

APPENDIX A

A.14 Self-Guarantees

A *self-guarantee* is a guarantee by a licensee itself that it will fund and carry out decommissioning activities. The licensee must annually pass (within 90 days after the close of each succeeding fiscal year) the applicable financial test specified in Appendix C, D, or E to 10 CFR Part 30 to demonstrate that it has adequate financial strength to provide the guarantee.³¹ The financial test alternatives consider accounting ratios, net worth, assets, operating revenues, and bond rating data relative to fixed criteria. Also, the licensee's financial statements must have been prepared in accordance with generally accepted accounting principles applicable to the United States, and an independent certified public accountant must have verified the accuracy of the financial test data relative to the audited financial statements. A self-guarantee may not be used in combination with other financial assurance mechanisms, and may not be used in cases where a licensee has a parent company holding majority control of its voting stock.

NRC's regulations for self-guarantees apply to three general categories of licensees:

- *Commercial companies that issue bonds.* Self-guarantees by these licensees are regulated under Appendix C to 10 CFR Part 30.
- *Commercial companies that do not issue bonds.* Self-guarantees by these licensees are regulated under Appendix D to 10 CFR Part 30.
- *Nonprofit colleges, universities, and hospitals.* Self-guarantees by these licensees are regulated under Appendix E to 10 CFR Part 30.

A self-guarantee must remain in force unless the licensee sends notice of cancellation by certified mail to NRC. For a commercial licensee who issues bonds, this notice must be sent at least 120 days in advance (as evidenced by the return receipts). For a commercial licensee who does not issue bonds or a nonprofit college, university, or hospital, the guarantee may not be canceled until an alternative financial assurance mechanism is in place. However, in all cases, a self-guarantee may be used only as long as the licensee meets the financial test criteria. If the licensee no longer passes the financial test, it must provide alternative financial assurance.

Finally, the licensee must provide a written guarantee stating that it will fund and carry out the required decommissioning activities or, upon issuance of an order by NRC, will set up and fund a trust in the amount of the current decommissioning cost estimates or certified amounts.

The remainder of this section discusses the primary criteria that determine whether particular self-guarantee submissions will be acceptable to NRC.

- Section A.14.1 describes qualifications required of the self-guarantor.
- Section A.14.2 addresses the adequacy of coverage.

- Section A.14.3 discusses the documentation that supports a self-guarantee.
- Section A.14.4 presents a model self-guarantee that NRC has found to be acceptable.

This section also contains two checklists designed to assist licensees in preparing acceptable self-guarantees. Checklist 14–A summarizes the primary criteria used by NRC to evaluate self-guarantees. Checklist 14–B (which should be used only by licensees who revise or do not use the model wording for self-guarantees) presents terms and conditions that are recommended for self-guarantees.

Checklist 14–A Self-Guarantees

- Documentation is complete when the following are included:
 - 1. self-guarantee agreement (originally signed duplicate),
 - 2. letter from chief executive officer or chief financial officer of licensee, including applicable self-guarantee financial test,
 - 3. auditor’s special report confirming CEO or CFO letter and reconciling amounts in the CEO or CFO letter with licensee’s financial statements,
 - 4. licensee’s audited financial statements for the most recent fiscal year, including the auditor’s opinion on the financial statements, and
 - 5. Checklist 14–B (if model self-guarantee wording is modified or not used)
- The licensee does not have a parent company holding majority control of its voting stock.
- The amount of the self-guarantee equals or exceeds the required coverage level.

A.14.1 Qualifications of the Self-Guarantor

As noted above, a licensee using a self-guarantee to provide financial assurance for decommissioning must *not* have a parent company holding majority control of its voting stock.³² To qualify to provide the guarantee, the licensee also must meet the applicable financial test specified in Appendix C, D or E to 10 CFR Part 30 (shown in the boxes below).

- The financial test specified in Appendix C pertains to commercial companies that issue bonds.
- The financial test specified in Appendix D pertains to commercial companies that do not issue bonds.
- The financial tests specified in Appendix E pertain to nonprofit colleges, universities, and hospitals.

