

**RCRA SUBTITLE D FINANCIAL ASSURANCE CHECKLIST
LOCAL GOVERNMENT FINANCIAL TEST**

Facility Name: _____ Permit No. _____

FINANCIAL TEST: An owner or operator with the financial assets to absorb the costs of closure, post-closure care, and corrective action may comply with financial assurance requirements by using the financial test.

TEST COVERS: Closure Post-Closure Care

 Corrective Action

Facility/Government Name: _____

Address: _____

Contact Person/Title: _____

Contact Phone No.: _____

Government's Fiscal Year Ends: _____

Closure Cost Estimate (Agency Approved): _____

Source Document / Date: _____

Post-Closure Cost Estimate (Agency Approved): _____

Source Document / Date: _____

Corrective Action (Agency Approved): _____

Source Document / Date: _____

Reviewed by: _____

Date: _____

FINANCIAL COMPONENT

Facility Name: _____ Permit No. _____

YES	NO	QUESTION										
<input type="checkbox"/>	<input type="checkbox"/>	<p>Does the local government owner or operator pass one of the financial tests outlined on below?</p> <p align="center">BOND RATING REQUIREMENT</p> <p>Is the current bond rating of the owner or operator adequate?</p> <p>Indicate the appropriate Bond Rating and the source:</p> <table border="0"> <tr> <td><input type="checkbox"/> <u>Standard and Poor's</u></td> <td><input type="checkbox"/> <u>Moody's</u></td> </tr> <tr> <td><input type="checkbox"/> AAA</td> <td><input type="checkbox"/> Aaa</td> </tr> <tr> <td><input type="checkbox"/> AA</td> <td><input type="checkbox"/> Aa</td> </tr> <tr> <td><input type="checkbox"/> A</td> <td><input type="checkbox"/> A</td> </tr> <tr> <td><input type="checkbox"/> BBB</td> <td><input type="checkbox"/> Baa</td> </tr> </table> <p>[Reg.22.1405 (f)(1)(i)(A)]</p> <p align="center">OR</p> <p align="center">FINANCIAL RATIO ALTERNATIVE</p> <p>Does the owner or operator satisfy each of the following financial ratios based on the owner or operator's most recent audited annual financial statements:</p> <p><input type="checkbox"/> <u>Cash + Marketable securities</u> > or = 0.05 Total Expenditures</p> <p><input type="checkbox"/> <u>Annual Debt Service</u> < 0.20 Total Expenditures</p> <p>[Reg.22.1405 (f)(1)(B) (a) and (b)]</p>	<input type="checkbox"/> <u>Standard and Poor's</u>	<input type="checkbox"/> <u>Moody's</u>	<input type="checkbox"/> AAA	<input type="checkbox"/> Aaa	<input type="checkbox"/> AA	<input type="checkbox"/> Aa	<input type="checkbox"/> A	<input type="checkbox"/> A	<input type="checkbox"/> BBB	<input type="checkbox"/> Baa
<input type="checkbox"/> <u>Standard and Poor's</u>	<input type="checkbox"/> <u>Moody's</u>											
<input type="checkbox"/> AAA	<input type="checkbox"/> Aaa											
<input type="checkbox"/> AA	<input type="checkbox"/> Aa											
<input type="checkbox"/> A	<input type="checkbox"/> A											
<input type="checkbox"/> BBB	<input type="checkbox"/> Baa											
<input type="checkbox"/>	<input type="checkbox"/>	<p>Has the local government owner or operator prepared its financial statements to conform with Generally Accepted Accounting Principles for governments and have its financial statements audited by an independent certified public accountant (or appropriate State Agency)?</p> <p>[Reg.22.1405 (f)(1)(ii)]</p>										
<input type="checkbox"/>	<input type="checkbox"/>	<p>Is the local government currently in default on any outstanding general obligation bond?</p> <p>[Reg.22.1405 (f)(1)(iii)(A)]</p>										
<input type="checkbox"/>	<input type="checkbox"/>	<p>Does the local government have any outstanding general obligation bonds rated lower than Baa as issued by Moodys or BBB as issued by Standard and Pooers? [Reg.22.1405 (f)(1)(iii)(B)]</p>										
<input type="checkbox"/>	<input type="checkbox"/>	<p>Has the local government operated at a deficit equal to five percent or more of total annual revenue in each of the past two fiscal years?</p> <p>[Reg.22.1405 (f)(1)(iii)(C)]</p>										
<input type="checkbox"/>	<input type="checkbox"/>	<p>Has the local government received an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant (or appropriate State agency) auditing its financial statement as required under paragraph Reg.22.1405(f)(1)(ii).</p> <p>[Reg.22.1405(f)(1)(iii)(D)]</p>										

