NOTICE OF FINAL RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 13. SOLID WASTE MANAGEMENT

PREAMBLE

1. Permission to proceed with this final rulemaking was granted under A.R.S. § 41-1039 by the governor on:

Initial Approval: February 2, 2024

Final Approval: July 27, 2026

2. Article, Part, or Section Affected (as applicable)	**Rulemaking Action**
R18-13-401	Amend
R18-13-402	Amend
R18-13-403	New Section
R18-13-404	New Section
R18-13-405	New Section
R18-13-406	New Section
R18-13-501	Renumber
R18-13-501	New Section
R18-13-501	Amend
R18-13-502	Renumber
R18-13-503	New Section
R18-13-504	New Section
R18-13-505	New Section
R18-13-506	New Section
R18-13-1701	Amend

R18-13-1702	New Section
R18-13-1703	Amend
R18-13-1704	Amend

3. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 49-104

Implementing statutes: A.R.S. §§ 49-761(A), 49-761(G), 49-761(H), 49-761(J), 49-770

4. The effective date of the rule:

This rule shall become effective 60 days after a certified original and preamble are filed in the Office of the Secretary of State pursuant to A.R.S. § 41-1032(A). The effective date is (to be filled in by *Register* editor).

a. If the agency selected a date earlier than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

Not applicable

b. If the agency selected a date later than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason the agency selected the later effective date as provided in A.R.S. § 41-1032(B):

Not applicable

5. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the current record of the final rule:

Notice of Rulemaking Docket Opening: 31 A.A.R. 1977, Issue Date: June 20, 2025, Issue Number: 25, File number: (R25-128)

Notice of Proposed Rulemaking: 32 A.A.R. 872, Issue Date: April 17, 2026, Issue Number: 16, File number: (R26-47)

6. The agency's contact person who can answer questions about the rulemaking:

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7. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

Summary: ADEQ is promulgating this rulemaking to fulfill its statutory mandate to establish design, operation, and closure standards, and financial assurance requirements for solid waste transfer facilities operating in Arizona as established in A.R.S. § 49-761 subsections (G), (H), and (J) and A.R.S. § 49-770.

Background: The U.S. Environmental Protection Agency (EPA) found that, in 2018 in the United States, 4.9 pounds of municipal solid waste was generated per person per day, for a total annual generation of 292.4 million tons, with only 32% of that waste recycled or composted. Both total waste generation and per capita generation has been steadily increasing. Transfer facilities represent a critical component of the waste management stream, facilitating the sorting, compacting, and directing of wastes and recyclable materials and providing access to proper disposal in rural areas. In Arizona, there are approximately 163 facilities that operate as solid waste transfer facilities. These facilities are categorized in statute based on daily waste throughput as either facilities subject to best management practices (BMP) under A.R.S. § 49-762.02, defined as transfer facilities having a daily solid waste throughput of 180 cubic yards or less, or facilities subject to self-certification under A.R.S. § 49-762.01, which are transfer facilities having a daily solid waste throughput of more than 180 cubic yards.

Currently, Arizona solid waste transfer facilities are not subject to any design or operation rules adopted by the Director, but are subject only to minimal statutory requirements.

Instead, in addition to administrative information, self-certification facilities are subject only to basic reporting tied to registration and renewal fees, including brief descriptions of: waste storage and treatment equipment and methods of waste management; waste management practices used at the facility; facility design and operations; and information related to site activities. Current reporting elements lack specificity and standards. Further, solid waste transfer facilities are not required to maintain or demonstrate any financial responsibility or capacity for operations, closure, or emergency preparedness.

A lack of specified and enforceable standards for the design and operation and financial responsibility of solid waste transfer facilities results in both greater risks for harm to human health and the environment, and a lack of ability for ADEQ to mitigate or remediate such harms. Though ADEQ does not recognize a general lack of operational capability among transfer facilities, without memorializing baseline operational standards and financial responsibility requirements in rule, risks to human health and the environment and a lack of ability to correct such risks persists. Potential harms include excessive waste accumulation in communities, fire hazards from poorly managed waste and facilities, community and environmental nuisance from odor, litter, dust, or other vectors, and costs to both communities and the state associated with closure, cleanup, and emergency events at facilities lacking financial assurances or guarantees.

This rulemaking seeks to fulfill the Agency's statutory mandate in the enactment of regulations for measured, enforceable, and effective design and operation and financial responsibility standards and requirements for solid waste transfer facilities. The consequences of not pursuing this rulemaking may include continued uncertainties about potential environmental, public safety, and health impacts presented by mismanaged transfer facilities.

<u>Explanation about the Rulemaking:</u> This rulemaking amends existing rules and adds new rules to Article 4, Article 5, and Article 17 within Title 18, Chapter 13 of the Arizona Administrative Code to establish comprehensive design, operation, and financial assurance standards for solid waste transfer facilities, as mandated by A.R.S. §§ 49-761 and 49-770. The rulemaking distinguishes between BMP facilities and those subject to self-certification based on a daily throughput threshold, while consolidating financial assurance requirements for both categories.

Clarification of Applicability and Exemptions: The rules clarify the definition of "transfer facility" to explicitly exclude facilities engaged in the transportation, handling, storage, and treatment of biohazardous medical waste or special waste, ensuring these entities remain regulated under their specific statutory frameworks. Additionally, the rulemaking introduces targeted exemptions to avoid over-regulating small-scale activities. "Temporary drop-site locations" that operate for 30 days or less per calendar year, and municipal solid waste collection containers with a cumulative capacity of 20 cubic yards or less, are explicitly exempted from transfer facility registration and design requirements.

Throughput Thresholds: The rulemaking clarifies that the statutory throughput threshold of 180 cubic yards, which distinguishes BMP facilities (Article 4) from self-certification facilities (Article 5), is applied on a daily basis rather than as an average over time. To accommodate operational flexibility, the rules establish an "exceedance allowance" for BMP facilities. This provision allows a facility to exceed the 180 cubic yard daily limit up to four times per calendar year without re-classifying as a self-certification facility, provided the owner or operator submits written notification to the Department at least 30 days prior to the scheduled exceedance. Additionally, the rules provide an emergency exception allowing BMP facilities to exceed the throughput threshold in the event of an unscheduled exceedance caused by an unforeseeable emergency or severe weather event.

Facility Registration: The rulemaking establishes clear registration procedures for both BMP and self-certification facilities. Owners and operators must submit basic facility information during their initial registration, including facility contact details, physical locations or legal descriptions, descriptions of waste management methods and equipment, steps necessary to close the facility, and a property diagram. Registration requirements differ depending on whether a facility is a BMP Facility or self-certification facility, with additional information being required for self-certification facilities. However, the rules explicitly clarify that this documentation is only required initially. During subsequent annual registrations, operators are only required to submit updated information if there have been actual changes to the facility's operations or details. If no changes have occurred since the last registration, no additional information is required to be submitted.

Design and Operation Standards: The rulemaking establishes consistent operational standards for both BMP and self-certification facilities to prevent environmental nuisances and threats to public health. Key requirements include:

- Access and Vector Control: Facilities must restrict unauthorized access via signage, manage storage areas to prevent wind dispersal, and implement measures to prevent vector breeding.
- Waste Screening: Operators must implement waste screening measures, including personnel training and segregation procedures to prevent acceptance of unauthorized waste, and notify the Department within 24 hours of discovery of the acceptance of any non-residential biohazardous medical waste, non-residential hazardous waste, or special waste by the facility.
- Site Management: Facilities must ensure waste handling areas are free of standing water and ensure containers used in handling waste are constructed of durable

materials, maintained in good condition, and leak-resistant such that waste stored within will not leak from the container.

- Liquid Waste: The rules introduce specific standards for facilities handling liquid waste, requiring storage in watertight, compatible, and labeled containers. Operators must maintain a written liquid waste management plan, or utilize an existing spill prevention plan, that includes emergency preparedness procedures and prohibits the dilution of liquid waste.

Closure Requirements: The rulemaking codifies a formal closure process to ensure facilities are properly decommissioned. Owners or operators must submit a "Notice of Intent to Close" to the Department at least 30 days prior to beginning closure activities. The rules mandate specific closure performance standards, including the removal and proper disposal of all solid waste and leachate, and the washing of all surfaces and equipment that contact waste. A final written notice certifying compliance must be submitted to the Department upon completion.

Financial Assurance: Finally, within 180 days of the effective date of the rulemaking's design and operation standards, the financial assurance requirements of A.R.S. § 49-770 become effective for transfer facilities. Pursuant to A.R.S. § 49-770 owners or operators will be required to demonstrate financial capability to meet the costs of facility closure, post-closure care if necessary, and corrective action for known releases. This rulemaking amends Article 17 to establish specific financial assurance requirements for all solid waste transfer facilities. The rules allow the use of various financial mechanisms, such as surety bonds, letters of credit, or insurance policies, and require that cost estimates be updated every three years to account for inflation and changes in facility conditions. Additionally, ADEQ has modeled the financial assurance requirements after the EPA's rules for financial assurance outlined in 40 CFR 258.74. This will provide consistency and simplicity and allow cities and counties to combine financial assurance demonstrations for transfer stations and landfills if they wish to do so.

The design and operation requirements in this rulemaking do not establish explicit post-closure care requirements for transfer facilities. Standard transfer station operations do not typically involve long-term waste placement or require ongoing post-closure monitoring. However, the requirement to establish financial assurance for post-closure care is mandated by statute. A.R.S. § 49-770 requires financial assurance for "the costs of closure, post-closure care, if necessary, and any corrective action as a result of known releases from the facility." While general post-closure care is not required for transfer facilities under R18-13-404 and R18-13-504, discretion to mandate it in exceptional circumstances to protect human health and the environment is retained by the Director in statute. Given this fact, the rulemaking mirrors the post-closure care language of A.R.S. § 49-770, noting such coverage is only required "if necessary". Outside exceptional circumstances, post-closure care coverage will not be applicable to the vast majority of transfer facilities in Arizona.

Licensing Time Frames: ADEQ determined that licensing time frames are not necessary for the requirements established in these rules.

<u>Informal Stakeholder Engagement:</u> ADEQ has engaged with stakeholders throughout the process of developing these rules, including three informal stakeholder meetings; the presentations for which can currently be found at https://www.azdeq.gov/rulemaking-transfer-facility-design-operation. Throughout this engagement, ADEQ received questions and comments from stakeholders which have helped the Agency with the design of the rules. Common topics that were raised include applicability and throughput volumes, biohazardous medical waste and special waste transfer facilities, design and operation requirements, financial assurance, household hazardous wastes, and general rulemaking and implementation questions.

Applicability and throughput volumes: Throughout the stakeholder process, ADEQ received several questions related to the applicability of the rules and the volume requirements for BMP and self-certification facilities. These questions included questions about possible exceptions for applicability of the rules to tipping pads located at landfills, applicability to small or temporary collection sites, and uncertainty around the 180 cubic yard threshold between BMP facilities and self-certification facilities.

Regarding tipping pads, ADEQ explained to stakeholders that any tipping pads for public use at landfills for waste being disposed of at the landfills are considered part of the landfill operation. As such, these tipping pads would not be required to separately register as transfer stations. However, if the waste is to be transported off site, then transfer station registration would be required.

Stakeholder questions regarding small or temporary collection sites highlighted a need for some flexibility for these categories of sites in the rules. Responding to these concerns, ADEQ incorporated new exemptions within the draft rules. The new rule establishes exemptions from the definition of "transfer facility" for bins, drop boxes, roll off containers, or vehicles that have a cumulative capacity of 20 cubic yards or less, and for temporary drop-site locations that operate for a determinate amount of time not to exceed 30 days per calendar year.

In response to stakeholder comments relating to a lack of clarity regarding the 180 cubic yard per day threshold that distinguishes facilities subject to BMPs and self-certification facilities, ADEQ added language to the rule clarifying that the throughput threshold is a daily limit, rather than an average, so facilities should consider the threshold crossed if they exceed 180 cubic yards in a single day. However, the agency also developed the scheduled and emergency exceedance allowances for BMP facilities described in “Throughput Thresholds” above.

Biohazardous medical waste and special waste transfer facilities: ADEQ also received several comments and questions regarding biohazardous medical waste and special waste transfer facilities. Many of these comments expressed a desire to alter requirements as they relate to these types of transfer facilities. However, ADEQ noted that biohazardous medical waste and special waste facilities are unique facility classifications subject to their own specific rules in Article 13 and 14, respectively, which address the transfer of biohazardous medical waste and special waste, and make plan approval available for facilities seeking to conduct these transfers. For the purposes of this rulemaking, ADEQ has limited its scope to Articles 4, 5, and 17 of Chapter 13. ADEQ would not be able to examine referenced requirements for biohazardous medical waste and special waste facilities without exceeding that scope or contradicting existing rules. ADEQ also included language in the rules explicitly stating that biohazardous medical waste facilities and special waste facilities are not subject to the new transfer station requirements and are, instead, subject to their own rules.

Design and operation requirements: Several questions were raised regarding some of the new design and operation requirements established in the rules. In designing these rules, ADEQ worked to establish requirements within standard business practices for BMP and self-certification facilities. ADEQ believes the standards will not require facilities to undertake substantial capital investments to comply. ADEQ will provide compliance assistance, templates, and examples of compliance to assist facilities in meeting new requirements. ADEQ is also developing templates and answers to frequently asked questions to assist stakeholders prior to the rules becoming effective.

