

TITLE 32: ENERGY  
CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY  
SUBCHAPTER b: RADIATION PROTECTION

PART 326  
FINANCIAL ASSURANCE REQUIREMENTS

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AUTHORITY: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

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**Section 326.10 Purpose and Scope**

This Part prescribes financial assurance requirements to ensure that specific and general licensees will have sufficient funds to reclaim properties. This Part identifies which licensees must file financial assurance arrangements and describes arrangements acceptable to the Illinois

Emergency Management Agency (Agency). This Part is not applicable to licensees subject to 32 Ill. Adm. Code 332 that have financial assurance arrangements on file with the Agency.

AGENCY NOTE: Throughout this Part, the use of the term "licensee" includes applicants for licensure and existing licensees.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

### **Section 326.20 Incorporations by Reference**

All rules, standards and guidelines of agencies of the United States or nationally recognized organizations or associations that are incorporated by reference in this Part are incorporated as of the date specified. Copies of these rules, standards and guidelines that have been incorporated by reference are available for public inspection and copying at the Agency, 1035 Outer Park Drive, Springfield, Illinois.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

### **Section 326.30 General Provisions**

Unless specifically exempted in Section 326.50 of this Part, each general and specific licensee identified in Sections 326.60 and 326.70 of this Part shall provide satisfactory financial assurance arrangements to ensure the protection of health and safety in the event of abandonment, default or other inability of the licensee to meet the requirements of the Radiation Protection Act of 1990 (the Act) [420 ILCS 40] or 32 Ill. Adm. Code: Chapter II, Subchapters b and d. Determination of satisfactory financial assurance arrangements shall be subject to the conditions specified in this Part.

AGENCY NOTE: As used in this Part, the terms "chief executive officer" and "chief financial officer" include other persons with equivalent titles, such as "president", "administrator" or "fiscal officer".

### **Section 326.40 Definitions**

As used in this Part, the following definitions apply:

"Anniversary date" means the last day of the month for each year the license is in effect, which corresponds to the last day of the month in which the license expires.

AGENCY NOTE: For purposes of this Part, the 28<sup>th</sup> will be considered the last day of the month of February.

"Category III irradiator" means a gamma irradiator in which the sealed source is contained in a storage pool (usually containing water), the sealed source is shielded at all times, and human access to the sealed source and the volume undergoing irradiation is physically restricted in its design configuration and

proper mode of use.

"Category IV irradiator" means a controlled human access gamma irradiator in which the sealed source is contained in a storage pool (usually containing water), is fully shielded when not in use and is exposed within a radiation volume that is maintained inaccessible during use by an entry control system.

"Cost estimate" means a licensee's evaluation of the costs associated with reclamation of a facility or site. Cost estimates are subject to Agency review and approval.

"Educational institution" means a non-profit organization that has as its primary purpose the advancement of knowledge in one or more specific fields and which is accredited by the North Central Association Commission on Schools or the North Central Association Commission on Institutions of Higher Education.

"Financial assurance arrangement" means a method of guaranteeing that reclamation costs will be paid. A financial assurance arrangement consists of a surety bond, an irrevocable letter of credit, a certificate of deposit, a self-guarantee, a parent company guarantee, a combination of those arrangements or other financial arrangements approved in writing by the Agency.

"General licensee" means a person who possesses a generally licensed device as defined in this Section.

"Generally licensed devices" means gauges containing sealed sources equal to or greater than 37 MBq (1 mCi) of radioactive material possessed by persons licensed pursuant to 32 Ill. Adm. Code 330.220(b).

AGENCY NOTE: Although general licensees may be required to provide information to the Agency, only general licensees possessing the types of devices defined in this Section are required to address financial assurance requirements specified in this Part.

"Major possessor" means a person who is licensed to use, possess or store radioactive material with half-lives greater than 275 days, as either sealed or unsealed sources in quantities exceeding the quantities specified in Appendix A of this Part.

