



UNITED STATES NUCLEAR REGULATORY COMMISSION

Date: XXXXX, 2022

**SUBJECT: DRAFT INTERIM STAFF GUIDANCE ON REMOVAL OF BOND RATINGS
FROM PARENT AND SELF-GUARANTEES, DECOMMISSIONING FINANCIAL
ASSURANCE**

Background

Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("The Dodd-Frank Act" or "Act") to "promote the financial stability of the United States by improving accountability and transparency in the financial system." Having found ratings on financial products to be "inaccurate" and that "[t]his inaccuracy contributed significantly to the mismanagement of risks . . . , which in turn adversely impacted the health of the economy," Congress directed the following actions.¹ Section 939A of the Act requires each federal agency to "review any regulation issued by such agency that requires the use of an assessment of the [creditworthiness] of a security or money market instrument and any references to or requirements in such regulations regarding credit ratings."² That section further provides that each such agency shall "modify any such regulations identified by the review . . . to remove any reference to or requirement of reliance on credit ratings and to substitute in such regulations such standard of [creditworthiness] as each respective agency shall determine as appropriate for such regulations."³

As directed by section 939A of the Dodd-Frank Act, the U.S. Nuclear Regulatory Commission (NRC) staff has reviewed its regulations for any references to or requirements regarding credit ratings, also known as bond ratings. Staff identified regulations that require modification to remove references to or requirements associated with credit ratings. Appendices A, C, and E of Part 30 of Title 10 of the *Code of Federal Regulations* (10 CFR) require specified bond ratings from Moody's or Standard and Poor's (nationally recognized statistical ratings organization (NRSROs)). In accordance with the Dodd-Frank Act, the NRC staff is amending appendices to remove the bond rating requirements and will rely instead on a new criterion: creditworthiness that demonstrates an adequate capacity to provide full and timely payment of

¹ Public Law 111-203, Sec. 931(5).

² Public Law 111-203, Sec. 939A(a)(1)-(2).

³ Public Law 111-203, Sec. 939A(b).

the amount guaranteed. The proposed rule is described in “Proposed Rule: Alternatives to the Use of Credit Ratings” (Agencywide Documents Access and Management System (ADAMS) Package Accession No. ML21306A348). Other regulations which cite or reference these appendices would also be impacted by the proposed rule, including 10 CFR 30.35(f)(2), 10 CFR 40.36(e)(2), 10 CFR 50.75(e)(1)(iii)(c), 10 CFR 70.25(f)(2), and 10 CFR 72.30(e)(2).

The proposed rule removes regulations that require specified NRSRO bond ratings and relies instead on a new criterion: creditworthiness that demonstrates an adequate capacity to provide full and timely payment of the amount guaranteed. Based on information provided to the NRC by an applicant or licensee to demonstrate its capacity to provide full and timely payment of the amount guaranteed by means of a parent company or self-guarantee, the NRC staff would make a creditworthiness determination to assess use of the guarantee mechanism. NRC staff notes that alternative financial tests exist within the appendices (A, C, D, and E of 10 CFR Part 30) that do not rely on the new creditworthiness criteria but instead rely on financial metric and financial ratio test criteria, which the applicant or licensee must meet in order to use these guarantee mechanisms. Applicants and licensees must demonstrate reasonable assurance that funds will be available when needed for decommissioning in order to obtain and maintain a reactor license and certain materials licenses.⁴ Such a demonstration may be made by prepayment of funds, payment of funds into an external sinking fund, a surety method, insurance, or other guarantee method, including a letter of credit or parent or self-company guarantee.⁵ The proposed rulemaking concerns only NRC regulations on parent and self-company guarantees and does not impact existing alternatives outside of the appendices (i.e., prepayment, external sinking fund, surety bond, letter of credit, etc.) available to meet the decommissioning financial assurance requirements. The parent and self-company guarantees are the only financial assurance mechanisms that had relied, in part, on NRSRO bond ratings.

For each entity (a company, parent company, non-profit college, university, or hospital) from whom the NRC accepts a guarantee to provide decommissioning funding assurance, two financial tests exist in 10 CFR Part 30 Appendices A, C, D, and E—one for entities with credit ratings and one for those without credit ratings.

The proposed rulemaking removes from NRC regulations those financial tests that rely in part on credit ratings, and in place of those financial tests, provides a new criterion: creditworthiness that demonstrates an adequate capacity to provide full and timely payment of the amount guaranteed. The proposed rulemaking does not remove current alternative financial tests that do not rely on credit ratings. The proposed rule:

- (1) removes from paragraph II.A.2 of Appendix A to 10 CFR Part 30, bond rating requirements and replaces those requirements with a new criterion;
- (2) removes from paragraph II.A.3 of Appendix C to 10 CFR Part 30, bond rating requirements and replaces those requirements with a new criterion;
- (3) removes “That Have no Outstanding Rated Bonds” from the title of Appendix D to 10 CFR Part 30;

⁴ Section 182.a. of the Atomic Energy Act of 1954, as amended (AEA), provides that “Each application for a license . . . shall specifically state such information as the Commission, by rule or regulation, may determine to be necessary to decide such of the technical and financial qualifications of the applicant . . . as the Commission may deem appropriate for the license.”

⁵ 10 CFR 30.35(f), 40.36(e), 50.75(e), 70.25(f), and 72.30(e).

- (4) removes from paragraphs II.A.1 and II.B.1 of Appendix E to 10 CFR Part 30, bond rating requirements and replaces those requirements with current fixed metric regulation language presented in II.A.2 and II.B.2 of Appendix E to 10 CFR Part 30, respectively, and replaces language presented in II.A.2 and II.B.2 of Appendix E to 10 CFR Part 30 with a new criterion; and
- (5) revises the reporting requirement in paragraphs III.E.(1) of Appendix C and III.E.(1) of Appendix E, from 20 to 90 days, that at any time, the licensee becomes aware of information that is material to its capacity to provide full and timely payment of the amount guaranteed, the licensee will notify the Commission in writing.

Purpose and Scope

The NRC's radioactive materials and reactor licensing regulations, 10 CFR Parts 30, 40, 50, 70, and 72, allow licensees that meet certain requirements to provide a parent or self-guarantee as decommissioning financial assurance. The purpose of this draft interim staff guidance (ISG) is to provide NRC staff with guidance to implement NRC proposed rule changes to remove bond ratings from its regulations as a result of the Dodd-Frank Act.