Financial Assurance: ADEQ also received questions regarding the new financial assurance requirement for transfer facilities established by the rules. Questions were raised regarding whether transfer facilities could be added to existing financial assurance mechanisms for owners and operators of facilities falling under multiple categories of solid waste facilities. ADEQ explained that the mechanism can be combined for multiple facilities (i.e. landfills and transfer stations), however, the cost estimates for each facility should be itemized separately. ADEQ also clarified the requirements for providing financial assurance documentation. Under A.R.S. § 49-770, all solid waste facilities must provide the requisite financial assurance documentation with their initial facility registration or, for existing facilities, within 180 days of design and operation rules becoming effective. The cost estimates included in that documentation must be updated every three years to account for changes in third party closure costs and any changes that have occurred to the facility, and be provided to the Agency. Other than the three-year cost estimate updates, financial assurance documentation needs to be resubmitted to the Agency during annual registration if changes to the selected mechanism, or mechanisms, occur. For example, mechanisms with fixed coverage periods, such as insurance policies, should be submitted whenever a new coverage period becomes effective. The most up to date financial assurance documentation should be kept with the facility operating records at all times.

Questions were also raised regarding where the metrics for ADEQ's financial assurance mechanisms originated. ADEQ explained that it is adopting the EPA's rule for financial assurance outlined in 40 CFR 258.74 in the new financial assurance rules. This is to provide consistency and simplicity, for example, by allowing cities and counties to combine their transfer station and landfill financial assurance demonstrations, if they wish to do so.

Household Hazardous Wastes: Multiple questions were asked throughout the stakeholder engagement process regarding the applicability of the rules to facilities accepting household hazardous wastes. ADEQ explained that household hazardous waste is a solid waste, and facilities (municipal or non-municipal) handling solid waste for the primary purpose of transportation are considered transfer facilities subject to these rules. However, there are exemptions for facilities with a cumulative capacity of 20 cubic yards or less, and for seasonal/temporary drop-site locations.

General Rulemaking and Implementation: Some stakeholders raised questions regarding the timeline for the implementation of the rules and whether ADEQ would be using its myDEQ portal for transfer facilities following the implementation of the rules. ADEQ explained that the rules will become effective 60 days after the publication of the notice of final rulemaking, though the design, operation, closure, and financial assurance requirements become effective 180 days after the effective date of the rules. The Agency also explained that there are currently no immediate plans to transition transfer facility registration or compliance to the myDEQ portal, though a transition at some point in the future is a possibility.

8. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

Not applicable

9. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

10. A summary of the economic, small business, and consumer impact:

The following discussion addresses each of the elements required for an Economic, Small Business, and Consumer Impact statement (EIS) under A.R.S. § 41-1055.

An identification of the rulemaking.

This rulemaking fulfills ADEQ's statutory mandates under A.R.S. §§ 49-761(G), (H), and (J) and 49-770 to establish comprehensive design, operation, closure, and financial assurance standards for solid waste transfer facilities operating in Arizona. Currently, the state's 163 transfer facilities operate without specific design or operation rules adopted by the Director, relying instead on minimal administrative reporting and broad statutory requirements.

The targeted conduct this rulemaking addresses is the operation of solid waste transfer facilities without clear, enforceable regulatory baselines. Without these specific operational standards, facilities are more susceptible to environmental and operational issues such as vector breeding, wind dispersion of waste, and the risk of fires. Furthermore, operators currently function without any regulatory requirement to maintain financial assurance mechanisms.

The harm resulting from operations lacking these specific baselines includes potential environmental nuisances, such as odor, litter, and dust, as well as risks to human health from potential unauthorized public access to unsecured facilities. Additionally, while facility closures remain relatively rare, the lack of financial assurance poses a significant potential fiscal vulnerability. If a facility eventually closes or fails without adequate funding for site closure, the state or local communities could be left to bear the outstanding financial liabilities associated with site cleanup and remediation. If the rule is not adopted, ADEQ will have to continue relying on its broad statutory authority to address nuisances and imminent hazards, which often limits the Department to reactive enforcement rather than proactive regulatory actions.

The expected change resulting from this rulemaking is a codification of current industry best practices into enforceable, consistent standards, without creating significant new operational or financial burdens on owners and operators. By establishing clear, proactive requirements, such as access and vector control, leak-resistant containers, and liquid waste management plans, the rule will help mitigate the potential severity and frequency of environmental releases, public nuisances, and facility fires. Finally, by implementing statutory financial assurance requirements across all transfer facilities, the rule effectively mitigates the risk of the state bearing the financial burden for future facility closures, ensuring that closure and corrective action liabilities remain properly funded by the facility operators.

Identification of the persons who will be directly affected by, bear the costs of, or directly benefit from the rules:

Stakeholders for this rulemaking include the Department, county and municipal agencies operating solid waste transfer facilities, private businesses operating solid waste transfer facilities, users of waste transfer facilities including residents, commercial waste haulers, and the general public.

The stakeholders most directly affected by these rule changes are the public and private owners and operators of the 163 currently operating solid waste transfer facilities within the state who will be subject to compliance and financial assurance requirements. However, these owners and operators will also benefit from greater regulatory certainty, less ambiguity in daily operational expectations, and through consistent codified standards. The Department, local communities, and the general public will directly benefit from the establishment of these standards through mitigated environmental nuisances, reduced public health risks, and the protection of taxpayer funds from unfunded facility closures.

Cost/benefit analysis:

Part I - Cost/Benefit Stakeholder Matrix

This section summarizes the economic impacts of the amendments to 18 A.A.C. 13, Articles 4, 5, and 17. To comply with accessibility guidelines, this summary utilizes a structured narrative in place of a data matrix. The Department utilizes the following classifications to quantify economic impacts: Minimal ($1,000 or less); Moderate ($1,001 to $10,000); Substantial ($10,001 or more); and Significant (Cost or burden cannot be precisely calculated, but the Department expects it to be significant).

The Department: The rule introduces a Minimal increased cost to review updated, change-based registration documents and a Moderate increased cost in technical staff time to conduct periodic compliance reviews of financial assurance demonstrations. Conversely, the Department realizes a Moderate benefit through streamlined data collection and improved regulatory oversight, alongside a Significant decreased cost by ensuring private operators, rather than the state, bear the financial liability for closing abandoned facilities.

County and Municipal Agencies: Public operators face Minimal to Moderate increased costs to align existing operations with codified design and operation standards, alongside Moderate increased costs to establish required financial assurance mechanisms. However, these agencies experience Moderate to Substantial decreased costs and regulatory relief by utilizing the 20-cubic-yard and temporary drop-site exemptions, plus a Significant operational benefit from the exceedance allowance, which prevents costly permanent reclassification during short-term volume surges.

Private Businesses: Commercial operators will incur a Minimal increased administrative cost under the change-based reporting framework, Minimal to Moderate increased costs to align with the flexible design and operation standards, and Moderate increased costs to secure and maintain financial assurance. In terms of decreased costs, small private operators realize Moderate to Substantial savings through the 20-cubic-yard capacity exemption, while all private BMP facilities gain a Significant operational benefit from the exceedance allowance, avoiding disruptive regulatory reclassification during emergencies or scheduled projects.

Waste Transfer Facility Users: Residents and commercial haulers utilizing these facilities may incur a Minimal increased cost if operators marginally adjust tipping or drop-off fees to offset their compliance upgrades. This is offset by a Minimal to Moderate benefit derived from consistent operational standards that ensure public drop-off sites remain accessible, reliable, and safe.

The General Public: The general public bears no increased costs from this rulemaking. Instead, this group receives a significantly decreased cost regarding taxpayer liability, as the financial assurance requirements prevent local tax dollars from being used to clean up abandoned commercial sites. Additionally, the public realizes a significant qualitative benefit through mitigated environmental nuisances, improved vector control, and the protection of local property values from odors and windblown litter.

Part II - Individual Stakeholder Summaries/Calculations

The Department. The Department currently oversees 163 operating solid waste transfer facilities in Arizona, consisting of 111 facilities subject to Best Management Practices (BMP) and 52 facilities subject to self-certification. Under the new rules, reviewing expanded initial and annual registration submissions—such as facility diagrams and detailed waste management descriptions—will cause a minor increase in administrative workload. However, replacing broad statutory language with codified design and operation standards will make the Department's administration and enforcement more straightforward and consistent.

The biggest impact on Department resources will be implementing the new Article 17 financial assurance requirements. Technical staff will need to conduct compliance reviews of financial assurance demonstrations, which includes evaluating initial cost estimates and periodic three-year updates to ensure financial instruments remain sufficient to cover rising closure costs.

The Department anticipates it can absorb this moderate workload increase using its current staff capacity. No new personnel will need to be hired, and no staff will be laid off as a result of this rulemaking. The rule is not expected to negatively impact the Department's cash flow, as existing registration fee structures will remain in place.

The rulemaking provides a significant benefit to the Department and the state by reducing financial vulnerability. By requiring all transfer facilities to secure financial assurance, the Department is guaranteed access to the necessary funds to execute site closure and corrective actions in the event of a facility abandonment, ensuring cleanup costs are borne by the operator rather than taxpayers.

County and municipal agencies operating waste transfer facilities. County and municipal agencies operate a significant portion of Arizona's solid waste transfer network. The new rules will not require these public agencies to alter their staffing levels. Administrative burdens are kept minimal because the updated rules only require agencies to report material changes to their facility information.

Public operators may see minimal to moderate costs to align existing sites with the new design and operation standards. The rules offer flexible compliance options to avoid forcing heavy capital investments. For instance, agencies can use leak-resistant containers instead of pouring new impervious concrete pads and can rely on existing Stormwater Pollution Prevention Plans (SWPPPs) to satisfy spill and water management requirements.

Establishing financial assurance for facility closure will be the most notable new expense. To ease this transition, the rule incorporates federal frameworks like the local government financial test and local guarantees. Qualifying municipalities can meet the requirement through their existing financial strength rather than purchasing expensive third-party instruments.

Targeted exemptions provide substantial regulatory relief for public entities. The rules exempt temporary drop-site locations operating 30 days or less and containers with a cumulative capacity of 20 cubic yards or less, completely shielding seasonal community clean-ups and small rural drop-boxes from registration and financial assurance costs. Municipal facilities can also use the new "exceedance allowance" to absorb short-term waste surges up to four times a year without triggering reclassification.

Private businesses operating waste transfer facilities. Private businesses operate a substantial share of the state's transfer facilities. The Department does not expect compliance to drive changes in commercial staffing levels or cause layoffs. Because operators only need to submit updates when facility details actually change, the administrative reporting burden remains low.

While operators might face minimal to moderate costs to meet the new design and operation standards, these rules are tailored to reflect current industry best practices. Most commercial operators already meet these baseline expectations and will not need to make disruptive capital investments to achieve compliance.

To minimize the regulatory burden on small businesses—which make up approximately 20 of the impacted private operators—the rule includes significant operational flexibilities. Most of these small enterprises operate within the BMP classification, avoiding the heavier requirements of the self-certification tier. The 20-cubic-yard capacity exemption will completely eliminate the registration and fee burden for at least two currently registered small businesses. Additionally, the exceedance allowance lets private BMP facilities handle short-term volume surges for scheduled projects or unforeseen emergencies without permanent reclassification.

The primary financial impact and potential minor barrier to entry for private businesses is the statutory financial assurance requirement. Securing mechanisms like surety bonds or letters of credit to cover facility closure and known corrective actions will introduce moderate ongoing costs. However, this requirement is scaled appropriately to the facility's actual operational footprint, ensuring financial viability without imposing the long-term liabilities associated with landfill post-closure monitoring.

Waste transfer facility users. Facility users, including residents and commercial waste haulers, will likely experience minimal direct economic impacts. While operators may pass on moderate compliance and financial assurance costs through slightly adjusted tipping or drop-off fees, this is offset by the rule's direct benefits. Consistent operational standards ensure transfer facilities remain accessible, reliable, and safe while mitigating local environmental nuisances.

General Public. The general public will not bear direct compliance costs and stands as the primary beneficiary of these modernized standards. Mandating financial assurance protects taxpayer funds by ensuring private operators, not local taxpayers, pay for the closure and cleanup of abandoned sites.

Residents living near these facilities will directly benefit from the new operational standards. Enforceable requirements for waste storage, windblown litter, and vector control will reduce environmental nuisances and protect local property values from odors and pests. Additionally, exemptions for small-scale community bins and temporary drop-sites guarantee that neighborhood clean-up events can continue without added regulatory hurdles.

<u>A general description of the probable impact on private and public employment in business agencies, and political subdivisions of this state directly affected by the rulemaking:</u>

The Department anticipates that the rulemaking will have no measurable impact on private or public employment in Arizona. Because the codified design and operation standards are explicitly tailored to mirror established industry best practices, private transfer facility operators and commercial waste management businesses will not need to significantly alter their operations, undertake substantial capital investments, or hire additional staff to achieve compliance. Similarly, county and municipal agencies will not need to expand or reduce their existing workforces to absorb the modernized requirements. Consequently, the Department expects no impact to employment as a result of this rulemaking.

