

3745-51-100

Financial assurance for seventy-two hour recyclers.

Owners or operators of facilities that enter recyclable materials into a recycling process within seventy-two hours after arrival at the facility, except as provided in paragraph (A)(2) of rule 3745-51-06 of the Administrative Code, may store recyclable materials in containers, tanks, or containment buildings without an Ohio hazardous waste permit, provided that the financial assurance requirements of this rule are met. All financial assurance documentation shall be approved by Ohio EPA prior to ~~storing~~storage of any material, and shall comply with this rule.

(A) The owner or operator shall have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with paragraphs (A) and (B) of rule 3745-66-11 and rule 3745-66-14 of the Administrative Code. The cost estimate:

- (1) Shall equal the cost of final closure at the point in the active life of the facility when the extent and manner of ~~its~~the facility's operation would make closure the most expensive.
- (2) Shall be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See the definition of "parent corporation" in rule 3745-66-41 of the Administrative Code.)
- (3) May not incorporate any salvage value that may be realized with the sale of recyclable materials, hazardous wastes, nonhazardous wastes, facility structures or equipment, or land or other asset associated with the facility.
- (4) May not incorporate a zero cost for recyclable materials, or hazardous wastes, or nonhazardous wastes that might have economic value.

(B) During the active life of the facility, the owner or operator shall adjust the closure cost estimate for inflation within sixty days prior to the anniversary date of the establishment of the financial instruments used to comply with rule 3745-66-43 of the Administrative Code. For owners or operators using the financial test, the cost estimate shall be updated for inflation within thirty days after the close of the firm's fiscal year and before, or in conjunction with, submittal of updated information to the director as specified in paragraph (E)(3) of rule 3745-66-43 of the Administrative Code. The adjustment may be made by recalculating the closure cost estimate in current dollars, or by using an inflation factor derived as specified in 40 CFR 265.142(b).

- (1) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

- (2) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.
- (C) During the active life of the facility, the owner or operator shall revise the closure cost estimate no later than thirty days after a change in owner or operator's closure requirements that would increase the cost of ~~conducting~~ closure, or no later than sixty days after an unexpected event which increases the cost of ~~conducting~~ closure in accordance with paragraphs (A) and (B) of rule 3745-66-11 and rule 3745-66-14 of the Administrative Code. The revised cost estimate shall be adjusted for inflation as specified in paragraph (B) of this rule. The revised closure cost estimate shall be submitted to the director within thirty days after the estimate is revised.
- (D) The owner or operator shall keep ~~the following~~ at the facility during the active life of the facility: the latest closure cost estimate prepared in accordance with paragraphs (A) and (C) of this rule, and, when this estimate ~~has been~~was adjusted in accordance with paragraph (B) of this rule, the latest closure cost estimate.
- (E) A copy of the facility's current, detailed closure cost estimate prepared in accordance with paragraphs (A) and (B) of this rule shall be submitted annually to the director.
- (1) For owners and operators using a financial mechanism other than the financial test, such submittal of the closure cost estimate shall be made within thirty days after a revision or update to the estimate made in accordance with paragraph (B) of this rule.
- (2) For owners and operators using a financial test, such submittal of the closure cost estimate shall be made within ninety days after the close of the firm's fiscal year following a revision or update to the estimate in accordance with paragraph (B) of this rule.
- (F) The owner or operator shall provide financial assurance documentation that meets the requirements of paragraphs (A) to (G) of rule 3745-66-43 of the Administrative Code, except that where paragraph (H) of rule 3745-66-43 of the Administrative Code is referenced in paragraphs (A) to (G) of rule 3745-66-43 of the Administrative Code, that requirement shall be replaced with the requirements of paragraph (G) of this rule.
- (G) Release of the owner or operator from the ~~requirements of providing~~requirement to provide financial assurance in accordance with paragraph (F) of this rule. Within sixty days after ~~receiving receipt of~~ written documentation from the owner or operator that the final closure ~~has been~~was completed in accordance with paragraphs (A) and (B) of rule 3745-66-11 and rule 3745-66-14 of the Administrative Code, the director will notify the owner or operator in writing that the owner or operator is no longer required by this rule to maintain financial assurance for final closure of the facility, unless the

director has reason to believe that final closure ~~has~~was not ~~been~~ in accordance with paragraphs (A) and (B) of rule 3745-66-11 and rule 3745-66-14 of the Administrative Code. The director will provide the owner or operator a detailed written statement of any such reason to believe final closure ~~has~~was not ~~been~~ completed.

- (H) The owner or operator shall provide liability coverage for sudden accidental occurrences that meet the requirements of paragraph (A) of rule 3745-66-47 of the Administrative Code.
- (I) Period of liability coverage. Within sixty days after ~~receiving~~receipt of written documentation from the owner or operator that final closure ~~has been~~was completed in accordance with paragraphs (A) and (B) of rule 3745-66-11 and rule 3745-66-14 of the Administrative Code, the director will notify the owner or operator in writing that the owner or operator is no longer required by this rule to maintain liability coverage for that facility, unless the director has reason to believe that final closure ~~has~~was not ~~been~~ completed.

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see rule 3745-50-11 of the Administrative Code titled "Incorporated by reference."]

Effective: 9/29/2021

Five Year Review (FYR) Dates: 6/7/2021 and 06/05/2026

CERTIFIED ELECTRONICALLY

Certification

09/14/2021

Date

Promulgated Under: 119.03
Statutory Authority: 3734.12
Rule Amplifies: 3734.12
Prior Effective Dates: 10/31/2015