Response:**

Many types of mechanisms are available for use by owners and operators to provide financial assurance. Some mechanisms require annual payments, such as a trust fund, while other mechanisms (for example, a letter of credit, surety bond, or financial test) require minimal funding to be provided up front. A variety of mechanisms are available to owners and operators so that they can evaluate their financial condition and choose a mechanism that fits with the owner and operator's financial plan. By providing the regulated community with numerous mechanisms through which to provide financial assurance, the regulations allow owners and operators the flexibility to choose a mechanism or mechanisms that fit into their financial plan.

9A- Commenter does not believe that localities should be burdened with stringent landfill requirements, but that the department should understand that the public landfills are the responsibility of the localities and that the localities finance these services and projects as they do all others. Also a locality cannot leave the state and its responsibilities behind, as private contractors may be able to do.

9A- Commenter suggests that the department develop separate regulations for public vs. private landfills.

**Response:**

Virginia's Financial Assurance Regulations are modeled after federal regulations. Federal regulations and Virginia regulations do not distinguish between public and private landfills. Federal and state statutes require all facilities, private and public, to provide financial assurance. The regulations include mechanisms to be used by both public and private facilities.

Commenters on the Proposed Regulations

Commenter Code	Commenter	Title	Affiliation	Mailing Address
1A	Mr. William A. Dennison	Assistant City Manager	City of Bristol	41 Piedmont Avenue Bristol, VA 24210-4160
2A	Mr. John R. Hubbard	Chief Executive Officer	Roanoke Valley Resource Authority	1020 Hollins Road Roanoke, VA 24012
3A	Mr. Roger D. Sword	Director	Cumberland Plateau Regional Waste Management Authority	PO Box 548 Lebanon, VA 24266
4A	Mr. William A. Dennison	Chair, Regulations and Legislative Committee	Southwest Virginia Solid Waste Management Association	1021 Terrace Drive Marion, VA 24354
5A	Mr. Larry Land	Director of Policy Development	Virginia Association of Counties	1001 East Broad Street Suite LL 20 Richmond, VA 23219
1B	Mr. William A. Dennison	Assistant City Manager	City of Bristol	41 Piedmont Avenue Bristol, VA 24210-4160
6A	Mr. John McCarthy	County Administrator	Rappahannock County	PO Box 519 Washington, VA 22747
7A	Mr. Michael L. Edwards	Senior Legislative Analyst	Virginia Municipal League	PO Box 12164 Richmond, VA 23241
1C	Mr. William A. Dennison	Assistant City Manager	City of Bristol	41 Piedmont Avenue Bristol, VA 24210-4160
8A	Mr. Arthur D. Petrini	Executive Director	Rivanna Solid Waste Authority	PO Box 979 Charlottesville, VA 22902
9A	Ms. Bonnie L. Johnson	Assistant County Administrator	County of Franklin	40 East Court Street Rocky Mount, VA 24151
9A	Mr. Vincent Copenhaver	Financial Director	County of Franklin	41 East Court Street Rocky Mount, VA 24152
10A	Mr. Dan D. Miles	Legislative Chair	Old Dominion SWANA Chapter	723 Woodlake Dr. Chesapeake, VA 23320

11A	Mr. Thomas J. Smith	Solid Waste Division Chief	Prince William County Public Works	4379 Ridgewood Center Drive Prince William, VA 22192
12A	Ms. Terri C. Phillips	Director of Environmental Services	Joyce Engineering	4808 Radford Avenue Richmond, VA 23230
12A	Mr. James R. DiFrancesco, Jr.	Director of Engineering Services	Joyce Engineering	4808 Radford Avenue Richmond, VA 23230
13A	Mr. D. Richard Guidry	Regional Compliance Manager	Waste Management	8000 Chambers Road Charles City, VA 23030
14A	Mr. Tedd H. Jett	Manager, Environmental Engineering	Merck Manufacturing Division	PO Box 7 Elkton, VA 22827
15A	Mr. Leonard E. Joyce, Jr.	Chairman	Virginia Waste Industries	PO Box 17824 Richmond, VA 23226