

3701:1-40-17**Appendix B**Criteria relating to use of financial tests and parent company guarantees for providing reasonable assurance of funds for decommissioning

I. Introduction

An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on obtaining a parent company guarantee that funds will be available for decommissioning costs and on a demonstration that the parent company passes a financial test. This appendix establishes criteria for passing the financial test and for obtaining the parent company guarantee.

II. Financial test

- (A) To pass the financial test, the parent company must meet the criteria of either paragraph (A)(1) or (A)(2) of this section:
- (1) The parent company must have:
- (a) Two of the following three ratios: A ratio of total liabilities to total net worth less than 2.0; a ratio of the sum of net 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; and
 - (b) Net working capital and tangible net worth each at least six times the current decommissioning cost estimates (or prescribed amount if a certification is used); and
 - (c) Tangible net worth of at least ten million dollars; and
 - (d) Assets located in the United States amounting to at least ninety percent of total assets or at least six times the current decommissioning cost estimates (or prescribed amount if a certification is used).
- (2) The parent company must have:
- (a) A current rating for its most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and
 - (b) Tangible net worth at least six times the current decommissioning cost estimate (or prescribed amount if a certification is used); and

- (c) Tangible net worth of at least ten million dollars; and
 - (d) Assets located in the United States amounting to at least ninety percent of the total assets or at least six times the current decommissioning cost estimates (or prescribed amount if a certification is used).
- (B) The parent company's independent certified public accountant must have compared the data used by the parent company in the financial test, which is derived from the independently audited, year end financial statements 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 coming to the auditor's attention which 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.
- (C) (1) After the initial financial test, the parent company must repeat the passage of the test within ninety days after the close of each succeeding fiscal year.
- (2) If the parent company no longer meets the requirements of paragraph (A) of this section, the licensee must send notice to the director of intent to establish alternate financial assurance as specified in the regulations. The notice must be sent by certified mail within ninety days after the end of the fiscal year for which the year end financial data show that the parent company no longer meets the financial test requirements. The licensee must provide alternate financial assurance within one hundred twenty days after the end of such fiscal year.

III. Parent company guarantee

The terms of a parent company guarantee which an applicant or licensee obtains must provide that:

- (A) The parent company guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the licensee and the director. Cancellation may not occur, however, during the one hundred twenty days beginning on the date of receipt of the notice of cancellation by both the licensee and the director as evidenced by the return receipts.
- (B) If the licensee fails to provide alternate financial assurance as specified in the regulations within ninety days after receipt by the licensee and director of a notice of cancellation of the parent company guarantee from the guarantor, the guarantor will provide such alternative financial assurance in the name of the licensee.
- (C) The parent company guarantee and financial test provisions must remain in effect until the director has terminated the license.

- (D) If a trust is established for decommissioning costs, the trustee and trust must be acceptable to the director. An acceptable trustee includes an appropriate state or federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.