

1 10A NCAC 15 .0355 is proposed for amendment as follows:

2
3 **10A NCAC 15 .0355 ~~FIN. TESTS~~ **FINANCIAL TESTS: SELF- AND PARENT CO. GUARANTEES:**
4 **DECOMMISSIONING FUNDING****

5 (a) Licensees or applicants for a radioactive materials license requiring financial assurance under Rule .0353 of this
6 Section may self-guarantee funds, or provide a guarantee of funds by their parent company for decommissioning
7 funding in accordance with the provisions of Rule .0354 of this Section, except that:

8 (1) parent companies guaranteeing funds for decommissioning shall have a tangible net worth of at least
9 ten million dollars (\$10,000,000) to meet the asset requirement set forth in Section II, Paragraphs
10 A.1(iii), or A.2(iii), of Appendix A to 10 CFR Part 30;

11 (2) licensees self-guaranteeing funds for decommissioning who issue bonds, and whose bonds meet the
12 bond rating requirements of Section II, Paragraph A(3) of Appendix C to 10 CFR Part 30 shall have
13 a tangible net worth of at least ten million dollars (\$10,000,000), and at least six times the amount
14 of decommissioning funds being assured by the self-guarantee to meet the asset requirements set
15 forth in Section II, Paragraph A.(2) and A.(3) of Appendix C to 10 CFR Part 30;

16 (3) licensees self-guaranteeing funds for decommissioning who do not issue bonds, or whose bonds do
17 not meet the bond rating requirements of Section II, Paragraph A(3) of Appendix C to 10 CFR Part
18 30, shall have a tangible net worth of at least ten million dollars (\$10,000,000), and at least six times
19 the amount of decommissioning funds being assured by the self-guarantee to meet the asset
20 requirements set forth in Section II, Paragraph A.(1) and A.(2) of Appendix D to 10 CFR Part 30;

21 (4) licensees self-guaranteeing funds for decommissioning who are nonprofit publicly funded colleges,
22 universities, or hospitals shall meet the funding requirements set forth in 10 CFR 30.35(f)(4). For
23 the purpose of this Rule, publicly funded trade schools, technical institutes, technical colleges,
24 technical universities, or other publicly funded educational institutions are to be interpreted as
25 “nonprofit publicly funded colleges;”

26 (5) licensees self-guaranteeing funds for decommissioning who are nonprofit privately funded, or
27 nonprofit semi-privately funded colleges, or universities who do not issue bonds, or whose bonds
28 do not meet the bond rating requirements of Section II, paragraph A.(1) of Appendix E to Part 30
29 shall have an unrestricted endowment consisting of assets worth of at least ten million dollars
30 (\$10,000,000), and at least six times the amount of decommissioning funds being assured by the
31 self-guarantee to meet the asset requirements set forth in Section II, Paragraph A.(2) of Appendix E
32 to 10 CFR Part 30; or

33 (6) licensees self-guaranteeing funds for decommissioning who are nonprofit privately funded, or
34 nonprofit semi-privately funded hospitals who do not issue bonds, or whose bonds do not meet the
35 bond rating requirements of Section II, Paragraph B.(1) of Appendix E to 10 CFR Part 30 shall have
36 a tangible net worth of at least ten million dollars (\$10,000,000), and at least six times the amount

1 of decommissioning funds being assured by the self-guarantee to meet the asset requirements set
2 forth in Section II, Paragraph B.(2) of Appendix E to 10 CFR Part 30.

3 (b) Notwithstanding Rule .0117 of this Chapter, the regulations cited in this Rule from 10 CFR Chapter I (2015) are
4 hereby incorporated by reference, excluding subsequent amendments and editions. Copies of these regulations are
5 available free of charge at [http://www.ecfr.gov/cgi-bin/text-](http://www.ecfr.gov/cgi-bin/text-idx?SID=2beece594411a03e50b2468ae31f89b&pid=20160101&tpl=/ecfrbrowse/Title10/10tab_02.tpl)
6 [idx?SID=2beece594411a03e50b2468ae31f89b&pid=20160101&tpl=/ecfrbrowse/Title10/10tab_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=2beece594411a03e50b2468ae31f89b&pid=20160101&tpl=/ecfrbrowse/Title10/10tab_02.tpl).