<u>A statement of the probable impact of the rules on small business:</u>

An identification of the small business subject to the rules. The Department estimates that approximately 12 small businesses own or operate solid waste transfer facilities in Arizona. To ensure a conservative analysis, the Department assumed an entity qualifies as a small business if its corporate size or revenue could not be definitively determined. Nearly all of these 12 identified operators manage daily waste volumes that keep them within the Best Management Practices (BMP) classification, meaning they operate within the state's less stringent regulatory tier.

The administrative and other costs required for compliance with the rules. As detailed in the Cost/Benefit Analysis (Section 3), small businesses will incur minimal to moderate costs to align their facilities with the codified design and operation standards. The most significant compliance expense, however, will be securing and maintaining the financial assurance mechanisms required by A.R.S. § 49-770. Beyond these initial outlays, the ongoing administrative effort to maintain compliance is expected to remain low. Because the updated rules primarily codify established industry best practices, the Department does not anticipate that small businesses will need to hire additional personnel or retain expensive outside legal or consulting services.

A description of the methods that the agency may use to reduce the impact on small businesses. In accordance with A.R.S. § 41-1035, the Department actively integrated alternative methods to reduce the regulatory burden on small businesses while still accomplishing the objective of protecting human health and the environment:

i. Exempting small businesses: The rule establishes an explicit exemption for collection points utilizing containers with a cumulative capacity of 20 cubic yards or less. The Department anticipates this will completely remove all registration, fee, and financial assurance requirements for at least two currently registered small businesses. The rule also exempts temporary drop-site locations, protecting small-scale community cleanup operations.

ii. Establishing less stringent compliance and reporting requirements: By maintaining the tiered regulatory structure, the vast majority of small businesses remain in the BMP tier, shielding them from the heavier administrative and operational demands of the self-certification tier. Furthermore, the newly established "exceedance allowance" permits small operators to handle short-term surges in waste (up to four times a year) or respond to emergencies without triggering a permanent, costly reclassification to the self-certification tier.

iii. Establishing less stringent schedules or deadlines: The rule incorporates a 180-day implementation window following the effective date. This grace period ensures small businesses have ample time to update their registrations, align operations, and secure financial assurance without disrupting their current business activities or cash flow.

iv. Establishing performance standards over design standards: Rather than prescribing rigid engineering or construction mandates (such as requiring new enclosed buildings or poured concrete pads), the rules offer flexible compliance pathways. For example, small operators can utilize leak-resistant containers to meet containment standards, preventing the need for substantial capital investments.

The probable costs and benefits to private persons and consumers who are directly affected by the rules. Private persons and consumers who utilize small business transfer facilities will experience minimal direct economic impacts. If small operators need to pass on the moderate costs of securing financial assurance or facility upgrades, consumers may see slightly adjusted tipping or drop-off fees. However, this potential indirect cost is offset by the qualitative benefit of ensuring these local drop-off sites remain accessible, financially viable, and free from environmental nuisances like windblown litter, odors, and vectors.

<u>A statement of the probable effect on state revenues:</u>

The Department anticipates that this rulemaking will have a minimal effect on state revenues. The existing registration fee structure for solid waste transfer facilities remains unchanged. The only projected impact to state revenue is a negligible decrease resulting from the new exemption for collection points utilizing containers with a cumulative capacity of 20 cubic yards or less. The Department estimates that at least two currently registered facilities will qualify for this exemption, resulting in the loss of their annual registration fees. This minor reduction will be easily absorbed and will not impact the Department's ability to administer and enforce the solid waste program.

<u>A description of any less intrusive or less costly alternative methods of achieving the purpose of the rulemaking:</u>

The Department determined that the rulemaking represents the least intrusive and least costly method of achieving the regulatory objectives while strictly adhering to statutory mandates.

A "no action" alternative would involve leaving the current regulatory framework unchanged. However, this approach would conflict with explicit statutory mandates. Through A.R.S. § 49-761, the legislature directs the Department to establish comprehensive design, operation, and closure standards for specific classes of solid waste facilities, including transfer facilities subject to best management practices or self-certification. Furthermore, A.R.S. § 49-761(J) and A.R.S. § 49-770 dictate that the Department must adopt financial assurance rules, and that facilities must demonstrate compliance within 180 days of the design and operation standards taking effect. Maintaining the status quo would fail to satisfy these statutory requirements.

To meet these obligations, the Department developed a regulatory framework that minimizes the burden on operators while still fulfilling its statutory duties and establishing the standards necessary to protect human health, safety, and the environment. By codifying established industry best practices, offering flexible compliance pathways, and implementing targeted regulatory relief, such as the 20-cubic-yard capacity exemption, temporary drop-site exceptions, and the newly established exceedance allowance, the Department concluded there are no viable alternative methods that would be less intrusive or less costly while still achieving the purpose of the rulemaking.

A description of any data on which the rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data:

Any data or reasoning which this rulemaking is based on is identified in the "Rule Scope and Explanation" portion of the Notice of Final Rulemaking located in Part 7. Generally, no new data was introduced or reviewed to make these rule changes.

11. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

Between the Notice of Proposed Rulemaking and this Notice of Final Rulemaking, the Department made several targeted changes to the rule text. These changes were made primarily in response to comment and stakeholder feedback in order to clarify regulatory intent, ensure strict alignment with statutory language, and provide necessary operational flexibility in response to feedback received from industry stakeholders.

The specific changes are detailed below:

Definitions (R18-13-401 and R18-13-501):

Liquid Waste: The Department expanded the definition of liquid waste to explicitly exclude "incidental liquids to municipal solid waste collection." This clarifies that the rule's liquid waste management standards are intended for bulk liquid waste, and do not apply to trace liquids like residual beverage fluids or accumulated rainwater.

Registration and Reporting (R18-13-402 and R18-13-502):

Annual Updates: Subsections 402(C) and 502(C) were revised to clarify that the comprehensive facility information detailed in subsections 402(B) and 502(B) is only required during initial registration. For annual renewals, updates are only required if there have been material changes to the facility's information.

Emergency Exceedance Allowance: R18-13-402(F)(2)(c) was added to create an unscheduled exceedance allowance for BMP facilities. This accommodates unforeseeable emergencies or severe weather events, acknowledging that operators cannot always predict or control sudden community waste surges.

Design and Operation Requirements (R18-13-403 and R18-13-503):

Access Control: The Department removed the phrase "or physical barriers" from R18-13-403(A)(1)(a) and R18-13-503(A)(1)(a). The final rule clarifies that appropriate signage is sufficient to restrict unauthorized access, preventing existing facilities from needing to undertake costly and technically difficult retrofits.

Dispersal Management: Subsections 403(A)(1)(b) and 503(A)(1)(c) were simplified by removing the phrase "cover or otherwise." The rule now broadly requires that tipping floors and storage areas be managed to prevent wind and surface dispersal, giving operators flexibility in how they achieve that performance standard.

Aisle Space: The Department removed the specific 20-foot aisle space requirement for BMP facilities in R18-13-403(A)(1)(d). Due to the rule form being interpreted as more stringent than intended, the language was changed to mirror the self-certification standard, simply requiring operators to "ensure facility access" to waste areas for emergency vehicles.

Container Standards: Subsections 403(A)(1)(g) and 503(A)(1)(i) were modified to remove the requirement that containers be "leak-proof." The final rule requires containers to be "leak-resistant such that waste stored within will not leak from the container." This clarifies that standard solid waste roll-offs do not need to be perfectly watertight; they only need to contain and not spill the solid waste.

Liquid Waste Management Plans; Subsections 403(D) and 503(D) were modified to clarify that facilities handling liquid waste may utilize existing spill prevention plans to satisfy the requirement to maintain a written liquid waste management plan.

<u>Financial Assurance and Closure (R18-13-405 and R18-13-505):</u>

Post-Closure Care: The Department added the phrase "if necessary" immediately following references to post-closure care across both sections. This change aligns the rule text identically with the statutory mandate in A.R.S. § 49-770 and acknowledges that standard transfer stations, unlike landfills, do not typically require long-term post-closure monitoring.

12. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

The Department received written comments from two stakeholders during the formal public comment period. No public comments were received during the virtual oral proceeding held on May 28, 2026. The comments are categorized by topic below followed by the Department's corresponding response.

Applicability & Scope

Comment 1: The definition of a transfer facility is not entirely clear. Because 49-701 refers to solid waste and because hazardous waste is a type of solid waste, this definition may be broader than intended.

ADEQ Response 1: ADEQ appreciates the comment. A "transfer facility" is defined in

A.R.S. § 49-701 as a facility engaged in the rehandling or storage for ninety days or less of solid waste generated off-site for the primary purpose of transporting that solid waste. A.R.S. § 49-701.01 specifically excludes hazardous waste from the definition of solid waste. The requirements in this rulemaking only apply to facilities handling solid waste, and do not apply to facilities solely managing hazardous waste, which are subject to separate rules.

Comment 2: The definition and applicability of "transfer facility" warrants further clarification. Because A.R.S. § 49-701 broadly defines solid waste, and hazardous waste is a subset of solid waste, the draft language may unintentionally extend these requirements beyond their intended scope.

ADEQ Response 2: ADEQ appreciates the comment. A "transfer facility" is defined in A.R.S. § 49-701 as a facility engaged in the rehandling or storage for ninety days or less of solid waste generated off-site for the primary purpose of transporting that solid waste. A.R.S. § 49-701.01 specifically excludes hazardous waste from the definition of solid waste. The requirements in this rulemaking only apply to facilities handling solid waste, and do not apply to facilities solely managing hazardous waste, which are subject to separate rules.

Comment 3: Explicit exclusions should be provided for convenience centers, small-volume drop-off facilities, and other operations not engaged in traditional transfer station activities.

ADEQ Response 3: The Department has already incorporated explicit exclusions into the rule text to accommodate small-volume and non-traditional operations. Specifically, R18-13-402(A)(1)(c) exempts "Bins, drop boxes, roll off containers, or vehicles that have cumulative capacity of 20 cubic yards or less". Additionally, R18-13-402(A)(1)(d) establishes an explicit exemption for "A temporary drop-site location". Regarding convenience centers, the Department has clarified that tipping pads or convenience centers located at landfills for public use, where the waste is being disposed of at that same landfill, are considered part of the landfill operation itself. As such, these facilities are not required to separately register as transfer stations under these rules.

Liquid Waste Provisions

Comment 4: Likewise, provisions related to liquid waste should be clarified as applying only to specific liquid waste facilities and would not include rain water.

ADEQ Response 4: ADEQ appreciates the comment. The Department agrees that standard municipal solid waste with residual moisture or accumulated rainwater should not trigger the bulk liquid waste requirements. To provide clarity and ensure the rule is narrowly tailored to its intended target, the Department amended the definition of "Liquid waste" in R18-13-401(C) in the final rule. The definition was updated to specify "bulk liquids" and to explicitly exclude "incidental liquids to municipal solid waste collection". This change ensures that facilities handling standard municipal waste, which may include trace liquids like residual beverage fluids or accumulated rainwater, are not inadvertently subjected to the bulk liquid waste standards.

Comment 5: Additionally, provisions addressing liquid waste handling should be clarified to apply only to facilities that manage specific liquid waste streams, rather than all transfer facilities broadly.

ADEQ Response 5: ADEQ appreciates the comment. The design and operation requirements for liquid waste handling established in R18-13-403(C) and R18-13-503(C) are conditional and apply exclusively to a solid waste transfer facility "which handles liquid waste". Facilities that do not handle bulk liquid waste streams are not subject to these specific standards. Furthermore, to ensure the rule remains narrowly tailored and does not inadvertently capture standard municipal waste, the Department amended the definition of "Liquid waste" in R18-13-401(C) in the final rule to explicitly exclude "incidental liquids to municipal solid waste collection".

Comment 6: The proposed liquid waste provisions introduce storage, segregation, reporting, and planning requirements that appear duplicative of existing federal, state, and DOT regulations. It is unclear what specific environmental issue these provisions are intended to address in a transfer station context. Transfer stations do not manage long-term liquid waste storage, and incompatible or hazardous liquids are already regulated under existing programs. Applying landfill-style liquid waste management requirements to transfer stations risks adding complexity without commensurate environmental benefit.

ADEQ Response 6: ADEQ appreciates the comment. While existing federal regulations address hazardous waste, they do not govern non-hazardous bulk liquids, leaving a significant regulatory gap. For instance, liquids classified as hazardous waste in other states, such as California, are often not federally regulated under RCRA and can be shipped into Arizona as non-hazardous waste. Because the EPA and DOT do not regulate the management of these specific liquids once they enter the state's solid waste infrastructure, the liquid waste provisions are not duplicative. Instead, they establish essential baseline management standards for compatibility and containment to prevent unauthorized releases and ensure safe handling while these bulk liquids are managed at transfer facilities.

Throughput Thresholds and Exceedances

Comment 7: The daily throughput threshold (e.g., 180 cubic yards per day) creates regulatory inflexibility for transfer station operators. Transfer stations frequently experience seasonal or temporary surges in volume. Tying additional certification or compliance burdens to daily volume thresholds may discourage operational flexibility and create uncertainty for facilities that fluctuate around the limit. A longer period or average over a certain period would better allow for operational flexibility. Similarly, transfer stations do not have planned episodic events so scheduled exceedances would be difficult to account for. A requirement for submit advance notifications for exceedance is impractical for a transfer station that can't always reasonable predict volumes.