The NRC staff primarily utilizes NUREG-1757, Volume 3, Revision 1, "Consolidated Decommissioning Guidance: Financial Assurance, Recordkeeping, and Timeliness" (ADAMS Accession No. ML12048A683), as guidance to evaluate parent and self-guarantees submitted by 10 CFR Part 30, 40, 70, and 72 licensees for materials licensees. Similarly, Regulatory Guide 1.159, "Assuring the Availability of Funds for Decommissioning Nuclear Reactors," is used to evaluate parent and self-guarantees submitted by 10 CFR Part 50, reactor licensees. This draft ISG updates and supersedes all guidance for licensees with respect to the financial tests, reporting information, and model guarantee agreements required to utilize a parent or self-guarantee for decommissioning financial assurance, including:

- NUREG-1757, Volume 3, Revision 1, "Consolidated Decommissioning Guidance: Financial Assurance, Recordkeeping, and Timeliness," February 2012 (ADAMS Accession No. ML12048A683). This ISG supersedes portions of this NUREG, revising parent company and self-guarantee tests and test worksheets, Model auditor reports, and Model parent company and self-guarantee agreements, in Appendix A of the NUREG as follows:
 - Financial tests in "A.8.1 Qualifications of the Parent Company Guarantor,"
 - Financial tests in "A.8.7 Model Parent Company Guarantee Financial Test II,"
 - Report information in "A.8.8 Model Auditor's Special Report,"
 - Guarantee agreement in "A.8.10 Model Parent Company Guarantee Agreement,"
 - Financial tests in "A.9.1.1 Financial Test for Commercial Companies that Issue Bonds,"
 - Title change to "A.9.1.2 Financial Test for Commercial Companies that Do Not Issue Bonds,"
 - Replacement of "A.9.1.3 Financial Test for Nonprofit Colleges and Universities that Issue Bonds,"
 - Title change to "A.9.1.4 Financial Test for Nonprofit Colleges and Universities that Do Not Issue Bonds,"
 - Replacement of "A.9.1.5 Financial Test for Nonprofit Hospitals that Issue Bonds,"
 - Financial tests in and title change to "A.9.5 Model Self-Guarantee Financial Test for Commercial Companies that Issue Bonds (10 CFR Part 30, Appendix C),"

- Elimination of “A.9.6 Model Self-Guarantee Financial Test for Nonprofit Colleges and Universities that Issue Bonds (10 CFR Part 30, Appendix E);
 - Title change to “A.9.7 Model Self-Guarantee Financial Test For Nonprofit Colleges and Universities that Do Not Issue Bonds (10 CFR Part 30, Appendix E);”
 - Elimination of “A.9.8 Model Self-Guarantee Financial Test for Nonprofit Hospitals that Issue Bonds (10 CFR Part 30, Appendix E);”
 - Title change to “A.9.9 Model Self-Guarantee Financial Test for Nonprofit Hospitals that Do Not Issue Bonds (10 CFR Part 30, Appendix E);”
 - Report information in “A.9.10 Model Auditor’s Special Report,” and
 - Guarantee agreement in “A.9.12 Model Self-Guarantee Agreement.”
- Regulatory Guide 1.159, Revision 2, “Assuring the Availability of Funds for Decommissioning Nuclear Reactors,” October 2011 (ADAMS Accession No. ML112160012). This ISG supersedes portions of this Regulatory Guide as follows:
 - Appendix A-6.2, “Financial Test Alternative 1;”
 - Appendix A-6.3, “Financial Test Alternative 2;” and
 - Appendix A-6.5, “Example of Parent Company Guarantee,” per “Model Parent Company Guarantee Agreement” provided in the ISG.
 - “Technical Position on Financial Assurances for Reclamation, Decommissioning, and Long-Term Surveillance and Control of Uranium Recovery Facilities,” October 1988 (ADAMS Accession No. ML20066H906). This ISG supersedes portions of this Technical Position as follows:
 - All references to Alternative I and Alternative II financial tests found in Section 3.0, “Financial Assurance Options” for use of parent company guarantees;
 - Section 3.3, “Parent Company Guarantees;” and
 - Appendix C, “Recommended Wording” for a parent company guarantee, including citation of Alternative tests for use of this mechanism.

Paperwork Reduction Act

This ISG document provides mandatory guidance for implementing the mandatory information collections in 10 CFR Parts 30, 40, 50, 70, and 72 that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et. seq.). These information collections were approved by the Office of Management and Budget (OMB), approval numbers 3150-0017, 3150-0020, 3150-0011, 3150-0009, and 3150-0132, respectively. Send comments regarding this information collection to the FOIA, Library, and Information Collections Branch, (T6-A10M), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by email to Infocollects.Resource@nrc.gov, and to the OMB reviewer at: OMB Office of Information and Regulatory Affairs (3150-0017, 3150-0020, 3150-0011, 3150-0009, 3150-0132), Attn: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street, NW Washington, DC 20503; email: oira_submission@omb.eop.gov.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

Discussion

Providing Creditworthiness Information for Use of Guarantee Mechanisms for Decommissioning Financial Assurance

Previous rule language in Appendices A, C, and E citing "... a current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance....," followed by specific bond ratings, is being replaced with "[c]reditworthiness that demonstrates an adequate capacity to provide full and timely payment of the amount guaranteed, if necessary." Accordingly, specific bond rating metrics provided by NRSROs and relied on in previous rule language are being replaced with a demonstration of a creditworthiness requirement.

Note that in each case, for use of the parent company guarantee and for use of the self-guarantee for companies, non-profit universities, colleges, and hospitals, the regulations provide alternative, fixed financial metric tests to qualify for use of these guarantee mechanisms. These fixed financial metric tests, in and of themselves, provide the criteria necessary to qualify an applicant and licensee for use of such guarantee mechanisms. As such, use of the fixed financial metric tests precludes the licensee from having to provide information to support a determination that it (or the parent) has "[c]reditworthiness that demonstrates an adequate capacity to provide full and timely payment of the amount guaranteed, if necessary."

Under the new regulation, applicants or licensees seeking approval using creditworthiness criteria presented in revised Appendices A, C, and E, will provide for review and analysis by the NRC, financial information the licensee considers material for making a creditworthiness determination. While providing some degree of flexibility regarding the information that individual licensees could make available to the NRC, the NRC will perform an independent determination of creditworthiness based upon review of financial and other information submitted by the licensee, as well as financial and other data available from open-source and other publicly available information. The NRC will assess the licensee's risk of default, or the parent company's risk of default in the case of a parent company guarantee, and conclude whether such guarantee mechanism provides reasonable assurance that adequate funds will be available for decommissioning, and hence, whether the guarantee mechanism would be an acceptable form of surety.

The applicant or licensee should realistically evaluate financial information pertaining to its (or the parent company's) condition, and present that information in support of its request to qualify for use of the guarantee mechanism. The licensee will need to (1) provide the financial data that supports its assertion that it meets the creditworthiness criteria, and (2) present its analysis and descriptive narrative explaining why the financial data is determinant of creditworthiness as stated in the regulation. Such information, derived from income statement, balance sheet, and cash flow statements, as well as from various potential other sources, should allow the NRC to independently determine the licensee's (or parent company's) creditworthiness for purposes of qualifying for use of these guarantee mechanisms.