Licensees without an actual bond rating may still use the financial tests involving bond ratings by obtaining a so-called “indicative” bond rating from either Standard & Poor’s or Moody’s. Indicative bond ratings, which are available for a fee, are for information only and are provided as an indication of what a rating would be if the firm were to issue debt. A licensee seeking to

APPENDIX A

use an indicative bond rating should submit the rating and name of the rating service as part of the financial test demonstration. In this case, however, the licensee would not be able to provide NRC with information on the dates of issuance and maturity of the bond, nor would it be able to certify that the rating pertained to its “most recent bond issuance.” Rather, the licensee would need to explain that the rating is an indicative rating. The licensee would also need to update the indicative rating every year as it repeats the passage of the financial test.

For purposes of the financial tests, bond ratings must apply to outstanding, rated bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, and that have been issued *directly* by the licensee, rather than by any other entity (e.g., an educational authority). In addition, ratings on revenue bonds may not be used in the financial test. The scope of revenue bond ratings is typically quite limited in that the rating considers only the adequacy of specific revenue sources pledged to repay the bonds. Revenue bonds frequently require that the pledged revenue be used to repay the bonded debt before paying other operating expenses and, therefore, do not meet NRC’s regulatory requirement that the bonds be “uninsured, uncollateralized, and unencumbered.” If the revenue sources are clearly adequate to repay the bonds, the revenue bond rating may be high, even if the issuer’s revenue is clearly not adequate to pay other operating expenses. Thus, unlike bonds that pledge an entity’s full faith and credit, ratings on revenue bonds do not reflect the overall financial condition of the issuer, as intended by NRC’s self-guarantee regulations.

Financial Test for Commercial Companies that Issue Bonds

The licensee must have the following:

- (i) Tangible net worth at least 10 times the current decommissioning cost estimates (or prescribed amount if a certification is used) for all decommissioning activities for which the company is responsible as a self-guaranteeing licensee and as a parent-guarantor;
- (ii) Assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the current decommissioning cost estimates (or prescribed amount if a certification is used) for all decommissioning activities for which the company is responsible as a self-guaranteeing licensee and as a parent-guarantor; and
- (iii) A current rating for its most recent bond issuance of AAA, AA, or A as issued by Standard & Poor’s, or Aaa, Aa, or A as issued by Moody’s.

(Note that ratings of A– by S&P and A3 by Moody’s are not sufficient to pass the self-guarantee financial test because they are below the A rating required under 10 CFR Part 30, Appendix C.)

(Note that in order to pass the financial test, a commercial licensee who issues bonds also must have at least one class of equity securities registered under the Securities Exchange Act of 1934.)

Financial Test for Commercial Companies that Do Not Issue Bonds

The licensee must have the following:

- (i) Tangible net worth greater than \$10 million, or at least 10 times the current decommissioning cost estimates (or prescribed amount if a certification is used), whichever is greater, for all decommissioning activities for which the company is responsible as a self-guaranteeing licensee and as a parent-guarantor;
- (ii) Assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the current decommissioning cost estimates (or prescribed amount if a certification is used) for all decommissioning activities for which the company is responsible as a self-guaranteeing licensee and as a parent-guarantor; and
- (iii) 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.

(Note that cash flow equals the sum of net income plus depreciation, depletion, and amortization.)

Financial Test for Nonprofit Colleges and Universities that Issue Bonds

The licensee must have a current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, or A as issued by Standard & Poor's, or Aaa, Aa, or A as issued by Moody's.

(Note that an "uninsured, uncollateralized, and unencumbered" bond issuance is one that is backed only by the issuer's full faith and credit. Such issuances are not guaranteed by a bond insurance company or backed by collateral, a letter of credit, claims on a specific revenue source, or any other property or credit.)

(Note that ratings of A- by S&P and A3 by Moody's are **not** sufficient to pass the self-guarantee financial test because they are below the A rating required under 10 CFR Part 30, Appendix E.)

Financial Test for Nonprofit Colleges and Universities that Do Not Issue Bonds

The licensee must have unrestricted endowment consisting of assets located in the United States of at least \$50 million, or at least 30 times the current decommissioning cost estimates (or prescribed amount if a certification is used), whichever is greater, for all decommissioning activities for which the college or university is responsible as a self-guaranteeing licensee.

Financial Test for Nonprofit Hospitals that Issue Bonds

The licensee must have a current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, or A as issued by Standard & Poor's, or Aaa, Aa, or A as issued by Moody's.

(Note that an "uninsured, uncollateralized, and unencumbered" bond issuance is one that is backed only by the issuer's full faith and credit. Such issuances are not guaranteed by a bond insurance company or backed by collateral, a letter of credit, claims on a specific revenue source, or any other property or credit.)