RECORDKEEPING AND REPORTING REQUIREMENTS

Facility Name: _____ Permit No. _____

The local government owner or operator must place the following documentation in the facility's operating record and furnish the information to the Director for approval:

YES	NO	Documentation
<input type="checkbox"/>	<input type="checkbox"/>	<p><u>A letter signed by the local government's chief financial officer that:</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> Lists all the current costs estimates covered by a financial test, as described in Reg.22.1405 (f)(4). <input type="checkbox"/> Provides evidence and certifies that the local government meets the conditions of the financial component, as described in Reg.22.1405 (f)(1)(ii), and Reg.22.1405 (f)(1)(iii); and <input type="checkbox"/> Certifies that the local government meets the conditions of the public service component and calculation of costs to be assured, as described in Reg.22.1405 (f)(2), and Reg.22.1405 (f)(4). <p>[Reg.22.1405 (f)(3)(i)(A) (a)(b) and (c)]</p> <p><i>An example letter containing requirements above is attached.</i></p>
<input type="checkbox"/>	<input type="checkbox"/>	<p>The local government's independently audited year-end financial statements for the latest fiscal year, including the unqualified opinion of the auditor who must be an independent, certified public accountant or an appropriate State agency that conducts equivalent comprehensive audits.</p> <p>[Reg.22.1405 (f)(3)(i)(B)]</p>
<input type="checkbox"/>	<input type="checkbox"/>	<p>A report to the local government from the local government's independent certified public accountant or the appropriate State agency based on performing an agreed upon procedures engagement relative to the financial ratios required by Reg.22.1405 (f)(1)(i)(B), if applicable, and the requirements of Reg.22.1405 (f)(1)(ii) and Reg.22.1405 (f)(1)(iii)(C) and (D). The CPA or State agency's report should state the procedures performed and the CPA or State agency's findings.</p> <p>[Reg.22.1405 (f)(3)(i)(C)]</p>
<input type="checkbox"/>	<input type="checkbox"/>	<p>A copy of the comprehensive annual financial report (CAFR) used to comply with Reg.22.1405(f)(2) or certification that the requirements of General Accounting Standards Board Statement 18 have been met.</p> <p>[Reg.22.1405 (f)(3)(i)(D)]</p>
<input type="checkbox"/>	<input type="checkbox"/>	<p>Has the local government operated at a deficit equal to five percent or more of total annual revenue in each of the past two fiscal years?</p> <p>[Reg.22.1405 (f)(1)(iii)(C)]</p>
<input type="checkbox"/>	<input type="checkbox"/>	<p>Has the local government received an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant (or appropriate State agency) auditing its financial statement as required under paragraph Reg.22.1405(f)(1)(ii).</p> <p>[Reg.22.1405(f)(1)(iii)(D)]</p>
<input type="checkbox"/>	<input type="checkbox"/>	<p>Has the local government owner or operator updated the information and placed the updated information in the operating record within 180 days following the close of the local government's fiscal year?</p> <p>Date the updated information received by the Department? _____</p> <p>[Reg.22.1405 (f)(3)(iii)]</p>