No single piece of financial data stands alone as a determinant of a licensee's creditworthiness. In most cases, such a determination requires analyses of multiple pieces of financial data. Multiple prior-year data points may reflect useful, historic trends, and in some cases, financial ratios using various financial data may provide strong support to a determination of creditworthiness. Presented below are examples of financial metric data that, in combination with various other financial metrics, many of which are also presented below, could be compiled

and evaluated by the licensee and provided in support of its assertion that it meets creditworthiness requirements as intended by this rule.

**Examples of Data to be Considered by Applicants and Licensees for
Creditworthiness Determination for Use of Guarantee Mechanisms in
Appendices A, C, and E to 10 CFR Part 30**

- Total annual revenue, including prior three- to five-year data for this metric, and any other period that may reflect any material financial trends;
- Total annual net income, including prior three- to five-year data for this metric and any other period that may reflect any material financial trends;
- Capital structure: total (tangible) assets of the company, and total debt and total equity portions as a percentage of total (tangible) assets, including prior three- to five-year data for these metrics, and any other period that may reflect any material financial trends;
- Total annual free cash flow, including prior three- to five-year data for this metric, and any other period that may reflect any material financial trends;
- Annual interest expense, including prior three- to five-year data for this metric, and any other period that may reflect any material financial trends;
- Annual interest coverage, defined as the company's income before interest expenses and income taxes, divided by that year's interest expense, including prior three- to five-year data for this metric, and any other period that may reflect any material financial trends;
- Timely statements, evaluations, analyses, bond ratings, and other such information, such as those provided by NRSROs, investment research organizations, and state and federal government organizations that can be used to support a creditworthiness determination for use of guarantee mechanisms. Such information could include "indicative" bond rating information from an NRSRO; such ratings are available for a fee, are for information only, and are provided as an indication of what a bond rating would be if the firm were to issue debt.

In some cases, pro forma, projection, and other forecast models, conclusions, presumptions, and assumptions pertaining to potential future financial outcomes may be of value in supporting the creditworthiness determination required for this rule. In addition, unique, "one-time," and infrequent financial charges and credits, or other "one-time" special circumstances affecting revenue, income, debt, or other data should be described if being used to support the creditworthiness determination.

As the proposed rulemaking, if finalized, will remove from NRC regulations those financial tests that rely in part on credit ratings, retain those financial tests that do not rely on credit ratings, and include new creditworthiness criteria where appropriate, the guidance follows this framework. The sections in NUREG-1757 that contain financial tests, reporting information, and model guarantee agreements that include bond ratings are no longer valid. Accordingly, sections in NUREG-1757 as reflected above, under "Purpose and Scope," should no longer be used. In their place, the following financial tests, reporting information, and model guarantee agreements required to utilize a parent or self-guarantee for decommissioning financial assurance as reflected in NUREG-1757, have been modified to address this proposed rulemaking and should be used instead.

Financial Test for Parent Company Guarantee by a Commercial Company (10 CFR Part 30, Appendix A) (This retains the Financial Test I section of A.8.1 of NUREG-1757 and revises Financial Test II of this section, no longer referring to bond ratings but referring instead to creditworthiness criteria.)

To qualify to provide the guarantee, the parent company must meet one of the two financial tests specified in Appendix A to 10 CFR Part 30. These two financial tests, shown below, differ in that one requires the applicant or licensee to meet specific fixed financial metrics, while the other requires the applicant or licensee to provide information to the NRC (creditworthiness criteria) that will allow the NRC staff to make a creditworthiness determination, along with additional fixed financial metrics.

Financial Test I

The parent company must have:

- (i) 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
- (ii) Net working capital and tangible net worth each at least six times the amount of decommissioning funds being assured by a parent company guarantee for the total of all nuclear facilities or parts thereof (or prescribed amount if a certification is used); and
- (iii) Tangible net worth of at least \$21 million; and
- (iv) 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.

Financial Test II

The parent company must have:

- (i) Creditworthiness that demonstrates an adequate capacity to provide full and timely payment of the amount guaranteed, if necessary; and
- (ii) Total net worth at least six times the amount of decommissioning funds being assured by a parent company guarantee for the total of all nuclear facilities or parts thereof (or prescribed amount, if certification is used); and
- (iii) Tangible net worth of at least \$21 million; and

- (iv) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the current decommissioning cost estimates (or prescribed amount, if applicable).
- A. For purposes of applying the Appendix A criteria, tangible net worth must be calculated to exclude all intangible assets and the net book value of the nuclear facility and site. Total net worth, which may include intangible assets, must be calculated to exclude the net book value and goodwill of the nuclear facility and site.
- B. The parent company's independent certified public accountant must compare 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. The accountant must evaluate the parent company's off-balance sheet transactions and provide an opinion on whether those transactions could materially adversely affect the parent company's ability to pay for decommissioning costs. The accountant must verify that the information provided to demonstrate passage of the financial test meets the requirements of paragraph A of this section. In connection with the auditing procedure, the licensee must inform the NRC within 90 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 annually pass the test and provide documentation of its continued eligibility to use the parent company guarantee to the Commission within 90 days after the close of each succeeding fiscal year.
 - 2. If the parent company no longer meets the requirements of Section A of this section, the licensee must send notice to the Commission of the intent to establish alternate financial assurance, as specified in the Commission's regulations. 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.

Financial Test for Self-Guarantee by a Commercial Company (10 CFR Part 30, Appendix C) (This revises and retains Section A.9.1.1 of NUREG-1757 for commercial companies by deleting the phrase "That Issue Bonds" from the title, removing the bond rating criteria in (iii), and replacing (iii) bond rating criteria instead with creditworthiness criteria.)

- A. To pass the financial test, a company must meet all of the criteria set forth in this section. For purposes of applying the Appendix C criteria, tangible net worth must be calculated to exclude all intangible assets and the net book value of the nuclear facility and site, and total net worth, which may include intangible assets, must be calculated to exclude the net book value and goodwill of the nuclear facility and site. These criteria include:
 - 1. Tangible net worth of at least \$21 million, and total net worth at least 10 times the amount of decommissioning funds being assured by a self-guarantee for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor for the total of all nuclear facilities or parts thereof (or the current amount required if certification is used).

2. Assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the amount of decommissioning funds being assured by a self-guarantee, for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor for the total of all nuclear facilities or parts thereof (or the current amount required if certification is used).
 3. Creditworthiness that demonstrates an adequate capacity to provide full and timely payment of the amount guaranteed, if necessary.
- B. To pass the financial test, a company must meet all of the following additional requirements:
1. The company must have at least one class of equity securities registered under the Securities Exchange Act of 1934.
 2. The company's independent certified public accountant must compare the data used by the 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. The accountant must evaluate the company's off-balance sheet transactions and provide an opinion on whether those transactions could materially adversely affect the company's ability to pay for decommissioning costs. The accountant must verify that the information provided to demonstrate passage of the financial test meets the requirements of paragraph A of this section. In connection with the auditing procedure, the licensee must inform the NRC within 90 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.
 3. After the initial financial test, the company must annually pass the test and provide documentation of its continued eligibility to use the self-guarantee to the Commission within 90 days after the close of each succeeding fiscal year.
- C. If the licensee no longer meets the requirements of Section II.A of this appendix, the licensee must send immediate notice to the Commission of its intent to establish alternate financial assurance, as specified in the Commission's regulations, within 120 days of such notice.

Alternative Financial Test for Self-Guarantee by a Commercial Company (10 CFR Part 30, Appendix D) (This revises and retains Section A.9.1.2 of NUREG-1757 by adding the word "Alternative" to the beginning of the title and deleting "that Do Not Issue Bonds" from the end of the title.)

- A. To pass the financial test, a company must meet all of the criteria set forth in this section. For purposes of applying the Appendix D criteria, tangible net worth must be calculated to exclude all intangible assets and the net book value of the nuclear facility and site, and total net worth, which may include intangible assets, must be calculated to exclude the net book value and goodwill of the nuclear facility and site. These criteria include:
1. Tangible net worth of at least \$21 million, and total net worth of at least 10 times the amount of decommissioning funds being assured by a self-guarantee for all decommissioning activities for which the company is responsible as self-guaranteeing

licensee and as parent-guarantor for the total of all nuclear facilities or parts thereof (or the current amount required if certification is used).

2. Assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the total current decommissioning cost estimate (or the current amount required if certification is used) for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor.
3. A ratio of cash flow divided by total liabilities greater than 0.15 and a ratio of total liabilities divided by total net worth less than 1.5.

B. In addition, to pass the financial test, a company must meet all of the following requirements:

1. The company's independent certified public accountant must compare the data used by the 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. The accountant must evaluate the company's off-balance sheet transactions and provide an opinion on whether those transactions could materially adversely affect the company's ability to pay for decommissioning costs. In connection with the auditing procedure, the licensee must inform the NRC within 90 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.
2. After the initial financial test, the company must annually pass the test and provide documentation of its continued eligibility to use the self-guarantee to the Commission within 90 days after the close of each succeeding fiscal year.
3. If the licensee no longer meets the requirements of paragraph II.A of this appendix, the licensee must send notice to the NRC of intent to establish alternative financial assurance as specified in NRC regulations. The notice must be sent by certified mail, return receipt requested, within 90 days after the end of the fiscal year for which the year-end financial data show that the licensee no longer meets the financial test requirements. The licensee must provide alternative financial assurance within 120 days after the end of such fiscal year.

Financial Test for Nonprofit Colleges, Universities, and Hospitals (10 CFR Part 30, Appendix E) (This revises both Sections A.9.1.3 and A.9.1.4 of NUREG-1757. Whereby the previous distinction between two financial test criteria was based on whether the licensee issued bonds, the revised regulation provides two alternative criteria available to licensees.)

For colleges and universities, to pass the financial test, a college or university must meet one of the two following criteria:

- A. 1. An unrestricted endowment consisting of assets located in the United States of at least \$50 million, or at least 30 times the total current decommissioning cost estimate (or the current amount required if certification is used), whichever is greater, for all decommissioning activities for which the college or university is responsible as a self-guaranteeing licensee;

OR

2. Creditworthiness that demonstrates an adequate capacity to provide full and timely payment of the amount guaranteed, if necessary.

In addition, to pass the financial test, nonprofit colleges and universities must meet all the following requirements:

1. The licensee's independent certified public accountant must compare the data used by the licensee 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. The accountant must evaluate the licensee's off-balance sheet transactions and provide an opinion on whether those transactions could materially adversely affect the licensee's ability to pay for decommissioning costs. The accountant must verify that the information provided to demonstrate passage of the financial test meets the requirements of Section II of this appendix. In connection with the auditing procedure, the licensee must inform the NRC within 90 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 licensee no longer passes the test.
2. After the initial financial test, the licensee must repeat passage of the test and provide documentation of its continued eligibility to use the self-guarantee to the Commission within 90 days after the close of each succeeding fiscal year.
3. If the licensee no longer meets the requirements of Section I of this appendix, the licensee must send notice to the NRC of its intent to establish alternative financial assurance as specified in NRC regulations. The notice must be sent by certified mail, return receipt requested, within 90 days after the end of the fiscal year for which the year-end financial data show that the licensee no longer meets the financial test requirements. The licensee must provide alternate financial assurance within 120 days after the end of such fiscal year.

For nonprofit hospitals, to pass the financial test, a hospital must:

A. Meet the following criteria:

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

- B. In addition, to pass the financial test, nonprofit hospitals must meet all the following requirements:
1. The licensee's independent certified public accountant must compare the data used by the licensee 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. The accountant must evaluate the licensee's off-balance sheet transactions and provide an opinion on whether those transactions could materially adversely affect the licensee's ability to pay for decommissioning costs. The accountant must verify that the information provided to demonstrate passage of the financial test meets the requirements of Section II of this appendix. In connection with the auditing procedure, the licensee must inform the NRC within 90 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 licensee no longer passes the test.
 2. After the initial financial test, the licensee must repeat passage of the test and provide documentation of its continued eligibility to use the self-guarantee to the Commission within 90 days after the close of each succeeding fiscal year.
 3. If the licensee no longer meets the requirements of Section I of this appendix, the licensee must send notice to the NRC of its intent to establish alternative financial assurance as specified in NRC regulations. The notice must be sent by certified mail, return receipt requested, within 90 days after the end of the fiscal year for which the year-end financial data show that the licensee no longer meets the financial test requirements. The licensee must provide alternate financial assurance within 120 days after the end of such fiscal year.

Parent Company Guarantee Financial Test I Worksheet (For licensees/applicants choosing to pursue this guarantee mechanism using the fixed financial metrics criteria, this reflects A.8.6 of NUREG-1757, as A.8.6 relies solely on meeting fixed financial metrics requirements.)

