

4731.3155 ASSURING DECOMMISSIONING FUNDS; PARENT COMPANY GUARANTEES.

Subpart 1. **General requirement.** 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 the financial test under subpart 2. This part establishes criteria for passing the financial test and for obtaining the parent company guarantee.

Subp. 2. Financial test requirements.

A. To pass the financial test, a parent company must meet the criteria of item B or C.

B. The parent company must have:

(1) two of the following three ratios:

(a) a ratio of total liabilities to net worth less than 2.0;

(b) a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and

(c) a ratio of current assets to current liabilities greater than 1.5;

(2) net working capital and tangible net worth each at least six times the current decommissioning cost estimates for the total of all facilities or parts thereof, or prescribed amount if a certification is used, or, for a power reactor licensee, at least six times the amount of decommissioning funds being assured by a parent company guarantee for the total of all reactor units or parts thereof. Tangible net worth must be calculated to exclude the net book value of the nuclear units;

(3) tangible net worth of at least \$10,000,000; and

(4) assets located in the United States amounting to at least 90 percent of the total assets or at least six times the current decommissioning cost estimates for the total of all facilities or parts thereof, or prescribed amount if a certification is used, or, for a power reactor licensee, at least six times the amount of decommissioning funds being assured by a parent company guarantee for the total of all reactor units or parts thereof.

C. The parent company must have:

(1) 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;

(2) tangible net worth at least six times the current decommissioning cost estimates for the total of all facilities or parts thereof, or prescribed amount if a certification is used, or, for a power reactor licensee, at least six times the amount of decommissioning

funds being assured by a parent company guarantee for the total of all reactor units or parts thereof. Tangible net worth must be calculated to exclude the net book value of the nuclear units;

(3) tangible net worth of at least \$10,000,000; and

(4) assets located in the United States amounting to at least 90 percent of the total assets or at least six times the current decommissioning cost estimates for the total of all facilities or parts thereof, or prescribed amount if a certification is used, or, for a power reactor licensee, at least six times the amount of decommissioning funds being assured by a parent company guarantee for the total of all reactor units or parts thereof.

Subp. 3. **Audit.** A parent company's independent certified public accountant must compare the data used by the parent company in the financial test, which must be derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in such financial statements. In connection with that procedure, the licensee must inform the NRC within 90 days of any matters coming to the auditor's attention that cause the auditor to believe that the data in the financial test should be adjusted and that the company no longer passes the test.

Subp. 4. **Continued compliance.**

A. After the initial financial test, a parent company must repeat the passage of the test within 90 days after the close of each succeeding fiscal year.

B. If a parent company no longer meets the requirements of subpart 2, the licensee must send notice to the commissioner of intent to establish alternate financial assurance according to this chapter. The notice must be sent by certified mail within 90 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 120 days after the end of such fiscal year.

Subp. 5. **Terms of guarantee.** The terms of a parent company guarantee that an applicant or licensee obtains must provide that:

A. the parent company guarantee remains in force unless the guarantor sends notice of cancellation by certified mail to the licensee and the commissioner. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the licensee and the commissioner, as evidenced by the return receipts;

B. if the licensee fails to provide alternate financial assurance according to this chapter within 90 days after receipt by the licensee and commissioner of a notice of cancellation of the parent company guarantee from the guarantor, the guarantor must provide alternative financial assurance in the name of the licensee;

C. the parent company guarantee and financial test provisions remain in effect until the commissioner terminates the license; and

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

Statutory Authority: *MS s 144.1202; 144.1203*

History: *29 SR 755*

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