PUBLIC NOTICE COMPONENT

<input type="checkbox"/>	<input type="checkbox"/>	<p>Has the local government placed a reference to the closure and post-closure care costs assured through the financial test into its next comprehensive annual financial report (CAFR). Disclosure must include the following:</p> <ul style="list-style-type: none"><input type="checkbox"/> Nature and source of closure and post-closure care requirements;<input type="checkbox"/> Reported liability at the balance sheet date;<input type="checkbox"/> Estimated total closure and Post-closure care cost remaining to be recognized;<input type="checkbox"/> Percentage of landfill capacity used to date;<input type="checkbox"/> Estimated landfill life in years.<input type="checkbox"/> Reference to corrective action costs, if applicable; <p><i>(For closure and post-closure costs, conformance with Government Accounting Standards Board Statement 18 assures compliance with this public notice component)</i></p> <p>[Reg.22.1405(f)(2)]</p>
--------------------------	--------------------------	---

Reviewed by: _____

Date: _____

Comments: _____

Reg.22.1405 – Allowable Mechanisms

As provided in 40 CFR 258.74 the mechanisms used to demonstrate financial assurance under this Chapter must ensure that the funds necessary to meet the costs of closure, post-closure care, and corrective action for known releases will be available whenever they are needed. Owners and operators must choose from the options specified in paragraphs (a) through (j) of this section. Financial assurance required by this chapter should be filed on forms developed and provided by the department.

LETTER FROM CHIEF FINANCIAL OFFICER

Director
Arkansas Department of Energy and Environment, DEQ
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317

I am the chief financial officer of {name and address of local government}. This letter is in support of this government’s use of the Local Government Financial Test to demonstrate financial assurance for closure and/or post-closure costs, as specified in Regulation 22, Chapter 14.

{Fill out the following paragraphs regarding facilities and associated cost estimates. If your government has no facilities that belong in a particular paragraph, write “None” in the space indicated.}

1. The {city or county} is the owner or operator of the following facilities in Arkansas for which financial assurance for closure or post-closure care is demonstrated through the financial test specified in Reg.22.1405 (f). The current closure and/or post-closure cost estimates covered by the test are shown for each facility.

- a. **Class 1**
Name & Permit Number _____
AFIN _____
Physical Location _____
Closure Cost Estimate _____
Post-Closure Cost Estimate _____
- b. **Class 4**
Name & Permit Number _____
AFIN _____
Physical Location _____
Closure Cost Estimate _____
Post-Closure Cost Estimate _____
- c. **Transfer Station**
Name & Permit Number _____
AFIN _____
Physical Location _____
Closure Cost Estimate _____
- d. **Compost Facility**
Name & Permit Number _____
AFIN _____
Physical Location _____
Closure Cost Estimate _____
- e. **Other Permitted Waste Facility**
Name & Permit Number _____
AFIN _____
Physical Location _____
Closure Cost Estimate _____
Post-Closure Cost Estimate _____
Type (Water, Air, Hazardous Waste, etc.) _____

2. The fiscal year of this local government ends on _____.

3. _____ {city or county} has provided evidence (attached) and certifies that _____ {city or county} meets the conditions of the Financial Component [Reg.22.1405 (f)(1)(i)].

[Fill in Paragraph A if the criteria of Reg.22.1405 (f)(1)(i)(A) of this regulation is used. Fill in Paragraph B if the criteria of Reg.22.1405 (f)(1)(i)(B) of this regulation is used.]

PARAGRAPH A:

BOND RATING REQUIREMENT

Is the current bond rating of the owner or operator adequate?

Indicate the appropriate Bond Rating and the source:

Standard and Poor's

Moody's

- AAA
- AA
- A
- BBB

- Aaa
- Aa
- A
- Baa

PARAGRAPH B:

FINANCIAL RATIO ALTERNATIVE

Does the owner or operator satisfy each of the following financial ratios based on the owner or operator's most recent audited annual financial statements:

Cash + Marketable securities > or = 0.05
Total Expenditures

Annual Debt Service < 0.20
Total Expenditures

4. _____ {city or county} has provided evidence (attached) and certifies that _____ {city or county} has prepared its financial statements in conformity with Generally Accepted Accounting Principles for governments and has had these financial statements audited by an independent certified public accountant (or appropriate State agency). [Reg.22.1405 (f)(1)(ii)].