7 ~~(a) An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based~~
8 ~~on obtaining a parent company guarantee that funds will be available for decommissioning costs and on a~~
9 ~~demonstration that the parent company passes a financial test. This Rule establishes criteria for passing the financial~~
10 ~~test and for obtaining the parent company guarantee.~~

11 ~~(b) To pass the financial test, the parent company shall meet the criteria of either Subparagraph (b)(1) or (b)(2) of this~~
12 ~~Rule as follows:~~

13 ~~(1) The parent company shall have:~~

14 ~~(A) two of the following three ratios: A ratio of total liabilities to net worth less than 2.0; a~~
15 ~~ratio of the sum of net income plus depreciation, depletion, and amortization to total~~
16 ~~liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;~~
17 ~~and~~

18 ~~(B) net working capital and tangible net worth each at least six times the current~~
19 ~~decommissioning cost estimates (or prescribed amount if a certification is used); and~~

20 ~~(C) tangible net worth of at least ten million dollars (\$10,000,000); and~~

21 ~~(D) assets located in the United States amounting to at least 90 percent of total assets or at least~~
22 ~~six times the current decommissioning cost estimates (or prescribed amount if a~~
23 ~~certification is used).~~

24 ~~(2) The parent company shall have:~~

25 ~~(A) a current rating for its most recent bond issuance of AAA, AA, A or BBB as issued by~~
26 ~~Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's; and~~

27 ~~(B) tangible net worth at least six times the current decommissioning cost estimate (or~~
28 ~~prescribed amount if a certification is used); and~~

29 ~~(C) tangible net worth of at least ten million (\$10,000,000); and~~

30 ~~(D) assets located in the United States amounting to at least 90 percent of total assets or at least~~
31 ~~six times the current decommissioning cost estimates (or prescribed amount if certification~~
32 ~~is used).~~

33 ~~(c) The parent company's independent certified public accountant shall have compared the data used by the parent~~
34 ~~company in the financial test, which is derived from the independently audited, year-end financial statements for the~~
35 ~~latest fiscal year, with the amounts in such financial statement. In connection with that procedure the licensee shall~~
36 ~~inform the agency within 90 days of any matters coming to the auditor's attention which cause the auditor to believe~~
37 ~~that the data specified in the financial test should be adjusted and that the company no longer passes the test.~~

1 ~~(d) After the initial financial test, the parent company shall repeat the passage of the test within 90 days after the close~~
2 ~~of each succeeding fiscal year.~~

3 ~~(e) If the parent company no longer meets the requirements of Paragraph (b) of this Rule, the licensee shall send~~
4 ~~notice to the agency of intent to establish alternate financial assurance as specified in this Section. The notice shall~~
5 ~~be sent by certified mail within 90 days after the end of the fiscal year for which the year end financial data show that~~
6 ~~the parent company no longer meets the financial test requirements. The licensee shall provide alternate financial~~
7 ~~assurance within 120 days after the end of such fiscal year.~~

8 ~~(f) The terms of a parent company guarantee which an applicant or licensee obtains shall provide that:~~

9 ~~(1) the parent company guarantee will remain in force unless the guarantor sends notice of cancellation~~
10 ~~by certified mail to the licensee and the agency. Cancellation shall not occur, however, during the~~
11 ~~120 days beginning on the date of receipt of the notice of cancellation by both the licensee and the~~
12 ~~agency, as evidenced by the return receipts.~~

13 ~~(2) if the licensee fails to provide alternate financial assurance as specified in this Section within 90~~
14 ~~days after receipt by the licensee and the agency of a notice of cancellation of the parent company~~
15 ~~guarantor, the guarantor will provide such alternative financial assurance in the name of the licensee.~~

16 ~~(g) The parent company guarantee and financial test provisions shall remain in effect until the agency has terminated~~
17 ~~the license.~~

18 ~~(h) If a trust is established for decommissioning costs, the trustee and trust shall be acceptable to the agency. An~~
19 ~~acceptable trustee includes an appropriate state or federal agency or an entity to act as a trustee whose trust operations~~
20 ~~are regulated and examined by a federal or state agency.~~

21
22 *History Note: Authority G.S. 104E-7; 104E-18;*

23 *Eff. May 1, 1992;*

24 *Transferred and Recodified from 15A NCAC 11 .0355 Eff. February 1, 2015; 2015;*

25 *Amended Eff. March 1, 2017.*