

WAC 246-250-520 Funding for disposal site closure and stabilization. (1) The applicant shall provide assurances prior to the commencement of operations that sufficient funds will be available to carry out disposal site closure and stabilization, including: (a) Decontamination or dismantlement of land disposal facility structures; and (b) closure and stabilization of the disposal site so that following transfer of the disposal site to the site owner, the need for ongoing active maintenance is eliminated to the extent practicable and only minor custodial care, surveillance and monitoring are required. These assurances shall be based on department-approved cost estimates reflecting the department-approved plan for disposal site closure and stabilization. The applicant's cost estimates must take into account total costs that would be incurred if an independent contractor were hired to perform the closure and stabilization work.

(2) In order to avoid unnecessary duplication and expense, the department will accept financial sureties that have been consolidated with earmarked financial or surety arrangements established to meet requirements of federal or other state agencies for such decontamination, closure, and stabilization. The department will accept these arrangements only if they are considered adequate to satisfy the requirements of this section and that the portion of the surety which covers the closure of the disposal site is clearly identified and committed for use in accomplishing these activities.

(3) The licensee's financial or surety arrangement shall be submitted annually for review by the department to assure that sufficient funds will be available for completion of the closure plan.

(4) The amount of the licensee's financial or surety arrangement shall change in accordance with changes in the predicted costs of closure and stabilization. Factors affecting closure and stabilization cost estimates include inflation, increases in the amount of disturbed land, changes in engineering plans, closure and stabilization that has already been accomplished, and any other conditions affecting costs. The financial or surety arrangement shall be sufficient at all times to cover the costs of closure and stabilization of the disposal units that are expected to be used before the next license renewal.

(5) The financial or surety arrangement shall be written for a specified period of time and shall be automatically renewed unless the person who issues the surety notifies the department, the beneficiary (the site owner), and the principal (the licensee) not less than ninety days prior to the renewal date of its intention not to renew. In such a situation, the licensee must submit a replacement surety within thirty days after notification of cancellation. If the licensee fails to provide a replacement surety acceptable to the department, the beneficiary may collect on the original surety.

(6) Proof of forfeiture shall not be necessary to collect the surety so that, in the event that the licensee could not provide an acceptable replacement surety within the required time, the surety shall be automatically collected prior to its expiration. The conditions described above shall be clearly stated on any surety instrument.

(7) Financial or surety arrangements generally acceptable to the department include surety bonds, cash deposits, certificates of deposit, deposits of government securities, escrow accounts, irrevocable letters or lines of credit, trust funds, and combinations of the above or such other types of arrangements as may be approved by the department. Self-insurance, or any arrangement which essentially constitutes

self-insurance, will not satisfy the surety requirement for private sector applicants.

(8) The licensee's financial or surety arrangement shall remain in effect until the closure and stabilization program has been completed and approved by the department, and the license has been transferred to the site owner.

[Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-250-520, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 70.98.080. WSR 87-01-031 (Order 2450), § 402-61-300, filed 12/11/86.]