5. _____ {city or county} has provided evidence (attached) and certifies that _____ {city or county} meets the following conditions [Reg.22.1405(f)(1)(iii)]:

- a. _____ {city or county} is not currently in default on any outstanding general obligation bonds;
- b. _____ {city or county} does not have any outstanding general obligation bonds rated lower than Baa as issued by Moodys or BBB as issued by Standard and Poors;
- c. _____ {city or county} has not operated at a deficit equal to five percent (5%) or more of total annual revenue in each of the past two years;
- d. _____ {city or county} has not received an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant (or appropriate State agency) auditing its financial statement as required under Paragraph Reg.22.1405(f)(1)(ii).

6. _____ {city or county} has provided evidence (attached) and certifies that _____ {city or county} meets the conditions [Reg.22.1405(f)(2)].
7. _____ {city or county} has provided evidence (attached) and certifies that _____ {city or county} meets the following conditions Reg.22.1405(f)(4):
 - a. If _____ {city or county} does not assure other environmental obligations through a financial test, it may assure closure, post-closure care, and corrective action costs that equal up to 43 percent of the local government's total annual revenue.
 - b. If _____ {city or county} assures other environmental obligations through a financial test, including those associated with UIC facilities under 40 CFR Part 280, PCB storage facilities under 40 CFR Part 761, and hazardous waste treatment, storage, and disposal facilities under 40 CFR Parts 264 and 265, it must add those costs to the closure, post-closure care, and corrective action costs it seeks to assure under this paragraph. The total that may be assured must not exceed 43 percent of the local government's total annual revenue.
 - c. For those costs that exceed the limits set in Reg.22.1405 (f)(4)(i) and (ii), _____ {city or county} certifies that they have obtained an alternate financial assurance mechanism.

For any and all disputes arising out of, in connection with, or relating to this Local Government Financial Test, the Owner and Operator and DEQ expressly agree and consent that the exclusive jurisdiction and venue for any proceeding shall be in Pulaski County Circuit Court for the State of Arkansas in Little Rock, Arkansas, and the Owner or Operator and DEQ waive any argument that the venue in such a forum is not convenient and any rights under any Federal or State law establishing jurisdiction or venue in another forum.

I hereby certify that the wording of this letter is in compliance with wording specified in APC&EC Regulation 22.1405 (f)(3)(i)(A)(a) and (b), as such regulations were constituted on the date shown immediately below.

[Signature]
 [Name]
 [Title]
 [Date]

Signature _____

Name _____

Title _____

Date _____

WHAT IS REQUIRED AT A MINIMUM:

- ✓ The local government must satisfy one of two financial component conditions in Reg.22.1405 (f).
- ✓ The local government must prepare its financial statements in conformity with Generally Accepted Accounting Principles for governments and be audited by an independent certified public accountant or appropriate state agency.
- ✓ Cannot be currently in default on any outstanding general obligation bond or have any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poors.
- ✓ Cannot have operated at a deficit equal to five percent (5%) or more of total annual revenue in each of the past two fiscal years.
- ✓ Cannot have received an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant or appropriate state agency.
- ✓ Local governments must report annually on whether they continue to meet the conditions of the test and inform the public that they are using the test.
- ✓ The local government must submit the following items to the Director for approval:
 - An original letter signed by the government's chief financial officer that lists all the current costs estimates covered by a financial test; provides evidence and certifies that the local government meets the conditions of Reg.22.1405 (f)(1)(i), (f)(1)(ii), and (f)(1)(iii); and certifies that the local government meets the conditions of Reg.22.1405 (f)(2). Wording of the letter must be filed on forms developed by DEQ.
 - The local governments independently audited year-end financial statements for the latest fiscal year.
 - A report to the local government from the local government's independent certified public accountant or appropriate state agency based on performing agreed upon procedures relative to the financial ratios required by Reg.22.1405 (f)(1)(i)(B) and the requirements of Reg.22.1405 (f)(1)(ii) and Reg.22.1405 (f)(i)(iii)(C) and (D).
 - A copy of the comprehensive annual financial report (CAFR) used to comply with Reg.22.1405 (f)(2).