

January 10, 2007 ISWR MEETING

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ARTICLE 4. SOLID WASTE FACILITIES; GENERAL REQUIREMENTS

R18-13-401. Solid Waste Facilities; Applicability of Article

Each solid waste facility in this state and not in Indian country is subject to the requirements described in this Article. In addition, specifically described solid waste facilities are subject to best management practices, self-certification or plan review requirements as provided in this Chapter.

R18-13-402. Requirement for a Solid Waste Facility Notice

- A.** For a solid waste facility which begins operating after the effective date of this [Section](#), the owner or operator shall file a solid waste facility notice no later than 30 days prior to beginning operation.
- B.** For a solid waste facility in operation on the effective date of this [Section](#), the owner or operator shall file a solid waste facility notice within 180 days after the effective date of this [Section](#). **What if it is already on file?**
- C.** An updated solid waste facility notice shall be filed when there is a change in the owner, operator, or the name of the solid waste facility, or a change in the physical location of the facility or its mailing address.
- D.** A solid waste facility notice shall be submitted on a form prescribed by the Department. **Where is the form, what if the form is not available?**
- E.** A solid waste facility notice shall include the following information:
 - 1. The name of the solid waste facility and its mailing address.
 - 2. The name, address and telephone number of each owner and operator of the solid waste facility.
 - 3. The physical location of the solid waste facility, described in both subdivisions (a) and (b), and either subdivision (c) or (d):

- a. The legal description of the property on which the facility is located, expressed by township, range, and section, and county assessor's book, map, and parcel number.
 - b. Latitude and longitude expressed in degrees, minutes, and seconds, with the method the location was determined and the nearest city or town.
 - c. Physical address expressed as:
 - i. Street name and number;
 - ii. City, town, community, or post office name;
 - iii. State; and
 - iv. Zip code.
 - d. Driving directions from the nearest city or town.
4. A description of the waste storage and treatment equipment and methods of waste management, including types and volumes of waste handled and the length of time the waste remains on site.
 5. A description of the waste management practices used at the solid waste facility, including measures taken to protect the environment and to protect the public health.
 6. A diagram showing the relative location of the features of the solid waste facility.
 7. A site map prepared to scale, indicating property and facility size, relative to the surrounding area.
 8. A location map identifying any learning sites within a two-mile radius. **Does this include charter schools and home teaching?**
 9. The design capacity of the facility.

R18-13-403. Siting Criteria

For a solid waste facility which begins operating after the effective date of this Section, the applicable best management practices relating to siting are:

1. The solid waste facility is sited on a parcel zoned for that use.
2. The siting of the solid waste facility shall comply with ***A.R.S. § 49-767*** if the solid waste facility is owned by an agency or political subdivision of this state and

the solid waste facility is required to obtain solid waste facility plan approval pursuant to [A.R.S. § 49-762](#).

3. The siting of the solid waste facility shall comply with [A.R.S. § 49-772](#) if the solid waste facility is required to obtain solid waste plan approval pursuant to [A.R.S. § 49-762](#).

R18-13-404. Operational Plan

- A. The owner or operator of a solid waste facility shall develop, maintain, and comply with a written operational plan that meets the requirements of this [Section](#) during the active life of the facility.
- B. The operational plan required by this [Section](#) shall include the following:
 1. Evidence that the solid waste facility complies with the siting criteria described in [A.A.C. R18-13-403](#).
 2. A plan to control run-on and run-off as described in [A.A.C. R18-13-407](#).
 3. A waste identification and screening program as described in [A.A.C. R18-13-408](#).
 4. A plan to control public access, provide security and prevent unauthorized dumping as required by [A.A.C. R18-13-409](#).
 5. A plan to control wind-blown litter as required by [A.A.C. R18-13-410](#).
 6. Procedures for controlling disease vectors as required by [A.A.C. R18-13-410](#).
 7. Evidence that the facility complies with the container and tank standards of [A.A.C. R18-13-411](#).
 8. Contingency plans that meet the standards described in [A.A.C. R18-13-412](#).
 9. Closure plans that meet the standards described in [A.A.C. R18-13-413](#).
 10. Financial assurance information, including estimates for closure, post-closure care, and a copy of the financial assurance mechanism being used to meet the requirements of [A.A.C. R18-13-415](#).
 11. A description of the on-site solid waste handling procedures to be used during the active life of the facility.
 12. A description of the design capacity of the facility, specifically identifying the capacity of the facility to store wastes received, by-product wastes, and processed wastes, and the capacity of the waste handling equipment.

13. A schedule for conducting internal inspections and monitoring of the facility, and measures to be taken to abate or address problematic conditions detected through inspections or monitoring.
14. Corrective action programs to be initiated under [A.R.S. § 49-762.08](#) if soil, surface water or groundwater is contaminated.
15. A description of operation and maintenance of installed equipment, including solid waste handling equipment, leachate and gas collection systems, groundwater monitoring systems and other pollution prevention equipment, and identifying the extent to which the equipment relates to best management practices specifically applicable to that type of solid waste facility. **Are As Built Plans, Owner & Operator Manuals sufficient to meet this requirement? BMP's as identified in the this Rule, defines BMP's as the following:**

- Facility Notice
- Oper Plan
- Oper Record
- Annual Report
- Stormwater Run On/Off Control
- Waste Identification/Screening
- Security/Scavenging/Safety
- Dust/Litter/Vectors
- Tanks
- Contingency Plan
- Closure
- Corrective Action Plan
- Financial Assurance

None of these general elements directly relate to the operation and maintenance of the equipment in use at a landfill? If ADEQ wants to include BMP's related to O&M of equipment they need to enumerate them in writing by Appendix?

ARS 49-201-3. DEFINES "*Best management practices*" means those methods, measures or practices to prevent or reduce discharges and includes structural and nonstructural controls and operation and maintenance procedures. *Best management practices* may be applied before, during and after discharges to reduce or eliminate the introduction of pollutants into receiving waters. Economic, institutional and technical factors shall be considered in developing *best management practices*.

36. "Standards of performance" means performance standards, design standards, *best management practices*, technologically based standards

and other standards, limitations or restrictions established by the director by rule or by permit condition.

Definitions of **best management practices** on the Web:

- Structural, nonstructural and managerial techniques that are recognized to be the most effective and practical means to control nonpoint source ...
www.nsc.org/EHC/glossary.htm
- Best Management Practices (BMPs) are policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural. ...
www.wetlands.com/pro/fr21jul99pte.htm
- Design, construction, and maintenance practices and criteria for stormwater facilities that minimize the impact of stormwater runoff rates and volumes, prevent erosion, and capture pollutants.
www.hancockcoingov.org/surveyor/drainage_glossary_of_terms.asp
- A practice or combination of practices based on research, field-testing, and expert review, to be the most effective and practicable, including economic and technological considerations, on-farm means of improving water quality in agricultural discharges to a level that balances water quality ...
www.floridadep.net/evergladesforever/about/glossary.htm
- a series of guidelines or minimum standards for proper application of forestry operations, designed primarily to prevent soil erosion and water pollution, and to protect certain wildlife habitat values in riparian and wetland areas.
www.sfrc.ufl.edu/Extension/ssfor11.htm
- management or structural practices designed to reduce the quantities of pollutants, such as sediment, fertilizers, animal wastes, etc. that enter nearby streams, lakes, wetlands, and groundwater.
www.mondaycreek.org/glossary.html
- Techniques recommended in the management of timber harvesting and road construction that result in minimal impact on streams, soils, water quality and wildlife.
www.calforests.org/glossary.html
- Conservation practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by nutrients, animal wastes, toxics, and sediment. ...
dnr.maryland.gov/criticalarea/glossary.html
- Standard, well-defined methods for harvesting and managing forested lands in compliance with federal and state regulations regarding conservation of soil, water, plants, and animal habitats (Hook et al. 1991).
www.clemson.edu/extfor/publications/fortp19/definitions.htm
- Effective, feasible (including technological, economic, and institutional considerations) conservation practices and land- and water-management measures that avoids or minimizes adverse impacts to natural and cultural resources. http://www.nps.gov/yose/planning/yvp/seis/vol_ib_p2/gloss_1.html
www.ijc.org/php/publications/html/12br/english/report/glossary.html
- timber harvesting guidelines and techniques that, when used properly, can eliminate or help reduce water pollution.
www.ket.org/trips/forest/glossary.htm
- BMP's are practical and economically achievable practices for preventing or reducing nonpoint source pollution.
www.co.oneida.wi.gov/county/app/docs/oneida/200408231103259249339.html
- Methods, measures, or practices determined to be reasonable and cost-effective means for a landowner to meet certain, generally nonpoint source, pollution control needs. BMPs include structural and nonstructural controls and operation and maintenance procedures.
www.deq.state.va.us/tmdl/glossary.html
- Ways in which agricultural production methods can be altered to minimize negative water impacts.
wingolog.org/writings/water/html/node6.html

- Practices that are technically and economically feasible and for which significant water conservation or water quality benefits can be achieved.
www.ext.colostate.edu/PUBS/crops/04717.html
- Methods adopted by resource users designed to mitigate harm to the environment that might result from their activities. Click here for an animated presentation.
www.apsu.edu/wet/OLD_PROJECT_WET_WEBSITE/whatis.html
- Scientifically designed and field-tested forestry techniques used to protect water quality and the forest environment during management activities; commonly referred to as BMPs.
www.wipapercouncil.org/fun7.htm
- (BMPs) - Forest management practices, developed pursuant to federal water quality legislation, to minimize or prevent nonpoint source water pollution. Often in more general usage referring to any good forest stewardship practices.
www.state.sc.us/forest/rbg.htm
- Best management practices (BMP). A conservation practice or combination of practices designed to maintain agricultural productivity while reducing point- and nonpoint- source water pollution. ...
ilrdss.sws.uiuc.edu/glossary/glossary_browserresults.asp
- In environmental policy, refers to the use of state-of-the-art management practices to achieve the lowest possible emissions rate.
450.aers.psu.edu/glossary_search.cfm
- or "BMPS" for purposes of this chapter means:
www.njfb.org/waterquality/glossary.htm
- a practice or combination of practices that are determined to be the most technologically or economically feasible means of preventing or managing potential impacts. (Best Management Practices Handbook: Hillslope Restoration in British Columbia; Watershed Restoration Technical Circular No. ...
www.moricelakes-ifpa.com/glossary/index.html
- Activities or structural improvements that help reduce the quantity and improve the quality of stormwater runoff. BMPs include treatment requirements, operating procedures and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
www.ncdot.org/programs/environment/stormwater/awareness/education/vocabulary.html
- An urban water-conservation measure that the California Urban Water Conservation Council agrees to implement among member agencies
www.iep.water.ca.gov/cmarp/groups/scwt/combined.doc
- Pollution prevention measures to reduce runoff and other detrimental effects from storm water, soil erosion, animal wastes, and other discharges, prescribed by Rainwater and Land Development, Ohio's Standards for Storm Water Management, Land Development, and Urban Stream Protection, Ohio ...
www.carrollcountyohio.net/planning/Glossary.doc

16. A plan for an alternative waste handling or disposal system during periods when the solid waste facility is not able to store or dispose of solid waste, including procedures to be followed in the case of equipment breakdown or adverse weather.

