



# Florida Department of Environmental Protection Financial Assurance Working Group

## WHAT YOU NEED TO KNOW ABOUT FINANCIAL ASSURANCE

12/11/2020





# Solid Waste Financial Assurance

**This presentation identifies Financial Assurance requirements for**

- Landfills
- C&D Disposal Facilities
- Waste Processing Facilities
- Waste Tire Processors
- Used Oil Facilities
- Soil Treatment Facilities

The information in this presentation is intended as generalized guidance. Review DEP regulations and consult with Department personnel to determine actual options and requirements.



# What is Financial Assurance

- Financial assurance (FA) refers to the required financial instruments (or mechanisms), and sometimes to the value of the FA instrument.
- FA is required at the start of a project to insure there are funds to close the facility (to protect human health and the environment from harm) in the event the owner or operator becomes unable to close it themselves.
- FA must be maintained and needs to cover current dollar closing and long-term care (when required) cost estimates.



# Why must I comply

Having Solid Waste financial assurance (FA) is a requirement of the following Florida Administrative Code (F.A.C.) rules:

- Rule 62-701, F.A.C. [Solid Waste]
- Rule 62-710, F.A.C. [Used Oil]
- Rule 62-711, F.A.C. [Waste Tires]
- Rule 62-713, F.A.C. [Soil Treatment]

These rules all require Solid Waste financial assurance forms to be completed and original-signature instruments to be submitted.



# What will happen if I do not comply

- Deficient or non-existent FA is considered a major violation of DEP Rules and Statutes.
- A facility owner could be fined up to \$5,000 per day for non-compliance. [§403.121(4)(a) &(6), Florida Statutes]



# How do I comply

## Choose from FA instruments adopted by Rule.

- » Irrevocable Letter of Credit\*
- » Financial Guarantee Bond\*
- » Performance Bond\*
- » Insurance Certificate\*
- » Trust Fund Agreement
- » Financial Test
- » Corporate Guarantee\*\*
- » Standby Trust Fund Agreement\*

\* - When a Letter of Credit, Bond or Insurance is used, a Standby Trust Fund Agreement is also required.

\*\* - When a Corporate Guarantee is used, a Financial Test is also required.

- DEP forms must be used. They are available on our website. Submit originally signed instruments.
- Guidance is available on the forms and in separate guidance documents.
- Government entities have the additional option of using a landfill management escrow account.



# Where do I find a company that provides FA

- Many financial institutions can provide acceptable financial assurance (FA) instruments.
- As the cost will vary depending on the mechanism selected and institution used, we encourage facility owners and operators to shop around.
- Your primary financial institutions (e.g., insurance company and bank) may or may not be able or willing to meet your FA needs.
- We maintain a “Provider Companies” list on our website. Included companies requested to be on the list and are willing to work with permittees to provide FA. (The list is not all-inclusive and there is no guarantee that any of these companies will be able to provide services to you individually. DEP does not endorse any provider company.)



# Annual Adjustments

## Tire Facilities:

- The annual cost estimate adjustment for inflation is due 60 days prior to the anniversary date of the FA mechanism (bond, etc.).
- Increased FA is due on the anniversary date.

## Other Solid Waste facility types:

### January 1 – March 1:

- The annual cost estimate adjustment for inflation is due for permittees using a *Letter of Credit, Bond, Insurance, Trust Fund or Financial Test (FT)*.
- Increased FA is due before May 1 (March 31 for most FT users).

### July 1 – September 1:

- The annual cost estimate adjustment for inflation is due for government entities using a *landfill management escrow account*.
- Increased FA is due before the end of the fiscal year.





# Other Considerations

## **Permit renewal estimates:**

- Increased FA is due within 60 days of estimate submittal (independent of permit issuance or estimate approval).

## **Permit expansions:**

- Increased FA is due at least 60 days prior to planned initial receipt of waste in a new disposal unit.



# When Estimates Decrease

- If the permittee wants the FA instrument value reduced, send a request to the FA Working Group.
- All FA-related issues must be resolved before DEP management in Tallahassee will send reduction authorization to the issuing financial institution.
- Estimate approval is never adequate documentation, by itself, for reducing bonds, letters of credit, insurance or trust funds.



# Assistance from DEP

We take much care in determining our financial assurance forms are filled out completely and accurately, as instruments represent real money.

- Please review the guidance we provide on each instrument form page.
- Feel free to contact us with form or data specific questions when filling financial assurance forms.
- We recommend completed forms (prior to being signed) be e-mailed to the FA Working Group (or one of us) so that we may verify data accuracy and form completeness. This can prevent the added expense and time delays associated with resubmissions of originally signed instruments.



# Additional Questions

Please consult our website and contact us with questions.

## Website:

- <http://FloridaDEP.gov/waste/permitting-compliance-assistance/content/solid-waste-financial-assurance>

## E-Mail:

- [Financial.Assurance.Working.Group@FloridaDEP.gov](mailto:Financial.Assurance.Working.Group@FloridaDEP.gov)

### **Financial Assurance Working Group**

Permitting and Compliance Assistance Program

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