ADEQ Response 7: The Department recognizes the need for operational flexibility and has incorporated several regulatory relief mechanisms directly into the rules to accommodate seasonal or temporary surges. First, the rules provide explicit exclusions for temporary drop-site locations and small sites utilizing containers with a cumulative capacity of 20 cubic yards or less. Second, the rules establish an exceedance allowance that permits BMP facilities to exceed the 180-cubic-yard daily throughput threshold up to four times per calendar year for pre-scheduled events. Finally, the Department added new language to R18-13-402(F)(2)(c) in the final rule to create an emergency exceedance allowance, which accommodates unscheduled volume surges caused by unforeseeable emergencies or severe weather events without triggering a permanent facility reclassification.

Comment 8: The daily throughput thresholds established in the draft rule create regulatory uncertainty for transfer stations that experience routine short-term fluctuations due to seasonal activity, weather events, emergency response efforts, or community clean-ups. Transfer stations generally do not schedule episodic exceedances in advance, making predictive compliance difficult. Operational practices such as increasing outbound shipments or deploying additional trailers are typical management tools that allow facilities to respond efficiently to volume variability. These routine operational responses should not trigger additional regulatory classifications or obligations absent a sustained change in facility function.

ADEQ Response 8: ADEQ appreciates the comment. The Department understands that operational variability occurs and has integrated specific regulatory relief mechanisms into the rules to ensure temporary volume fluctuations do not automatically trigger a permanent change in facility classification. To accommodate foreseeable events like seasonal activity or community clean-ups, the rule establishes a scheduled exceedance allowance permitting BMP facilities to exceed the 180-cubic-yard daily threshold up to four times per calendar year. To address unforeseeable events the Department added R18-13-402(F)(2)(c) to the final rule. This new provision creates an unscheduled exceedance allowance for emergencies and severe weather events, provided the operator notifies the Department within 48 hours.

Design Standards:

Comment 9: We understand that many of the proposed design standards-including impervious tipping floors, aisle space, covered waste handling areas, stormwater diversion systems, leak-proof containers, and expanded site controls- apply only to specific tipping floor and handling areas. We request further clarification so it is clear that these provisions do not apply to the entire transfer station footprint and/or areas where there may be dumpster storage or staging.

ADEQ Response 9: ADEQ appreciates the comment. The Department has clarified and refined these standards in the final rule text to reflect the operational flexibility the rules are intended to allow. Regarding impervious tipping floors, R18-13-403(A)(1)(h) and R18-13-503(A)(1)(j) explicitly state that waste must be handled within designated areas on impervious surfaces or in compliant containers; therefore, container staging and dumpster storage areas do not require underlying impervious pads if leak-resistant containers are utilized. To address aisle space concerns, the Department revised R18-13-403(A)(1)(d) to remove the specific 20-foot metric, aligning it with R18-13-503(A)(1)(f) to merely require that facilities ensure adequate access to waste areas for emergency vehicles. For covered handling areas, the phrase "cover or otherwise" was removed from R18-13-403(A)(1)(b) and R18-13-503(A)(1)(c), simplifying the text to require that active areas are managed to prevent wind and surface dispersal. Container standards in R18-13-403(A)(1)(g) and R18-13-503(A)(1)(i) were revised by replacing "leak-proof" with "leak-resistant," clarifying that containers do not need to be perfectly watertight, but must successfully prevent the solid waste contained within from leaking. All specific references to stormwater diversion systems were removed from the draft rules prior to the publication of the NPRM to eliminate duplicative water-management requirements. Finally, regarding site controls, the Department removed the phrase "or physical barriers" from R18-13-403(A)(1)(a) and R18-13-503(A)(1)(a), establishing that appropriate signage alone is sufficient to satisfy the access restriction standard.

Comment 10: Several proposed design standards, such as impervious tipping floors, covered waste handling areas, expanded stormwater controls, leak-proof containers, and increased aisle spacing, would require substantial capital investment, particularly for existing facilities. Many transfer stations operate on constrained sites with fixed layouts. Retrofitting to meet new structural requirements could trigger extensive engineering redesign, local permitting, phased construction, and operational disruption. These costs may be disproportionate to the environmental risk profile of transfer stations, which function as short-term handling facilities rather than long-term disposal sites. Clarification is also needed regarding which design standards apply specifically to tipping floors and active waste handling areas versus areas where dumpsters or containers are staged.

ADEQ Response 10: ADEQ appreciates the comment. The Department has clarified and refined these standards in the final rule text to reflect the operational flexibility the rules are intended to allow and to avoid the imposition of substantial capital investments. Regarding impervious tipping floors, R18-13-403(A)(1)(h) and R18-13-503(A)(1)(j) explicitly state that waste must be handled within designated areas on impervious surfaces or in compliant containers; therefore, container staging and dumpster storage areas do not require underlying impervious pads if leak-resistant containers are utilized. To address aisle space concerns, the Department revised R18-13-403(A)(1)(d) to remove the specific 20-foot metric, aligning it with R18-13-503(A)(1)(f) to merely require that facilities ensure adequate access to waste areas for emergency vehicles. For covered handling areas, the phrase "cover or otherwise" was removed from R18-13-403(A)(1)(b) and R18-13-503(A)(1)(c), simplifying the text to require that active areas are managed to prevent wind and surface dispersal without mandating structural roofs. Container standards in R18-13-403(A)(1)(g) and R18-13-503(A)(1)(i) were revised by replacing "leak-proof" with "leak-resistant," clarifying that containers do not need to be perfectly watertight, but must successfully prevent the solid waste itself from leaking. Finally, all specific references to stormwater diversion systems were removed from the draft rules prior to the publication of the Notice of Proposed Rulemaking to eliminate duplicative water-management requirements.

Stormwater and Spill Response

Comment 11: We understand that approved stormwater prevention plans and spill prevention containment plans would meet the requirements of these sections. We request clarifying language be added to the final rules.

ADEQ Response 11: ADEQ appreciates the comment. All specific references to stormwater diversion systems were removed from the draft rules prior to the publication of the NPRM to eliminate duplicative water-management requirements. For the remaining operational standards, such as implementing general spill and leak response procedures, the Department agrees that maintaining and implementing an existing spill prevention plan that achieves these performance outcomes is sufficient, and language has been added to the rules to reflect this.

Comment 12: Many transfer facilities already operate under approved stormwater pollution prevention plans and spill prevention and containment measures. Clear acknowledgment that compliance with existing approved plans satisfies new requirements would avoid duplicative obligations and unnecessary administrative burden. Aligning new rule language with existing compliance frameworks will provide certainty to facilities that are already operating responsibly.

ADEQ Response 12: ADEQ appreciates the comment. All specific references to stormwater diversion systems were removed from the draft rules prior to the publication of the NPRM to eliminate duplicative water-management requirements. For the remaining operational standards, such as implementing general spill and leak response procedures, the Department agrees that maintaining and implementing an existing spill prevention plan that achieves these performance outcomes is sufficient, and language has been added to the rules to reflect this.

Site Access and Screening

Comment 13: For existing facilities, retrofitting to meet these specifications may be technically difficult or economically infeasible, particularly for smaller, locally owned operations. We understand that signage and passive screening may be sufficient and therefore request clarifying language to this effect.

ADEQ Response 13: ADEQ appreciates the comment. The Department agrees that the phrase "or physical barriers" was superfluous and had the potential to cause confusion regarding the necessity of structural modifications. To clarify the rule's intent and ensure the access restriction requirements are straightforward, the Department amended R18-13-403(A)(1)(a) and R18-13-503(A)(1)(a) in the final rule text by removing the phrase "or physical barriers," modifying the provision to simply require the owner or operator to "Restrict unauthorized access to the facility by signage".

Comment 14: Likewise, a 24-hour notification window may be impractical given the operating hours of many transfer stations.

ADEQ Response 14: ADEQ appreciates the comment. The rule language in R18-13-403(A)(3)(c) and R18-13-503(A)(3)(c) mandates that facilities notify the Department within 24 hours of the discovery of the acceptance of the specified wastes, rather than within 24 hours of the waste actually being dropped off. Therefore, if prohibited waste is left at a facility outside of its standard operating hours, the 24-hour clock does not begin until facility personnel discover the waste. Additionally, to minimize the administrative burden on operators, the Department narrowed the scope of this requirement prior to the publication of the NPRM. Previous drafts required notification for the receipt of any unacceptable waste, the current rule limits the 24-hour notification requirement to instances where a facility accepts non-residential biohazardous medical waste, non-residential hazardous waste, or special waste.

Comment 15: For existing facilities, retrofitting perimeter screening and access controls to meet new specifications may be technically infeasible or cost-prohibitive. NWRA understands that signage and passive screening may be sufficient in many cases and requests the final rule explicitly reflect this flexibility.

ADEQ Response 15: ADEQ appreciates the comment. The Department agrees that the phrase "or physical barriers" was superfluous and had the potential to cause confusion regarding the necessity of structural modifications. To clarify the rule's intent and ensure the access restriction requirements are straightforward, the Department amended R18-13-403(A)(1)(a) and R18-13-503(A)(1)(a) in the final rule text by removing the phrase "or physical barriers," modifying the provision to simply require the owner or operator to

"Restrict unauthorized access to the facility by signage".

Registration Requirements

Comment 16: The draft rules require detailed submittals including site diagrams, legal descriptions, operational plans, and ongoing reporting obligations. For transfer station owners- especially those operating multiple facilities - this creates significant administrative overhead and increased compliance staffing costs.

ADEQ Response 16: ADEQ appreciates the comments. The Department agrees that requiring the routine resubmittal of static information adds unnecessary administrative burden and cost without commensurate environmental benefit. The intent of the documentation requirements is to utilize a change-based reporting framework. The detailed information listed in the rules only needs to be submitted once during the initial registration process, and then subsequently only if that specific information changes. To eliminate any ambiguity and ensure this framework is clear, the Department amended R18-13-402(C) and R18-13-502(C) in the final rule text to explicitly clarify the annual registration expectations. The rules now clearly state that, "If no changes have occurred, no additional information is required".

Comment 17: The draft rules introduce expanded registration, reporting, and documentation requirements, including detailed facility diagrams, legal descriptions, operational plans, and ongoing updates. For operators managing multiple facilities, these requirements represent significant administrative and staffing burdens. Requiring routine resubmittal of information that poses no environmental risk, such as equipment changes or record storage locations, adds cost without benefit. A change-based reporting framework rather than periodic resubmission would be more efficient for both ADEQ and regulated entities.

ADEQ Response 17: ADEQ appreciates the comments. The Department agrees that requiring the routine resubmittal of static information adds unnecessary administrative burden and cost without commensurate environmental benefit. The intent of the documentation requirements is to utilize a change-based reporting framework. The detailed information listed in the rules only needs to be submitted once during the initial registration process, and then subsequently only if that specific information changes. To eliminate any ambiguity and ensure this framework is clear, the Department amended R18-13-402(C) and R18-13-502(C) in the final rule text to explicitly clarify the annual registration expectations. The rules now clearly state that, "If no changes have occurred, no additional information is required".

Comment 18: Additionally, annual registration fees and CPI-based fee escalations introduce recurring costs at the same time facilities may be absorbing new capital and operational expenditures.

ADEQ Response 18: ADEQ appreciates the comment. The annual registration fees and the CPI based fee adjustment fall outside the scope of this rulemaking. This regulatory action is strictly limited to establishing registration, design, operation, closure, and financial assurance requirements. The existing fee structures and escalators were evaluated and established in a prior, separate rulemaking. Regarding the concern over absorbing new capital expenditures, the Department has made several clarifying revisions to the final rule text to reinforce the intent that no substantial capital investments are required to achieve compliance. As noted in previous responses, the codified standards are tailored to reflect current industry best practices and prioritize operational flexibility. For example, the rules allow facilities to utilize leak-resistant containers and do not mandate new impervious concrete surfaces. Additionally, the rules clarify that appropriate signage satisfies access restriction requirements without the need to construct new physical perimeter barriers. These and other changes intended to clarify that existing facilities are not expected to engage in costly or disruptive structural retrofits to satisfy compliance.

Compliance Timeline

Comment 19: The draft rule's requirement for compliance within 180 days of the effective date presents significant challenges for facilities requiring physical or structural modifications. This timeframe is insufficient to complete necessary engineering evaluations, obtain permits and plan approvals, procure contractors, and sequence construction in a manner that avoids interruption of essential waste management services. We respectfully encourage ADEQ to consider phased implementation schedules or alternative compliance pathways that account for real-world permitting and construction timelines outside the operator's control.

ADEQ Response 19: ADEQ appreciates the comment. Regarding the concern over physical or structural modifications, the Department has made several clarifying revisions to the final rule text to reinforce the intent that substantial capital investments and structural retrofits are neither expected nor required. By allowing the use of leak-resistant containers in lieu of new impervious surfaces and clarifying that appropriate signage satisfies access requirements without the need for new physical barriers, facilities are not anticipated to require extensive engineering evaluations, local permitting, or disruptive construction sequencing. Second, the 180-day window for design and operation requirements provides facilities an additional six months beyond the rule's effective date to achieve compliance. This extended timeframe provides operators ample opportunity to align with the operational standards, such as posting necessary signage or updating facility plans.