17. A training plan that assures facility personnel are trained appropriately for the activities at the facility, including safety and emergency procedures, and to comply with the requirements of this Chapter. **Please provide guidance on the level of training necessary. Is this OSHA, SWANA, Secondary Education, etc?**

18. Any measures taken to ensure the protection of children at learning sites. **Please provide guidance, what measures other than fencing and minimum security is necessary?**

R18-13-405. Operating Record

- A. The owner or operator of a solid waste facility shall establish and maintain during the active life of the facility an operating record for each day during which operations, monitoring, or closure activity occurs.
- B. The operating record required by this [Section](#) shall include the following:
1. The type and weight or volume of each load of solid waste received.
 2. A record of any deviations from operational plans. **What is considered a deviation? A landfill is a very fluid environment and day to day, moment to moment fluctuations can occur at anytime.**
 3. A record of internal inspections and monitoring, if applicable, of the facility, measures taken to abate or address conditions detected through the inspections or monitoring. Internal inspections include inspection of incoming loads as well as facility inspections. **What are the items to be inspected?**
 4. Monitoring and test results, if applicable.
 5. The training records of those operating the solid waste facility, relative to the operation of the facility. **What type of training are you looking for? Does this imply that a manager need MOLO, or another SWANA Cert? Does it mean that an litter picker upper needs training, if so what?**
 6. Records of all closure activities.
- C. The owner or operator shall make available for Department inspection at or near the site of the solid waste facility the operating records for the current month and, at a minimum, the operating records for the previous 60 months.

R18-13-406. Annual Report

- A. Except as otherwise provided in [subsection](#) (C), the owner or operator of a solid waste facility shall submit an annual report to the Department on or before March 1, describing the operations of the previous calendar year.
- B. An annual report required by this [Section](#) shall be submitted on a form prescribed by the Department and shall include all of the following: **Please provide the form, what happens if the form is not available? Can all the forms be digitized so they can be submitted electronically via the internet and recorded in a database?**

1. Basic solid waste facility information, including:
 - a. The name of the solid waste facility and its mailing address.
 - b. The name, address and telephone number of each owner and operator of the solid waste facility.
 - c. The physical location of the solid waste facility.
 - d. A description of the waste management practices used at the solid waste facility.

All of this information was previously provided in the Facility Notice, therefore, we will just reference it.

2. The type and weight or volume of solid waste received each month.
3. The type and weight or volume of solid waste recycled during the year.

Why is #2 montly and #3 annual? Why not make them the same. This information is also requested by the Recycling Division, can we eliminate the duplication of record submittal?

4. The disposition of solid waste not stored or recycled.
 5. An indication whether the owner, the operator, or both, were required to file a certificate of disclosure under [A.R.S. § 49-109](#) during the previous calendar year. If a certificate of disclosure has been filed during the previous calendar year, the owner or operator shall attach a copy of the certificate of disclosure.
- C. The owner or operator of a solid waste facility that is required to report on its activities related to the management of used oil under [A.R.S. Title 49, Chapter 4, Article 7](#), is not required to submit an annual report under this [Section](#) describing those activities related to the management of used oil.

R18-13-407. Storm water Run-on and Run-Off Control System

- A. Except as otherwise provided in sub[section](#) (C), the owner or operator of a solid waste facility shall design, construct, operate and maintain a system to control storm water run-on to and run-off from the solid waste facility. as required by this [Section](#)

Does this imply that the run on/off controls have to be in place prior to commencing operations of the facility? Is a phased approach ok as the facility commences operations and approaches buildout?

- B.** A system to control storm water run-on and run-off as required by this [Section](#) shall divert water from contacting solid waste and shall handle the diverted water appropriately. In addition, the system shall meet the following standards:
1. A run-on control system shall prevent flow onto the facility during the peak discharge from a 25-year, 24-hour storm.
 2. A run-off control system shall:
 - a. Collect the water volume resulting from a 25-year, 24-hour storm event.
 - b. Control the water volume from a 25-year, 24-hour storm event by retaining the water on-site for reuse, evaporation or proper disposal.
- C.** To the extent that a solid waste facility is subject to the requirements of the Arizona Pollutant Discharge Elimination System Program under **A.R.S. Title 49, Chapter 2, Article 3.1**, the owner or operator of the solid waste facility shall comply with those requirements in lieu of complying with this [Section](#).

R18-13-408. Waste Identification and Screening

- A.** The owner or operator of a solid waste facility shall implement a waste identification program to identify specific waste streams to be handled at the facility, the waste analysis requirements and procedures to be imposed on generators, and the waste verification procedures at the facility. **What is the level of detail necessary?**
- B.** The owner or operator of a solid waste facility shall implement a waste screening program to prohibit the receipt of wastes which are not authorized by law to be handled by that type of solid waste facility, and to segregate and properly handle wastes requiring special handling.

Is our current Waste Identification and Screening program as approved by ADEQ sufficient to meet this rule? Or is there a standard of performance ADEQ has in mind?

- C.** The waste screening program required by this [Section](#) shall include the following, at a minimum:
1. Random inspections of incoming loads unless the owner or operator take other steps to ensure that incoming loads do not contain wastes which are not authorized by law to be handled by that type of solid waste facility.
 2. Records of any inspections of incoming loads.
 3. Training of facility personnel to recognize wastes which:

Is SWANA annual waste screening training sufficient to meet this requirement?

- a. Are not authorized by law to be handled by that type of solid waste facility.
 - b. Require separation and special handling when received.
4. Notification to the Department within 24 hours after the discovery of wastes which are not authorized by law to be handled by that type of solid waste facility.

What is the contact info for this notification and can it take place via email?

5. Proper handling of unauthorized waste until it is removed from the facility. Proper handling includes the provision of a safe temporary storage area that prevents commingling of the unauthorized waste or other condition that poses a threat to public health or the environment.
6. Proper handling of wastes requiring special handling.

Seems to be repetitive of item #5.

R18-13-409. Control of Public Access; Safety and Security; Prevention of Scavenging and Unauthorized Dumping

- A. The owner or operator of a solid waste facility shall design, construct, operate and maintain the facility to control public access to the solid waste facility, prevent unauthorized vehicular traffic, provide for site security both during and after hours, and prevent scavenging and unauthorized dumping of wastes. **What is considered adequate site security for after hours and unauthorized dumping? Does this imply that we need 24 hour surveillance?**
- B. The owner or operator of a solid waste facility shall design, construct, operate and maintain the facility to have a sign that identifies the facility and shows at least the name of the site, and, if applicable, hours during which the site is open for public use, what materials the facility does not accept, a telephone number to contact the owner or operator about the operation of the facility, and other necessary information posted at the site entrance.
- C. The owner or operator of a solid waste facility shall design, construct, operate and maintain the facility to have communication capabilities to immediately summon fire, police, or emergency service personnel in the event of an emergency.

R18-13-410. Dust, Litter and Vector Control; Open Burning Prohibited

- A. The owner or operator of a solid waste facility shall design, construct, operate and maintain the facility to control litter and vector breeding and attraction at the facility, and to control dust as required by **18 A.A.C. 2, Article 6**, or as required by more stringent county rules for non-point sources that may apply. The owner or operator of a solid waste

facility shall establish a plan to control wind-blown litter that includes equipment and methods to contain litter and a schedule and methods to collect scattered litter in a timely manner.

Define timely (48 hours)?

The actual sections relative to dust control are 604, 605, 606, and 607.

10. "Household waste" means any solid waste including garbage, rubbish, and sanitary waste from a septic tank that is generated from households including single and multiple family residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas, but does not include construction debris, landscaping rubble, or demolition debris.
 12. "Open outdoor fire or open burning" means the combustion of material of any type, outdoors and in the open, where the products of combustion are not directed through a flue. Open outdoor fires include agricultural, residential, prescribed, and construction burning, and fires using air curtain destructors.
- C. Open outdoor fires exempt from a permit. The following fires do not require an open burning permit from the Director or a delegated authority:
1. Fires used only for:
 - a. Cooking of food,
 - b. Providing warmth for human beings,
 - c. Recreational purposes,
 - d. Branding of animals,
 - e. Orchard heaters for the purpose of frost protection in farming or nursery operations, and
 - f. The proper disposal of flags under 4 U.S.C. 1, 8.
 2. Any fire set or permitted by any public officer in the performance of official duty, if the fire is set or permission given for the following purpose:
 - a. Control of an active wildfire; or
 - b. Instruction in the method of fighting fires, except that the person setting these fires must comply with the reporting requirements of subsection (D)(3)(f).
 3. Fire set by or permitted by the Director of Department of Agriculture for the purpose of disease and pest prevention in an organized, area-wide control of an epidemic or infestation affecting livestock or crops.
 4. Prescribed burns set by or assisted by the federal government or any of its departments, agencies, or agents, or the state or any of its agencies, departments, or political subdivisions, regulated under Article 15 of this Chapter.
- F. **Open outdoor fires of household waste. An open outdoor fire for the disposal of household waste is allowed by provisions of this Section when permitted in writing by the Director or a delegated authority. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The permittee shall conduct open outdoor fires of household waste in an approved waste burner and shall either:**
1. **Burn household waste generated on-site on farms or ranches of 40 acres or more where no household waste collection or disposal service is available; or**
 2. **Burn household waste generated on-site where no household waste collection and disposal service is available and where the nearest other dwelling unit is at least 500 feet away.**
- R18-2-604. Open Areas, Dry Washes, or Riverbeds**
- A. No person shall cause, suffer, allow, or permit a building or its appurtenances, or a building or subdivision site, or a driveway, or a parking area, or a vacant lot or sales lot, or an urban or suburban open area to be constructed, used, altered, repaired, demolished, cleared, or leveled, or the earth to be moved or excavated, without taking reasonable precautions to limit excessive amounts of particulate matter from becoming airborne. Dust and other types of air contaminants shall be kept to a minimum by good modern practices such as using an approved dust suppressant or adhesive soil stabilizer, paving, covering, landscaping, continuous wetting, detouring, barring access, or other acceptable means.
 - B. No person shall cause, suffer, allow, or permit a vacant lot, or an urban or suburban open area, to be driven over or used by motor vehicles, trucks, cars, cycles, bikes, or buggies, or by animals such as horses, without taking reasonable precautions to limit excessive amounts of particulates from becoming airborne. Dust shall be kept to a minimum by using an approved dust suppressant, or adhesive soil stabilizer, or by paving, or by barring access to the property, or by other acceptable means.
 - C. No person shall operate a motor vehicle for recreational purposes in a dry wash, riverbed or open area in such a way as to cause or contribute to visible dust emissions which then cross property lines into a residential, recreational, institutional, educational, retail sales, hotel or business premises. For purposes of this subsection "motor vehicles" shall include, but not be limited to trucks, cars, cycles, bikes, buggies and 3-wheelers. Any person who violates the provisions of this subsection shall be subject to prosecution under A.R.S. 49-463.

