

IC 13-22-8

Chapter 8. Financial Responsibility Standards

IC 13-22-8-1

Rules

Sec. 1. (a) The board shall adopt rules under IC 4-22-2 and IC 13-14-9 on standards of financial responsibility for the following:

- (1) Closure.
- (2) Postclosure monitoring at hazardous waste facilities.
- (3) Any required corrective action at those facilities.

(b) The rules adopted under this section must reflect the provisions for financial responsibility prescribed by section 2 of this chapter.

As added by P.L.1-1996, SEC.12. Amended by P.L.133-2012, SEC.152.

IC 13-22-8-2

Bankruptcy of owner or operator of facility; proof of financial responsibility; liability of guarantor

Sec. 2. (a) The rules on financial responsibility for monitoring and corrective action at hazardous waste facilities adopted by the board under section 1 of this chapter and IC 4-22-2 must state that evidence of financial responsibility may be provided through one (1) or more of the following:

- (1) Insurance.
- (2) Guaranty.
- (3) A surety bond.
- (4) A letter of credit.
- (5) Qualification as a self-insurer.

The rules may specify that certain terms, conditions, or defenses are necessary or are unacceptable in a policy or contract through which proof of financial responsibility is to be provided.

(b) If the owner or operator of a hazardous waste facility is in bankruptcy, reorganization, or arrangement under the federal bankruptcy law, or if no state or federal court could obtain jurisdiction over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility is provided may be asserted directly against the guarantor. In an action based upon such a claim, the guarantor may invoke:

- (1) all rights and defenses that would have been available to the owner or operator if the action had been brought against the owner or operator by the claimant; and
- (2) all rights and defenses that would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

(c) The total liability of a guarantor under this section is limited to the aggregate amount in which the guarantor has provided evidence of financial responsibility for the owner or operator of a hazardous waste facility. This section does not limit any other liability of a guarantor to the owner or operator of a hazardous waste facility, such

as liability for bad faith in negotiating or in failing to negotiate the settlement of any claim.

As added by P.L.1-1996, SEC.12.