



# NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

## ENVIRONMENTAL GUIDANCE DOCUMENT

05-174b

August, 2005

### Financial Test For Closure And/Or Post-Closure

40 CFR § 264.151 (f) A letter from the chief financial officer, as specified in Sec. 264.143(f) or 264.145(f), or Sec. 265.143(e) or 265.143(e), 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 *[name and address of firm]*. This letter is in support of this firm's use of the financial test to demonstrate financial assurance for closure and/or post-closure costs, as specified in subpart H of 40 CFR parts 264 and 265.

*[Fill out the following five paragraphs regarding facilities and associated cost estimates. If your firm has 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. This firm is the owner or operator of the following facilities for which financial assurance for closure or post-closure care 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 estimates covered by the test are shown for each facility: -----.
2. This firm guarantees, through the guarantee specified in subpart H of 40 CFR parts 264 and 265, the closure or post-closure care of the following facilities owned or operated by the guaranteed party. The current cost estimates for the closure or post-closure care so guaranteed are shown for each facility: -----.

The firm identified above is *[insert one or more]*:

- (1) The direct or higher-tier parent corporation of the owner or operator;
- (2) 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  
(3) 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].*

3. In States where EPA is not administering the financial requirements of subpart H of 40 CFR part 264 or 265, this firm, as owner or operator or guarantor, 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 of 40 CFR parts 264 and 265. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility: -----.

4. This firm is the owner or operator of the following hazardous waste management facilities for which financial assurance for closure or, if a disposal facility, post-closure care, is not demonstrated to NDEQ through the financial test or any other financial assurance mechanism 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 of the following UIC facilities for which financial assurance for plugging and abandonment is required under part 144. 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*].

*[Fill in Alternative I if the criteria of paragraph (f)(1)(i) of Sec. 264.143 or Sec. 264.145, or of paragraph (e)(1)(i) of Sec. 265.143 or Sec. 265.145 of this chapter are used. Fill in Alternative II if the criteria of paragraph (f)(1)(ii) of Sec. 264.143 or Sec. 264.145, or of paragraph (e)(1)(ii) of Sec. 265.143 or Sec. 265.145 of this chapter are used.]*

#### Alternative I

1. Sum of current closure and post-closure cost estimate [total of all cost estimates shown in the five paragraphs above] \$-----
- \*2. Total liabilities [if any portion of the closure or post-closure cost estimates is included in total liabilities, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4] \$-----
- \*3. Tangible net worth \$-----

- \*4. Net worth \$-----
- \*5. Current assets \$-----
- \*6. Current liabilities \$-----
- 7. Net working capital [*line 5 minus line 6*] \$-----
- \*8. The sum of net income plus depreciation, depletion, and amortization \$-----
- \*9. Total assets in U.S. (required only if less than 90% of firm's assets are located in the U.S.)  
\$-----
- 10. Is line 3 at least \$10 million? (*Yes/No*) -----
- 11. Is line 3 at least 6 times line 1? (*Yes/No*) -----
- 12. Is line 7 at least 6 times line 1? (*Yes/No*) -----
- \*13. Are at least 90% of firm's assets located in the U.S.? If not, complete line 14 (*Yes/No*) -----
- 14. Is line 9 at least 6 times line 1? (*Yes/No*) -----
- 15. Is line 2 divided by line 4 less than 2.0? (*Yes/No*) -----
- 16. Is line 8 divided by line 2 greater than 0.1? (*Yes/No*) -----
- 17. Is line 5 divided by line 6 greater than 1.5? (*Yes/No*) -----

#### Alternative II

- 1. Sum of current closure and post-closure cost estimates [*total of all cost estimates shown in the five paragraphs above*] \$-----
- 2. Current bond rating of most recent issuance of this firm and name of rating service -----
- 3. Date of issuance of bond -----
- 4. Date of maturity of bond -----
- \*5. Tangible net worth [if any portion of the closure and post-closure cost estimates is included in "total liabilities" on your firm's financial statements, you may add the amount of that portion to this line] \$-----
- \*6. Total assets in U.S. (*required only if less than 90% of firm's 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 firm's 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) -----

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

[Signature] \_\_\_\_\_

[Name] \_\_\_\_\_

[Title] \_\_\_\_\_

[Date] \_\_\_\_\_

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*Produced by: Nebraska Department of Environmental Quality, P.O. Box 98922, Lincoln, NE 68509-8922; phone (402) 471-2186. To view this, and other information related to our agency, visit our web site at <http://deq.ne.gov/>*