R18-2-605. Roadways and Streets

- A. No person shall cause, suffer, allow or permit the use, repair, construction or reconstruction of a roadway or alley without taking reasonable precautions to prevent excessive amounts of particulate matter from becoming airborne. Dust and other particulates shall be kept to a minimum by employing temporary paving, dust suppressants, wetting down, detouring or by other reasonable means.
- B. No person shall cause, suffer, allow or permit transportation of materials likely to give rise to airborne dust without taking reasonable precautions, such as wetting, applying dust suppressants, or covering the load, to prevent particulate matter from becoming airborne. Earth or other material that is deposited by trucking or earth moving equipment shall be removed from paved streets by the person responsible for such deposits.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-605 renumbered without change as Section R18-2-605 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-605 renumbered to R18-2-805, new Section R18-2-605 renumbered from R18-2-405 effective November 15, 1993 (Supp. 93-4).

R18-2-606. Material Handling

No person shall cause, suffer, allow or permit crushing, screening, handling, transporting or conveying of materials or other operations likely to result in significant amounts of airborne dust without taking reasonable precautions, such as the use of spray bars, wetting agents, dust suppressants, covering the load, and hoods to prevent excessive amounts of particulate matter from becoming airborne.

Historical Note

Section R18-2-606 renumbered from R18-2-406 effective November 15, 1993 (Supp. 93-4).

R18-2-607. Storage Piles

- A. No person shall cause, suffer, allow, or permit organic or inorganic dust producing material to be stacked, piled, or otherwise stored without taking reasonable precautions such as chemical stabilization, wetting, or covering to prevent excessive amounts of particulate matter from becoming airborne.
- B. Stacking and reclaiming machinery utilized at storage piles shall be operated at all times with a minimum fall of material and in such manner, or with the use of spray bars and wetting agents, as to prevent excessive amounts of particulate matter from becoming airborne.

- B. The owner or operator of a solid waste facility shall not engage in or allow open burning, unless it is permitted under [A.A.C. R18-2-602](#), or exempt under **18 A.A.C. 2, Article 15**.

18 AAC 2, Art 15 is titled Forest and Range Management Burns: A key word search for “open burning” and “exempt” does not yield any results. Is this reference correct, if so, what exemption is ADEQ trying to incorporate?

R18-13-411. Containers and Tanks

- A. The owner or operator of a solid waste facility shall design, construct, operate and maintain the facility so that a container used in the handling of solid waste meets the following standards:
 1. Is constructed of durable watertight materials and is designed and maintained to be leak-proof.
 2. Is maintained in good condition and have no severe rusting or apparent structural defects or deterioration.
 3. Is closed with a lid that prevents the loss of materials during storage, processing, treatment, or transport, that prevents access by vectors, and that controls litter. **Is tarping sufficient for a roll off container or do they need lids?**

B. The owner or operator of a solid waste facility shall design, construct, operate and maintain the facility so that a container or a tank used to handle liquid or semisolid solid waste shall meet the following design and construction standards:

1. A container meets the requirements of subsection (A).
2. A tank and ancillary equipment shall be leak-proof.
3. A tank constructed so that all or any portion of the tank is below ground shall comply with the standards of **40 CFR 280.11(a)**.
4. An above ground tank or a container shall be equipped with secondary containment constructed of, or lined with, materials compatible with the waste being stored and capable of containing the volume of the largest tank within its boundary, plus the precipitation from a twenty-five-year storm event. The entire containment system, including walls and floors, shall be sufficiently impervious to the liquid or semisolid solid waste to prevent any waste released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
4. Areas used to load or unload tanks or containers shall be designed to contain spills, drippage and accidental releases during loading and unloading of vessels. **What if the SWPPP addresses the BMP's for drippage?**
5. Tanks and piping and containers shall be protected from impact by vehicles or equipment through use of curbing, grade separation, bollards or other appropriate means.
6. Tanks and containers shall be structurally suited for the proposed use.
7. Tanks, valves, fittings and ancillary piping, and containers shall be protected from failure caused by freezing.

R18-13-412. Contingency Planning

- A.** The owner or operator of a solid waste facility shall develop, maintain, and comply with a written contingency plan that meets the requirements of this Section.
- B.** A written contingency plan required by this Section shall describe the steps necessary in the event of fire, explosion, power outage, natural disaster, or other event that significantly disrupts the normal operation of the facility, or in the event of a release of waste, such as a release of explosive gases or the failure of run-off containment system.
- C.** A contingency plan shall contain emergency response provisions to address an imminent and substantial endangerment to public health or the environment including all of the following:

1. Twenty-four hour emergency response measures.
 2. The name of an emergency response coordinator responsible for implementing the contingency plan.
 3. Immediate notification to the Department regarding any emergency response measure taken.
 4. A list of people to contact, including names, addresses, and telephone numbers if an imminent and substantial endangerment to public health or the environment arises.
 5. A general description of the procedures, personnel, and equipment proposed to mitigate unauthorized discharges.
- D.** The owner or operator may amend a contingency plan required by the Federal Water Pollution Control Act (P.L. 92500; 86 Stat. 816; 33 U.S.C. 1251, et seq., as amended), or the Resource Conservation and Recovery Act of 1976 (P.L. 94580; 90 Stat. 2796; 42 U.S.C. 6901 et seq., as amended), to meet the requirements of this [Section](#).
- E.** The owner or operator of a solid waste facility shall maintain at least one copy of the contingency plan required by this [Section](#) at the location where day-to-day decisions regarding the operation of the facility are made. The owner or operator of a solid waste facility shall advise all employees responsible for the operation of the facility of the location of the contingency plan.
- F.** An owner or operator of a solid waste facility shall promptly revise the contingency plan upon any change to the information contained in the plan. **What is considered promptly?**

R18-13-413. Closure

- A.** The owner or operator of a solid waste facility shall develop, maintain, and comply with written closure plans that meet the requirements of this [Section](#).
- B.** A written closure plan required by this [Section](#) shall describe the steps necessary for closure of the solid waste facility and any anticipated future uses of the property following closure.
- C.** The owner or operator of a solid waste facility shall notify the Department of the intent to close the solid waste facility at least 90 days before closure activities begin. At least 60 days before closure activities begin, the owner or operator shall post signs to notify the general public of the proposed closure date.

- D. The owner or operator of a solid waste facility that does not receive any solid waste for a period of 365 consecutive days shall immediately commence closure activities according to this [Section](#) or other applicable [Section](#) in this Chapter.
- E. The owner or operator of a solid waste facility that is not subject to the closure requirements of [18 A.A.C. 13, Article 11](#) shall comply with the following closure requirements:
1. Remove all solid waste.
 2. Dispose of all solid waste removed from the closing facility only at a solid waste facility regulated by the Department under this Chapter, or to a solid waste facility authorized to receive the waste by a tribal nation, EPA, or another state.
 3. Decontaminate any buildings, fences, roads, equipment or other improvements related to solid waste handling or storage, treatment or disposal. **What is the standard of performance related to decontamination?**
 4. Sample and analyze soil, groundwater and surface water for contamination if the owner, operator or the Department know or suspect that there has been a release to groundwater, surface water, or soil. If soil, groundwater or surface water are contaminated, the owner or operator of the solid waste facility shall conduct corrective action under [A.A.C. R18-13-414](#).
 5. Take precautions to prevent unauthorized use of the site.
 6. Begin closure activities no later than 30 days after the date on which the solid waste facility receives the final shipment of wastes. **What is considered the beginning of closure activities? Or Does this imply actual closure such as the movement of soil, construction activities?**
 7. Complete closure activities within 90 days after the date on which closure activities begin, unless the Department approves a reasonable extension of the closure deadline based upon an application and demonstration by the owner or operator of good cause for the extension and that the closure will otherwise meet the requirements of this [subsection](#). **This needs to be reconsidered, local government procurement processes, often take longer than 90 days. Could be rewritten to say that closure activities must commence with 90 days and be completed no later than 360 days after start of closure activities?**
- F. The owner or operator of a solid waste facility that closes under this [Section](#) shall certify that the clean closure requirements described in [subsection \(E\)\(1\) through \(E\)\(7\)](#) have been met within 30 days after completion of closure. The certification shall be submitted to the Department and included in the facility's operating record.

- G. Any solid waste facility which is not closed as described in subsection (E)(1) through (E)(7) is considered a solid waste land disposal facility subject to plan approval under A.R.S. § 49-762, subject to closure and post-closure under A.A.C. R18-13-1125 and 1126, and shall modify financial assurance accordingly.
- H. The owner or operator of a solid waste facility that is a solid waste landfill shall comply with the closure and post-closure requirements identified in 18 A.A.C. 13, Article 11.