(Note that ratings of A- by S&P and A3 by Moody's are *not* sufficient to pass the self-guarantee financial test because they are below the A rating required under 10 CFR Part 30, Appendix E.)

Financial Test for Nonprofit Hospitals that Do Not Issue Bonds

The licensee must have the following:

- (i) (Total revenues less total expenditures) divided by total revenues must be equal to or greater than 0.04; and
- (ii) Long-term debt divided by net fixed assets must be less than or equal to 0.67; and
- (iii) (Current assets and depreciation fund) divided by current liabilities must be greater than or equal to 2.55; and
- (iv) Operating revenues must be at least 100 times the current decommissioning cost estimates (or prescribed amount if a certification is used) for all decommissioning activities for which the hospital is responsible as a self-guaranteeing licensee.

A.14.2 Level of Coverage

A self-guarantee must be in an amount that is at least equal to the licensee's prescribed amount or estimated cost of decommissioning. If the licensee's prescribed amount or estimated decommissioning cost increases to a level above the amount assured by the self-guarantee, the licensee must revise the guarantee to assure the higher amount (or must replace the guarantee with a different financial assurance mechanism that is in the amount of the new coverage level).³³

A.14.3 Recommended Documentation

The terms and conditions of a self-guarantee are governed by a written guarantee agreement. The wording of a self-guarantee agreement may vary, but Section A.14.13 of this appendix is a model self-guarantee agreement that would meet NRC's requirements and is recommended by NRC.

Other documentation that is to be submitted with a self-guarantee includes the following and is summarized in Checklist 14–A.³⁴

- The *guarantee agreement* is the written document that specifies the terms and conditions of the self-guarantee. The wording contained in the model guarantee presented in Section A.14.13 is acceptable to NRC. Licensees who use other wording should refer to Checklist 14–B to be sure that the alternative wording contains all the necessary terms and conditions.
- The *chief executive officer (CEO) or chief financial officer (CFO) letter* (Section A.14.4) is a letter from either the CEO or CFO of the licensee that (1) identifies the names, addresses, license numbers, and estimated decommissioning costs of the facilities covered by the guarantee, (2) certifies that the licensee is a going concern, (3) identifies the amount of the licensee’s tangible net worth, (4) specifies whether the licensee is required to file a Form 10–K with the U.S. Securities and Exchange Commission, (5) lists the date on which the licensee’s fiscal year ends, and (6) demonstrates the licensee’s ability to pass the applicable financial test specified in Appendix C, D, or E to 10 CFR Part 30. The licensee must pass the financial test for **all** costs covered by a financial test. These include costs covered by (1) the self-guarantee, (2) other NRC or Agreement State parent company guarantees or self-guarantees, and (3) parent company guarantees, self-guarantees, or financial tests of other Federal or State agencies (e.g., EPA).
- The *auditor’s special report* (Section A.14.11) is a report from the licensee’s independent certified public accountant that compares the data used by the licensee in the financial test demonstration with the amounts in its annual financial statements. If needed, this report may also include a *schedule attachment* (Section A.14.12) reconciling the financial test numbers with amounts in the licensee’s financial statements.
- A copy of the licensee’s *audited financial statements* for the most recently completed fiscal year. These financial statements should include the independent certified public accountant’s opinion on the statements.

Checklist 14–B Terms and Conditions Needed in Self-Guarantees

Use this checklist only if deviating from the wording recommended in Section A.14.13.

- Name and address of self-guarantor (licensee).
- Name and address of regulatory agency.
- The following four recitals are included:
 - 1. the authority of the self-guarantor to enter into the guarantee;
 - 2. a statement of the licensee’s regulatory obligations as reason for the self-guarantee;
 - 3. identification of the facility(ies) (name, address, and license number) for which the guarantee provides financial assurance and the amounts guaranteed for decommissioning activities; and
 - 4. identification of financial test used by self-guarantor to demonstrate financial strength.
- Description of the primary obligation (required activities).
- Unequivocal statement of guarantee to include the following:
 - 1. condition(s) of liability, and
 - 2. effect on liability of a change in the status of the licensee.
- Statement that self-guarantor remains bound despite amendment or modification of license, reduction or extension of time of performance of required activities, or any other modification or alteration of an obligation of the licensee.
- Notice requirements.
- Discharge of the self-guarantor (release of obligations).
- Termination and revocation to include the following:
 - 1. termination on occurrence of contingency,
 - 2. voluntary revocation by self-guarantor, and
 - 3. effective date of termination or revocation.
- Date.
- Signatures.
- Signature of witness or notary (signature block).

