

**PROPOSED RULE: Part 34.15
(Adequacy of Financial Assurance)**

Subparts B, C, D, E, and F

F. Review of adequacy of financial assurance. The division may at any time not less than five years after initial acceptance of financial assurance for a recycling containment initiate a review of such financial assurance's adequacy. Additionally, whenever the division determines that a recycling containment has not achieved the closure standards specified in 19.15.34.14 NMAC, the division may review the adequacy of the recycling containment's financial assurance, without regard to the date of its last review. Upon determination, after notice to the operator and an opportunity for a hearing, that the financial assurance is not adequate to cover the reasonable and probable cost of a recycling containment's closure and post closure monitoring, the division may require the operator to furnish additional financial assurance.

**19.15.36.11
(Adequacy of Financial Assurance)**

36.11.C, D, E, F and G

G. Review of adequacy of financial assurance. The division may at any time not less than five years after initial acceptance of financial assurance for a ~~commercial facility, or whenever the operator applies for a major modification of the commercial facility's permit,~~ initiate a review of such financial assurance's adequacy. Additionally, whenever the division determines that a ~~landfarm operator~~ has not achieved the closure standards specified in ~~Paragraph (3) of Subsection G of 19.15.36.15 NMAC,~~ the division may review the adequacy of the ~~landfarm operator's~~ financial assurance, without regard to the date of its last review. Upon determination, after notice to the operator and an opportunity for a hearing, that the financial assurance is not adequate to cover the reasonable and probable cost of a ~~commercial facility's~~ closure and post closure monitoring, the division may require the operator to furnish additional financial assurance ~~sufficient to cover such reasonable and probable cost, provided that the financial assurance required of a commercial facility permitted prior to the effective date of 19.15.36 NMAC shall not exceed \$ 250,000 except in the event of a major modification of the commercial facility. If such a commercial facility applies for a major modification, the division shall determine the applicable financial assurance requirement based on the total estimated closure and post closure cost of the commercial facility as modified, without regard to the \$ 250,000 limit.~~