R18-13-414. Corrective Actions

- A. The owner or operator of a solid waste facility shall conduct corrective action in response to a release from a facility, if the release violates or results from a violation of a design and operation standard in this Chapter, or causes or threatens to cause a significant adverse effect on human health or the environment. Corrective action shall be conducted according to this Section.
- B. The owner or operator of a solid waste facility that is required by this Section to conduct corrective action shall conduct the corrective action in accordance with the standards described in A.R.S. § 49-282.06(A), (B)(4)(a) and (b), (C), (D), and (F).
- C. The owner or operator of a solid waste facility that is required by this Section to conduct corrective action shall cause the site to be listed in the repository established for the purpose of listing remediation sites, as required by A.R.S. § 49-152 (E).

R18-13-415. Financial Assurance

- A. Beginning 180 days after the effective date of this Article, a solid waste facility may not be operated unless financial responsibility has been demonstrated for the costs of closure, postclosure care, if necessary, and any corrective action as a result of known releases from the facility.
- B. A demonstration of financial responsibility made for a solid waste facility under A.R.S. Title 49, Chapter 2, Article 3, suffices, in whole or in part, for any demonstration of financial responsibility required by this rule.

Only 49-243.N deals with financial assurance the rest of the section is fluff

N. The director may deny a permit for a facility if he determines that the applicant is incapable of fully carrying out the terms and conditions of the permit, including any conditions that require monitoring or installing and maintaining discharge control measures. The director may require the applicant to furnish information, such as past performance, including compliance with or violations of similar laws or rules, and technical and financial competence, relevant to its capability to comply with the permit terms and conditions. For the purposes of evaluating an applicant's financial competence for closure, the director may consider a closure strategy and cost estimate rather than a detailed closure plan. A demonstration of financial responsibility made for a facility as prescribed by section 49-770 shall suffice, in whole or in part, for any demonstration of financial responsibility prescribed by this section. A demonstration of financial assurance, or competence required under this section or section 49-770 for a facility shall not be required prior to completion of construction but shall be required before the department issues approval to operate. Financial information required to be supplied under this subsection is confidential.

- C. A demonstration of financial responsibility is subject to [18 A.A.C. 13, Article 18](#). (this is at the end of this document)

ARTICLE 5. -PROCEDURAL REQUIREMENTS FOR SOLID WASTE FACILITIES SUBJECT TO SELF-CERTIFICATION AND PLAN APPROVAL

R18-13-501. Requirements for Solid Waste Facilities Subject to Self-Certification

- A. The owner or operator of a solid waste facility subject to [A.R.S. § 49-762.01](#) shall establish its eligibility to operate by demonstrating to the Department compliance with the self-certification requirements described in this [Section](#).
- B. The owner or operator of a new solid waste facility subject to [A.R.S. § 49-762.01](#) shall provide the Department with all of the following, before beginning construction:
1. A demonstration that the facility meets the siting criteria of [A.A.C. R18-13-403](#) and any Article applicable to that type of solid waste facility.
 2. A demonstration that the design of the facility meets the standards of [18 A.A.C. 13, Article 4](#) and any other Article applicable to that type of solid waste facility. This demonstration shall include evidence that the design of the solid waste facility has been sealed by a professional engineer registered in Arizona.
 3. A copy of a public notice published in a newspaper of general circulation in the area in which the facility will be located, stating the intent of the owner or operator to construct and operate a new facility subject to this [Section](#), describing the type of facility and its location, and providing the name and telephone number of a contact person who is able to provide additional information about the facility.
- C. The owner or operator of a new solid waste facility subject to [A.R.S. § 49-762.01](#) shall provide the Department with all of the following, before beginning operation:
1. A demonstration that the facility achieves the design and construction standards of [Article 4](#) and any other Article applicable to that type of solid waste facility. This demonstration shall be sealed by a professional engineer registered in Arizona.
 2. A demonstration that the operational plan for the facility meets the requirements of [A.A.C. R18-13-404](#) and any Article applicable to that type of solid waste facility.
 3. A demonstration that the facility will comply with the standards described in [18 A.A.C. 13, Article 4](#) and any other Article applicable to that type of solid waste

facility. This demonstration shall be sealed by a professional engineer registered in Arizona.

4. A demonstration of the issuance of other environmental permits required by statute or rule for that type of facility.
5. A *demonstration of financial assurance* that complies with [R18-13-415](#) and [Article 18](#).
6. An indication whether the owner, the operator, or both, are required to file a certificate of disclosure under [A.R.S. § 49-109](#), and if so, attaching a copy of the certificate of disclosure.

D. The owner or operator of a solid waste facility subject to [A.R.S. § 49-762.01](#) that is an existing facility shall provide the Department with all of the following, within 180 days after the effective date of this [Section](#):

1. A demonstration that the facility meets the siting criteria of [A.A.C. R18-13-403](#) and any Article applicable to that type of solid waste facility.
2. A demonstration that the operational plan for the facility meets the requirements of [A.A.C. R18-13-404](#) and any Article applicable to that type of solid waste facility.
3. A demonstration that the facility complies with the standards described in [18 A.A.C. 13, Article 4](#) and any other Article applicable to that type of solid waste facility. If the owner or operator are unable to demonstrate compliance with the standards described in [Article 4](#) and any other Article applicable to that type of solid waste facility, they shall specify the standards with which they are unable to comply and shall demonstrate the practices and methods that will be used to achieve compliance with the standards during the succeeding 180 days. These demonstrations shall be sealed by a professional engineer registered in Arizona.
4. A demonstration of the issuance of other environmental permits required by statute or rule for that type of facility.
5. A *demonstration of financial assurance* that complies with [A.A.C. R18-13-415](#) and [18 A.A.C. 13, Article 18](#).
6. An indication whether the owner, the operator, or both, are required to file a certificate of disclosure under [A.R.S. § 49-109](#), and if so, attaching a copy of the certificate of disclosure.

E. The owner or operator of a solid waste facility subject to [A.R.S. § 49-762.01](#) shall comply with [subsections \(B\)\(2\) and \(C\)\(1\) and \(3\)](#) when making a substantial change to the

facility. The following changes to a solid waste facility are considered substantial changes:

1. An increase in the design capacity of a solid waste facility relative to the design capacity described in the solid waste facility notice and most recent self-certification submittal for that facility.
2. A change in the type of solid waste handled relative to the description of the type of wastes handled in the solid waste facility notice and self-certification submittal for that facility.
3. A material change in the waste management practices at the solid waste facility.
4. A material change in the pollution control devices at the solid waste facility.

Define material change?

5. A change in the system for controlling run-on and run-off. **What is considered a change in the system? Some of this would be addressed in the SWPPP for a MSW LDFL**
 6. A material change in the closure plan for the solid waste facility.
 7. A change in the cost estimate for closure and post-closure care.
- F.** The owner or operator of a solid waste facility subject to self-certification under [A.R.S. § 49-762.01](#) may seek a change to the application of any requirement of [Articles 6 through 10](#) if the owner or operator exercises the option to request approval of a solid waste facility plan under [A.R.S § 49-761 \(G\)](#), rather than certifying compliance.
- G.** With any initial filing of information under the [subsection \(B\) or \(D\)](#), the owner or operator shall provide the registration fee of five hundred dollars as required by [A.R.S. § 49-762.05\(H\)](#). With a demonstration of compliance with self-certification requirements required because of a substantial change as described in [subsection \(E\)](#), the owner or operator shall provide a registration fee of two hundred dollars as required by [A.R.S. § 49-762.05\(H\)](#).

R18-13-502. Requirements for Solid Waste Facilities Subject to Plan Approval; Application Requirements

- A.** The owner or operator of a solid waste facility subject to [A.R.S. § 49-762](#) shall establish its eligibility to operate by submitting to the Department, prior to construction, an application for plan approval which complies with this [Section](#).
- B.** An application for a facility plan approval for a solid waste facility subject to [A.R.S. § 49-762](#) shall contain:

1. Demonstrations that the facility meets the siting criteria of any Article specifically applicable to that type of solid waste facility.
2. Engineering reports, plans and specifications that address the design standards of any Article specifically applicable to that type of solid waste facility.
3. A plan of operation meeting the requirements of any Article specifically applicable to that type of solid waste facility.
4. A closure plan meeting the requirements of any Article specifically applicable to that type of solid waste facility.
5. A post-closure care plan meeting the requirements of any Article specifically applicable to that type of solid waste facility.
6. Documentation as needed to meet the financial assurance requirements of [A.A.C. R18-13-415](#) and [18 A.A.C. 13, Article 18](#).
7. A site map, indicating property and facility size, relative to the surrounding area.
8. A location map identifying any learning sites in the surrounding area.
9. A construction quality assurance plan and a construction quality control plan meeting the requirements of [A.A.C. R18-13-503](#).

C. In addition to the requirements of [subsection \(B\)](#), an application for facility plan approval for a **Municipal Solid Waste** landfill or a solid waste land disposal facility that is a non-**Municipal Solid Waste** landfill, a waste disposal pile, or a surface impoundment related to a solid waste facility, shall contain technical information demonstrating that the aquifer protection standards of [18 A.A.C. 13, Article 11](#) will be met. The following shall be provided as attachments to the application for facility plan approval:

1. A topographic map, or other appropriate map approved by the Department, of the facility location and contiguous land area showing the known use of adjacent properties, all known water well locations found within one-half mile of the facility, and a description of well construction details and well uses, if available.
2. A facility site plan showing all known property lines, structures, water wells, injection wells, drywells and their uses, topography, and the location of points of discharge. The facility site plan shall include all known borings. If the Department determines that borings are numerous, the applicant shall satisfy this requirement with a narrative description of the number and location of the borings.
3. The facility design documents indicating proposed or as-built design details and proposed or as-built configuration of basins, ponds, waste storage areas, drainage diversion features, or other engineered elements of the facility affecting discharge.