1. Current decommissioning cost estimates or certified amounts		
a. Decommissioning amounts covered by this parent company guarantee		\$_____
b. All decommissioning amounts covered by other NRC or Agreement State parent company guarantees or self-guarantee		\$_____
c. All amounts covered by parent company guarantees, self-guarantees, or financial tests of other Federal or State agencies (e.g., EPA)		\$_____
TOTAL		\$_____
*2. Total liabilities (if any portion of the cost estimates for decommissioning is included in total liabilities on your firm's financial statements, 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. Total 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 United States		\$_____
	<u>Yes</u>	<u>No</u>
10. Is line 3 at least \$21 million?	_____	_____
11. Is line 3 at least 6 times line 1?	_____	_____
12. Is line 7 at least 6 times line 1?	_____	_____
13. Are at least 90 percent of firm's assets located in the United States? If not, complete line 14.	_____	_____
14. Is line 9 at least 6 times line 1?	_____	_____

Guarantor must meet two of the following three ratios:

15. Is line 2 divided by line 4 less than 2.0? _____

16. Is line 8 divided by line 2 greater than 0.1? _____

17. Is line 5 divided by line 6 greater than 1.5? _____

Notes:

* Denotes figures derived from financial statements.

** Tangible net worth is defined as net worth minus all intangible assets and excluding the net book value of the nuclear facility and site.

*** Excluding the net book value and goodwill of the nuclear facility and site.

Parent Company Guarantee Financial Test II Worksheet (For licensees/applicants choosing to pursue this guarantee mechanism using creditworthiness criteria, this reflects A.8.7 of NUREG-1757 and relies on the licensee/applicant providing creditworthiness criteria, in addition to meeting fixed financial metrics requirements.)

1. Current decommissioning cost estimates or certified amounts

a. Decommissioning amounts covered by this parent company guarantee \$_____

b. All decommissioning amounts covered by other NRC or Agreement State parent company guarantees or self-guarantee \$_____

c. All amounts covered by parent company guarantees, self-guarantees, or financial tests of other Federal or State agencies (e.g., EPA) \$_____

TOTAL \$_____

2. Creditworthiness criteria provided to NRC Yes _____ No _____

*3. 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) \$_____

*4. Total net worth*** \$_____

*5. Total assets in the United States \$_____

Yes No

6. Is line 3 at least \$21 million? _____

7. Is line 4 at least 6 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 5 at least 6 times line 1? _____

Notes:

- * Denotes figures derived from financial statements.
- ** Tangible net worth is defined as net worth minus all intangible assets and excluding the net book value of the nuclear facility and site.
- *** Excluding the net book value and goodwill of the nuclear facility and site.

Model Auditor's Special Report for Parent Company Guarantee (Replaces A.8.8 of NUREG-1757 as A.8.8 relies on bond ratings. May also be used for Part 50 licensees.)

CONFIRMATION OF CHIEF FINANCIAL OFFICER'S LETTER

We have examined the financial statements of *[insert name of parent guarantor]* for the year ended *[insert date]*, and have issued our report thereon dated *[insert date]*. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary.

[Insert name of parent guarantor] has prepared documents to demonstrate its financial responsibility under NRC's financial assurance regulations, 10 CFR Part *[insert 30, 40, 50, 70, or 72]*. This letter is furnished to assist the licensee *[insert name and NRC license number]* in complying with these regulations and should not be used for other purposes.

The attached schedule reconciles the specified information furnished in the chief financial officer's (CFO's) letter in response to the regulations with the company's financial statements. In connection therewith, we have

1. Confirmed that the amounts in the column "Per Financial Statements" agree with amounts contained in the company's financial statements for the year ended *[insert date]*;
2. Confirmed that the amounts in the column "Per CFO's Letter" agree with the letter prepared in response to NRC's request;
3. Confirmed that the amounts, if any, in the column "Reconciling Items" are adequately explained in the attached schedule, that each reconciling item represents an appropriate adjustment to the financial data, and that the amount of each reconciling item is accurate; and
4. Recomputed the totals and percentages.

Because the procedures in 1–4 above do not constitute a full examination made in accordance with generally accepted auditing standards, we do not express an opinion on the manner in which the amounts were derived in the items referred to above. In connection with the procedures referred to above, no matters came to our attention that cause us to believe that the chief financial officer's letter and supporting information should be adjusted.

We have evaluated the off-balance sheet transactions *[insert name of parent guarantor]* and it is our opinion that these transactions *[insert "could" or "could not"]* materially adversely affect the ability of *[insert name of parent guarantor]* to pay decommissioning costs.

Signature

Date

Model Parent Company Guarantee Agreement (Replaces A.8.10 of NUREG-1757, as A.8.10 relies on bond ratings. May also be used for Part 50 licensees.)

PARENT COMPANY GUARANTEE

Guarantee made this *[insert date]* by *[insert name of guaranteeing entity]*, a *[insert "proprietorship," "partnership," "corporation," or "LLC"]* organized under the laws of the State of *[insert name of State]*, herein referred to as "guarantor," to the U.S. Nuclear Regulatory Commission (NRC), beneficiary, on behalf of our subsidiary *[insert name of licensee]*, of *[insert business address]*.

Recitals

1. The guarantor has full authority and capacity to enter into this guarantee *[if the guarantor is a corporation, insert the following: "under its bylaws, articles of incorporation, and the laws of the State of [insert guarantor's State of incorporation], its State of incorporation."]* *[If the guarantor has a Board of Directors, insert the following: "Guarantor has approval from its Board of Directors to enter into this guarantee."]*
2. This guarantee is being issued so that *[insert name of the licensee]* will be in compliance with regulations issued by NRC, an agency of the U.S. Government, pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974. NRC has promulgated regulations in Title 10, Chapter I of the *Code of Federal Regulations*, Part *[insert 30, 40, 50, 70, or 72]* which require that a holder of, or an applicant for, a license issued pursuant to 10 CFR Part *[insert 30, 40, 50, 70, or 72]* provide assurance that funds will be available when needed for required decommissioning activities.
3. The guarantee is issued to provide financial assurance for decommissioning activities for *[identify name and address of licensed facility(ies) and corresponding NRC license number(s)]* as required by 10 CFR Part *[insert 30, 40, 50, 70, or 72]*. The decommissioning costs for these activities are as follows: *[insert amount of decommissioning costs guaranteed for each identified facility]*.
4. The guarantor meets or exceeds the following financial test criteria *[insert statement indicating which financial test is being used]* and agrees to comply with all notification requirements as specified in 10 CFR Part *[insert 30, 40, 50, 70, or 72]* and Appendix A to 10 CFR Part 30.

The guarantor meets either the financial test criteria (a) below, or the new creditworthiness criteria (b) below:

- (a)(i) 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
- (a)(ii) Net working capital and tangible net worth each at least six times the costs covered by financial tests; and
- (a)(iii) Tangible net worth of at least \$21 million; and
- (a)(iv) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the costs covered by financial tests.

