§ 29-0701. Financial requirements for low-level radioactive waste disposal facilities.

1. Within eighteen months after the effective date of this section, the commissioner shall promulgate regulations applicable to facilities for the permanent disposal of low-level radioactive waste which identify financial requirements to be included as conditions in permits for facilities for the management of low-level radioactive waste. Such conditions shall provide for the remediation of failures during operation and after facility closure, for facility closure, and for pre-closure and post-closure facility monitoring and maintenance. Such regulations shall:

a. Reflect due consideration of the sizes and locations of affected facilities, the natures and volume of low-level radioactive waste involved, the types of facilities and the degrees and durations of risk to human health or the environment.

b. Provide for the establishment, administration, terms and conditions of the following methods or instruments to be used as alternatives or in combinations, in order to achieve non-duplicative coverage of the financial assurance requirements mandated by this section:

(i) Trust funds.

(ii) Surety or performance bonds.

(iii) Letters of credit.

(iv) Liability insurance or annuities.

(v) Guarantees provided by corporate or other legal or financial affiliates of the facility owner or operator.

c. Establish the duration of such financial requirements.

2. Any owner or operator of such a facility for the management of low-level radioactive waste may request a modification of any of the financial requirements established pursuant to subdivision one of this section. A modification may be granted in the discretion of the department if such financial requirements are found to be unnecessary or inappropriate, consistent with the public interest and the purposes of

this section and supported by written findings setting forth the reasons for the modification. Such a modification request shall be considered a request for modification of the permit for the facility. In no case shall a modification granted pursuant to this subdivision eliminate or reduce the minimum requirements established in subdivision four of this section.

3. In addition to the financial requirements established pursuant to subdivision one of this section, any permits for such facilities for the management of low-level radioactive waste issued by the department may, if it is determined that adequate protection of the public so requires, include conditions related to any or all of the following, including responsibility for the costs thereof:

a. On-site environmental monitors whose function shall be to monitor compliance with permit conditions. The commissioner may promulgate regulations regarding the use of such monitors.

b. Site safety plans whereby the permittee shall establish, with the cooperation of local government officials, a community and project safety plan, including but not limited to an accident response based on a worst-case condition, on-site and off-site, a personnel training program, provisions for coordination with local emergency services and regular training exercises. Any such plan shall be subject to the approval of the department.

4. Any permits for such facilities for the management of low-level radioactive waste issued by the department shall require the owner or operator to provide, at a minimum, one of the methods or instruments of financial assurance provided for in paragraph b of subdivision one of this section. Such methods or instruments shall be designed to insure proper facility closure, based on the estimates approved pursuant to section 29-0703 of this title, and coverage of personal injury and property damage to third parties caused by the operation of such facility. Such methods or instruments shall from time to time be reviewed and updated, pursuant to regulations promulgated by the department, to insure their continued adequacy for the purposes of this

section.