

**3701:1-40-17****Appendix D**Criteria relating to use of financial tests and self-guarantee for providing reasonable assurance of funds for decommissioning by commercial companies that have no outstanding rated bonds.

## I. Introduction

An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on furnishing its own guarantee that funds will be available for decommissioning costs and on a demonstration that the company passes the financial test of section II of this appendix. The terms of the self-guarantee are in section III of this appendix. This appendix establishes criteria for passing the financial test for the self-guarantee and establishes the terms for a self-guarantee.

## II. Financial test

- (A) To pass the financial test a company must meet the following criteria:
- (1) Tangible net worth greater than ten million dollars, or at least ten times the total current decommissioning cost estimate (or the current amount required if certification is used), whichever is greater, for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as a parent-guarantor.
  - (2) Assets located in the United States amounting to at least ninety ~~percent~~ ~~per~~ ~~cent~~ of total assets or at least ten times the total current decommissioning cost estimate (or the current amount required if certification is used) for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as a parent-guarantor.
  - (3) A ratio of cash flow divided by total liabilities greater than 0.15 and a ratio of total liabilities divided by net worth less than 1.5.
- (B) In addition, to pass the financial test, a company must meet all of the following requirements:
- (1) The company's independent certified public accountant must have compared the data used by the company in the financial test, which is required to be derived from the independently audited year end financial statement based on United States generally accepted accounting practices for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure, the licensee shall inform the director within ninety days of any matters that may cause the auditor to believe that the data specified in the

financial test should be adjusted and that the company no longer passes the test.

- (2) After the initial financial test, the company must repeat the passage of the test within ninety days after the close of each succeeding fiscal year.
- (3) If the licensee no longer meets the requirements of section II, paragraph (A) of this appendix, the licensee must send notice to the director of intent to establish alternate financial assurance as specified in rule 3701:1-40-17 of the Administrative Code. The notice must be sent by certified mail, return receipt requested, within ninety days after the end of the fiscal year for which the year end financial data show that the licensee no longer meets the financial test requirements. The licensee must provide alternative financial assurance within one hundred twenty days after the end of such fiscal year.

### III. Company guarantee

The terms of a self-guarantee which an applicant or licensee furnishes must provide that:

- (A) The guarantee will remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the director. Cancellation may not occur until an alternative financial assurance mechanism is in place.
- (B) The licensee shall provide alternate financial assurance as specified in the regulations within ninety days following receipt by the director of a notice of cancellation of the guarantee.
- (C) The guarantee and financial test provisions must remain in effect until the director has terminated the license or until another financial assurance method acceptable to the director has been put in effect by the licensee.
- (D) The applicant or licensee must provide to the director a written guarantee (a written commitment by a corporate officer) ~~which~~ that states that the licensee will fund and carry out the required decommissioning activities or, upon issuance of an order by the director, the licensee will set up and fund a trust in the amount of the current cost estimates for decommissioning.