When formal as-built plan submittals are not available, the applicant shall provide documentation sufficient to allow evaluation of those elements of the facility affecting discharge, following the demonstration requirements of [**A.R.S.49-243 \(B\) through \(F\) and \(I\).**](#)

4. A summary of the known past facility discharge activities and the proposed facility discharge activities indicating all of the following:
 - a. The chemical, biological, and physical characteristics of the discharge.
 - b. The rate, volume, and frequency of the discharge for each facility.
 - c. The location of the discharge and a map outlining the pollutant management area described in [**A.R.S. § 49-244\(1\)**](#)
5. A description of the best available demonstrated control technology employed in the facility, including:
 - a. A statement of the technology, processes, operating methods, or other alternatives proposed to meet the requirements of [**A.R.S.49-243 \(B\) through \(F\) and \(I\).**](#) The statement shall describe:
 - i. The alternative discharge control measures considered.
 - ii. The technical and economic advantages and disadvantages of each alternative.
 - iii. The justification for selection or rejection of each alternative.
 - b. An evaluation of each alternative discharge control technology relative to the amount of discharge reduction achievable, site-specific hydrologic and geologic characteristics, other environmental impacts, and water conservation or augmentation.
 - c. An industry-wide evaluation of the economic impact of implementation of each alternative discharge control technology.
 - d. A statement reflecting the consideration of factors listed in [**A.R.S.49-243 \(B\) through \(F\) and \(I\).**](#)
6. Proposed points of compliance for the facility based on [**A.R.S. § 49-244\(1\)**](#)
 - . An owner or operator shall demonstrate that one of the following:
 - a. The facility will not cause or contribute to a violation of an Aquifer Water Quality Standard at the proposed point of compliance.

- b. If an Aquifer Water Quality Standard for a pollutant is exceeded in an aquifer at the time of issuance of an approved facility plan, no additional degradation of the aquifer relative to that pollutant and determined at the proposed point of compliance will occur as a result of the discharge from the proposed facility. In this case, the owner or operator shall submit an Ambient Groundwater Monitoring Report that includes:
 - i. Data from eight or more rounds of ambient groundwater samples collected to represent groundwater quality at the proposed points of compliance.
 - ii. An AQL proposal for each pollutant that exceeds an Aquifer Water Quality Standard.
7. A hydrogeologic study that defines the discharge impact area for the expected duration of the facility. The Department may allow the owner or operator to submit an abbreviated hydrogeologic study or, if warranted, no hydrogeologic study, based upon the quantity and characteristics of the pollutants discharged, the methods of disposal, and the site conditions. The owner or operator may include information from a previous study of the affected area to meet a requirement of the hydrogeologic study, if the previous study accurately represents current hydrogeologic conditions.
- a. The hydrogeologic study shall demonstrate one of the following:
 - i. That the facility will not cause or contribute to a violation of an Aquifer Water Quality Standard at the applicable point of compliance.
 - ii. If an Aquifer Water Quality Standard for a pollutant is exceeded in an aquifer at the time of permit issuance, that no additional degradation of the aquifer relative to that pollutant and determined at the applicable point of compliance will occur as a result of the discharge from the proposed facility;
 - b. Based on the quantity and characteristics of pollutants discharged, methods of disposal, and site conditions, the Department may require the owner or operator to provide any or all of the following:
 - i. A description of the surface and subsurface geology, including a description of all borings.
 - ii. The location of any perennial, intermittent, or ephemeral surface water bodies.

- iii. The characteristics of the aquifer and geologic units with limited permeability, including depth, hydraulic conductivity, and transmissivity.
 - iv. The rate, volume, and direction of surface water and groundwater flow, including hydrographs, if available, and equipotential maps.
 - v. The precise location or estimate of the location of the 100-year flood plain and an assessment of the 100-year flood surface flow and potential impacts on the facility. **Which flood plain delineation are we supposed to use, FEMA, local, DWR etc.**
 - vi. Documentation of the existing quality of the water in the aquifers underlying the site, including, where available, the method of analysis, quality assurance, and quality control procedures associated with the documentation.
 - vii. Documentation of the extent and degree of any known soil contamination at the site.
 - viii. An assessment of the potential of the discharge to cause the leaching of pollutants from surface soil or vadose materials.
 - ix. Any changes in the water quality expected because of the discharge.
 - x. A description of any expected changes in the elevation or flow directions of the groundwater expected to be caused by the facility.
 - xi. A map of the facility's discharge impact area.
 - xii. The criteria and methodologies used to determine the discharge impact area.
8. A detailed proposal indicating the alert levels, discharge limitations, monitoring requirements, compliance schedules, and temporary cessation or plans that the owner or operator will use to satisfy the requirements of Article 11 of this Chapter;
9. A demonstration of the ability of the owner or the operator of the solid waste facility to maintain the technical capability necessary to carry out the terms of an approved plan approval. The owner or the operator shall make this demonstration by submitting all of the following information for each person principally responsible for designing, constructing, or operating the facility:
 - a. Pertinent licenses or certifications held by the person.

- b. Professional training relevant to the design, construction, or operation of the facility.
 - c. Work experience relevant to the design, construction, or operation of the facility.
10. Any other relevant information required by the Department to determine whether to issue an approved facility plan.
- D. In addition to the requirements described in subsections (B) and (C), an application for a facility plan approval for a *Municipal Solid Waste* landfill facility or a solid waste land disposal facility that is a non-*Municipal Solid Waste* landfill shall contain water balance modeling. All water balance analysis shall be performed using a model having supporting documentation establishing its ability to accurately represent water balance within a landfill unit.

R18-13-503. Requirements for Solid Waste Facilities Subject to Plan Approval; Construction Quality Assurance and Construction Quality Control Plans for New or Expanded Solid Waste Facilities

- A. Construction quality assurance and the construction quality control plans shall provide the detailed specifications for the design approved for a solid waste facility under this chapter. The owner or operator may submit separate construction quality assurance and construction quality control plans. For each specified phase of construction, the construction quality assurance and construction quality control plans shall include:
- 1. A delineation of the responsibilities for the quality assurance management organization and the quality control management organization, including the chain of command of the quality assurance inspectors and contractors and the quality control inspectors and contractors.
 - 2. A description of the required level of experience and training for the contractor, the contractor's crew, each subcontractor and each subcontractor's crew, and quality assurance and quality control inspectors for every major phase of construction. The description shall be sufficiently detailed to demonstrate that the proposed installation methods and procedures could be properly implemented.
 - 3. A description of the quality assurance and quality control testing protocols for every major phase of construction, which shall include all of the following:
 - a. The frequency of inspection.
 - b. The type and frequency of testing.
 - c. The sampling and field testing procedures and equipment to be utilized.

- d. The list of construction equipment to be utilized.
 - e. The calibration of the field testing equipment.
 - f. The frequency of performance audits.
 - g. The sampling protocol for field and laboratory testing.
 - h. The laboratory procedures to be utilized.
 - i. The calibration of field and laboratory equipment and the quality assurance and quality control protocols applicable to field and laboratory procedures.
 - j. The limits for test failure.
 - k. A description of the corrective procedures to be used upon test failure.
 - l. For each component of the proposed design of a new or expanded solid waste facility, a description of the manufacturer's quality control criteria and minimum standards for on-site and off-site handling, including shipping, handling, storage, installation, and numbers and types of testing required.
- B.** The owner or operator of a new solid waste facility or an expansion of an existing solid waste facility shall submit to the Department a report describing all the results of the activities included in the construction quality assurance and construction quality control plans within 90 days after completion of the new solid waste disposal facility or the expansion of the existing solid waste facility.
- C.** A new solid waste facility or an expansion of an existing solid waste facility shall not be operated until the construction quality assurance and construction quality control plans required by **subsection (A)** are reviewed and approved by the Department.

R18-13-504. Denial of Plan Approval

The Director may deny a plan approval if the Director determines upon completion of the application process that the applicant has:

- 1. Failed or refused to correct a deficiency in the plan approval application;
- 2. Failed to demonstrate that the facility and the operation will comply with the requirements of **A.R.S. Title 49, Chapter 4** and this Chapter. The Director shall base this determination on any one or more of the following:
 - a. The information submitted in the plan approval application.

- b. Any information submitted to the Department following a public hearing.
 - c. Any relevant information that is developed or acquired by the Department.
3. Provided false or misleading information.

R18-13-505. Types of Changes to Approved Plans for Solid Waste Facilities Subject to Plan Approval; Criteria for Determination

- A. A Type I change is an insignificant modification to a solid waste facility with an approved plan, that is not directly related to the physical management of solid waste or the replacement of equipment or structures with similar items, and that is not otherwise described as a type II, III or IV change.
- B. A Type II change is a minor modification to a solid waste facility with an approved plan, that is directly related to the physical management of solid waste, and that is not otherwise described as a type I, III or IV change.
- C. A Type III change is a substantial change to a solid waste facility with an approved plan, that does not require public notice, that is significant, that requires detailed review by the Department, that is equally or more protective of the public health and environment, and that is not otherwise described as a type I, II or IV change. These changes may include the following:
 1. A change to a facility required by a change to a statute or rule.
 2. A change to the existing approved design settings or standards that does not increase approved facility capacity, or add or remove pollution control devices.
 3. An addition to the types of waste approved to be handled at the facility.
 4. An addition to the types of alternative daily cover approved for use at the facility.

ADEQ has approved various type of ADC, could ADEQ just certify a list of acceptable ADC, and then if a facility requests a non listed ADC, then it's a type III?
 5. A change to the approved monitoring program for a facility, including the addition or deletion of a monitoring point or a monitoring constituent, or a change in the frequency of groundwater monitoring.
 6. Any modification to the storm water run-on and run-off control system for the facility. **Does this include the placement of wattles, silt fencing, or other types of SWPPP BMP's? This items are subject to change by our intense summer storms, have to be maintained.**

7. A change to the landfill gas monitoring frequency.
8. An addition of a closure plan or closure components to an approved facility plan, and any corresponding change to the facility's financial assurance plan.
9. A change to the approved closure plan or approved closure components.
10. A change to the approved post-closure care or maintenance program, including a reduction in the post-closure care period.
11. A change to the post-closure use of the facility site.
12. A change of financial assurance mechanism.
13. An annual update approval of a financial assurance mechanism.
14. A change in the total storage, process, treatment, or disposal capacity approved for the solid waste facility, to be achieved through greater compaction of solid waste. **You can effect total storage by increasing recycling, reduction, increased compaction using different types of equip, changing the spreading and rolling pattern or with tech, increase of ADC's. Thus these are operational considerations that do not require, or should not be required as a Type III change and could be addressed in the Annual Report due in Mar of ea year?**

D. A Type IV change is a substantial change to a solid waste facility with an approved plan that requires public notice, that is a significant change in the total storage, process, treatment or disposal capacity of the facility, and that is not otherwise described as a type I, II or III change. These changes may include the following:

1. A change in the total storage, process, treatment, or disposal design capacity approved for the solid waste facility, to be achieved by means other than greater compaction of the solid waste.
2. For a facility that is a **Municipal Solid Waste** landfill or a solid waste land disposal facility, a change that is described by any of the following:
 - a. A vertical or lateral expansion.
 - b. A side slope increase or decrease.
 - c. A change to an approved base liner system.
 - d. A change to the leachate collection, recovery and disposal system.

