

**RCRA SUBTITLE D FINANCIAL ASSURANCE CHECKLIST
CORPORATE FINANCIAL TEST**

Facility Name: _____ Permit No. _____

FINANCIAL TEST: An owner or operator with the financial assets to absorb the costs of closure, post-closure care, and corrective action may comply with financial assurance requirements by using the financial test.

TEST COVERS: Closure Post-Closure Care

 Corrective Action

Facility Name: _____

Address: _____

Contact Person/Title: _____

Contact Phone No.: _____

Facility's Fiscal Year Ends: _____

Closure Cost Estimate (Agency Approved): _____

Source Document / Date: _____

Post-Closure Cost Estimate (Agency Approved): _____

Source Document / Date: _____

Corrective Action (Agency Approved): _____

Source Document / Date: _____

Reviewed by: _____

Date: _____

FINANCIAL COMPONENT

YES	NO	QUESTION										
<input type="checkbox"/>	<input type="checkbox"/>	<p><u>Does the owner or operator satisfy one (1) of the following three conditions:</u></p> <p>Is the current bond rating of the owner or operator adequate?</p> <p>Indicate the appropriate Bond Rating and the source:</p> <table border="0"> <tr> <td><input type="checkbox"/> <u>Standard and Poor's</u></td> <td><input type="checkbox"/> <u>Moody's</u></td> </tr> <tr> <td><input type="checkbox"/> AAA</td> <td><input type="checkbox"/> Aaa</td> </tr> <tr> <td><input type="checkbox"/> AA</td> <td><input type="checkbox"/> Aa</td> </tr> <tr> <td><input type="checkbox"/> A</td> <td><input type="checkbox"/> A</td> </tr> <tr> <td><input type="checkbox"/> BBB</td> <td><input type="checkbox"/> Baa</td> </tr> </table> <p>[Reg.22.1405 (e)(1)(i)(A)]</p> <p>OR</p>	<input type="checkbox"/> <u>Standard and Poor's</u>	<input type="checkbox"/> <u>Moody's</u>	<input type="checkbox"/> AAA	<input type="checkbox"/> Aaa	<input type="checkbox"/> AA	<input type="checkbox"/> Aa	<input type="checkbox"/> A	<input type="checkbox"/> A	<input type="checkbox"/> BBB	<input type="checkbox"/> Baa
<input type="checkbox"/> <u>Standard and Poor's</u>	<input type="checkbox"/> <u>Moody's</u>											
<input type="checkbox"/> AAA	<input type="checkbox"/> Aaa											
<input type="checkbox"/> AA	<input type="checkbox"/> Aa											
<input type="checkbox"/> A	<input type="checkbox"/> A											
<input type="checkbox"/> BBB	<input type="checkbox"/> Baa											
<input type="checkbox"/>	<input type="checkbox"/>	<p>Does the owner or operator have a ratio of less than 1.5 comparing total liabilities to net worth?</p> <p><input type="checkbox"/> $\frac{\text{Total Liabilities}}{\text{Net Worth}} < 1.5$</p> <p>[Reg.22.1405 (e)(1)(i)(B)]</p> <p>OR</p> <p>Does the owner or operator have a ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion an amortization, minus \$10 million, to total liabilities?</p> <p><input type="checkbox"/> $\frac{\text{Net income} + \text{depreciation} + \text{depletion} + \text{amortization} - \\$10 \text{ million}}{\text{Total Liabilities}} > 0.10$</p> <p>[Reg.22.1405 (e)(1)(i)(C)]</p>										
<input type="checkbox"/>	<input type="checkbox"/>	<p><u>The tangible net worth of the owner or operator must be greater than:</u></p> <p>The sum of the current closure, post-closure care, corrective action cost estimates and any other environmental obligations, including guarantees, covered by a financial test plus \$10 million except as provided in the paragraph below.</p> <p>Tangible net worth > $\frac{\text{Current closure} + \text{post-closure} + \text{corrective action} + \text{other environmental obligations} + \\$10 \text{ million}}$</p> <p>[Reg.22.1405 (e)(1)(ii)(A)]</p> <p>AND</p>										
<input type="checkbox"/>	<input type="checkbox"/>	<p>\$10 million in net worth plus the amount of any guarantees that have not been recognized as liabilities on the financial statements provided all of the current closure, post-closure care, and corrective action costs and any other environmental obligations covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements, and subject to the approval of the Director.</p> <p>[Reg.22.1405 (e)(1)(ii)(B)]</p>										