OR

- (b)(i) Creditworthiness that demonstrates an adequate capacity to provide full and timely payment of the amount guaranteed, if necessary; and
 - (b)(ii) Total net worth at least six times the amount of decommissioning funds being assured by a parent company guarantee for the total of all nuclear facilities or parts thereof (or prescribed amount if a certification is used); and
 - (b)(iii) Tangible net worth of at least \$21 million; and
 - (b)(iv) 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.
5. The guarantor has majority control of the voting stock for the following licensees covered by this guarantee: *[List for each licensee: name, address, the facilities owned or operated by each licensee, and the corresponding license numbers.]*
 6. Decommissioning activities as used below refer to the activities required by 10 CFR Part *[insert 30, 40, 50, 70, or 72]* for decommissioning of the facilities identified above.
 7. For value received from *[insert name of licensee]*, and pursuant to the guarantor's authority to enter into this guarantee, the guarantor guarantees to NRC that, if the licensee fails to perform the required decommissioning activities, as required by License No. *[insert license number]*, the guarantor shall pay into the standby trust fund the amount of the current cost estimates for these activities.
 8. The guarantor agrees to submit revised financial statements, financial test data, and an auditor's special report and reconciling schedule annually within 90 days of the close of the parent guarantor's fiscal year.
 9. The guarantor and the licensee agree that, if at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, the guarantor and the licensee shall send within 90 days of the end of the fiscal year, by certified mail, notice to the NRC. If the licensee fails to provide alternative financial assurance as specified in 10 CFR Part *[insert 30, 40, 50, 70, or 72]*, and obtain written approval of such assurance from the NRC within 120 days after the end of the fiscal year, the guarantor shall establish such financial assurance in the name of *[insert name of licensee]* or make full payment under the guarantee to the standby trust.
 10. Independent of any notification under paragraph 9 above, if the NRC determines for any reason that the guarantor no longer meets the financial test criteria or that it is disallowed from continuing as a guarantor for the facility under License No. *[insert license number]*, the guarantor agrees that within 30 days after being notified by the NRC of such determination, an alternative financial assurance mechanism, as specified in 10 CFR Part 30, 40, 50, 70, or 72, as applicable, shall be established by the guarantor in the name of *[insert name of licensee]* unless *[insert name of licensee]* has done so.
 11. The guarantor also agrees to notify the NRC promptly if the ownership of the licensee or the parent firm is transferred and to maintain this guarantee until the new parent firm or the licensee provides alternative financial assurance acceptable to the NRC.

12. The guarantor agrees that if it determines, at any time other than as described in Recital 9, that it no longer meets the financial test criteria or it is disallowed from continuing as a guarantor, it shall establish alternative financial assurance as specified in 10 CFR Part 30, 40, 50, 70, or 72, as applicable, within 30 days, in the name of *[insert name of licensee]* unless *[insert name of licensee]* has done so.
13. The guarantor, as well as its successors and assigns, agree to remain bound jointly and severally under this guarantee notwithstanding any or all of the following: amendment or modification of license or NRC-approved decommissioning funding plan for that facility, the extension or reduction of the time of performance of required activities, or any other modification or alteration of an obligation of the licensee pursuant to 10 CFR Part *[insert 30, 40, 50, 70, or 72]*.
14. The guarantor agrees that all bound parties shall be jointly and severally liable for all litigation costs incurred by the NRC in any successful effort to enforce the agreement against the guarantor.
15. The guarantor agrees to remain bound under this guarantee for as long as *[insert name of licensee]* must comply with the applicable financial assurance requirements of 10 CFR Part *[insert 30, 40, 50, 70, or 72]*, for the previously listed facilities, except that the guarantor may cancel this guarantee by sending notice by certified mail to the NRC and to *[insert name of licensee]*, such cancellation to become effective no earlier than 120 days after receipt of such notice by both the NRC and *[insert name of licensee]* as evidenced by the return receipts.
16. The guarantor agrees that if *[insert name of licensee]* fails to provide alternative financial assurance as specified in 10 CFR Part *[insert 30, 40, 50, 70, or 72]*, as applicable, and obtain written approval of such assurance from the NRC within 90 days after a notice of cancellation by the guarantor is received by both the NRC and *[insert name of licensee]* from the guarantor, the guarantor shall provide such alternative financial assurance in the name of *[insert name of licensee]* or make full payment under the guarantee.
17. The guarantor agrees that it is subject to Commission orders to make payments under the guarantee agreement.
18. The guarantor agrees that if the guarantor admits in writing its inability to pay its debts generally, or makes a general assignment for the benefit of creditors, or any proceeding is instituted by or against the guarantor seeking to adjudicate it as bankrupt or insolvent, or seeking dissolution, liquidation, winding-up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any law relating to bankruptcy, insolvency, or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian, or other similar official for the guarantor or for any substantial part of its property, or the guarantor takes any action to authorize or effect any of the actions stated in this paragraph, then the Commission may:
 - (a) Declare that the financial assurance guaranteed by the parent company guarantees agreement is immediately due and payable to the standby trust set up to protect the public health and safety and the environment, without diligence, presentment, demand, protect or any other notice of any kind, all of which are expressly waived by guarantor; and
 - (b) Exercise any and all of its other rights under applicable law.
19. The guarantor agrees to notify the NRC, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11

(Bankruptcy) of the United States Code (U.S.C.) or the occurrence of any other event listed in Recital 17 of this guarantee and by or against the guarantor; the licensee; an entity (as that term is defined in 11 U.S.C. 101(14)) controlling the licensee or listing the license or licensees as property of the estate; or an affiliate (as that term is defined in 11 U.S.C. 101(2)) of the licensee. This notification must include: a description of the event, including major creditors, the amounts involved, and the actions taken to assure that the amount of funds guaranteed by the parent company guarantees for decommissioning will be transferred to the standby trust as soon as possible; if a petition of bankruptcy was filed, the identity of the bankruptcy court in which the petition for bankruptcy was filed; and the date of filing of any petitions.

20. The guarantor expressly waives notice of acceptance of this guarantee by NRC or by *[insert name of licensee]*. The guarantor also expressly waives notice of amendments or modifications of the decommissioning requirements and of amendments or modifications of the license.
21. If the guarantor files financial reports with the U.S. Securities and Exchange Commission, then it shall promptly submit them to NRC during each year in which this guarantee is in effect.

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

Effective date: _____

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

[Name of licensee]

[Authorized signature for licensee]

[Name of person signing]

[Title of person signing]

Signature of witness or notary: _____

Self-Guarantee Financial Test for Commercial Companies Worksheet
(For licensees/applicants choosing to pursue this guarantee mechanism using creditworthiness criteria; this is a new worksheet.)

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. Creditworthiness criteria provided to NRC Yes _____ No _____

*3. Tangible net worth** \$_____

*4. Total net worth*** \$_____

*5. Total assets in United States \$_____

	<u>Yes</u>	<u>No</u>
6. Is line 3 at least \$21 million?	_____	_____
7. Is line 4 at least 10 times line 1?	_____	_____
8. Are at least 90 percent of firms' assets located in the United States? If not, complete line 10.	_____	_____
9. Is line 5 at least 10 times line 1?	_____	_____

Notes:

* Denotes figures derived from financial statements.