R18-13-506. Requirement for Notification of Changes; Modification of All or Part of an Approved Facility Plan

- A. The owner or operator of a solid waste facility shall notify the Department of any change that could be characterized as a Type II, III or IV change prior to initiating the change.

18 AAC 1 contains no timeline for Type II change.

Does the applicant for a Type II, III, or IV change have to wait for Dept Approval prior to initiating the change?

- B. A notification of a change to a solid waste facility shall include the following:
1. A description of the purpose and scope of the change in sufficient detail to determine the type of change.
 2. A statement of and rationale for the category of change requested.
- C. The Department shall make a determination of the category of a requested change in accordance with the licensing time frames established under [18 A.A.C. 1, Article 5, Table 12](#). The Department may request that additional information be submitted regarding the determination of the category of a requested change. **Whats the timeline for approval?**
- Table 12 refers to a rule or standard variance, and non landfill solid waste facility individual discharging aquifer protection (AP) licenses. Not a Type II, III or IV which is covered by Table 14?**
- D. If the Department determines that a change is a Type II change, the owner or operator of the solid waste facility may implement the change and modify the approved facility plan without further review by the Department. **How long for the determination?**
- E. If the Department determines that a change is a Type III or IV change, the owner or operator shall submit an application for a modification of an approved facility plan that contains the application requirements described in [A.A.C. R18-13-502\(B\), \(C\) and \(D\)](#). An application for a modification of an approved facility plan based on Type III or IV change shall be accompanied by the fee specified in [18 A.A.C. 13, Article 21](#).
- F. Approved Type III or IV changes which are implemented by construction at the solid waste facility are subject to the construction quality assurance and construction quality control requirements of [A.A.C. R18-13-503](#).
- G. The Director may initiate a modification of an approved facility plan pursuant to [A.R.S. § 49-782](#).

R18-13-507. Suspension or Revocation of All or Part of an Approved Facility Plan

- A. The Director may suspend or revoke all or part of an approved plan for any of the following:
1. An owner or operator failed to comply with any applicable provision of **A.R.S. Title 49, Chapter 4**; this Chapter; or any condition of an approved facility plan.
 2. An owner or operator misrepresented or omitted a fact, information, or data materially related to a solid waste plan approval application or condition of an approved facility plan, of which the owner or operator knew or should have known.
 3. The Director determines that an activity or facility subject to plan approval is causing or will cause a violation of an Aquifer Water Quality Standard at a point of compliance.
 4. A discharge permitted by an approved facility plan is causing or will cause imminent and substantial endangerment to public health or the environment; or
 5. An owner or operator failed to maintain financial assurance under [A.A.C. R18-13-415](#).
- B. A suspension or revocation under this [Section](#) is subject to **A.R.S. Title 41, Chapter 6, Article 10**.

R18-13-508. Termination of All or Part of an Approved Facility Plan

- A. At the request of the owner or operator of a solid waste facility with an approved facility plan, the Director may terminate all or part of an approved facility plan approval if the owner or operator demonstrates that the facility has closed as required by this Chapter for that type of facility, or as required by the approved facility plan for that facility.
- B. The Director shall terminate all or part of an approved facility plan or a modification to an approved facility plan issued under this Chapter if the proposed construction or lateral expansion is not begun within 18 months of issuance or, if during the construction or major modification, work is suspended for more than 18 months.

ARTICLE 18. FINANCIAL RESPONSIBILITY FOR SOLID WASTE FACILITIES

R18-13-1801. Applicability

- A. An owner or operator of a solid waste facility that is not a **Municipal Solid Waste** landfill shall demonstrate financial responsibility for closure, post-closure care, and corrective

action for known releases by submitting and updating financial responsibility plans as required by this Article and **A.R.S. §§ 49-761(J) and 49-770.**

- B.** An owner or operator of a **Municipal Solid Waste** landfill shall comply with the financial responsibility requirements of **40 CFR 258 in effect on May 1, 2004, as incorporated in A.R.S. § 49-701, and R18-13-1802(G).**

R18-13-1802. Financial Responsibility Plan

- A.** Beginning 180 days after the effective date of this Section, a solid waste facility shall not begin operation until after the owner or operator has submitted a financial responsibility plan to the Department and the Department has approved that plan.
- B.** Within 180 days after the effective date of this Section, a solid waste facility that has begun operating shall submit a financial responsibility plan to the Department. The facility may continue to operate while the Department reviews the plan.

Is what we are currently submitting sufficient to meet this requirement or is new submittal necessary? Where does the plan go too?

- C.** A financial responsibility plan submitted under this Section shall contain the following information: **What if this is addressed in the Facility and O & M Plan?**
1. All of the information required in R18-13-402(E), or a copy of the Solid Waste Facility Notice filed under R18-13-402, if all of the information in the Notice is current and accurate.
 2. For facility property that is currently or once was a solid waste facility, any known releases from the facility.
 3. The plan for solid waste facility closure developed under R18-13-413 or **R18-13-1125**, including the equipment and activities that will be required.
 4. The estimated cost, in current dollars, for a third party to complete site closure. The estimate shall be itemized for each major expense and shall not be reduced by any allowance for the salvage value of equipment, solid waste, or the resale value of the property.
 5. A description of any postclosure monitoring and maintenance that will be necessary after the site is closed to protect public health and the environment, an estimate of how long postclosure monitoring, maintenance, or both will be necessary, and the cost, in current dollars, for a third party to conduct the postclosure monitoring and maintenance for the estimated period.

6. The cost, in current dollars, for any corrective action required under [R18-13-414](#).
7. The financial assurance mechanism, or combination of mechanisms, proposed to assure that the total plan costs described in [subsections \(C\)\(4\), \(C\)\(5\), and \(C\)\(6\)](#) will be provided for in the event that the owner or operator of the facility is financially unable to, or fails to do so for any reason, including the amount covered by each financial assurance mechanism, and the institution or company that is responsible for each financial assurance mechanism. Each financial assurance mechanism shall comply with the requirements of [R18-13-1803](#).
8. A letter signed by the owner or operator's chief financial officer stating how the owner or operator is financially capable of meeting the total plan costs. If a financial assurance mechanism is proposed under [R18-13-1803\(A\)\(7\)-\(10\)](#), the letter shall include any other environmental obligations of the owner or operator assured by the same assets that are not recognized as liabilities on the owner or operator's financial statement, including other solid waste facilities, and those associated with underground storage tank facilities, or hazardous waste treatment, storage, and disposal facilities under 40 *CFR* Parts 264 and 265, regardless of location, and how the assets are sufficient to cover all liabilities.

D. The Department shall take one of the following actions, in writing, on a financial responsibility plan submitted under this Article: **Whats the turn around time on approval? There is no timeline identified in 18 AAC 1 regarding financial assurance plan submittal? This needs to have a timeline?**

1. Approve the plan.
2. Disapprove the plan.
3. Declare the plan incomplete and describe the information necessary to make the plan complete.

E. Updates of approved financial responsibility plans. The owner or operator of a solid waste facility that has had a financial responsibility plan approved under this Article shall submit an update of the plan to the Director for approval at each of the following times, except that the Director may excuse the submittal of an update under [subsection \(1\) or \(2\)](#) if an update has been submitted for the facility within the previous 90 days:

1. The owner or operator of a solid waste landfill shall submit an update annually on the anniversary of the plan's approval unless another date is assigned by the Department. **Could all plans, updates, be submitted on just one annual date?**
2. The owner or operator of a solid waste facility that is not a solid waste landfill shall submit an update every three years beginning with the third anniversary of the plan's approval unless another date is assigned by the Department. **What if**

you have complex facility, that contains, waste tire, recycling, scrap metal and/or recycling?

3. Thirty days prior to the facility being sold as required under **R18-13-1804(B)**.
 4. With the demonstration required by **R18-13-501(C)(3)** for a substantial change at a facility described in **R18-13-501(E)**, or with the notice of any proposed Type III or IV change at a facility described at **R18-13-505(C)** or (D). The updated financial responsibility plan should reflect total plan costs after the change is implemented. **A increase in compaction or change in equipment could require a type III change, thus requiring an new FRP! Changes in equipment and/or compaction should not be type III changes.**
 5. Sixty days after the discovery of any new release from the facility that requires corrective action under **R18-13-414**. **There may not be sufficient time to accurately identify the cost of remediation caused by a new release. Therefore ADEQ should be notified and a deadline set to the revision to the FRP based on a through due diligence analysis of the situation or process that caused the new release.**
- F.** An update to a financial responsibility plan shall adjust for inflation, reflect cost changes that result from any changes to the facility plan or facility conditions, and shall include: **How will the inflation rate be determined. Current use of CPI is not accurate in reflecting the true cost of inflation because of weighting factors used in the formula?**
1. Any changes to the financial assurance mechanisms for that facility;
 2. A certification that the financial assurance mechanisms are being maintained;
 3. Any material changes in the financial condition of the owner or operator since the initial submittal or last update;
 4. Material changes in the physical condition of the facility since the initial submittal or last update; **Define physical condition? What if you add a porta potty, a new fire extinguisher, a new printer, a new puter, is this physical change? I can not find a definition of material changes in physical condition in any of the definitions.**
 5. A confirmation by the chief financial officer, or an equivalent position if none exists, regarding the owner or operator's financial capability for the total plan costs; and
 6. For updates of plans using any instrument listed in **R18-13-1803(A)(1)** through (A)(6), a demonstration that the instrument meets the requirements of **subsections (J)(1) and (J)(2) of this Section.**

