



NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

ENVIRONMENTAL GUIDANCE DOCUMENT

05-174j

August, 2005

Financial Test For Liability Coverage and if Applicable Closure and/or Post-Closure

40 CFR § 264.151 (g) A letter from the chief financial officer, as specified in Sec. 264.147(f) or Sec. 265.147(f), must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

Letter From Chief Financial Officer

[Address to the Director of the Nebraska Department of Environmental Quality (NDEQ) for facilities for which financial responsibility is to be demonstrated through the financial test].

I am the chief financial officer of *[firm's name and address]*. This letter is in support of the use of the financial test to demonstrate financial responsibility for liability coverage *[insert ``and closure and/or post-closure care" if applicable]* as specified in subpart H of 40 CFR parts 264 and 265.

[Fill out the following paragraphs regarding facilities and liability coverage. If there are no facilities that belong in a particular paragraph, write ``None" in the space indicated. For each facility, include its NDEQ Identification Number, name, and address].

The firm identified above is the owner or operator of the following facilities for which liability coverage for *[insert ``sudden" or ``nonsudden" or ``both sudden and nonsudden"]* accidental occurrences is being demonstrated through the financial test specified in subpart H of 40 CFR parts 264 and 265.

The firm identified above guarantees, through the guarantee specified in subpart H of 40 CFR parts 264 and 265, liability coverage for *[insert ``sudden" or ``nonsudden" of ``both sudden and nonsudden"]* accidental occurrences at the following facilities owned or operated by the following: -----.

The firm identified above is *[insert one or more]:*
The direct or higher-tier parent corporation of the owner or operator;

owned by the same parent corporation as the parent corporation of the owner or operator, and receiving the following value in consideration of this guarantee -----; or engaged in the following substantial business relationship with the owner or operator -----, and receiving the following value in consideration of this guarantee -----].

[Attach a written description of the business relationship or a copy of the contract establishing such relationship to this letter.]

[If you are using the financial test to demonstrate coverage of both liability and closure and post-closure care, fill in the following five paragraphs regarding facilities and associated closure and post-closure cost estimates. If there are no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its NDEQ identification number, name, address, and current closure and/or post-closure cost estimates. Identify each cost estimate as to whether it is for closure or post-closure care.]

1. The firm identified above owns or operates the following facilities for which financial assurance for closure or post-closure care or liability coverage is demonstrated through the financial test specified in subpart H of 40 CFR parts 264 and 265. The current closure and/or post-closure cost estimate covered by the test are shown for each facility: -----.

2. The firm identified above guarantees, through the guarantee specified in subpart H of 40 CFR parts 264 and 265, the closure and post-closure care or liability coverage of the following facilities owned or operated by the guaranteed party. The current cost estimates for closure or post-closure care so guaranteed are shown for each facility: -----.

3. In States where EPA is not administering the financial requirements of subpart H of 40 CFR parts 264 and 265, this firm is demonstrating financial assurance for the closure or post-closure care of the following facilities through the use of a test equivalent or substantially equivalent to the financial test specified in subpart H or 40 CFR parts 264 and 265. The current closure or post-closure cost estimates covered by such a test are shown for each facility: -----.

4. The firm identified above owns or operates the following hazardous waste management facilities for which financial assurance for closure or, if a disposal facility, post-closure care, is not demonstrated either to NDEQ through the financial test or any other financial assurance mechanisms specified in subpart H of 40 CFR parts 264 and 265 or equivalent or substantially equivalent State mechanisms. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility: -----.

5. This firm is the owner or operator or guarantor of the following UIC facilities for which financial assurance for plugging and abandonment is required under part 144 and is assured through a financial test. The current closure cost estimates as required by 40 CFR 144.62 are shown for each facility:-----.

This firm [*insert "is required" or "is not required"*] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [*month, day*]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended [*date*].

Part A. Liability Coverage for Accidental Occurrences

[Fill in Alternative I if the criteria of paragraph (f)(1)(i) of Sec. 264.147 or Sec. 265.147 are used. Fill in Alternative II if the criteria of paragraph (f)(1)(ii) of Sec. 264.147 or Sec. 265.147 are used.]

Alternative I

1. Amount of annual aggregate liability coverage to be demonstrated \$ -----.
- *2. Current assets \$ -----.
- *3. Current \$ -----.
4. Net working capital (*line 2 minus line 3*) \$ -----.
- *5. Tangible net worth \$ -----.
- *6. If less than 90% of assets are located in the U.S., give total U.S. assets \$ -----.
7. Is line 5 at least \$10 million? (*Yes/No*) -----.
8. Is line 4 at least 6 times line 1? (*Yes/No*) -----.
9. Is line 5 at least 6 times line 1? (*Yes/No*) -----.
- *10. Are at least 90% of assets located in the U.S.? (*Yes/No*) -----.
If not, complete line 11.
11. Is line 6 at least 6 times line 1? (*Yes/No*) -----.