"Reclamation" means decontamination of facilities and sites and disposal of radioactive material so that the property is returned to a state that no longer presents a radiological health or safety hazard to persons, or a threat to the environment.

AGENCY NOTE: For purposes of this Part, the term "reclamation" includes, but is not limited to, those activities necessary to decommission the licensed facility to allow termination of the license.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

### **Section 326.50 Exemptions**

a) Radioactive material possessed or used by the following persons is not subject to this Part:

1) All State, local or other government entities;

AGENCY NOTE: For purposes of this Section, "government entities" shall not include federal or State contractors, or non-governmental recipients of government funds.

2) Educational institutions;

3) Licensees not authorized to possess or use radioactive material in Illinois;

4) Licensees with no permanent storage or use facilities in Illinois; or

5) Licensees using radioactive material within Illinois under reciprocal recognition of an out-of-state license as specified in 32 Ill. Adm. Code 330.900.

b) Radioactive material in the following forms is not subject to this Part:

1) Radioactive material for use in gas chromatographs, benchtop analytical laboratory instruments, x-ray fluorescence analyzers, static elimination devices and self-luminous exit signs, except for radionuclides with atomic numbers greater than 82 in quantities greater than 3.7 GBq (100 mCi);

2) Sealed sources for exchange into a device, provided that the sources do not concurrently remain in the licensee's possession for more than 30 days;

3) Radioactive noble gases;

4) Depleted uranium prefabricated as shielding;

5) Radioactive material with half-lives of 30 days or less;

6) Radioactive material with atomic numbers less than or equal to 82 in the form of sealed sources, in quantities less than or equal to 37 MBq (1 mCi) per source, not to exceed 185 MBq (5 mCi) total; or

7) Radioactive material with atomic numbers greater than or equal to 83 in the form of sealed sources, in quantities less than or equal to 185 kBq (50  $\mu$ Ci) per source, not to exceed 37 MBq (1 mCi) total.

- c) Except for low-level radioactive waste licensees as described in Section 326.60 of this Part, radioactive material with half-lives greater than 30 days, but less than or equal to 275 days, in the following forms, is not subject to this Part:
  - 1) Radioactive material in forms other than noble gases or sealed sources, in quantities not to exceed 37 GBq (1 Ci) per nuclide; and
  - 2) Radioactive material in the form of a sealed source.
- d) Except for licensees specified in Sections 326.60 and 326.70 of this Part, specific or general licensees that possess or use radioactive material with half-lives greater than 275 days, in the form of sealed sources in quantities less than or equal to 37 GBq (1 Ci) per source, but not exceeding the applicable quantities specified in Appendix A of this Part, are not subject to this Part.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

### **Section 326.60 Low-Level Radioactive Waste Licensees**

Waste handling licensees as defined in 32 Ill. Adm. Code 310.20, such as low-level radioactive waste treatment or disposal facilities, or centralized low-level radioactive waste storage licensees, shall submit a reclamation plan and a cost estimate for approval by the Agency as described in Section 326.80 of this Part and secure a financial assurance arrangement for the amount specified in the Agency-approved cost estimate. Such licensees shall ensure the cost estimate encompasses all radioactive material authorized by the license, except for radioactive material specifically exempted in Section 326.50(b) of this Part. The exemptions specified in Section 326.50(c) and (d) of this Part are not applicable to the licensees described in this Section.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

### **Section 326.70 Financial Assurance Amounts**

Unless specified in Section 326.60 of this Part, the following specific and general licensees are required to secure a financial assurance arrangement in the amounts described in this Section:

- a) Unless specified in subsection (b) of this Section, for specific or general licensees that possess or use radioactive material in the form of sealed sources in quantities greater than 37 GBq (1 Ci) per source, but not exceeding the quantities specified in Appendix A of this Part, the minimum amount is \$25,000.
- b) The following licensees shall submit a reclamation plan as described in Section 326.80 of this Part, and a cost estimate for approval by the Agency. When approved, the licensee shall secure a financial assurance arrangement in the amount specified on the Agency-approved cost estimate:

