**Section 807.661 Trust Fund**

a) An operator may satisfy the requirements of this Subpart by establishing a trust fund which conforms to the requirements of this Section and submitting an original, signed duplicate of the trust agreement to the Agency.

b) The trustee must be an entity which has the authority to act as a trustee and:

1) Whose trust operations are regulated by the Department of Financial and Professional Regulation; or

2) Who complies with the Corporate Fiduciary Act [205 ILCS 620].

c) The trust agreement must be on the form specified in Appendix A, Illustration A and the trust agreement must be accompanied by a formal certificate of acknowledgment, on the form specified in Appendix A, Illustration B. Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current closure and post-closure cost estimates covered by the agreement.

d) Payments into the trust:

1) The operator must make a payment into the trust fund each year during the pay-in period.

2) The pay-in period is the number of years remaining until the site reaches the stage in its expected operating life at which the cost of premature closure would be the greatest, as indicated by its closure plan. Provided, however, that the pay-in period shall not be less than three years nor greater than ten years.

3) Annual payments are determined by the following formula:

Annual payment = (CE-CV)/Y

Where:

|  |  |  |
| --- | --- | --- |
| CE | = | Current cost estimate |
| CV | = | Current value of the trust fund |
| Y | = | Number of years remaining in the pay in period. |

4) The operator must make the first annual payment prior to the initial receipt of waste for disposal, or prior to March 1, 1985 for sites receiving waste for disposal prior to that date. The operator must also, prior to such initial receipt of waste, submit to the Agency a receipt from the trustee for the first annual payment.

5) Subsequent annual payments must be made no later than 30 days after each anniversary of the first payment.

6) The operator may accelerate payments into the trust fund, or may deposit the full amount of the current cost estimate at the time the fund is established.

e) The trustee must evaluate the trust fund annually as of the day the trust was created, or on an earlier date as may be provided in the agreement. The trustee must notify the operator and the Agency of the value within 30 days after the evaluation date.

f) Release of excess funds:

1) If the value of the financial assurance is greater than the total amount of the current cost estimate, the operator may submit a written request to the Agency for release from the trust fund of the amount in excess of the current cost estimate.

2) Within 60 days after receiving a request from the operator for release of funds, the Agency will instruct the trustee to release to the operator those funds the Agency specifies in writing.

g) Reimbursement for closure and post-closure care expenses:

1) After initiating closure, an operator or any other person authorized to perform closure or post-closure care may request reimbursement for closure or post-closure care expenditures by submitting itemized bills to the Agency.

2) Within 60 days after receiving bills for closure or post-closure care activities, the Agency will determine whether the expenditures are in accordance with the closure or post-closure care plan and if so, it will instruct the trustee to make reimbursement in amounts the Agency specifies in writing.

3) If the Agency has reason to believe that the cost of closure and post-closure care will be significantly greater than the value of the trust fund, it may withhold reimbursement of those amounts it deems prudent until it determines that the operator is no longer required to maintain financial assurance for closure and post-closure care.

(Source: Amended at 35 Ill. Reg. 10784, effective June 22, 2011)