A.14.4 Model Chief Executive Officer (CEO) or Chief Financial Officer (CFO) Letter

[Address to U.S. Nuclear Regulatory Commission]

I am the [insert “chief executive officer” or “chief financial officer”] of [insert name and address of licensee], a [insert “proprietorship,” “partnership,” “corporation,” “nonprofit college,” “nonprofit university,” or “nonprofit hospital”]. This letter is in support of this firm’s use of the self-guarantee financial test to demonstrate financial assurance, as specified in 10 CFR Part [insert 30, 40, 70, or 72]. This firm has no parent company holding majority control of its voting stock.

[Complete the following paragraph regarding facilities and associated cost estimates or certified amounts. For each facility, include its license number, name, address, and current cost estimates or certified amounts for the specified activities.]

This firm guarantees, through the self-guarantee submitted to demonstrate compliance under 10 CFR Part [insert 30, 40, 70, or 72], the decommissioning of the following facilities owned or operated by this firm. The current cost estimates or certified amounts for decommissioning, so guaranteed, are shown for each facility:

<u>Name of Facility</u>	<u>License Number</u>	<u>Location of Facility</u>	<u>Certified Amounts or Current Cost Estimates</u>
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I hereby certify that [insert name of licensee] is currently a going concern, and that it possesses positive tangible net worth in the amount of [insert amount].

This fiscal year of this firm ends on [insert month and day]. The figures for the following items marked with an asterisk are derived from this firm’s independently audited, year-end financial statements and footnotes for the latest completed fiscal year, ended [insert date]. A copy of this firm’s most recent financial statements is enclosed.

This firm [insert “is required” or “is not required”] to file a Form 10-K with the U.S. Securities and Exchange Commission for the latest fiscal year. [If the licensee is a commercial company that issues bonds, insert the following: “This firm has at least one class of equity securities registered under the Securities Exchange Act of 1934.”]

APPENDIX A

This firm satisfies the following self-guarantee test:

[Insert completed demonstration of the applicable self-guarantee financial test.]

I hereby certify that the content of this letter is true and correct to the best of my knowledge.

[Signature]

[Name]

[Title]

[Date]

A.14.5 Model Self-Guarantee Financial Test for Commercial Companies that Issue Bonds (10 CFR Part 30, Appendix C)

1. Current decommissioning cost estimates or certified amounts
 - a. Decommissioning amounts covered by this self-guarantee \$_____
 - b. All decommissioning amounts covered by other NRC or Agreement State parent company guarantees or self-guarantees \$_____
 - c. All amounts covered by parent company guarantees, self-guarantees, or financial tests of other Federal or State agencies (e.g., EPA) \$_____
 - TOTAL \$_____
 2. Current bond rating of most recent unsecured issuance of this firm
 Rating _____
 Name of rating service _____
 3. Date of issuance of bond _____
 4. Date of maturity of bond _____
 - *5. Tangible net worth** (if any portion of estimates for decommissioning 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 United States (required only if less than 90 percent of firm’s assets are located in the United States) \$_____
- | | <u>Yes</u> | <u>No</u> |
|--|------------|-----------|
| 7. Is line 5 at least 10 times line 1? | ___ | ___ |
| 8. Are at least 90 percent of firm’s assets located in the United States? If not, complete line 9. | ___ | ___ |
| 9. Is line 6 at least 10 times line 1? | ___ | ___ |
| 10. Is the rating specified on line 2 “A” or better? | ___ | ___ |
| 11. Does the licensee have at least one class of equity securities registered under the Securities Exchange Act of 1934? | ___ | ___ |

Notes:

* Denotes figures derived from financial statements.

** Tangible net worth is defined as net worth minus goodwill, patents, trademarks, and copyrights.

A.14.7 Model Self-Guarantee Financial Test for Nonprofit Colleges and Universities that Issue Bonds (10 CFR Part 30, Appendix E)

1. Current bond rating of most recent uninsured, uncollateralized, and unencumbered issuance of this institution

Rating _____

Name of rating service _____

2. Date of issuance of bond _____

3. Date of maturity of bond _____

Yes No

4. Is the rating specified on line 1 "A" or better? _____ _____