- 1) Major possessors as defined in Section 326.40 of this Part;
- 2) Persons who possess radioactive material in forms other than noble gases or sealed sources with half-lives greater than 30 days, but less than or equal to 275 days, in quantities exceeding 37 GBq (1 Ci) per nuclide;
- 3) Persons who possess source material tailings or sludge;
- 4) Category III or IV irradiators;
- 5) Persons who use particle accelerators to manufacture radionuclides for distribution to other licensees or customers; and
- 6) Facilities owned or operated by the U.S. Department of Energy (DOE) or its contractors or subcontractors, if subject to the regulatory control of the Agency. Contractors or subcontractors of DOE who may perform work that is not a direct function of the DOE operation are subject to other financial assurance requirements as provided for in this Part.

AGENCY NOTE: Licensees subject to 32 Ill. Adm. Code 332 are required to meet the financial assurance requirements specified in 32 Ill. Adm. Code 332.260, and therefore are not subject to this Part.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

### **Section 326.80 Cost Estimates and Reclamation Plans**

Licensees required to perform cost estimates, as described in Sections 326.60 and 326.70(b) of this Part, shall submit reclamation plans and cost estimates to the Agency for approval prior to securing financial assurance arrangements. The Agency shall allow material described in Section 326.50(b) of this Part as exempt to be excluded from all financial assurance estimates. For licensees described in Section 326.70(b) of this Part, the material described in Section 326.50(c) of this Part shall also be excluded from financial assurance estimates. The plan shall describe reclamation actions to be taken in order to terminate the license in accordance with the requirements of 32 Ill. Adm. Code 330. The Agency shall consider, but is not limited to, the following in approving the reclamation plan and cost estimates, and determining the financial assurance requirements for each individual licensee:

- a) The probable extent of contamination resulting from the use or possession of radioactive material as authorized by a radioactive material license at the facility or site, and the probable cost of removal of such contamination in order to terminate the license in accordance with the requirements of 32 Ill. Adm. Code 330. This consideration shall encompass probable contaminating events associated with the licensee's methods or modes of operation and shall be based on factors such as quantities, half-lives, radiation hazards and toxicities, and chemical and physical forms;

- b) The extent of possible offsite property damage caused by operation of the facility or site that is to be reclaimed;
- c) The cost and method of removal and disposal of radioactive material and sources of radiation that are or would be generated, stored, processed, or otherwise present at the facility or site; and
- d) The costs and methods involved in reclamation of the site or the property on which the facility is located and all other properties contaminated by radioactive material authorized by the license.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

### **Section 326.90 Financial Assurance Arrangements**

This Section shall apply to applicants for specific licenses and general and specific licensees required to secure and file financial assurance arrangements with the Agency:

- a) The licensee or applicant shall choose from the financial assurance arrangements specified in Sections 326.100 through 326.160 of this Part.
- b) The wording of the financial assurance arrangement shall contain the provisions described in this Part, and may use wording identical to the wording of the corresponding arrangement in Appendices B through F of this Part. No additional restrictions may be placed on any financial assurance arrangement filed with the Agency.
- c) The financial assurance arrangements shall be provided to and filed with the Agency in a dollar amount greater than or equal to either the amount specified in Section 326.70(a) of this Part or the amount specified in a cost estimate approved by the Agency.
  - 1) The cost estimate and reclamation plan shall be reviewed annually by the licensee or when required by the Agency. The Agency may require the licensee to adjust the value of the cost estimate and reclamation plan to recognize any increases or decreases resulting from inflation or deflation, changes in engineering plans, activities performed and any other condition affecting costs for reclamation. These changes will be required to ensure that sufficient financial assurance amounts are provided and retained to cover cost of reclamation.
  - 2) When a change in activities not requiring a license amendment would raise the cost estimate for reclamation to an amount greater than the amount of the financial assurance arrangements currently filed with the Agency, the licensee shall notify the Agency within 60 days after the

increase. This notification shall include submission of revised cost estimates and reclamation plans for Agency review and approval. Upon approval of the revised cost estimates, the licensee may be required to file additional financial assurance arrangements at least equal to this increase.