FINANCIAL COMPONENT (continued)

<input type="checkbox"/>	<input type="checkbox"/>	<p>AND</p> <p>Does the owner or operator have assets located in the United States amounting to at least the sum of current closure, post-closure care, corrective action cost estimates and any other environmental obligations covered by a financial test as described in paragraph Reg.22.1405 (e)(3) Calculation of Costs to be Assured.</p> <p>[Reg.22.1405(e)(1)(iii)]</p>
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RECORDKEEPING AND REPORTING REQUIREMENTS

The local government owner or operator must place the following documentation in the facility's operating record and furnish the information to the Director for approval:

YES	NO	N/A	DOCUMENTATION
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><u>A letter signed by the facility's chief financial officer that:</u> Lists all the current cost estimates for closure, post-closure care, corrective action, or the sum of the combination of such costs to be covered and any other environmental obligations assured by a financial test, including, but not limited to:</p> <p><input type="checkbox"/> Cost estimates required for municipal solid waste management facilities under 40 CFR part 258.</p> <p><input type="checkbox"/> Cost estimates required for UIC facilities under 40 CFR part 144.</p> <p><input type="checkbox"/> Cost estimates required for petroleum underground storage tank facilities under 40 CFR part 280.</p> <p><input type="checkbox"/> Cost estimates required for PCB storage facilities under 40 CFR part 761.</p> <p><input type="checkbox"/> Cost estimates required for hazardous waste treatment, storage, and disposal facilities under 40 CFR parts 264 and 265.</p> <p><input type="checkbox"/> [Reg.22.1405 (e)(2)(i)(A)(a)]</p> <p>Provides evidence demonstrating that the firm meets the conditions of the financial component, as described in Reg.22.1405 (e)(1)(i)(A) <u>or</u> (e)(1)(i)(B) <u>or</u> (e)(1)(i)(C) <u>and</u> Reg.22.1405 (e)(1)(ii) <u>and</u> (e)(1)(iii).</p> <p>[Reg.22.1405 (e)(2)(i)(A)(b)]</p> <p><i>An example letter containing requirements above is attached.</i></p>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>A report from an independent certified public accountant that examines the owner's or operator's financial statements for the latest completed fiscal year. If a report has been submitted, indicate the nature of the opinion rendered:</p> <p><input type="checkbox"/> Unqualified Opinion</p> <p><input type="checkbox"/> Disclaimer of Opinion or Adverse Opinion</p> <p><input type="checkbox"/> Qualified Opinion</p> <p>[Reg.22.1405 (e)(2)(i)(B)]</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Do the audited financial statements referred to in paragraph (e)(2)(i)(B) contain financial data that is <i>different</i> from financial data that is provided in the chief financial officer's letter showing that the owner or operator satisfies paragraph (e)(1)(i)(B) or (e)(1)(i)(C)?</p>

Reg.22.1405 – Allowable Mechanisms

As provided in 40 CFR 258.74 the mechanisms used to demonstrate financial assurance under this Chapter must ensure that the funds necessary to meet the costs of closure, post-closure care, and corrective action for known releases will be available whenever they are needed. Owners and operators must choose from the options specified in paragraphs (a) through (j) of this section. Financial assurance required by this chapter should be filed on forms developed and provided by the department.

