



DEPT. OF ENVIRONMENT AND ENERGY

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Guidance for Certificate of Deposit or Cash Account

The regulatory basis for this type of demonstration for financial assurance is found in the Nebraska Environmental Protection Act (Reissue Cum Supp 1994) § 81-1505 (21) (b), the Integrated Solid Waste Management Act §13-2034, and [Title 132 – Integrated Solid Waste Management Regulations](#), Chapter 8.

Under these regulations, owners or operators of solid waste management facilities are required to estimate the costs of closure and/or post-closure care of permitted solid waste facilities and to assure financial responsibility through the use of specified mechanisms or a state-approved mechanism.

A Certificate of Deposit, Savings Certificate, Cash Account, and/or approved negotiable securities are allowable mechanisms to demonstrate financial responsibility under the following conditions:

1. An Escrow Account payable to the Nebraska Department of Environment and Energy (NDEE) must be established with the conditions upon which the NDEE Director can access the funds (i.e. in the case of bankruptcy, default, abandonment, termination or revocation of permit, or failure to perform final closure or post-closure in accordance with the closure or post-closure plan). The terms of the Escrow Account shall provide that the funds will be payable to the NDEE Director, upon written notification to the escrow agent by certified mail, if the NDEE Director determines any of the conditions listed above exist.
2. The Certificate of Deposit, Savings Certificate, Cash Account, or approved negotiable security will be set up in an Escrow Account that will be released, terminated, or redeemed only to the NDEE by the Director's signature and the owner's signature or to the NDEE by the Director's signature, only, if the owner ceases to exist.
3. The financial institution will be requested to provide an annual valuation of the amount held in escrow. The funds held in escrow must have a market value equal to or greater than the current closure and/or post-closure cost estimates, as updated for inflation annually. Accrued interest shall accumulate and become part of account.

4. The term of a Certificate of Deposit, Savings Certificate, or approved negotiable security will be 1 year or less.
5. The funds deposited in the Certificate of Deposit, Savings Certificate, Cash Account, or approved negotiable securities are to be used only for closure and/or post-closure costs as identified in the approved closure and/or post-closure cost estimates.
6. The escrow account will be released to the owner of the facility only if the owner is no longer required to demonstrate financial responsibility in accordance with Title 132 or if the owner substitutes an approved alternate financial assurance mechanism
7. An originally signed copy of the Escrow Account Agreement must be submitted to NDEE.

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