- 3) When a license amendment would raise the cost estimate for reclamation to an amount greater than the amount of the financial assurance arrangements currently filed with the Agency, the amendment shall be held until the required financial assurance arrangements are established.
- 4) When the current reclamation cost estimate decreases, upon the written request of the licensee, and provided that the decrease is verified by the Agency, the Agency shall authorize the reduction in the amount of financial assurance required for the facility to the amount of the approved amended reclamation cost estimate.

AGENCY NOTE: If the license is amended and the licensee no longer meets the criteria for needing a reclamation plan (specified in Section 326.60 or 326.70(b) of this Part), but still must secure financial assurance in accordance with Section 326.70(a) of this Part, the licensee may substitute new arrangements to meet the requirements of Section 326.70(a) of this Part.

- 5) For specific licensees, the term of the financial assurance arrangement shall be for the period from issuance of the license until termination of the license by the Agency in accordance with 32 Ill. Adm. Code 330.
  - 6) For general licensees, the term of the financial assurance arrangement shall be for the period from approval of the financial assurance arrangement until all devices covered by the instrument have been properly transferred or disposed of.
  - 7) The Agency will release all financial assurance arrangements not drawn upon pursuant to Section 326.180 of this Part, upon termination of the license, or if the license is amended so that the license is no longer subject to financial assurance requirements of Section 326.60 or 326.70 of this Part.
- d) Use of Multiple Financial Assurance Arrangements. The licensee or applicant may utilize more than one financial assurance arrangement per facility to satisfy the requirement specified in this Section. Unless agreed otherwise by the Agency and the licensee, financial assurance arrangements may be drawn upon in any order determined by the Agency. The arrangements shall be as specified in Appendices B-F of this Part, and the sum value of all arrangements shall be in an amount greater than or equal to either the amount specified in Section 326.70(a) of this Part, or the amount specified in a cost estimate approved by the Agency.

- e) Use of a Financial Assurance Arrangement for Multiple Facilities or Multiple Licensees at a Facility. The licensee or applicant may use a financial assurance arrangement specified in Appendices B-F of this Part to meet the requirements of this Section for more than one license, or more than one facility owned or operated in Illinois. The arrangement submitted to the Agency shall include a list indicating, for each facility, the registration numbers, license numbers, names, addresses and amounts of funds for reclamation assured by the arrangement. The amount of funds available through the financial assurance arrangement shall not be less than the aggregate total of the funds that would be available if separate arrangement had been filed and maintained for each license or facility. If more than one license exists for a facility, the amount of funds for each license shall be specified.
- f) Any applicant or licensee who fulfills the requirements of this Section by obtaining a surety bond or letter of credit will be deemed to be without the required financial assurance arrangement in the event of commencement of bankruptcy proceedings involving the issuing institution, or a suspension, termination, or revocation of the authority of the institution issuing the surety bond or letter of credit to issue such instruments. The applicant or licensee shall establish other Agency-approved financial assurance arrangements within 30 days after such an event.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

### **Section 326.100 Surety Bond as a Financial Assurance Arrangement**

If a licensee elects to satisfy the requirement of Section 326.90 of this Part by securing a surety bond, that bond shall conform to the following requirements:

- a) The surety company issuing the bond shall be among those listed as acceptable sureties or reinsurers on federal bonds in Circular 570 of the U.S. Department of the Treasury, entitled "Surety Companies Acceptable On Federal Bonds", revised to the latest revision issued by the U.S. Department of the Treasury.