- G.** The owner or operator of a solid waste facility that was issued an **Aquifer Protection Permit** before the effective date of this rule and demonstrated financial competence for closure under **A.R.S.** § 49-243(N), shall update that demonstration by submitting a financial responsibility plan that meets the requirements of this Article within 180 days of the effective date of this rule. The owner or operator shall maintain each mechanism approved in the demonstration under **A.R.S.** § 49-243(N) until it is replaced by an approved new mechanism. **Such as?**
- H.** If, at any time, the owner or operator of a solid waste facility determines that changes in total plan costs or in the financial assurance mechanisms approved in the financial responsibility plan have caused the mechanisms to be no longer sufficient to meet the total plan costs, or in any other way to no longer meet the requirements of **RI8-13-1803**, the owner or operator shall provide written notice to the Department of intent to establish additional or alternate financial assurance. The notice shall be sent by certified mail within 30 days after such determination. The owner or operator shall submit for Department approval the additional or alternate financial assurance within 90 days after the determination. An owner or operator may acquire alternate financial assurance without determining a mechanism insufficient if the alternate financial assurance is approved by the Director.
- I.** The Director may require an owner or operator to submit reports of financial condition or other information, in addition to any update specified in **subsection (E)**, based on the Director's determination that changes in total plan costs or in the financial assurance mechanisms approved in the financial responsibility plan have caused the mechanisms to be no longer sufficient to meet the total plan costs, or in any other way to no longer meet the requirements of **RI8-13-1803**. If the Director finds, on the basis of such reports or other information, that the financial assurance mechanisms approved in the financial responsibility plan are no longer sufficient to meet the total plan costs or in some other way fail to meet the requirements of **RI8-13-1803**, the Department shall notify the owner or operator in writing. The owner or operator shall provide additional or alternate financial assurance within 30 days after notification. **How long for the approval? Again 18 AAC 1 does not address the timeline pertaining to Financial Assurance?**
- J.** General requirements.
1. A financial responsibility mechanism submitted under **RI8-13-1802** shall ensure that the funds assured are sufficient to meet the total plan costs when needed, and will be available in a timely fashion when needed.
 2. Each mechanism listed in **RI8-13-1803(A)(1)** through (A)(6) shall provide that the period of coverage for the benefit of the Department will continue at least ninety days beyond the date when the next annual or triennial update is due.
 3. Unless otherwise required by the context, the requirements in this Article for each mechanism apply when the financial responsibility plan is submitted, and at all

times thereafter, until the owner or operator's financial assurance obligation is released by the Department under **R18**-13-1805.

R18-13-1803. Acceptable Financial Assurance Mechanisms

- A. The financial responsibility plan shall employ one or more of the mechanisms as specified below in subsections (1) through (13), in an amount that is sufficient to cover the total plan costs:
1. Surety bond guaranteeing payment or performance for closure, post-closure care and corrective action. An owner or operator may use this mechanism if the following conditions are met:
 - a. The company providing the bond is listed as an acceptable surety on Federal bonds in Circular 570 of the U.S. Department of the Treasury;
 - b. The company providing the bond is not more than 10 percent owned by the facility owner or operator, by a direct or higher-tier parent corporation of the facility owner or operator, or by a firm whose parent corporation is also the parent corporation of the facility owner or operator, when their ownership shares are taken in the aggregate;
 - c. The bond provides for payment or performance of the items listed in [R18-13-1802\(C\)\(4\) through \(C\)\(6\)](#), through payment into a standby trust fund, to be established by the owner, operator or surety, of an amount equal to the penal amount if the owner or operator fails to perform the required activities;
 - d. The penal amount of the bond is at least equal to the total plan costs if the bond is the only method used to satisfy the requirements of this Article, or a pro-rata amount if used with another financial assurance mechanism.
 - e. The surety bond names the Arizona Department of Environmental Quality as beneficiary;
 - f. The original or a certified copy of the surety bond is submitted to the Director;
 - g. Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond;
 - h. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner and operator and to the Director 120 days in advance of cancellation. If the surety cancels the bond,

the owner or operator shall obtain alternate financial assurance within 60 days of receipt of cancellation; and

- i. The owner or operator may cancel the bond only if alternate financial assurance approved by the Director is substituted, or if the owner or operator is no longer required to demonstrate financial responsibility in accordance with **RI8**-13-1805.
2. Certificate of deposit. The owner or operator may use this mechanism if the following conditions are met:
 - a. The owner or operator submits to the Director one or more certificates of deposit made payable to or assigned to the Department to cover the owner or operator's financial assurance obligation or a pro-rata amount if used with another financial assurance mechanism.
 - b. Each certificate of deposit is insured by the Federal Deposit Insurance Corporation and is automatically renewable.
 - c. The financial institution assigns the certificate of deposit to the Arizona Department of Environmental Quality.
 - d. Only the Department has access to the certificate of deposit.
 - e. Interest accrues to the owner or operator during the period the owner or operator gives the certificate as financial assurance, unless the interest is required to cover any of the total plan costs.
 3. Trust fund with a pay-in period. An owner or operator may use this mechanism if the following conditions are met:
 - a. The trustee is an entity with the authority to act as a trustee;
 - b. The trustee is not more than 10 percent owned by the owner or operator, by a direct or higher-tier parent corporation of the owner or operator, or by a firm whose parent corporation is also the parent corporation of the owner or operator, when their ownership shares are taken in the aggregate;
 - c. The trustee's trust operations are regulated and examined by a federal or state agency;
 - d. The trust is set forth in an agreement that is approved by the Director, names the Department as beneficiary, and sets full funding in an amount at least equal to:
 - i. The total plan costs, or a pro-rata amount if used with another financial

- assurance mechanism, or
 - ii. The amount specified in a compliance schedule approved in the plan approval; and
 - e. The pay-in period shall be 15 months for closure and postclosure costs, and one half of the length of the corrective action plan approved under **RI8-13-412** for corrective action costs.
 - f. The trust fund may be terminated by the owner or operator only if the owner or operator substitutes alternate financial assurance as specified in this [Section](#) or if it is no longer required to demonstrate financial responsibility under **RI8-13-1805**.
4. Letter of credit. An owner or operator may use this mechanism if the following conditions are met:
- a. The financial institution issuing the letter has authority to issue letters of credit and its letter of credit operations are regulated and examined by a federal or state agency;
 - b. The financial institution is not more than 10 percent owned by the owner or operator, by a direct or higher-tier parent corporation of the owner or operator, or by a firm whose parent corporation is also the parent corporation of the owner or operator, when their ownership shares are taken in the aggregate;
 - c. The financial institution names the Arizona Department of Environmental Quality as sole beneficiary for the letter of credit;
 - d. The letter is prepared by the financial institution and identifies the letter of credit issue date, expiration date, dollar sum of the credit, the name and address of the Department as the beneficiary, and the name and address of the owner or operator it is issued to; and
 - e. The Letter of Credit is irrevocable and issued for at least one year. The letter of credit shall provide that the expiration date is automatically extended for a period of at least one year unless the issuing institution has cancelled the letter of credit by sending notice of cancellation by certified mail to the owner or operator and to the Director 90 days in advance of cancellation or expiration. The owner or operator shall provide alternate financial assurance within 60 days of receipt of notice of expiration or cancellation.
5. Insurance policy. The owner or operator may use this mechanism if the following conditions are met:

- a. The insurer is a non-captive insurer authorized to transact the business of insurance in Arizona and has an AM BEST Rating of at least a B+ or the equivalent.
 - b. The owner or operator submits a copy of the insurance policy to the Department, along with the certificate of insurance and any declarations and endorsements.
 - c. The insurance policy guarantees that funds will be available to pay the total plan costs, without a deductible, or a pro-rata amount if used with another financial assurance mechanism. The policy also guarantees that once closure, postclosure, or corrective action begins, and while the activities are being conducted, the insurer is responsible for paying out funds to the Director or other entity designated by the Director up to an amount equal to the face amount of the policy.
 - d. Actual payments by the insurer will not change the face amount, although the insurer's future liability may be reduced by the amount of the payments, during the policy period.
 - e. The insurance policy names the Arizona Department of Environmental Quality as additional insured.
 - f. The policy provides for payment into a standby trust fund, to be established by the owner, operator, or insurer;
 - g. The insurance is effective before substitution of the policy for another financial assurance instrument, and for new facilities, before they begin to operate.
 - h. The policy contains a provision allowing assignment of the policy to a successor owner or operator. The transfer of the policy is conditional upon consent of the insurer and the Department.
 - i. The insurance policy provides that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy, at minimum, provides the insured with the option of renewal at the face amount of the expiring policy. If the owner or operator fails to pay the premium, or chooses to let the policy lapse, the insurer may cancel the policy by sending notice of cancellation by certified mail to the owner or operator and to the Director 90 days in advance of cancellation or termination. If the insurer cancels the policy, the owner or operator shall provide alternate financial assurance within 60 days of receiving the notice of cancellation.
6. Deposit of funds with the State Treasurer, if the following conditions are met:

- a. The owner or operator deposits funds with the State Treasurer, is notified by the State Treasurer that an account has been set up for financial assurance purposes payable to the Department under **A.R.S.** § 49-761, and provides a copy of this notice to the Department.
 - b. The owner or operator pays money into the account by company, cashier, or certified check, or money order, or other method approved by the Department.
 - c. The amount of the deposit is refundable if approved by the Department and the State Treasurer.
7. Certificate of self-insurance. Instead of an insurance policy under subsection (5), an owner or operator may request the Director to issue a certificate of self-insurance if the following conditions are met:
- a. The owner or operator files a bond with the Director for the total plan costs, and promises to pay the Department the amount under **R18**-13-1802 (C)(4) through (C)(6) for closure, postclosure and corrective action as provided under the financial responsibility plan.
 - b. The owner or operator qualifies for the corporate financial test mechanism under subsection (8)(a) or (8)(b).
8. Corporate financial test. An owner or operator may demonstrate financial responsibility by making the demonstration in either subsection (a) or (b) and submitting the information required in subsection (c). The owner or operator shall not consolidate its financial statement with a parent or sibling company.
- a. The owner or operator may demonstrate compliance with subsections (i), (ii), and (iii) below:
 - i. One of the following:
 - (1) A ratio of total liabilities to tangible net worth less than 2.0 and a ratio of current assets to current liabilities greater than 1.5; or
 - (2) A ratio of total liabilities to tangible net worth less than 2.0 and a ratio of the sum of net annual income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; or
 - (3) A ratio of the sum of net annual income plus depreciation, depletion, and amortization to total liabilities greater than