LETTER FROM CHIEF FINANCIAL OFFICER

Director
Arkansas Department of Energy and Environment, DEQ
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317

I am the chief financial officer of {name and address of facility}. This letter is in support of this firm’s use of the Financial Test to demonstrate financial assurance for closure and/or post-closure costs, as specified in Chapter 14 of APC&EC Regulation 22 (Solid Waste Management Act).

{Fill out the following paragraphs regarding facilities and associated cost estimates. If your firm has no facilities that belong in a particular paragraph, write “None” in the space indicated. Identify each cost estimate as to whether it is for closure and/or post-closure care}.

1. This firm is the owner or operator of the following facilities for which financial assurance for closure, post-closure care, corrective action, or the sum of the combination of such costs to be covered, and any other environmental obligations demonstrated through the financial test specified in Reg.22.1405 (e). The current closure and/or post-closure cost estimates covered by the test are shown for each facility.
 - a. **Class 1 – 40 CFR part 258**
Name & Permit Number _____
AFIN _____
Physical Location _____
Closure Cost Estimate _____
Post-Closure Cost Estimate _____
 - b. **Class 3 – 40 CFR part 258**
Name & Permit Number _____
AFIN _____
Physical Location _____
Closure Cost Estimate _____
Post-Closure Cost Estimate _____
 - c. **Class 4 – 40 CFR part 258**
Name & Permit Number _____
AFIN _____
Physical Location _____
Closure Cost Estimate _____
Post-Closure Cost Estimate _____
 - d. **UIC Facilities – 40 CFR part 144**
Name & Permit Number _____
AFIN _____
Physical Location _____
Closure Cost Estimate _____
Post-Closure Cost Estimate _____
 - e. **Petroleum Underground Storage Tank Facilities – 40 CFR part 280**
Name & Permit Number _____
AFIN _____
Physical Location _____
Closure Cost Estimate _____
Post-Closure Cost Estimate _____

f. PCB Storage Facilities – 40 CFR part 761

Name & Permit Number _____
AFIN _____
Physical Location _____
Closure Cost Estimate _____
Post-Closure Cost Estimate _____

g. Hazardous Waste TSD Facilities – 40 CFR parts 264 & 265

Name & Permit Number _____
AFIN _____
Physical Location _____
Closure Cost Estimate _____
Post-Closure Cost Estimate _____

2. In states other than Arkansas, this firm, as owner or operator or guarantor, is demonstrating financial assurance for the closure or post-closure care of the following facilities through the use of a test equivalent or substantially equivalent to the financial test specified in Regulation 22, Chapter 14. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility:

_____.

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

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

[Fill in Alternative I if the criteria of paragraph Reg.22.1405 (e)(1)(i)(A) of this regulation are used.
Fill in Alternative II if the criteria of paragraph Reg.22.1405 (e)(1)(i)(B) of this regulation are used.
Fill in Alternative III if the criteria of paragraph Reg.22.1405 (e)(1)(i)(C) of this regulation are used.]

ALTERNATIVE I

1. Sum of current closure and post-closure estimates [total of all cost estimates shown in the 2 paragraphs above]: \$ _____.
2. Current bond rating of most recent issuance of this firm: _____.
3. Name of rating service: _____.
4. Date of issuance of bond: _____.
5. Date of maturity of bond: _____.
6. The sum of the current closure, post-closure care, corrective action cost estimates and any other environmental obligations, including guarantees plus \$10 million: \$ _____.
7. Tangible net worth: \$ _____.
8. Is line 7 greater than line 6? _____ Yes _____ No.
9. Net worth: \$ _____ (must be at least \$10 million).
10. Line 9 plus the amount of any guarantees that have not been recognized as liabilities on the financial statements: \$ _____
(provided all of the current closure, post-closure care, and corrective action costs and any other environmental obligations covered by a financial test are recognized as liabilities on the owner’s or operator’s audited financial statements).
11. Is line 7 greater than line 10? _____ Yes _____ No.
12. Total assets in U.S.? _____.
13. Is line 12 at least equal to line 1? _____ Yes _____ No.