AGENCY NOTE: For the licensee's information, Circular 570 entitled "Surety Companies Acceptable On Federal Bonds" is updated every July and the Agency will accept the bonds on the latest July revision date issued by the U.S. Department of the Treasury.

- b) The wording of the surety bond shall contain the substantive provisions specified in Appendix B of this Part. Additional conditions may be agreed to between the licensee and the surety company so long as no requirement of this Part is avoided or altered and no additional requirements are placed upon the Agency.
- c) The surety bond shall guarantee that:

- 1) Funds will be available, whenever required by the Agency, in order to terminate the license in accordance with the requirements of 32 Ill. Adm. Code 330;
  - 2) The surety waives notification of amendments to licenses, applicable laws, statutes, rules and regulations and agrees that no such amendment shall in any way alleviate its obligation on the bond; and
  - 3) The licensee shall provide alternative financial assurance arrangements as specified in Section 326.170 of this Part prior to cancellation or termination of the bond.
- d) Under the terms of the bond, the surety shall become liable on the bond obligation when the licensee fails to perform as guaranteed by the bond. Upon a determination by the Agency that the licensee has failed to so perform, the surety shall perform reclaiming to the satisfaction of the State as guaranteed by the bond or shall pay the amount of the penal sum to the Agency.
  - e) The penal sum of the bond shall be in an amount, after considering other financial assurance arrangements established in accordance with this Part, sufficient to provide the necessary funds in order to terminate the license in accordance with the requirements of 32 Ill. Adm. Code 330.
  - f) The surety may cancel the bond by sending notice of cancellation by certified mail, return receipt requested, to the licensee and to the Agency. Cancellation shall not occur, however, during the 180 days beginning on the date after receipt of the notice of cancellation by both the licensee and the Agency, as evidenced by the return receipts. During this period, the licensee shall obtain replacement financial assurance as provided in Section 326.170 of this Part. Upon notification by the Agency that the licensee has failed to obtain replacement financial assurance approved by the Agency, the surety shall pay the amount of the penal sum to the Agency.
  - g) The surety shall not be liable for the deficiency in the performance of reclaiming after the Agency has determined satisfactory reclaiming has occurred.
  - h) The licensee may terminate the bond by sending written notice to the surety, provided, however, that no such notice shall become effective until the surety receives written authorization from the Agency for the termination of the bond. The Agency shall not authorize termination until the licensee has either provided replacement financial assurance arrangements in accordance with Section 326.170 of this Part or the Agency has determined satisfactory reclaiming has occurred.
  - i) The bond shall be accompanied by a letter from the licensee referring to the bond by number, issuing institution and date and providing the following information:

the radioactive material license numbers, names and addresses of the facilities and the amount of funds for each license assured for reclaiming of the facilities by the surety bond.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

### **Section 326.110 Letter of Credit as a Financial Assurance Arrangement**

If a licensee elects to satisfy the financial assurance requirements of Section 326.90 of this Part by filing an irrevocable standby letter of credit, the irrevocable standby letter of credit supporting this guarantee shall conform to the following requirements:

- a) The institution issuing the letter of credit shall be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or Illinois agency.
- b) The wording of the letter of credit shall contain the substantive provisions specified in Appendix C of this Part. Additional conditions may be agreed to between the licensee and the issuing institution so long as no requirement of this Part nor required provision is avoided or altered and no additional requirements are placed on the Agency.
- c) The letter of credit shall be accompanied by a letter from the licensee referring to the letter of credit by number, issuing institution and date and providing the following information: the radioactive material license numbers, names and addresses of the facilities and the amount of funds for each license assured for reclaiming of the facilities by the letter of credit.
- d) The letter of credit shall be irrevocable and issued for a period of at least 1 year. The expiration date of the letter of credit shall be automatically extended for a period of at least 1 year unless, at least 180 days before the current expiration date, the issuing institution notifies both the licensee and the Agency by certified mail, return receipt requested, of a decision not to extend the expiration date. The 180 days will begin on the date when both the licensee and the Agency have received the notice, as evidenced by the return receipts. Unless released by the Agency, the Agency may draw upon this letter of credit if a new letter of credit or other financial assurance arrangements, approved in writing by the Agency, is not furnished 60 days prior to the expiration date. The Agency may delay the drawing if the issuing institution grants an extension of the term of this letter of credit. During the last 30 days of any extension, the Director may draw on this letter of credit if the licensee has failed to provide an alternative financial assurance arrangement approved in writing by the Agency.
- e) The letter of credit shall be in an amount, after considering other financial assurance arrangements that are in place, sufficient to provide the necessary funds in order to terminate the license in accordance with the requirements of 32 Ill.

Adm. Code 330.

- f) The Director may draw on the letter of credit as provided in Section 326.180 of this Part. The Director may also draw on the letter of credit if the licensee does not establish alternative financial assurance arrangements as specified in Section 326.170 of this Part.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

### **Section 326.120 Certificate of Deposit as a Financial Assurance Arrangement**

If a licensee elects to satisfy the financial assurance requirements of Section 326.90 of this Part by filing a certificate of deposit, the certificate of deposit supporting this guarantee shall conform to the following requirements:

- a) The institution issuing the certificate of deposit shall be an entity that has the authority to issue certificates of deposit and whose certificate of deposit operations are regulated and examined by a federal or State agency.
- b) The wording of the certificate of deposit shall contain the substantive provisions specified in Appendix D of this Part. Additional provisions may be included so long as no requirement of this Part is avoided or altered and no additional requirements are placed upon the Agency.
- c) The certificate of deposit shall be accompanied by a letter from the licensee referring to the certificate of deposit by number, issuing institution and date and providing the following information:
  - 1) The letter shall reference the radioactive material license numbers, names and addresses of the facilities and the amount of funds assured for reclaiming of the facilities by the certificate of deposit; and
  - 2) The letter shall state that the licensee conveys, transfers, pledges, hypothecates and grants a security interest in and to the certificate to the Agency.
- d) The certificate of deposit shall be issued for a period of at least 1 year. The certificate of deposit shall provide that the certificate will be automatically renewed for a period of 1 year unless, at least 180 days before the current expiration date, the issuing institution notifies both the licensee and the Agency by certified mail, return receipt requested, of a decision not to renew the certificate. The 180 days will begin on the date when both the licensee and the Agency have received notice, as evidenced by the return receipts. Unless the Agency provides written notice to the issuing institution that the licensee has provided substitute financial assurance acceptable to the Agency as specified in Section 326.170 of this Part, the issuing institution shall, upon maturity of a

certificate of deposit that is not being renewed, pay to the Agency the amount deposited under the certificate of deposit. The Agency may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any extension, the Director may draw on the certificate of deposit if the licensee has failed to provide alternative financial assurance arrangements as specified in Section 326.170 of this Part and obtain written approval of such arrangements from the Agency.

- e) The certificate of deposit shall be in an amount, after considering other financial assurance arrangements that are in place, sufficient to provide the necessary funds in order to terminate the license in accordance with the requirements of 32 Ill. Adm. Code 330.
- f) Interest accrued on a certificate of deposit shall be paid directly to the licensee and shall not automatically increase the amount of any certificate of deposit on file with the Agency.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