Financial Assurance

Comment 20: The requirement to demonstrate financial capability for closure imposes a new long-term financial burden on transfer station owners. Unlike landfills, transfer stations do not involve long-term waste containment. Applying similar financial assurance expectations may not reflect the lower environmental risk profile of transfer operations and may strain smaller or independently owned facilities.

ADEQ Response 20: ADEQ appreciates the comment. The requirement to demonstrate financial capability for facility closure established in statute by A.R.S. § 49-770, and A.R.S. § 49-761(J) expressly directs the Department to adopt rules implementing these requirements. To minimize the burden on operators, the Department has narrowly tailored the closure requirements R18-13-404 and R18-13-504 to reflect the specific operational realities of transfer stations rather than applying landfill-scale standards. This tailoring limits the financial assurance burden closure to necessary site sanitation and waste removal, including the removal and disposal of all solid waste and leachate, the washing of surfaces and equipment that contacted waste, and the proper disposal of wash and rinse water.

Comment 21: Likewise, post-closure care should not be required for transfer stations.

ADEQ Response 21: ADEQ appreciates the comment. While A.R.S. § 49-770 mandates financial assurance for post-closure care, the Department recognizes that standard transfer station operations do not involve long-term waste placement or monitoring, and thus typically do not require post-closure care. To ensure the rule reflects this operational reality, the Department amended the final rule text in R18-13-405 and R18-13-505 to explicitly include the qualifier "if necessary" following any reference to post-closure care. Because the rule does not independently establish post-closure requirements for transfer facilities, operators are not obligated to provide this coverage unless they are otherwise mandated to conduct post-closure care under exceptional circumstances.

Comment 22: Transfer stations do not involve long-term waste placement or post-closure care. Applying closure, post-closure, and corrective action financial assurance frameworks designed for landfills does not align with the operational realities or risk profile of transfer facilities. Closure requirements for transfer stations should focus on waste removal and basic cleanup, not ongoing post-closure monitoring. Financial assurance requirements should be limited accordingly and scaled to actual risk.

ADEQ Response 22: The Department acknowledges that the operational risk profile of transfer facilities differs significantly from that of landfills and has tailored the financial assurance requirements accordingly. While A.R.S. § 49-770 mandates financial assurance for closure, post-closure care, and corrective action, the Department has narrowly defined the scope of these obligations within the final rule to align with the realities of transfer station operations. As previously noted, the closure requirements in R18-13-404 and R18-13-504 are strictly limited to necessary site sanitation, such as the removal of all solid waste and leachate, the washing of surfaces and equipment, and the proper disposal of wash water. This limits the closure costs that must be covered. Furthermore, because the rules do not independently establish post-closure requirements for transfer facilities, the post-closure care financial assurance obligation is qualified by the phrase "if necessary," ensuring such coverage is only mandated if a facility is otherwise required to conduct post-closure care under exceptional circumstances. These tailored requirements ensure that financial assurance obligations are scaled to the specific operational footprint and lower environmental risk profile of transfer facilities.

Record Keeping

Comment 23: The expanded recordkeeping requirements, multi-year retention obligations, and increased inspection authority add ongoing compliance costs. Transfer stations operate on tight turnaround schedules; layering additional documentation and procedural requirements may slow operations and increase staffing needs.

ADEQ Response 23: ADEQ appreciates the comment. The Department acknowledges that administrative and recordkeeping obligations impact operational workflows, and has designed the rule to balance these requirements with the need for sufficient oversight. To minimize the burden on facility operations, the Department utilized a change-based reporting framework for registration, which ensures that static information only needs to be submitted initially, rather than through periodic, redundant resubmission. The recordkeeping requirements established in R18-13-406 and R18-13-506 are limited to a three-year retention period, which aligns with standard industry practices and provides necessary documentation for compliance verification without imposing excessive long-term storage or staffing demands. The Department believes these requirements provide the essential information needed to ensure compliance while maintaining the operational flexibility required by facilities managing tight turnaround schedules.

13. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

There are no other matters prescribed by statute.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The registration requirements established in R18-13-402(B) and R18-13-502(B) constitute a license, however a general permit is not required under A.R.S. § 41-1037(A)(2) as the issuance of alternative licenses are authorized by A.R.S. § 49-762.07 and A.R.S. § 762.02 respectively. Additionally, the financial assurance requirements in R18-13-405 and R18-13-505 establish a permit requirement, however a general permit is not required under A.R.S. § 41-1037(A)(2) as an alternative permit is authorized by A.R.S. § 49-770.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

There is no corresponding federal law for Article 4 - Solid Waste Facilities Subject to Best Management Practices, Article 5 - Requirements for Solid Waste Facilities Subject to Self-Certification, or Article 17- Financial Assurance.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No such analysis was submitted.

14. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

15. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the *Register* as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable

16. The full text of the rules follows:

Rule text begins on the next page.

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 13. DEPARTMENT OF ENVIRONMENTAL QUALITY

SOLID WASTE MANAGEMENT

ARTICLE 4. SOLID WASTE FACILITIES SUBJECT TO BEST MANAGEMENT PRACTICES

Section

ARTICLE 5. REQUIREMENTS FOR SOLID WASTE FACILITIES SUBJECT TO SELF-CERTIFICATION

Section

ARTICLE 17. FINANCIAL ASSURANCE

Section

R18-13-1701. Definitions

R18-13-1702. ~~Reserved~~ Financial Demonstrations for Solid Waste Facilities

R18-13-1703. Financial Demonstrations for CCR Facilities

R18-13-1704. Financial Assurance Mechanisms

ARTICLE 4. SOLID WASTE FACILITIES SUBJECT TO BEST MANAGEMENT PRACTICES

R18-13-401. Definitions

A. "Department" means the Arizona Department of Environmental Quality.

B. "Free liquids" means liquids that readily separate from the solid portion of a waste under ambient temperature and pressure.

C. "Liquid waste" means bulk liquids, that are not hazardous waste regulated under subtitle C of RCRA, 42 U.S.C. 6921-6939f, and which are not incidental liquids to municipal solid waste collection.

~~**B.**~~ **D.** "Material recovery facility" means a ~~transfer~~ facility that collects, compacts, repackages, sorts, or processes commingled recyclable solid waste generated offsite for the purpose of recycling and transport, or where source separated recyclable solid waste is processed for sale to various markets, and where the incoming materials are predominantly recyclable solid waste.

~~**C.**~~ **E.** "Recyclable solid waste" means a product or material described in subsection ~~(C)(1)~~ (E)(1) or (2), and for which subsection ~~(C)(3)~~ (E)(3) is true:

1. A product with no useful life remaining for the purposes for which it was produced, or if useful life remains, the product will not, due to location, quantity, or owner choice, remain in use or be reused for a purpose for which it was produced.

2. A material that is a result of a process or activity whose purpose was to produce something else.

3. The product or material retains some economic value, with or without further processing, as a raw material or feedstock in some process other than incineration or combustion.

F. "Temporary drop-site location" means a temporary or seasonal site receiving solid waste from vehicles other than those designed to compact solid waste and used primarily for rehandling or storage of a specified class or classes of solid waste for a determinate amount of time not to exceed 30 days per calendar year.

R18-13-402. Solid Waste Facilities Subject to Best Management Practices; Fees

A. The following solid waste facilities subject to best management practices under A.R.S. § 49-762.02 shall register with the Department and pay registration fees as provided in this Section:

1. A transfer facility, as defined in A.R.S. § 49-701, and that is not a facility engaged in the transportation, handling, storage, and treatment of biohazardous medical waste as defined in R18-13-1401(4) or special waste as defined in A.R.S. § 49-851(A)(9), with a daily throughput of 180 cubic yards or less, but not including:

   a. A material recovery facility where the incoming materials are primarily source separated recyclables that is operated in a manner so as not to cause a nuisance, vector breeding or fire hazard; ~~or~~

   b. Community or neighborhood recycling bins including drop boxes, roll off containers, and plastic containers used to collect residential, business, or governmental recyclable solid waste~~.~~;

   c. Bins, drop boxes, roll off containers, or vehicles that have cumulative capacity of 20 cubic yards or less used to collect residential, business, or governmental municipal solid waste that is operated in a manner so as not to cause a nuisance, vector breeding or fire hazard; or

   d. A temporary drop-site location.

2. A site at which more than 500 and fewer than 5,000 waste tires are stored on any day that is not required to obtain plan approval pursuant to A.R.S. § 49-762.

B. Initial registration. Beginning on the effective date of the rule, ~~A~~ a new solid waste facility listed in subsection (A)(1) shall not begin ~~operation~~ construction until the owner or operator registers with the Department ~~on a form approved by the Department~~. The owner or operator of a new solid waste facility listed in subsection (A)(1) shall submit an initial registration fee of $1,485 at the time of registration under this subsection. A new solid waste facility listed in subsection (A)(1) shall submit the following information to the Department on a form approved by the Department before beginning construction. An existing solid waste facility listed in subsection (A)(1) shall submit the following information to the Department on a form approved by the Department within 180 days of the effective date of the rule:

1. Facility name and physical address, mailing address, address at which the facility's operating record will be retained, and contact information of the owner and operator of the solid waste facility.

2. Legal description by township, range, and section, and county assessor's book, map and parcel number.

3. Description of waste storage and waste handling equipment, as applicable, methods of waste management, including types and volumes of waste handled and time the waste remains on site, and designed facility capacity.

4. Description of steps necessary to close the facility in compliance with R18-13-405.

5. Description of waste management practices used at the facility including measures taken to protect the environment and to protect the public health.

6. A diagram of the property showing the location of the solid waste facility or facilities, including locations designated for handling, storing, transferring solid waste.

C. Annual registration fee and updates. The Department shall bill an annual registration fee of $742 to a registered solid waste facility listed in subsection (A)(1) that has not filed a notice of termination of registration with the Department. The owner or operator of a registered solid waste facility listed in subsection (A)(1) shall pay the annual registration fee within 30 days of invoice receipt~~.~~ and at that time submit any changes to the information provided in the initial registration under subsection (B) of this Section, or since the most recent annual registration provided to the Department. If no changes have occurred, no additional information is required.

D. Registration as a waste tire collection site under R18-13-1211 shall satisfy registration and fee requirements pursuant to this Section for a site under subsection (A)(2) of this Section.

E. Beginning January 1, 2026, the Director shall adjust the fee amounts in subsections (B) and (C) of this Section annually by the following method:

1. Multiply the amount by the October CPI for the most recent year and then divide by the October CPI for the year 2024. The October CPI for any year is the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items, published by the United States Department of Labor at www.bls.gov/cpi/regional-resources.htm, for October of that year.

2. Round the result from subsection (E)(1) down to the nearest cent. ADEQ shall post the new amounts on its webpage and install them in the billing software as soon as practicable.

F. Throughput limit and exceedance allowance.

1. The daily throughput threshold specified in subsection (A)(1) of this section shall be applied on a daily basis, not as an average over time. If a facility exceeds 180 cubic yards of solid waste on a single calendar day, it shall be classified as a transfer facility subject to self-certification pursuant to Article 5, except as provided in subsection (F)(2).

2. A solid waste facility subject to best management practices under subsection (A)(1) may exceed the 180 cubic yard daily throughput threshold on a scheduled basis, not to exceed four instances per calendar year, provided that:

   a. The owner or operator submits written notification to the Department at least 30 days prior to the scheduled exceedance, specifying the anticipated dates and volumes of solid waste to be received during the exceedance period.

   b. The facility complies with all other applicable requirements of this Article during the exceedance period.

c. In the event of an unscheduled exceedance caused by an unforeseeable emergency or severe weather event, the 30-day prior notification requirement is waived provided the owner or operator submits a written report to the Department within 48 hours. The report must affirmatively demonstrate that:

i. The exceedance was caused by an exceptional incident beyond the reasonable control of the owner or operator;

ii. The exceedance was not the result of operational error, improperly designed equipment, lack of preventive maintenance, or careless operation; and

iii. The facility took all reasonable steps to mitigate the accumulation of waste and return to standard operating volumes as expeditiously as possible.

R18-13-403. Transfer Facilities; Design and Operation Requirements

A. Within 180 days of the effective date of the rule the owner or operator of a solid waste transfer facility listed under R18-13-402(A)(1) shall:

1. Operate and maintain the facility to comply with all the following design and operation requirements:

a. Restrict unauthorized access to the facility by signage;

b. Manage tipping floors, storage areas, and storage bins to prevent wind dispersal and other surface dispersion;

c. Prevent vector breeding;

d. Ensure facility access to all waste handling and storage areas for emergency response vehicles;

e. Post signage that indicates the name of the facility, address of facility, hours of operation, unauthorized waste not accepted at the facility for rehandling or storage in accordance with subsection (4) of this Section, and facility emergency contact;

f. Ensure any area used for receiving, processing, storing, reloading, or transferring of solid waste be free of standing water;

g. Ensure all containers used in the handling of solid waste are constructed of durable materials, maintained in good condition, and leak-resistant such that waste stored within will not leak from the container;

h. Ensure all waste is handled only within designated waste handling areas, on impervious surfaces or in containers meeting the criteria of subsection (A)(1)(g) of this section;

2. Implement spill and leak response and management procedures;

3. Implement waste screening measures for the purpose of preventing acceptance of unauthorized waste that includes:

a. Training personnel for identification and handling of unacceptable waste.

b. Procedures for segregation and proper disposal of any unauthorized waste.

c. Notification to the Department within 24 hours of discovery of the acceptance of any non-residential biohazardous medical waste, non-residential hazardous waste, or special waste by the facility.