Alternative II

1. Amount of annual aggregate liability coverage to be demonstrated \$ -----.
2. Current bond rating of most recent issuance and name of rating service -----

3. Date of issuance of bond -----.
4. Date of maturity of bond -----.
- *5. Tangible net worth \$ -----.
- *6. Total assets in U.S. (*required only if less than 90% of assets are located in the U.S.*)
\$ -----.
7. Is line 5 at least \$10 million? (*Yes/No*) -----.
8. Is line 5 at least 6 times line 1? (*Yes/No*) -----.
9. Are at least 90% of assets located in the U.S.? If not, complete line 10. (*Yes/No*) -----.
10. Is line 6 at least 6 times line 1? (*Yes/No*) -----.

[Fill in part B if you are using the financial test to demonstrate assurance of both liability coverage and closure or post-closure care.]

Part B. Closure or Post-Closure Care and Liability Coverage

[Fill in Alternative I if the criteria of paragraphs (f)(1)(i) of Sec. 264.143 or Sec. 264.145 and (f)(1)(i) of Sec. 264.147 are used or if the criteria of paragraphs (e)(1)(i) of Sec. 265.143 or Sec. 265.145 and (f)(1)(i) of Sec. 265.147 are used. Fill in Alternative II if the criteria of paragraphs (f)(1)(ii) of Sec. 264.143 or Sec. 264.145 and (f)(1)(ii) of Sec. 264.147 are used or if the criteria of paragraphs (e)(1)(i) of Sec. 265.143 or Sec. 265.145 and (f)(1)(ii) of Sec. 265.147 are used.]

Alternative I

1. Sum of current closure and post-closure cost estimates (total of all cost estimates listed above) \$ -----
2. Amount of annual aggregate liability coverage to be demonstrated \$ -----
3. Sum of lines 1 and 2 \$ -----
- *4. Total liabilities (*if any portion of your closure or post-closure cost estimates is included in your total liabilities, you may deduct that portion from this line and add that amount to lines 5 and 6*) \$ -----
- *5. Tangible net worth \$ -----
- *6. Net worth \$ -----

- *7. Current assets \$ -----
- *8. Current liabilities \$ -----
- 9. Net working capital (*line 7 minus line 8*) \$ -----
- 10. The sum of net income plus depreciation, depletion, and amortization \$-----
- *11. Total assets in U.S. (*required only if less than 90% of assets are located in the U.S.*)
\$ -----
- 12. Is line 5 at least \$10 million? (*Yes/No*) -----.
- 13. Is line 5 at least 6 times line 3? (*Yes/No*) -----.
- 14. Is line 9 at least 6 times line 3? (*Yes/No*) -----.
- *15. Are at least 90% of assets located in the U.S.? (*Yes/No*) -----. If not, complete line 16.
- 16. Is line 11 at least 6 times line 3? (*Yes/No*) -----.
- 17. Is line 4 divided by line 6 less than 2.0? (*Yes/No*) -----.
- 18. Is line 10 divided by line 4 greater than 0.1? (*Yes/No*) -----.
- 19. Is line 7 divided by line 8 greater than 1.5? (*Yes/No*) -----.

Alternative II

- 1. Sum of current closure and post-closure cost estimates (*total of all cost estimates listed above*) \$ -----
- 2. Amount of annual aggregate liability coverage to be demonstrated \$ -----
- 3. Sum of lines 1 and 2 \$ -----
- 4. Current bond rating of most recent issuance and name of rating service -----
- 5. Date of issuance of bond -----
- 6. Date of maturity of bond -----
- *7. Tangible net worth (*if any portion of the closure or post-closure cost estimates is included in "total liabilities" on your financial statements you may add that portion to this line*) \$ -----.

*8. Total assets in the U.S. (required only if less than 90% of assets are located in the U.S.)
\$ -----.

9. Is line 7 at least \$10 million? (Yes/No) -----.

10. Is line 7 at least 6 times line 3? (Yes/No) -----.

*11. Are at least 90% of assets located in the U.S.? (Yes/No) -----. If not, complete line 12.

12. Is line 8 at least 6 times line 3? (Yes/No) -----.

I hereby certify that the wording of this letter is identical to the wording specified in 40 CFR 264.151(g) as such regulations were constituted on the date shown immediately below.

[Signature] _____

[Name] _____

[Title] _____

[Date] _____

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