### **Section 326.130 Self-Guarantee as a Financial Assurance Arrangement**

- a) Except as provided in subsection (b) of this Section, each licensee electing to use self-guarantee as a financial assurance arrangement shall be subject to the following requirements:
  - 1) The company shall not have a parent company holding majority control of its voting stock.
  - 2) The company shall have at least one class of equity securities registered under the Securities Exchange Act of 1934.
  - 3) The company shall submit a financial test, independently audited financial statements and other documents demonstrating that it passes the financial tests prescribed in Section 326.140 of this Part. At a minimum, documentation shall include the following:
    - A) A self-guarantee, as described in Appendix E of this Part, signed by the company's chief executive officer;
    - B) A letter, as described in Appendix E of this Part, from the company's chief executive officer;
    - C) A letter, as described in Appendix E of this Part, from the company's chief financial officer demonstrating that the company passes the financial tests specified in Section 326.140 of this Part;

- D) The company's audited financial statements for the most recently completed fiscal year, including an independent auditor's report on the financial statements; and
  - E) An independent auditor's special report, as described in Appendix E of this Part, stating that the certified public accountant has compared the amounts specified in the chief financial officer's letter with corresponding amounts in the audited year-end financial statements, and found no reason to believe that the amounts in the letter from the chief financial officer need to be adjusted.
- 4) The company's independent certified public accountant shall have compared the data used by the company in the financial test, which is required to be derived from the independently audited year end financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure, the company shall inform the Agency within 90 days of any matters coming to the attention of the auditor that 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.
  - 5) For commercial companies that issue bonds, the licensee shall provide notice in writing to the Agency within 20 days after publication of a change by the rating service if, at any time, the company's most recent bond issuance ceases to be rated in any category of "A" or above by either Standard and Poor's or Moody's. If the company's most recent bond issuance ceases to be rated in any category A or above by both Standard and Poor's and Moody's, the licensee no longer meets the requirement of Section 326.140(a) of this Part. The licensee shall secure replacement financial assurance arrangements in accordance with Section 326.170 of this Part.
  - 6) After the initial financial test, the company shall repeat passage of the test within 90 days after the close of each succeeding fiscal year, and provide the documents specified in subsection (a)(3) of this Section.
  - 7) If the licensee no longer meets the requirements of the applicable financial tests in Section 326.140 of this Part, the licensee shall send notice to the Agency of its intent to establish alternative financial assurance. The notice shall 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 demonstrates that the licensee no longer meets the financial test requirements. The licensee shall secure alternative financial assurance within 120 days after the end of such fiscal year.
  - 8) The guarantee shall remain in force unless the licensee sends notice of

cancellation by certified mail, return receipt requested, to the Agency. Cancellation shall not occur until either a replacement financial assurance arrangement is submitted and approved by the Agency or the Agency confirms that the licensee has performed reclaiming in accordance with 32 Ill. Adm. Code 330.

- 9) The guarantee and financial test provisions specified in Section 326.140 of this Part shall remain in effect until the Agency has terminated the license, or until a replacement financial assurance arrangement is accepted by the Agency in accordance with Section 326.170 of this Part.
- b) In lieu of the requirements in subsection (a) of this Section, a hospital seeking to use self-guarantee as a financial assurance arrangement may satisfy the following requirements:
- 1) The hospital shall submit a financial test, independently audited financial statements, and other documents demonstrating that it passes the financial tests prescribed in Section 326.140(c) of this Part. At a minimum, documentation shall include the following:
    - A) A self-guarantee, as described in Appendix E, signed by the chief executive officer of the hospital;
    - B) A letter, as described in Appendix E, from the hospital's chief executive officer;
    - C) A letter, as described in Appendix E, from the hospital's chief financial officer, demonstrating that the hospital passes the financial tests specified in Section 326.140(c) of this Part;
    - D) The hospital's audited financial statements for the most recently completed fiscal year, including an independent auditor's report on the financial statements;
    - E) An independent auditor's special report, as described in Appendix E of this Part, stating that the certified public accountant has compared the amounts specified in the chief financial officer's letter with the corresponding amounts in the audited year-end financial statements, and found no reason to believe that the amounts in the letter from the chief financial officer need to be adjusted.
  - 2) The hospital's independent certified public accountant shall have compared the data used by the licensee in the financial test, which is required to be derived from the independently audited year end financial statements for the latest fiscal year, with the amounts in such financial

statement. In connection with that procedure, the licensee shall inform the Agency within 90 days of any matters coming to the attention of the auditor that 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.