** Tangible net worth is defined as net worth minus all intangible assets and excluding the net book value of the nuclear facility and site.

*** Excluding the net book value and goodwill of the nuclear facility and site.

Alternative Self-Guarantee Financial Test for Commercial Companies Worksheet
(For licensees/applicants choosing to pursue this guarantee mechanism using fixed financial metrics criteria; this worksheet replaces A.9.5 of NUREG-1757, as A.9.5 relies on bond ratings.)

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. Total liabilities (if any portion of the cost estimates for decommissioning is included in total liabilities on your firm's financial statements, 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. Total net worth***		\$_____
*5. The sum of net income plus depreciation, depletion, and amortization		\$_____
*6. Total assets in United States		\$_____
	<u>Yes</u>	<u>No</u>
7. Is line 3 at least \$21 million?	_____	_____
8. Is line 4 at least 10 times line 1?	_____	_____
9. Are at least 90 percent of firms' assets located in the United States? If not, complete line 10.	_____	_____
10. Is line 6 at least 10 times line 1?	_____	_____
<u>Guarantor must meet both of the following ratios:</u>		
11. Is line 5 divided by line 2 greater than 0.15?	_____	_____
12. Is line 2 divided by line 4 less than 1.5?	_____	_____

Notes:

* Denotes figures derived from financial statements.

b. All decommissioning amounts covered by other NRC or Agreement State self-guarantees	\$ _____
c. All amounts covered by self-guarantees or financial tests of other Federal or State agencies (e.g., EPA)	\$ _____
TOTAL	\$ _____
*2. Total revenues	\$ _____
*3. Operating revenues	\$ _____
*4. Total expenditures	\$ _____
*5. Long-term debt	\$ _____
*6. Net fixed assets	\$ _____
*7. Current assets	\$ _____
*8. Depreciation fund	\$ _____
*9. Current liabilities	\$ _____
	<u>Yes</u> <u>No</u>
10. Is line 3 at least 100 times line 1?	_____
<u>Guarantor must meet each of the following ratios:</u>	
11. Is (line 2 minus line 4) divided by line 2 at least 0.04?	_____
12. Is line 5 divided by line 6 less than or equal to 0.67?	_____
13. Is (line 7 plus line 8) divided by line 9 at least 2.55?	_____

Note:

* Denotes figures derived from financial statements.

Model Auditor's Special Report for Self-Guarantee (Replaces A.9.10 of NUREG-1757 as A.9.10 relies on bond ratings.)

CONFIRMATION OF LETTER FROM

[Insert "CHIEF EXECUTIVE OFFICER" or "CHIEF FINANCIAL OFFICER"]

We have examined the financial statements of *[insert name of self-guarantor]* for the year ended *[insert date]*, and have issued our report thereon dated *[insert date]*. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary.

[Insert name of self-guarantor] has prepared documents to demonstrate its financial responsibility under the United States. Nuclear Regulatory Commission's (NRC's) financial assurance regulations, 10 CFR Part *[insert 30, 40, 50, 70, or 72]*. This letter is furnished to assist the licensee *[insert name and NRC license number]* in complying with these regulations and should not be used for other purposes.

The attached schedule reconciles the specified information furnished in the *[insert "chief executive officer's (CEO's)" or "chief financial officer's (CFO's)"]* letter in response to the regulations with the *[insert "company's" or "institution's"]* financial statements. In connection therewith, we have:

1. Confirmed that the amounts in the column "Per Financial Statements" agree with amounts contained in the *[insert "company's" or "institution's"]* financial statements for the year ended *[insert date]*;
2. Confirmed that the amounts in the column "Per *[insert "CEO's" or "CFO's"]* Letter" agree with the letter prepared in response to NRC's request;
3. Confirmed that the amounts, if any, in the column "Reconciling Items" are adequately explained in the attached schedule, that each reconciling item represents an appropriate adjustment to the financial data, and that the amount of each reconciling item is accurate; and
4. Recomputed the totals and percentages.

Because the procedures in 1–4 above do not constitute a full examination made in accordance with generally accepted auditing standards, we do not express an opinion on the manner in which the amounts were derived in the items referred to above. In connection with the procedures referred to above, no matters came to our attention that cause us to believe that the *[insert "CEO's" or "CFO's"]* letter and supporting information should be adjusted.

We have evaluated the off-balance sheet transactions *[insert name of self-guarantor]* and it is our opinion that these transactions *[insert "could" or "could not"]* materially adversely affect the ability of *[insert name of self-guarantor]* to pay decommissioning costs.

Signature

Date

Model Self-Guarantee Agreement (Replaces A.9.12 of NUREG-1757 as A.9.12 relies on bond ratings.)

SELF-GUARANTEE

Guarantee made this *[insert date]* by *[insert name of self-guaranteeing entity]*, a *[insert "proprietorship," "partnership," "corporation," "LLC," "nonprofit college," "nonprofit university," or "nonprofit hospital"]* organized under the laws of the State of *[insert name of State]*, herein referred to as "guarantor," to the U.S. Nuclear Regulatory Commission (NRC) on behalf of ourselves as licensee.

Recitals

1. The guarantor has full authority and capacity to enter into this self-guarantee *[if the guarantor is a corporation, insert the following: "under its bylaws, articles of incorporation, and the laws of the State of [insert guarantor's State of incorporation], its State of incorporation."]* *[If the guarantor has a Board of Directors, insert the following: "Guarantor has approval from its Board of Directors to enter into this self-guarantee."]*
2. This self-guarantee is being issued to comply with regulations issued by NRC, an agency of the U.S. Government, pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974. NRC has promulgated regulations in Title 10, Chapter I of the *Code of Federal Regulations*, Part *[insert 30, 40, 50, 70, or 72]*, which require that a holder of, or an applicant for, a materials license (or reactor license) issued pursuant to 10 CFR Part *[insert 30, 40, 50, 70, or 72]* provide assurance that funds will be available when needed for required decommissioning activities.
3. The self-guarantee is issued to provide financial assurance for decommissioning activities for *[identify name and address of licensed facilities and corresponding NRC license numbers]* as required by 10 CFR Part *[insert 30, 40, 50, 70, or 72]*. The decommissioning costs for these activities are as follows: *[insert amount of decommissioning costs guaranteed for each identified facility]*.
4. The guarantor meets or exceeds the following financial test criteria *[insert statement indicating which financial test is being used]* and agrees to comply with all notification requirements as specified in 10 CFR Part *[insert 30, 40, 50, 70, or 72]* and Appendix *[insert C, D, or E]* to 10 CFR Part 30.

The guarantor meets the following self-guarantee test:

[If the guarantor is a commercial company, insert the following test.]