4. Accept, manage, store, and handle waste only within the facility capacity as described in registration;

5. Ensure waste is not stored for more than 90 days; and

6. Notify the Department within 48 hours of an uncontained release, fire, or impact to the subsurface or soil requiring response by a third party or emergency response personnel.

B. If there is evidence or reasonable belief of a release from the facility, the Director may require an investigation into the nature and extent of the release, including testing for soil or groundwater contamination and an assessment of measures necessary to correct an impact to soil or groundwater. The Director may require the owner or operator to institute necessary corrective action as determined by the Director.

C. In addition to the requirements under subsection (A) of this Section, the owner or operator of a solid waste transfer facility listed under R18-13-402(A)(1) which handles liquid waste shall operate and maintain the facility to comply with the following:

1. Provide that liquid waste is stored in a container or tank that meets the following requirements:

   a. The tank or container shall be watertight, leak-proof, and constructed of materials compatible with the waste being stored.

   b. The tank or container shall be labeled with a description of the contents.

2. Areas used to load or unload tanks or containers shall be designed to contain spills and accidental releases during loading and unloading.

3. Liquid waste may only be mixed with other liquid waste that is the same or substantially similar and shall not be diluted with any other material or substance.

4. Provide on-duty personnel during all times the facility is open to the public.

D. A solid waste transfer facility listed under R18-13-402(A)(1) which handles liquid waste shall maintain a written liquid waste management plan, or utilize an existing spill prevention plan. The liquid waste management plan must consist of the following:

1. Emergency preparedness procedures to respond to releases of waste including spill response and containment.

2. Waste handling procedures to prevent mixing of incompatible liquid waste and to ensure liquid waste is handled, stored, and transported in accordance with the requirements of subsection (C) of this Section.

3. Documentation of throughput by weight or volume of liquid waste.

R18-13-404. Facility Closure; Notice; Requirements

A. At least 30 days prior to beginning final closure activities, the owner or operator of a solid waste facility listed under R18-13-402(A)(1) shall submit to the Department a notice of intent to close the facility. If final closure is not completed within six months from the date the Department is informed, the notice of intent to close is deemed to be expired. The notice of intent to close shall contain the following information:

1. Facility name, mailing address, and contact information of the owner and operator of the solid waste facility;

2. A description of the steps necessary to close the facility, the specific proposed closure activities, and an implementation schedule; and

3. Information on site conditions and the types of waste received during the life of the facility.

B. To finally close a solid waste facility listed under R18-13-402(A)(1), the owner or operator shall take all necessary steps to minimize or eliminate the release of waste, waste constituents, or leachate to ensure no future threat of harm to human health and the environment, including complying with the following procedures:

1. Post signage stating expected closure date and date waste is no longer accepted at least 30 days prior to closure or end of operations;

2. Remove and properly dispose of all solid waste at a waste facility authorized to accept such waste, including leachate, from the facility;

3. All areas of the facility, including containers, equipment, machines, floors, and surfaces, that were in contact with solid waste and that are not to be removed during final closure shall be washed with soap or detergent or otherwise subject to procedures that substantially reduce or eliminate any remaining constituents or contaminants derived from contact with solid wastes; and

4. Collect and properly dispose of all wash water and rinse water;

C. Any ongoing or required investigation into the nature and extent of any release and required corrective action pursuant to R18-13-403(B) must be completed before final closure of the facility may occur.

D. Upon completion of final closure, the owner or operator of the facility shall submit written notice of final closure to the Department. The written notice shall certify compliance with the requirements of this Section. The written notice shall be submitted to the Department within 30 days of the completion of final closure.

R18-13-405. Financial Assurance; Requirements

A. Within 180 days of the effective date of the rule the owner or operator of an existing solid waste transfer facility listed under R18-13-402(A)(1) shall demonstrate financial capability to meet any closure, post-closure care if necessary, and corrective action requirements under this Article. Beginning 180 days after the effective date of this rule, a new solid waste transfer facility listed under R18-13-402(A)(1) shall not begin operation until the owner or operator demonstrates financial capability to meet any closure, post-closure care, and corrective action requirements under this Article. The owner or operator shall demonstrate financial capability pursuant to R18-13-1702.

B. The owner or operator of a solid waste transfer facility listed under R18-13-402(A)(1) may use any one or combination of financial assurance mechanisms listed under R18-13-1704 to demonstrate financial capability as required under subsection (A) of this Section.

C. The cost estimate made pursuant to R18-13-1702(A) shall be updated every three years to adjust for inflation or as necessary to reflect increased costs resulting from changes to facility conditions, and the owner or operator shall resubmit their demonstration of financial capability pursuant to R18-13-1702 to the Department.

R18-13-406. Record Keeping

All records required by this Article shall be retained in an operating record near the facility, or in an alternative location approved by the Department, for at least three years. If notification of an enforcement action by the Department has been received, the records shall be retained until a final determination has been made in the matter or in accordance with the final determination.

ARTICLE 5. REQUIREMENTS FOR SOLID WASTE FACILITIES SUBJECT TO SELF-CERTIFICATION

R18-13-501. Definitions

A. “Department” means the Arizona Department of Environmental Quality.

B. “Free liquids” means liquids that readily separate from the solid portion of a waste under ambient temperature and pressure.

C. “Liquid waste” means bulk liquids, that are not hazardous waste regulated under subtitle C of RCRA, 42 U.S.C. 6921-6939f, and which are not incidental liquids to municipal solid waste collection.

D. “Material recovery facility” means a transfer facility that collects, compacts, repackages, sorts, or processes commingled recyclable solid waste generated offsite for the purpose of recycling and transport, or where source separated recyclable solid waste is processed for sale to various markets, and where the incoming materials are predominantly recyclable solid waste.

E. “Recyclable solid waste” means a product or material described in subsection (C)(1) or (2), and for which subsection (C)(3) is true:

1. A product with no useful life remaining for the purposes for which it was produced, or if useful life remains, the product will not, due to location, quantity, or owner choice, remain in use or be reused for a purpose for which it was produced.

2. A material that is a result of a process or activity whose purpose was to produce something else.

3. The product or material retains some economic value, with or without further processing, as a raw material or feedstock in some process other than incineration or combustion.

~~R18-13-501.~~ R18-13-502. Solid Waste Facilities Requiring Self-Certification; Registration Fees

A. The following solid waste facilities requiring self-certification under A.R.S. § 49-762.01 shall register with the Department and pay annual registration fees as provided in this Section:

1. A transfer facility, as defined in A.R.S. § 49-701, and that is not a facility engaged in the transportation, handling, storage, and treatment of biohazardous medical waste as defined

in R18-13-1401(4) or special waste as defined in A.R.S. §49-851(A)(9), with a daily throughput of more than 180 cubic yards, including a material recovery facility, but not including:

a. A material recovery facility where the incoming materials are primarily source separated recyclables that is operated in a manner so as not to cause a nuisance, vector breeding or fire hazard; or

b. Community or neighborhood recycling bins including drop boxes, roll off containers, and plastic containers used to collect residential, business, or governmental recyclable solid waste.

2. A facility storing 5,000 or more waste tires on any one day and not required to obtain plan approval.

3. A waste tire shredding and processing facility.

B. Initial registration for a new facility. The owner or operator of a planned new facility identified in subsection (A) of this Section shall submit the following information to the Department before beginning construction:

1. The name of the solid waste facility.

2. The name, mailing address and telephone number of each owner and operator of the solid waste facility.

3. The physical location of the solid waste facility by physical address, latitude and longitude, or legal description. If none of these are practical, by driving directions from the nearest city or town.

4. The address at which the facility's operating record will be retained.

~~4.~~ 5. A brief description of operations, including waste management methods, types and volumes of waste handled, waste storage, handling, and treatment equipment, and the length of time the waste remains onsite.

6. A description of steps necessary to close the facility in compliance with R18-13-504.

~~5.~~ 7. A diagram of the property showing its approximate size and the planned location of the solid waste facility or facilities.

~~6.~~ 8. Documentation that the facility will comply with local zoning laws or, if the owner is an agency or political subdivision of this state, with A.R.S. § 49-767.

~~7.~~ 9. Documentation that the facility has any other environmental permit that is required by statute.

~~8.~~ 10. A copy of the public notice in a newspaper of general circulation in the area where the facility will be located stating the intent to construct and operate a new solid waste facility pursuant to A.R.S. § 49-762.05.

C. ~~Initial and annual registration for an existing facility. The owner or operator of an existing facility identified in subsection (A) of this Section shall submit the following information to the Department annually on a form approved by the Department and note any changes since the last registration:~~

~~1. The name of the solid waste facility.~~

~~2. The name, mailing address and telephone number of each owner and operator of the solid waste facility.~~

~~3. The physical location of the solid waste facility by physical address, latitude and longitude, or legal description. If none of these are practical, by driving directions from the nearest city or town.~~

~~4. A brief description of operations, including waste management methods, types and volumes of waste handled, waste storage and treatment equipment, and the length of time the waste remains onsite.~~

~~5. A diagram of the property showing its approximate size and the location of the solid waste facility or facilities.~~

~~6. Documentation that the facility remains in compliance with the most current local zoning laws or with A.R.S. § 49-767, as applicable.~~

~~7. Documentation that the facility continues to hold any other environmental permit that is required by statute.~~

Annual registration and updates for existing facilities. The owner or operator of an existing facility identified in subsection (A) of this Section shall, within 180 days of the effective date of this rule, submit to the Department any information required under subsection (B) of this Section that has not been previously submitted. Annually thereafter, when submitting the annual registration fee, the owner or operator shall submit only changes to the facility information that have occurred since the most recent registration. If no changes have occurred, no additional information is required.

D. Self-certification. With each registration under subsection (B) or (C) of this Section, the owner or operator shall certify that the information submitted is true, accurate, and complete to the best of the person's knowledge and belief.

E. Registration fees. The owner or operator of a transfer facility under subsection (A)(1) shall pay the Department $1,485 for the initial registration of a new facility, and $742 for each annual registration thereafter. The owner or operator of a tire facility under subsection (A)(2) or (3) shall pay the Department $1,485 for the initial registration of a new facility, and $371 for each annual registration thereafter. The Department shall bill the annual registration fee to a solid waste facility under subsection (A) that has not filed a notice of termination of registration with the Department and the solid waste facility shall pay within 30 days of invoice receipt.

F. Beginning January 1, 2026, the Director shall adjust the fee amounts in subsection (E) of this Section annually by the following method:

1. Multiply the amount by the October CPI for the most recent year and then divide by the October CPI for the year 2024. The October CPI for any year is the Consumer Price Index for All Urban Consumers, Phoenix-Mesa-Scottsdale, AZ, all items, published by the United States Department of Labor at www.bls.gov/cpi/regional-resources.htm, for October of that year.

2. Round the result from subsection (F)(1) down to the nearest cent. ADEQ shall post the new amounts on its webpage and install them in the billing software as soon as practicable.

~~**G.** As used in this Section:~~

~~1. "Department" means the Arizona Department of Environmental Quality.~~

~~2. "Material recovery facility" means a transfer facility that collects, compacts, repackages, sorts, or processes commingled recyclable solid waste generated offsite for the purpose of recycling and transport, or where source separated recyclable solid waste is processed for sale to various markets, and where the incoming materials are predominantly recyclable solid waste.~~

~~3. "Recyclable solid waste" means a product or material described in subsection (G)(3)(a) or (b), and for which subsection (G)(3)(c) is true:~~

~~a. A product with no useful life remaining for the purposes for which it was produced, or if useful life remains, the product will not, due to location, quantity, or owner choice, remain in use or be reused for a purpose for which it was produced.~~

~~b. A material that is a result of a process or activity whose purpose was to produce something else.~~

~~c. The product or material retains some economic value, with or without further processing, as a raw material or feedstock in some process other than incineration or combustion.~~

G. Throughput limit and exceedance allowance. The daily throughput threshold specified in subsection (A)(1) of this section shall be applied on a daily basis, not as an average over time. If a facility's throughput exceeds 180 cubic yards of solid waste on a single calendar day, it shall be classified as a transfer facility subject to self-certification pursuant to Article 5, except as provided in subsection R18-13-402(F)(2).

R18-13-503. Transfer Facilities; Design and Operation Requirements

A. Within 180 days of the effective date of the rule the owner or operator of a solid waste transfer facility listed under R18-13-502(A)(1) shall:

1. Operate and maintain the facility to comply with all the following design and operation requirements:

    a. Restrict unauthorized access to the facility by signage;

    b. Limit vehicular traffic to use on improved surfaces;

    c. Manage tipping floors, storage areas, and storage bins to prevent wind dispersal and other surface dispersion;

    d. Prevent vector breeding;

    e. Ensure adequate fire prevention and control;

    f. Ensure facility access to all waste handling and storage areas for emergency response vehicles;

    g. Post signage that indicates the name of the facility, address of facility, hours of operation, unauthorized waste not accepted at the facility for rehandling or storage in accordance with subsection (4) of this Section, and facility emergency contact;

    h. Ensure any area used for receiving, processing, storing, reloading, or transferring of solid waste be free of standing water;

    i. Ensure all containers used in the handling of solid waste are constructed of durable materials, maintained in good condition, and leak-resistant such that waste stored within will not leak from the container;

    j. Ensure all waste is handled only within designated waste handling areas and such areas are made of impervious surfaces;

2. Implement spill and leak response and management procedures;

3. Implement waste screening measures for the purpose of preventing acceptance of unauthorized waste that includes:

    a. Training personnel for waste identification and handling.

b. Procedures for segregation and proper disposal of any unauthorized waste.

c. Notification to the Department within 24 hours of discovery of the acceptance of any non-residential biohazardous medical waste, non-residential hazardous waste, or special waste by the facility.

4. Accept, manage, store, and handle waste only within the facility capacity as described in registration;

5. Ensure waste is not stored for more than 90 days;

6. Provide on-duty personnel during all times the facility is open to the public;

7. Manage any water that has come into contact with waste, that may include leachate, to prevent ponding; and

8. Notify the Department within 48 hours of an uncontained release, fire, or impact to the subsurface or soil requiring response by a third party or emergency response personnel.

B. If there is evidence or reasonable belief of a release from the facility, the Director may require an investigation into the nature and extent of the release, including testing for soil or groundwater contamination and an assessment of measures necessary to correct an impact to soil or groundwater. The Director may require the owner or operator to institute necessary corrective action as determined by the Director.

C. In addition to the requirements under subsection (A) of this Section, the owner or operator of a solid waste transfer facility listed under R18-13-502(A)(1) which handles liquid waste shall operate and maintain the facility to comply with the following:

1. Provide that liquid waste is stored in a container or tank that meets the following requirements:

a. The tank or container shall be watertight, leak-proof, and constructed of materials compatible with the waste being stored.

b. The tank or container shall be labeled with a description of the contents.

2. Areas used to load or unload tanks or containers shall be designed to contain spills and accidental releases during loading and unloading.

3. Liquid waste may only be mixed with other liquid waste that is the same or substantially similar and shall not be diluted with any other material or substance.

D. A solid waste transfer facility listed under R18-13-402(A)(1) which handles liquid waste shall maintain a written liquid waste management plan, or utilize an existing spill prevention plan. The liquid waste management plan must consist of the following:

1. Emergency preparedness procedures to respond to releases of waste including spill response and containment.

2. Waste handling procedures to prevent mixing of incompatible liquid waste and to ensure liquid waste is handled, stored, and transported in accordance with the requirements of subsection (C) of this Section.

3. Documentation of throughput by weight or volume of liquid waste.

R18-13-504. Facility Closure; Notice; Requirements

A. At least 30 days prior to beginning final closure activities, the owner or operator of a solid waste facility listed under R18-13-502(A)(1) shall submit to the Department notice of intent to close the facility. If final closure is not completed within six months from the date the Department is informed, the notice of intent to close is deemed to be expired. The notice of intent to close shall contain the following information:

1. Facility name, mailing address, and contact information of the owner and operator of the solid waste facility;

2. A description of the steps necessary to close the facility, the specific proposed closure activities, and an implementation schedule; and

3. Information on site conditions and the types of waste received during the life of the facility.

B. To finally close a solid waste facility listed under R18-13-502(A)(1), the owner or operator shall take all necessary steps to minimize or eliminate the release of waste, waste constituents, or leachate to ensure no future threat of harm to human health and the environment, including complying with the following procedures:

1. Post signage stating expected closure date and date waste is no longer accepted at least 30 days prior to closure or end of operations;

2. Remove and properly dispose of all solid waste at a waste facility authorized to accept such waste, including leachate, from the facility;

3. All areas of the facility, including containers, equipment, machines, floors, and surfaces, that were in contact with solid waste and that are not to be removed during final closure shall be washed with soap or detergent or otherwise subject to procedures that substantially reduce or eliminate any remaining constituents or contaminants derived from contact with solid wastes; and

4. Collect and properly dispose of all wash water and rinse water;

C. Any ongoing or required investigation into the nature and extent of any release and required corrective action pursuant to R18-13-503(B) must be completed before final closure of the facility may occur.

D. Upon completion of final closure, the owner or operator of the facility shall submit written notice of final closure to Department. The written notice shall certify compliance with the requirements of this Section. The written notice shall be submitted to the Department within 30 days of the completion of final closure.

R18-13-505. Financial Assurance; Requirements

A. Within 180 days of the effective date of the rule the owner or operator of an existing solid waste transfer facility listed under R18-13-502(A)(1) shall demonstrate financial capability to meet any closure, post-closure care if necessary, and corrective action requirements under this Article. Beginning 180 days after the effective date of this rule, a new solid waste transfer facility listed under R18-13-502(A)(1) shall not begin operation until the owner or operator demonstrates financial capability to meet any closure, post-closure care, and corrective action requirements under this Article. The owner or operator shall demonstrate financial capability pursuant to R18-13-1702.

B. The owner or operator of a solid waste transfer facility listed under R18-13-502(A)(1) may use any one or combination of financial assurance mechanisms listed under R18-13-1704 to demonstrate financial capability as required under subsection (A) of this Section.

C. The cost estimate made pursuant to R18-13-1702(A) and associated financial assurance mechanism shall be updated every three years to adjust for inflation or as necessary to reflect increased costs resulting from changes to facility conditions.

R18-13-506. Record Keeping

All records required by this Article shall be retained in an operating record near the facility, or in an alternative location approved by the Department, for at least three years. If notification of an enforcement action by the Department has been received, the records shall be retained until a final determination has been made in the matter or in accordance with the final determination.

ARTICLE 17. FINANCIAL ASSURANCE

R18-13-1701. Definitions

1. "Book net worth" means the net difference between total assets and total liabilities.

2. "Face amount" means the total amount the insurer is obligated to pay under the policy.

3. "MSWLF" means municipal solid waste landfill.

~~3.~~ 4. "Net working capital" means current assets minus current liabilities.

~~4.~~ 5. "Substantial business relationship" means a pattern of recent or ongoing business transactions to the extent that a guaranty contract issued incident to that relationship is valid and enforceable.

~~5.~~ 6. "Tangible net worth" means an owner or operator's book net worth, plus subordinated debts, less goodwill, patent rights, royalties, and assets and receivables due from affiliates or shareholders.

R18-13-1702. Financial Demonstrations for Solid Waste Facilities

A. Financial demonstration. The owner or operator of a solid waste facility for which a financial demonstration is required under R18-13-405 or R18-13-505 shall submit a demonstration of financial capability to meet the following, as required, based on the cost estimate of hiring a third-party to complete site closure:

1. Cost of facility closure;
2. Cost to ensure proper facility post-closure care, if necessary; and
3. Cost to perform any corrective action as a result of any known releases from the facility.

B. The owner or operator of a solid waste facility for which a financial demonstration is required under R18-13-405 or R18-13-505 shall submit a letter signed by the chief financial officer or other delegated officer stating that the owner or operator is financially capable of meeting the costs described in subsection (A) and submit the information required for at least one of the financial assurance mechanisms listed in R18-13-1704 that covers the closure, post-closure, and corrective action costs submitted under subsection (A), including:

1. The selected financial mechanism or mechanisms;
2. The amount covered by each financial mechanism;
3. The institution or company that is responsible for each financial mechanism used in the demonstration; and
4. Any other details that demonstrate how the owner or operator is financially capable of meeting the costs described in R18-13-405(A), R18-13-505(A), or other applicable rules in this Chapter.

R18-13-1703. Financial Demonstrations for CCR Facilities

A. Financial demonstration. The owner or operator ~~of a~~ of a solid waste facility for which a financial demonstration is required under ~~this Article~~ R18-13-1020 shall demonstrate financial capability to meet all of the following based on third-party cost estimates that are representative of regional fair market costs:

1. Cost of Facility Closure for all applicable units at the facility,

2. Cost to Ensure Proper Post-Closure Care for all applicable units at the Facility, and

3. Cost to perform any corrective action as a result of known releases at all applicable units at the facility

B. The owner or operator shall:

1. Submit a letter signed by the chief financial officer stating that the owner or operator is financially capable of meeting the costs described in subsection (A); and either subsection B(2) or B(3) below.

2. For a state or federal agency, county, city, town, or other local governmental entity, submit a statement specifying the details of the financial arrangements used to meet the estimated costs described in subsection (A), including any other details that demonstrate how the owner or operator is financially capable of meeting those costs; or

3. For other than a state or federal agency, county, city, town, or other local governmental entity, submit the information required for at least one of the financial assurance mechanisms listed in R18-13-1704 that covers the closure, post-closure, and corrective action costs submitted under subsection (A), including:

   a. The selected financial mechanism or mechanisms;

   b. The amount covered by each financial mechanism;

   c. The institution or company that is responsible for each financial mechanism used in the demonstration;

d. Any other details that demonstrate how the owner or operator is financially capable of meeting the costs described in R18-13-1020(A)(2) or other applicable rules in this Chapter.

R18-13-1704. Financial Assurance Mechanisms

The owner or operator of a ~~CCR~~ solid waste facility for which a financial demonstration under R18-13-1702 or R18-13-1703 is required by this Chapter may use any one or a combination of the following mechanisms to cover the financial assurance obligations under R18-13-1702(A) or R18-13-1703(A):

1. Financial test for self-assurance. If an owner or operator uses a financial test for self-assurance, the owner or operator shall not consolidate the financial statement with a parent or sibling company. The owner or operator shall make the demonstration in either subsection (1)(a) or (b) and submit the information required in subsection (1)(c):

a. The owner or operator may demonstrate:

i. One of the following:

(1) A ratio of total liabilities to net worth less than 2.0 and a ratio of current assets to current liabilities greater than 1.5;

(2) A ratio of total liabilities to 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 closure, post-closure and corrective action cost estimates; and

iii. The owner or operator has assets in the U.S. of at least 90 percent of total assets or six times the closure, post-closure and corrective action cost estimates; or

b. The owner or operator may demonstrate:

i. The owner or operator's senior unsecured debt has a current investment-grade rating as issued by Moody's Investor Service, Inc.; Standard and Poor's Corporation; or Fitch Ratings;

ii. The tangible net worth of the owner or operator is at least six times the closure, post-closure and corrective action cost estimates; and

iii. The owner or operator has assets in the U.S. of at least 90 percent of total assets or six times the closure, post-closure and corrective action cost estimates; and

c. The owner or operator shall submit:

i. A letter signed by the owner or operator's chief financial officer that identifies the criterion specified in subsection (1)(a) or (b) and 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 criterion, and certification of the letter's accuracy, and

ii. A statement from an independent certified public accountant verifying that the demonstration submitted under subsection (1)(c)(i) is accurate based on a review of the owner or operator's financial statements for the latest completed fiscal year or more recent financial data and no adjustment to the financial statement is necessary.

2. Performance surety bond. The owner or operator may use a performance surety bond if all the following conditions are met:

a. The company providing the performance bond is listed as an acceptable surety on federal bonds in Circular 570 of the U.S. Department of the Treasury;

b. The bond provides for performance of all the covered items listed in <u>R18-13-1702(A) or</u> R18-13-1703(A) by the surety, or by payment into a standby trust fund of an amount equal to the penal amount if the owner or operator fails to perform the required activities;

c. The penal amount of the bond is at least equal to the amount of the cost estimate developed in R18-13-1702(A) or R18-13-1703(A) if the bond is the only method used to satisfy the requirements of this Section or a pro-rata amount if used with another financial assurance mechanism;

d. The surety bond names the Arizona Department of Environmental Quality as beneficiary;

e. The original surety bond is submitted to the Director;

f. Under the terms of the bond, the surety is liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond; and

g. The surety payments under the terms of the bond are deposited directly into the Standby Trust Fund.

3. Certificate of deposit. The owner or operator may use a certificate of deposit 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. The certificate of deposit is insured by the Federal Deposit Insurance Corporation and is automatically renewable;

   c. The bank assigns the certificate of deposit to the Arizona Department of Environmental Quality;

   d. Only the Department has access to the certificate of deposit; and

   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 satisfy the requirements in R18-13-1702(A) or R18-13-1703(A).

4. Trust fund. The owner or operator may use a trust fund if the following conditions are met:

a. The trust fund names the Arizona Department of Environmental Quality as beneficiary, and

b. For a CCR facility under R18-13-1703, ~~The~~ the trust is initially funded in an amount at least equal to:

i. The cost estimate for the items submitted under R18-13-1703(A),

ii. The amount specified in a compliance schedule approved in a CCR facility permit, or

iii. A pro-rata amount if used with another financial assurance mechanism.

c. For a solid waste facility under R18-13-1702:

i. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or an agency of the state in which the fund is established. A copy of the trust agreement must be placed in the facility's operating record.

ii. Payments into the trust fund must be made annually by the owner or operator for a period of 20 years or over the remaining life of the solid waste facility, whichever is shorter, until the fund is fully-funded. This period is referred to as the pay-in period.

iii. For a trust fund used to demonstrate financial assurance for closure and post-closure care, the first payment into the fund must be at least equal to the current cost estimate for closure or post-closure care, except as provided in subsection (12), divided by the number of years in the pay-in period as defined in subsection (4)(c)(ii). The amount of subsequent payments must be determined by the following formula:

TF – CF

Y

where TF is the total required financial assurance for the owner or operator, CF is the current amount in the fund, and Y is the number of years remaining in the pay-in period.

5. Letter of credit. The owner or operator may use a letter of credit if the following conditions are met:

   a. The financial institution issuing the letter is regulated and examined by a federal or state agency;

   b. The letter of credit is irrevocable and issued for at least one year in an amount equal to the cost estimate submitted under R18-13-1702(A) or R18-13-1703(A) or a pro rata amount if used with another financial assurance mechanism. The letter of credit provides that the expiration date is automatically extended for a period of at least one year unless the issuing institution has canceled the letter of credit by sending notice of cancellation by certified mail to the owner or operator and the Director 90 days in advance of cancellation or expiration. The owner or operator shall provide alternate financial assurance within 60 days of receiving the notice of expiration or cancellation;

   c. The financial institution names the Arizona Department of Environmental Quality as beneficiary for the letter of credit; and

   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.

6. Insurance policy. The owner or operator may use an insurance policy if the following conditions are met:

   a. The insurance is effective before signature of the permit or substitution of insurance for other extant financial assurance instruments posted with the Director;

   b. The insurer is authorized to transact the business of insurance in the state and has an AM BEST Rating of at least a B+ or the equivalent;

   c. The owner or operator submits a copy of the insurance policy to the Department;

d. The insurance policy guarantees that funds are available to pay costs for all items listed under <u>R18-13-1702(A) or</u> R18-13-1703(A) without a deductible. The policy also guarantees that once cleanup steps begin that the insurer will pay out funds to the Director or other entity designated by the Director up to an amount equal to the face amount of the policy;

e. The policy guarantees that while closure, post-closure, or corrective action activities are conducted the insurer will pay out funds to the Director or other entity designated by the Director up to an amount equal to the face amount of the policy;

f. The insurance policy is issued for a face amount at least equal to the current cost estimate submitted to the Director for performance of all items listed under <u>R18-13-1702(A) or</u> R18-13-1703(A) or a pro-rata amount if used with another financial assurance mechanism. Actual payments by the insurer will not change the face amount, although the insurer's future liability is reduced by the amount of the payments, during the policy period;

g. The insurance policy names the Arizona Department of Environmental Quality as additional insured;

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; and

i. The insurance policy provides that the insurer does not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy, at a minimum, provides the insured with a renewal option at the face amount of the expiring policy. If the owner or operator fails to pay the premium, 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 the cancellation. If the insurer cancels the policy, the owner or operator shall provide alternate financial assurance within 60 days of receiving the notice of cancellation.

7. ~~Cash deposit. The owner or operator may use a cash deposit if the cash is deposited with~~

~~the Department to cover the financial assurance obligation under R18-13-1703(A).~~

Deposit with the State Treasurer. The owner or operator may use a receipt of deposit with the State Treasurer to cover the financial assurance obligation under R18-13-1702(A) or R18-13-1703(A). The receipt shall show funds are available for costs under R18-13-1702(A) or R18-13-1703(A). The deposit shall be in the name of the Arizona Department of Environmental Quality on behalf of the owner or operator.

8. Local government financial test. A local government owner or operator that satisfies the requirements of subsections (8)(a) through (8)(c) of this section may satisfy the financial assurance obligation under this Article:

   a. Financial component. The owner or operator must satisfy paragraph (8)(a)(i) or (8)(a)(ii) of this section, as applicable:

      i. If the owner or operator has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, it must have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's, or AAA, AA, A, or BBB, as issued by Standard and Poor's on all such general obligation bonds; or

      ii. The owner or operator must satisfy each of the following financial ratios based on the owner or operator's most recent audited annual financial statement:

         (1) A ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and

         (2) A ratio of annual debt service to total expenditures less than or equal to 0.20.

   b. The owner or operator must prepare its financial statements in conformity with Generally Accepted Accounting Principles (GAAP) for governments and have its financial statements audited by an independent certified public accountant or Arizona Auditor General.

   c. A local government owner or operator is not eligible to assure its obligations under this subsection if the local government:

i. is currently in default on any outstanding general obligation bonds;

ii. has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's;

iii. operated at a deficit equal to five percent or more of total annual revenue in each of the past two fiscal years; or

iv. receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant or state agency auditing its financial statement as required under subsection (8)(b) of this Section.

d. Notwithstanding the eligibility requirements of subsection (8)(c) of this Section, the Director may evaluate qualified opinions on a case-by-case basis and allow use of the financial test pursuant to this subsection in cases where the Director deems the qualification insufficient to warrant disallowance of use of the test.

e. Public notice component. The local government owner or operator must place a reference to a financial demonstration under R18-13-1702 assured through the financial test pursuant to this subsection into its next annual comprehensive financial report (ACFR) after the effective date of this subsection or prior to the initial receipt of waste at the facility, whichever is later. Disclosure must include closure and post-closure care requirements pursuant to this Chapter, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, and the estimated life of the solid waste facility in years. A reference to corrective action costs must be placed in the CAFR no later than 120 days after a corrective action remedy has been selected. For the first year the financial test is used to assure costs at a particular facility, the reference may instead be placed in the operating record until issuance of the next available CAFR if timing does not permit the reference to be incorporated into the most recently issued CAFR or budget. For closure and post-closure costs, conformance with Government Accounting Standards Board Statement 18 assures compliance with this public notice component.

f. Recordkeeping and reporting. The local government owner or operator must place the following in the facility's operating record:

i. A letter signed by the local government's chief financial officer or other designated officer that:

(1) Lists all current cost estimates covered by a financial test, as described in subsection (l);

(2) Provides evidence and certifies that the local government meets the conditions of subsections (8)(a), (8)(b), and (8)(c); and

(3) Certifies the local government meets the conditions of subsection (8)(e) and subsection (l).

ii. The local government's independently audited year-end financial statements for the latest fiscal year, except for local governments where audits are required every two years where unaudited statements may be used in years when audits are not required, including the unqualified opinion of the auditor who must be an independent, certified public accountant or a state agency that conducts equivalent comprehensive audits;

iii. A report to the local government from the local government's independent certified public accountant (CPA) or state agency based on performing an agreed upon procedures engagement relative to the financial ratios required by subsection (8)(a)(ii), if applicable, and the requirements of subsections (8)(b), (8)(c)(iii), and (8)(c)(iv). The CPA or state agency's report should state the procedures performed and the CPA or state agency's findings; and

iv. A copy of the annual comprehensive financial report (ACFR) used to comply with subsection (8)(e) or certification that the requirements of General Accounting Standards Board Statement 18 have been met.

g. The items required in subsection (8)(f) must be placed in the facility operating record as follows:

i. In the case of closure and post-closure care, prior to the initial receipt of waste at the facility; or

ii. In the case of corrective action, not later than 120 days after the corrective action remedy is selected.

h. After the initial placement of the items in the facility's operating record, the local government owner or operator must update the information every three years to adjust for inflation or as necessary to reflect increased costs resulting from changes to facility conditions and place the updated information in the operating record within 180 days following the close of the owner or operator's fiscal year.

i. The local government owner or operator is no longer required to meet the requirements of subsection (8)(f) when:

i. The owner or operator substitutes alternate financial assurance as specified in this Section; or

ii. The owner or operator is released from the requirements of this Section in accordance with any applicable rule or law.

j. A local government must satisfy the requirements of the financial test in accordance with R18-13-1702. If the local government owner or operator no longer meets the requirements of the local government financial test it must, within 210 days following the close of the owner or operator's fiscal year, obtain alternative financial assurance that meets the requirements of this Section, place the required submissions for that assurance in the operating record, and notify the Director that the owner or operator no longer meets the criteria of the financial test and that alternate assurance has been obtained.

k. The Director, based on a reasonable belief that the local government owner or operator may no longer meet the requirements of the local government financial test, may require additional reports of financial condition from the local government at any time. If the Director finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of the local government financial test, the local government must provide alternate financial assurance in accordance with this section.

l. Calculation of costs to be assured. The portion of the closure, post-closure, and corrective action costs for which an owner or operator can assure under this paragraph is determined as follows:

i. If the local government owner or operator does not assure other environmental obligations through a financial test, it may assure closure, post-closure, and corrective action costs that equal up to 43 percent of the local government's total annual revenue.

ii. If the local government assures other environmental obligations through a financial test, including those associated with UIC facilities under 40 CFR 144.62, petroleum underground storage tank facilities under 40 CFR Part 280, PCB storage facilities under 40 CFR Part 761, and hazardous waste treatment, storage, disposal facilities under 40 CFR Parts 264 and 265, and Municipal Solid Waste Landfills under 40 CFR Part 258, it must add those costs to the closure, post-closure, 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.

iii. The owner or operator must obtain an alternate financial assurance instrument for those costs that exceed the limits set in subsections (l)(i) and (l)(ii).

~~8.~~ 9. ~~Guarantees~~ Corporate Guarantee.

a. The owner or operator may use ~~guarantees~~ a guarantee to cover the financial assurance obligations under R18-13-1702(A) or R18-13-1703(A) 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 owner or operator 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 conditions of the financial mechanism listed in subsection (1). For purposes of applying the criteria in subsection (1) to a guarantor, substitute "guarantor" for the term "owner or operator" as used in subsection (1);

iv. The guarantee is governed by and complies with state law;

v. The guarantee continues in full force until released by the Director or replaced by another financial assurance mechanism listed under subsection (1);

vi. The guarantee provides that, if the owner or operator fails to perform closure, post-closure care or corrective action of a facility covered by the guarantee, the guarantor shall perform or pay a third party to perform closure, post-closure care or corrective action, as required by the permit, or establish a fully funded trust fund as specified under subsection (4) 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. Local government guarantee. An owner or operator may demonstrate financial assurance for closure, post-closure, and corrective action to cover the financial assurance obligations under this R18-13-1702(A) by obtaining a written guarantee provided by a local

government. The guarantor must meet the requirements of the local government financial test in subsection (9) of this Section, and must comply with the terms of a written guarantee.

a. Terms of the written guarantee. The guarantee must be effective before the initial receipt of waste in the case of closure, post-closure care, or no later than 120 days after the corrective action remedy has been selected. The guarantee must provide that:

i. If the owner or operator fails to perform closure, post-closure care, or corrective action of a facility covered by the guarantee, the guarantor will:

(1) Perform, or pay a third party to perform, closure, post-closure care, and corrective action, as required; or

(2) Establish a fully funded trust fund as specified in subsection (4) of this Section in the name of the owner or operator.

ii. 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.

iii. If a guarantee is cancelled, the owner or operator must, 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.

b. Recordkeeping and reporting. The owner or operator must place a certified copy of the guarantee along with the items required under subsection (9)(f) into the facility's operating record before the initial receipt of waste or before the effective date of this section, whichever is later, in the case of closure, post-closure care, or no later than 120 days after the corrective action remedy has been selected.

c. The owner or operator is no longer required to maintain the items specified in subsection (11)(b) when:

i. The owner or operator substitutes alternate financial assurance as specified in this section; or

ii. The owner or operator is released from the requirements of this Article.

d. If a local government guarantor no longer meets the requirements of subsection (9), the owner or operator must, within 90 days, obtain alternative assurance, place evidence of the alternate assurance in the facility operating record, and notify the Director. If the owner or operator fails to obtain alternate financial assurance within that 90-day period, the guarantor must provide that alternate assurance within the next 30 days.

11. Use of multiple mechanisms. An owner or operator may demonstrate financial assurance for closure, post-closure, and corrective action, as required under this Article, by establishing more than one mechanism per facility, except that mechanisms guaranteeing performance rather than payment, may not be combined with other instruments. The mechanisms must be as specified in subsections (1) through (11) and subsection (13), except that financial assurance for an amount at least equal to the current cost estimate for closure, post-closure care, and corrective action may be provided by a combination of mechanisms rather than a single mechanism.

12. Use of a financial mechanism for multiple facilities. An owner or operator may use a financial assurance mechanism specified in subsections (1) through (11) and subsection (13) to meet the financial assurance requirements under this Article. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility.

~~9.~~ 13. An owner or operator may use a financial assurance mechanism not listed in subsections (1) through ~~(8)~~ (12) if approved by the Director.

B. Loss of coverage. If the Director believes that an owner or operator will lose financial capability under this Section, the owner or operator shall, within 30 days from the date of receipt of the Director's request, submit evidence that the financial demonstration under R18-13-1702 or R18-13-1703 is being met or provide an alternative financial assurance mechanism.

C. Financial assurance mechanism substitution. An owner or operator of a facility subject to the financial assurance requirements of R18-13-1702 may substitute one financial assurance mechanism with another, and shall notify the Department within 30 days of the substitution. An owner or operator of a facility subject to the financial assurance requirements of R18-13-1703 may substitute one financial assurance mechanism for another if the substitution is approved by the Director through a permit modification or other Department approval.