

## SOLID WASTE STATUTES RELATED TO FINANCIAL ASSURANCE

(NOTE: The information contained in this document was current as of July 2012 but is subject to change without notice. It is provided here only as a convenience. For the most complete and up-to-date legal information, please access Tennessee Code Annotated [here](#).)

### **68-211-116. Performance bond -- Solid waste disposal site restoration fund -- Contract of obligation.**

(a) To ensure the proper operation and closure of solid waste disposal and processing facilities, except as allowed in subsection (c), there shall be posted with the commissioner a performance bond. All funds from the forfeiture of bonds or other instruments required pursuant to this section shall be placed in a special departmental account that shall not revert to the general fund. Interest accruing on investments and deposits of the fund shall be returned to the fund and remain a part of the fund. Such account shall be known as the "solid waste disposal site restoration fund." Moneys placed in the fund shall be used for the proper closure of solid waste disposal and processing facilities and, insofar as practicable, shall first be used to correct the problems at the facility for which the bond or other instrument was originally provided.

(b) The performance bond required by this section shall be in the form and upon the terms specified by the board in regulations. Upon agreement of the parties, the terms may, in lieu of any specified forfeiture procedure, include a requirement for immediate payment to the department. At a minimum, the regulations shall provide for the following:

(1) A bond issued by a fidelity or surety company authorized to do business in this state;

(2) A corporate guarantee provided that the corporation passes any financial test specified by the board in regulations; and

(3) A personal bond supported by cash, securities, insurance policies, letters of credit or other collateral specified by the board in regulations.

(c) A municipality or county may, in lieu of a performance bond, execute a contract of obligation with the commissioner. Such contract of obligation will be a binding agreement on the municipality or county, allowing the commissioner to collect not less than one thousand dollars (\$1,000) for each estimated acre or fraction thereof affected by the disposal operation from any funds being disbursed or to be disbursed from the state to the municipality or county on failure of the municipality or county to operate or to close the registered solid waste disposal operation properly. The amount of the contract of obligation shall be set by the commissioner. The contract shall be filed with the commissioner of finance and administration, who shall act on the terms of the contract on notice from the commissioner of environment and conservation of failure to operate or to close the disposal operation, after notice to the operator, as set out below.

(d) The amount of the bond or contract of obligation shall be increased or decreased to take account of any change in the acreage covered by the registration, as set out in § 68-211-106. If any of the requirements of this part or rules and regulations adopted pursuant thereto or the

orders of the commissioner have not been complied with within the time limits set by the commissioner or by this part, the commissioner shall cause a notice of noncompliance to be served upon the operator, or where found necessary, the commissioner shall order suspension of registration. Such notice or order shall be handed to the operator in person or served by certified mail addressed to the permanent address shown on the application for registration. The notice of noncompliance or order of suspension shall specify in what respects the operator has failed to comply with this part or the regulations or orders of the commissioner. If the operator has not reached an agreement with the commissioner or has not complied with the requirements set forth in the notice of noncompliance or order of suspension within time limits set therein, the registration may be revoked by order of the commissioner and the performance bond shall then be forfeited to the commissioner. When a bond is forfeited pursuant to this part, the commissioner shall give notice to the attorney general and reporter who shall collect the forfeiture.