- (a) Tangible net worth of at least \$21 million and total net worth of 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 for the total of all nuclear facilities or parts thereof (or the current amount required if certification is used); and
- (b) 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 for the total of all nuclear facilities or parts thereof (or the current amount required if certification is used); and

- (c) A ratio of cash flow divided by total liabilities greater than 0.15 and a ratio of total liabilities divided by total net worth less than 1.5.

[If the guarantor is a nonprofit college or university, insert the following test.]

- (d) 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.

[If the guarantor is a nonprofit hospital, insert the following test.]

- (a) (Total revenues less total expenditures) divided by total revenues must be equal to or greater than 0.04; and
 - (b) Long-term debt divided by net fixed assets must be less than or equal to 0.67; and
 - (c) (Current assets and depreciation fund) divided by current liabilities must be greater than or equal to 2.55; and
 - (d) 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.
- 5. The guarantor does not have a parent company holding majority control of its voting stock.
 - 6. Decommissioning activities as used below refer to the activities required by 10 CFR Part *[insert 30, 40, 50, 70, or 72]* for decommissioning of the facilities identified above.
 - 7. Pursuant to the guarantor's authority to enter into this guarantee, the guarantor guarantees to NRC that the guarantor shall:
 - (a) carry out the required decommissioning activities, as required by License No. *[insert license number]* or
 - (b) set up a standby trust fund acceptable to the NRC as specified in 10 CFR Part *[insert 30, 40, 50, 70, or 72]* in the amount of the current cost estimates for these activities.
 - 8. The guarantor agrees to submit revised financial statements, financial test data, and an auditor's special report and reconciling schedule annually within 90 days of the close of its fiscal year.

[If the guarantor is a commercial company or is a nonprofit college, university, or hospital, insert the following language.]

- 9. The guarantor agrees that if, at the end of any fiscal year before termination of this self-guarantee, it fails to meet the self-guarantee financial test criteria, it shall send within 90 days of the end of the fiscal year, by certified mail, notice to NRC that it intends to provide alternative financial assurance as specified in 10 CFR Part *[insert 30, 40, 50, 70, or 72]*. Within 120 days after the end of the fiscal year, the guarantor shall establish such financial assurance.

10. The guarantor also agrees to notify the NRC in writing in advance of any proposed change in or transfer of ownership of the licensed activity and to maintain this guarantee until the new licensee provides alternative financial assurance acceptable to the beneficiary.
11. The guarantor agrees that if it determines that it no longer meets the self-guarantee financial test criteria or it is disallowed from continuing as a self-guarantor, it shall establish alternative financial assurance as specified in 10 CFR Part 30, 40, 50, 70, or 72, as applicable, within 30 days.
12. The guarantor, as well as its successors and assigns, agrees to remain bound jointly and severally under this guarantee notwithstanding any or all of the following: amendment or modification of the license or NRC-approved decommissioning funding plan for that facility, the extension or reduction of the time of performance of required activities, or any other modification or alteration of an obligation of the licensee pursuant to 10 CFR Part [insert 30, 40, 50, 70, or 72].
13. The guarantor agrees that it shall be liable for all litigation costs incurred by the NRC in any successful effort to enforce the agreement against the guarantor. Such litigation costs shall not be deducted from or otherwise reduce the financial assurance provided by this guarantee.
14. The guarantor agrees to remain bound under this self-guarantee for as long as it, as licensee, must comply with the applicable financial assurance requirements of 10 CFR Part [insert 30, 40, 50, 70, or 72], for the previously listed facilities, except that the guarantor may cancel this self-guarantee by sending notice by certified mail to NRC, such cancellation to become effective not before an alternative financial assurance mechanism has been put in place by the guarantor.
15. *The guarantor agrees that if it, as licensee, fails to provide alternative financial assurance as specified in 10 CFR Part [insert 30, 40, 50, 70, or 72], as applicable, and obtain written approval of such assurance from NRC within 90 days after a notice of cancellation by the guarantor is received by NRC from the guarantor, the guarantor shall make full payment under the self-guarantee.*
16. The guarantor expressly waives notice of acceptance of this self-guarantee by NRC. The guarantor also expressly waives notice of amendments or modifications of the decommissioning requirements.
17. If the guarantor files financial reports with the U.S. Securities and Exchange Commission, then it shall promptly submit them to its independent auditor and to NRC during each year in which this self-guarantee is in effect.
18. The guarantor agrees that if the guarantor admits in writing its inability to pay its debts generally, or makes a general assignment for the benefit of creditors, or any proceeding is instituted by or against the guarantor seeking to adjudicate it as bankrupt or insolvent, or seeking dissolution, liquidation, winding-up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency, or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian, or other similar official for the guarantor or for any substantial part of its property, or the guarantor takes any action to authorize or effect any of the actions stated in this paragraph, then the Commission may:
 - (a) Declare that the financial assurance guaranteed by the guarantee agreement is immediately due and payable to the standby trust set up to protect the public health

and safety and the environment, without diligence, presentment, demand, protect, or any other notice of any kind, all of which are expressly waived by guarantor; and

- (b) Exercise any and all of its other rights under applicable law.
19. The guarantor agrees to notify the NRC, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code, or the occurrence of any other event listed in paragraph 17 of this guarantee and by or against the guarantor; the licensee; an entity (as that term is defined in 11 U.S.C. 101(14)) controlling the licensee or listing the license or licensees as property of the estate; or an affiliate (as that term is defined in 11 U.S.C. 101(2)) of the licensee. This notification must include: a description of the event, including major creditors, the amounts involved, and the actions taken to assure that the amount of funds guaranteed by the guarantee for decommissioning will be transferred to the standby trust as soon as possible; if a petition of bankruptcy was filed, the identity of the bankruptcy court in which the petition for bankruptcy was filed; and the date of filing of any petitions.
20. The guarantor expressly waives notice of acceptance of this guarantee by NRC or by *[insert name of licensee]*. The guarantor also expressly waives notice of amendments or modifications of the decommissioning requirements and of amendments or modifications of the license.

I hereby certify that this self-guarantee is true and correct to the best of my knowledge.

Effective date: _____

[Name of self-guarantor]

[Authorized signature for self-guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary: _____

References

(NRC, 2012) NUREG-1757, Volume 3, Revision 1, "Consolidated NMSS Decommissioning Guidance Financial Assurance, Recordkeeping, and Timeliness," dated February 2012.

(NRC, 2003) Regulatory Guide 1.159, Revision 1, "Assuring the Availability of Funds for Decommissioning Nuclear Reactors," dated October 2003.

10 CFR Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material."

10 CFR Part 40, "Domestic Licensing of Source Material."

10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities."

10 CFR Part 70, "Domestic Licensing of Special Nuclear Material."

10 CFR Part 72 "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste."