



Environmental Fact Sheet

EPA Amends Regulations Related To Third-Party Liability Coverage, Closure, and Post Closure Care

The Environmental Protection Agency (EPA) is amending its requirements governing financial responsibility and assurance for hazardous waste facilities. These amendments will modify the regulations governing the use and implementation of certain financial instruments used in demonstrating coverage for possible liability claims, closure and post-closure care costs.

Background.

The Resource Conservation and Recovery Act (RCRA) requires owners and operators of hazardous waste management facilities to demonstrate financial assurance to cover costs of facility closure, post-closure care, and third-party liability. EPA is amending several provisions of the financial assurance regulations:

Third Party Liability: On September 1, 1988, EPA issued a final rule that expanded the financial instruments available to owners and operators wishing to demonstrate financial assurance for third-party liability and required reporting of third-party liability claims. Following challenges to portions of the rule, EPA agreed to propose and finalize amendments to the claims reporting requirement and letter of credit mechanism. The amendments were proposed on July 1, 1991.

Closure and Post-Closure Care: The September 1988, rule made the non-parent corporate guarantee available to demonstrate financial responsibility coverage for third-party liability. The Agency received a rulemaking petition requesting that the regulations be amended to expand availability of the non-parent guarantee to closure and post-closure care. EPA proposed to expand its applicability in the July 1991 notice.

Action

Based on the July 1, 1991, proposal, EPA has signed and promulgated this rule. As described above, it expands the financial assurance instruments and revises provisions related to third-party liability coverage.

This rule is being promulgated under RCRA and hence is only immediately applicable in states that do not have final authorization. In authorized states, the requirements will not be applicable until, and unless, the state revises its program to adopt equivalent requirements under state law.

The following box details these changes.

Revisions To Third-Party Liability Coverage	
Former Regulations <ul style="list-style-type: none">• established a reporting mechanism that required owners and operators to report all liability claims made by third parties.• allowed for the use of a letter of credit, among other instruments, by owners and operators to demonstrate financial responsibility, for third party liability coverage.	New Regulations <ul style="list-style-type: none">• revise the claims reporting requirement so that only valid claims need be reported.• allow the use of the standby trust fund with letter of credit as an instrument to demonstrate financial responsibility for third party liability.
Expansion of Financial Assurance Instruments	
Former Regulations <ul style="list-style-type: none">• allowed owners and operators to use the "non-parent corporate guarantee" for third-party liability coverage only. This mechanism allows a company other than the parent corporation to provide a guarantee if the company has a "substantial business relationship" with the owner or operator.	New Regulations <ul style="list-style-type: none">• extend the availability of the non-parent corporate guarantee to demonstrate financial assurance for closure and post-closure care costs.

For More Information

For further information, or to order a copy of the *Federal Register* notice, please call the RCRA Hotline Monday through Friday, 8:30 a.m. to 7:30 p.m. EST. The Hotline numbers are listed below. The national toll-free number is (800) 424-9346, or TDD (800) 553-9346 for the hearing impaired. In the Washington, D.C. area, the number is (703) 920-9810 or TDD (703) 486-3323. Please send all written requests to the RCRA Information Center (OS-305), US Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.