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ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

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SECRETARY

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COMMISSIONER

NOTICE

TO ALL PERMITTEES OF NON-PUBLICLY OWNED FACILITIES WITH A SITE-SPECIFIC COST ESTIMATE AND ASSOCIATED FINANCIAL ASSURANCE

Date: April 3, 2023

Subject: Compliance and Regulatory Guidance pertaining to Inflationary Increase Provision(s)

The Kentucky Division of Waste Management, Solid Waste Branch (Branch) is issuing this notice as a guidance document in order to assist applicable permittees with compliance related to the inflationary increase provisions pursuant to 401 KAR 48:310 and/or 401 KAR 45:080.

As stated in the referenced regulations, estimates shall be “in current dollars” and an inflationary increase is applied each year. The Branch is hereby notifying the applicable permittees to calculate the inflationary increase no later than May 15 of each year and provide additional financial assurance no later than **June 30 of each year**, as required.

Approved Date of Estimate: On the most recent site-specific permit, known as the last effective permit (LEP), the cost estimate and financial holdings are typically summarized on page 2. The LEP should contain the “Cost Estimate Summary” table which provides an “Effective” date. This date on the LEP, regardless of the permit issuance date, is the date the cost estimate was approved. This date will be referred to as the “estimate approved date” for the purposes of this notice. If there is additional information about the cost estimate or financial assurance, and you have questions, please contact our office.

Calculating Inflationary Increase: Be advised, all calculations must be based using the estimates from the estimate approved date on the last effective permit. The Branch recognizes inflationary increase provisions may not have been strictly enforced in past years. Past inflationary increase correspondence may not be sufficient to meet the compliance provisions. The calculations must date back to the estimate approved date.

Revising an Approved Estimate: Revised cost estimates, in current dollars, may be submitted to the Branch for review at any time in accordance with the applicable regulations. If a cost estimate is submitted with no other action for a site regulated pursuant to 401 KAR Chapter 47 and 48, the \$250 fee referenced in 401 KAR 47:090 is applicable.

Pending Cost Estimate: A pending permit application or report under review is not cause for failure to comply with the inflationary increase provisions cited above. This includes, but is not limited to, pending reviews pursuant to as 401 KAR 47:090, 401 KAR 47:130, 401 KAR 48:310, 401 KAR 45:040, 401 KAR 45:080, 401 KAR 45:250, and/or 401 KAR 46:120

Extensions: Extension requests will be considered if requested in writing to the Branch no later than May 15 of each year. An approval of the extension may be expected if a permit renewal with a revised cost estimate was submitted to the Branch on or before March 1 of the current year. The extensions should be submitted via paper mail to our office or via eForm #203. Emailing individual staff is not an acceptable method for submittal.

Solid Waste Branch Review of Calculations: If you wish for the Branch to review the inflationary increase calculations, then the calculations must be submitted in writing to the Branch prior to May 15. The calculations should be submitted via paper mail to our office or via eForm #203. Emailing individual staff is not an acceptable method for submittal. The acceptable factors and examples can be found below.

The Branch website contains the inflationary factor information. Going forward, each permittee shall review the information and provide the financial assurance by June 30th as outlined above.

Sample Calculations: Example 1: If the estimate was for \$1,000,000.00 and approved in calendar year 2015, the amount needed by June 30, 2023 is \$1,220,355.09.

Example 2: If the estimate was for \$2,000,000.00 and approved in calendar year 2022, the amount needed by June 30, 2023 is \$2,138,000.00.

Example #1: Estimate Approved in Calendar Year 2015 for \$1,000,000.00

Year	Amount	Inflation Factor	Inflationary Increase Required Financial Assurance Amount
2016	\$1,000,000.00	1.010	\$1,010,000.00
2017	\$1,010,000.00	1.013	\$1,023,130.00
2018	\$1,023,130.00	1.018	\$1,041,546.34
2019	\$1,041,546.34	1.022	\$1,064,460.36
2020	\$1,064,460.36	1.018	\$1,083,620.65
2021	\$1,083,620.65	1.012	\$1,096,624.09
2022	\$1,096,624.09	1.041	\$1,141,585.68
2023	\$1,141,585.68	1.069	\$1,220,355.09

Example #2: Estimate Approved in Calendar Year 2022 for \$2,000,000.00

Year	Amount	Inflation Factor	Inflationary Increase Required Financial Assurance Amount
2023	\$2,000,000.00	1.069	\$2,138,000.00



Contact Us: The mailing address for the Branch is: Division of Waste Management, Solid Waste Branch, 300 Sower Blvd., Second Floor, Frankfort, Kentucky 40601. The Solid Waste Branch website link containing applicable forms and for instructions regarding the Solid Waste Branch Submittal Form, eForm #203 can be found here: <https://eec.ky.gov/Environmental-Protection/Waste/solid-waste/Pages/solid-waste-branch-forms.aspx>

The Solid Waste Branch website link for commonly requested reports and inflationary factor information can be found here: <https://eec.ky.gov/Environmental-Protection/Waste/Pages/Solid-Waste-Facility-Reports.aspx>

If you have questions, about current financial assurance holdings please contact John Arnett at JohnM.Arnett@ky.gov or 502-782-6308. If you need assistance with an extension, calculations for inflationary increase, or other concerns, please contact Jamie Nielsen at Jamie.Nielsen@ky.gov or 502-782-6426.

Sincerely,



Danny Anderson, P.E.
Manager, Solid Waste Branch
Signed by: Danny Anderson

DA/JN/ja

c: Distribution List Dated April 3, 2023