ALTERNATIVE II

1. Sum of current closure and post-closure estimates [total of all cost estimates shown in the 2 paragraphs above]: \$ _____.
2. Total liabilities: \$ _____.
3. Net Worth: \$ _____.
4. Is line 2 divided by line 3 less than 1.5? _____ Yes _____ No.
5. The sum of the current closure, post-closure care, corrective action cost estimates and any other environmental obligations, including guarantees plus \$10 million: \$ _____.
6. Tangible net worth: \$ _____.
7. Is line 6 greater than line 5? _____ Yes _____ No.
8. Net worth: \$ _____ (must be at least \$10 million).
9. Line 8 plus the amount of any guarantees that have not been recognized as liabilities on the financial statements: \$ _____
(provided all of the current closure, post-closure care, and corrective action costs and any other environmental obligations covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements).
10. Is line 6 greater than line 9? _____ Yes _____ No.
11. Total assets in U.S.? _____.
12. Is line 11 at least equal to line 1? _____ Yes _____ No.

ALTERNATIVE III

1. Sum of current closure and post-closure estimates [total of all cost estimates shown in the 2 paragraphs above]: \$ _____.
2. The sum of net income plus depreciation, depletion, and amortization: \$ _____.
3. Line 2 minus \$10 million: \$ _____.
4. Total liabilities: \$ _____.
5. Is line 3 divided by line 4 greater than 0.1? _____ Yes _____ No.
6. The sum of the current closure, post-closure care, corrective action cost estimates and any other environmental obligations, including guarantees plus \$10 million: \$ _____.
7. Tangible net worth: \$ _____.
8. Is line 7 greater than line 6? _____ Yes _____ No.
9. Net worth: \$ _____ (Must be at least \$10 million).
10. Line 9 plus the amount of any guarantees that have not been recognized as liabilities on the financial statements: \$ _____
(provided all of the current closure, post-closure care, and corrective action costs and any other environmental obligations covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements).
11. Is line 7 greater than line 10? _____ Yes _____ No.
12. Total assets in U.S.? _____.
13. Is line 12 at least equal to line 1? _____ Yes _____ No.

For any and all disputes arising out of, in connection with, or relating to this Corporate Financial Test, the Owner or Operator and DEQ expressly agree and consent that the exclusive jurisdiction and venue for any proceeding shall be in Pulaski County Circuit Court for the State of Arkansas in Little Rock, Arkansas, and the Owner or Operator and DEQ waive any argument that the venue in such a forum is not convenient and any rights under any Federal or State law establishing jurisdiction or venue in another forum.

I hereby certify that the wording of this letter is in compliance with wording specified in APC&EC Regulation 22.1405 (e)(2)(i)(A)(a) and (b), as such regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

WHAT IS REQUIRED AT A MINIMUM:

- ✓ The facility must satisfy one of three financial component conditions in Reg.22.1405 (e)(1)(i).
- ✓ The tangible net worth of the facility must be greater than what is specified in Reg.22.1405 (e)(1)(ii).
- ✓ The facility must have assets in the United States amounting to at least equal to the sum of current closure, post-closure care, or corrective action cost estimates.
- ✓ The facility's financial statements must be audited by an independent certified public accountant (CPA).
- ✓ The facility must submit the following items to the Director for approval:
 - An original letter signed by the facility's chief financial officer that lists all the current costs estimates for all covered facilities. Wording of the letter must be filed on forms developed by DEQ.
 - A copy of the CPA's audit report of the facility's financial statements for the most recent fiscal year.
 - A copy of the CPA's unqualified opinion of the owner's or operator's financial statements for the most recent fiscal year.
 - A report from the CPA stipulating no discrepancies between the CFO's letter and the audited financial statements.