0.1 and a ratio of current assets to current liabilities greater than 1.5;

- ii. The net working capital and tangible net worth of the owner or operator each are at least six times the total plan costs added to any other environmental obligations assured through a financial test that are not recognized as liabilities on the owner or operator's financial statements, including other solid waste facilities, and those associated with underground storage tank facilities, or hazardous waste treatment, storage, and disposal facilities under 40 **CFR** Parts 264 and 265, regardless of location.
 - iii. The owner or operator has assets in the U.S. of at least 90 percent of total assets or six times the total plan costs as adjusted under [subsection \(ii\)](#).
- b. The owner or operator may demonstrate compliance with [subsections \(i\)](#), [\(ii\)](#), and [\(iii\)](#) below:
- i. The owner or operator's senior unsecured debt has a current investment-grade rating as issued by Moody's Investor Service, Inc. or Standard and Poor's Corporation;
 - ii. The tangible net worth of the owner or operator is at least six times the total plan costs as adjusted in [subsection \(8\)\(a\)\(ii\)](#); and
 - iii. The owner or operator has assets in the U.S. of at least 90 percent of total assets or six times the total plan costs as adjusted in [subsection \(8\)\(a\)\(ii\)](#).
- c. The owner or operator shall submit:
- i. A letter signed by the owner or operator's chief financial officer that identifies the criteria in [subsection \(a\)](#) or [\(b\)](#) used by the owner or operator to satisfy the financial assurance requirements of this [Section](#), an explanation of how the owner or operator meets the criteria, and a certification of the letter's accuracy, and
 - ii. A statement from an independent certified public accountant verifying that the demonstration submitted under [subsection \(i\)](#) is accurate based on the owner or operator's audited financial statements for the most recent fiscal year and no adjustment to the financial statement is necessary.
 - iii. A copy of the financial statements used for [subsection \(ii\)](#).

- d. An owner or operator may use this mechanism to assure the amounts needed for more than one facility if the mechanism meets the requirements for the total of all environmental obligations at all facilities.

9. Guarantees.

- a. The owner or operator may use guarantees to cover the financial assurance obligation under this Article if the following conditions are met:
 - i. The owner or operator submits to the Department an affidavit certifying that the guarantee arrangement is valid under all applicable federal and state laws. If the guarantor is a corporation, the owner or operator shall include a certified copy of the corporate resolution authorizing the corporation to enter into an agreement to guarantee the owner or operator's financial assurance obligation;
 - ii. The owner or operator submits to the Department documentation that explains the substantial business relationship between the guarantor and the owner or operator;
 - iii. The owner or operator demonstrates that the guarantor meets the conditions of the corporate financial test mechanism listed in [subsection \(8\)](#). For purposes of applying the criteria in [subsection \(8\)](#) to a guarantor, substitute "guarantor" for the term "owner" or "operator" as used in [subsection \(8\)](#);
 - iv. The guarantee is governed by and complies with state law;
 - v. The guarantee continues in force until cancelled as provided below, released by the Director, or replaced by another financial assurance mechanism listed in this [Section](#);
 - (1) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Director, as evidenced by the return receipts.
 - (2) If a guarantee is cancelled, the owner or operator shall, within 90 days following receipt of the cancellation notice by the owner or operator and the Director, obtain alternate financial assurance, place evidence of that alternate financial assurance in the facility operating record, and

notify the Director. If the owner or operator fails to provide alternate financial assurance within the 90-day period, the guarantor must provide that alternate assurance within 120 days following the guarantor's notice of cancellation, place evidence of the alternate assurance in the facility operating record, and notify the Director.

- vi. The guarantee provides that, if the owner or operator fails to perform closure or postclosure care of a facility covered by the guarantee, the guarantor shall perform or pay a third party to perform closure or postclosure care, as required by the plan approval, or establish a fully funded trust fund that complies with subsections (3)(a) through (3)(d) in the name of the owner or operator; and
 - vii. The guarantor names the Arizona Department of Environmental Quality as beneficiary of the guarantee.
- b. Guarantee reporting. The guarantor shall notify or submit a report to the Department within 30 days of:
- i. An increase in financial responsibility during the fiscal year that affects the guarantor's ability to meet the financial demonstration;
 - ii. Receiving an adverse auditor's notice, opinion, or qualification; or
 - iii. Receiving a Department notification requesting an update of the guarantor's financial condition.

10. Government financial test.

- a. An owner or operator of a solid waste facility that is a county, city, town, or other local government entity may satisfy the requirements of subsections (i) and (ii) to demonstrate financial responsibility. The owner or operator shall demonstrate that it meets each of the following financial thresholds based on the owner or operator's most recent audited annual financial statement or Consolidated Annual Financial Report (CAFR), if available, or a similar document.
 - i. The government entity shall not have operated at a deficit equal to five percent or more of total annual revenue in each of the past two fiscal years.
 - ii. The total to be assured under the local government financial test must not exceed 43 percent of the government entity's total annual revenue. If the government entity assures other environmental

obligations through a financial test, including those associated with underground storage tank facilities under **A.R.S. § 49-1006**, and hazardous waste treatment, storage, and disposal facilities under **40 CFR Parts 264 and 265**, it must add those costs to the total plan costs under a local government financial test.

- b. An owner or operator that is a state or federal agency shall demonstrate self-financial capability by providing documentation that verifies the agency's future responsibility for implementing the approved closure plan submitted under **R18-13-1802**. The documentation also shall identify a source of funding for associated costs. The documentation shall be signed by an official who is authorized to make such representations on behalf of the agency.

11. Local government guarantee test.

An owner or operator may demonstrate financial assurance by obtaining a written guarantee provided by a government entity pursuant to **subsections (a) through (e)**.

- a. The guarantor must meet the requirements of the local government financial test in **subsection (10)(a)**, and must comply with the terms of a written guarantee.
- b. The guarantor shall submit a resolution authorizing guaranty and a letter signed by its chief financial officer, that indicates the guarantor has a substantial business relationship with the owner or operator and/or will benefit directly by providing the guarantee to the owner or operator.
- c. The guarantee shall be governed by and construed according to Arizona law.
- d. The guarantee continues in force until cancelled as provided in **subsection (9)(a)(v)**, released by the Department, or replaced by another financial assurance mechanism listed in this **Section**.
- e. If the owner or operator's closure, post closure, or corrective action fails to take place as established in the plan, and the owner or operator fails to take necessary measures within 90 days of the Director's notification, the guarantor shall either perform, or pay a third party to perform, necessary activities, as required by the Department, or establish a fully funded trust fund that complies with **subsections (3)(a) through (3)(d)** in the name of the owner or operator.
- f. Guarantee reporting. The guarantor shall notify or submit a report to the Department as provided in **subsection (9)(b)**.

- 12. Political subdivision financial test.** An owner or operator of a solid waste facility that is a political subdivision, other than a local government entity, shall satisfy the requirements of **subsections (a) and (b)** to demonstrate financial responsibility. The political subdivision shall demonstrate that it meets each of the following financial thresholds based on the its most recent audited annual financial statement showing, as applicable, its bond rating, income stream, assets, liabilities, and assessed valuation of taxable property.
- a. The political subdivision shall not have operated at a deficit equal to five percent or more of total annual revenue in each of the past two fiscal years.
 - b. The total to be assured under the political subdivision financial test must not exceed 43 percent of the entity's total annual revenue. If the entity assures other environmental obligations through a financial test, including those associated with underground storage tank facilities under **A.R.S. § 49-1006**, and hazardous waste treatment, storage, and disposal facilities under **40 CFR Parts 264 and 265**, it must add those costs to the total plan costs.
13. Any other financial assurance mechanisms or combination of mechanisms as approved by the Department, so long as it provides for the amounts specified in **[RI8-13-1802\(C\)\(4\), \(5\), and \(6\)](#)**, or as required by a judgment or consent decree. Mechanisms guaranteeing performance may not be combined with other mechanisms.

RI8-13-1804. Plan Amendment; Substitution of Financial Assurance Mechanism; Property Transfers

- A. A solid waste facility owner or operator may modify a financial assurance mechanism, substitute a new financial assurance mechanism for another in the financial responsibility plan, or otherwise amend the plan with the Department's prior approval. The new mechanism or amended plan shall meet the requirements of this Article.
- B. At least 30 days before the sale or transfer of a solid waste facility or any property that is subject to a financial responsibility plan under this Article:
 1. The property owner or operator shall submit to the Department:
 - a. Written notice of the intended sale or transfer, identifying the buyer or transferee, and the anticipated closing date.
 - b. An update to its financial responsibility plan.

2. The buyer or transferee shall submit to the Department a proposed financial responsibility plan as specified in [R18-13-1802](#), that includes a proposed financial assurance mechanism or mechanisms that meet the requirements of this Article.
- C. The Department shall respond to the submittals in [subsection \(B\)](#) as provided under [R18-13-1802\(D\)](#). The seller's financial assurance shall remain in effect until the buyer or transferee's financial assurance is approved, and the Department releases the seller's financial assurance.
- D. The Department shall not approve any amendment, substitution or buyer's financial responsibility plan under this [Section](#) unless all fees for the facility have been paid as described in [R18-13-1806](#) and [Article 21](#).

R18-13-1805. Release from Financial Responsibility

- A. When an owner or operator meets all of the requirements for closure specified in this Chapter, it may request that the Department release it from the requirements to demonstrate financial assurance for closure.
- B. When an owner or operator meets all of the requirements for postclosure care specified in this Chapter, it may request that the Department release it from the requirements to demonstrate financial assurance for postclosure.
- C. When an owner or operator meets all of the requirements for corrective action specified in this Chapter, it may request that the Department release it from the requirements to demonstrate financial assurance for corrective action.
- D. Upon request under [subsection \(A\), \(B\), or \(C\)](#), the Department shall do one of the following, in writing:
 1. Approve the request.
 2. Deny the request.
 3. Declare the request incomplete and describe the information necessary to make the request complete.

Whats the timeline for Dept approval?

R18-13-1806. Financial Responsibility Plan Administration Fees

Solid waste facilities subject to plan approval that submit financial responsibility plans or updates under this Article shall pay fees to the Department as provided in Article 21.