- 3) For hospitals that issue bonds, if at any time the hospital's most recent bond issuance ceases to be rated in any category of "A" or above by either Standard and Poor's or Moody's, the licensee shall provide notice in writing to the Agency within 20 days after publication of a change by the rating service. If the hospital's most recent bond issuance ceases to be rated in any category A or above by both Standard and Poor's and Moody's, the licensee no longer meets the requirements of Section 326.140(b) of this Part. The licensee shall secure replacement financial assurance arrangements in accordance with Section 326.170 of this Part.
- 4) After the initial financial test, the hospital shall, within 90 days after the close of each succeeding fiscal year, repeat passage of the test and provide the documents specified in subsection (b)(1) of this Section.
- 5) If the hospital no longer meets the requirements of the applicable financial tests in Section 326.140(c) of this Part, the licensee shall send notice to the Agency of its intent to establish alternative financial assurance as specified in Section 326.170 of this Part. The notice shall 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 demonstrates that the license no longer meets the financial test requirements. The licensee shall secure alternative financial assurance within 120 days after the end of that fiscal year.
- 6) The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the Agency. Cancellation shall not occur until either a replacement financial assurance arrangement is submitted in accordance with Section 326.170 of this Part or the Agency confirms that the licensee has performed reclaiming in accordance with 32 Ill. Adm. Code 330.
- 7) The guarantee and financial test provisions specified in Section 326.140(b) of this Part shall remain in effect until the Agency has terminated the license or until a replacement financial assurance arrangement is accepted by the Agency in accordance with Section 326.170 of this Part.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

### **Section 326.140 Financial Tests for Self-Guarantee**

A licensee may provide assurance of the availability of funds for reclaiming based on furnishing

its own guarantee that funds will be available for reclaiming costs, provided that the licensee can demonstrate that it meets the applicable financial tests identified in this Section. For commercial corporations that issue bonds, a guarantee of funds may be used if the licensee meets the tests as specified in subsection (a) of this Section. For commercial corporations that do not issue bonds, a guarantee of funds may be used if the licensee meets the tests as specified in subsection (b) of this Section. For hospitals, a guarantee of funds may be used if the licensee meets the tests as specified in subsection (c) of this Section. A guarantee by the licensee may not be used in any situation where the licensee has a parent company holding majority control of the voting stock of the company.

- a) For commercial companies that issue bonds, to pass the financial test, the company shall demonstrate it meets all of the following criteria:
  - 1) Tangible net worth at least 10 times the total current reclaiming cost estimate for all decommissioning activities for which the company is responsible under a parent company guarantee, a self-guarantee or a commitment to another regulatory agency (e.g., USEPA).
  - 2) Assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the total current reclaiming cost estimate for all decommissioning activities for which the company is responsible under a parent company guarantee, a self-guarantee or a commitment to another regulatory agency (e.g., USEPA).
  - 3) A current rating for its most recent uninsured, uncollateralized and unencumbered bond issuance of AAA, AA or A as issued by Standard and Poor's, or Aaa, Aa or A as issued by Moody's.
  
- b) For commercial companies that do not issue bonds, to pass the financial test, the company shall demonstrate it meets all of the following criteria:
  - 1) Tangible net worth greater than \$10 million, or at least 10 times the total current reclaiming cost estimate, whichever is greater, for all decommissioning activities for which the company is responsible under a parent company guarantee, a self-guarantee or a commitment to another regulatory agency (e.g., USEPA).
  - 2) Assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the total current reclaiming cost estimate for all decommissioning activities for which the company is responsible under a parent company guarantee, a self-guarantee or a commitment to another regulatory agency (e.g., USEPA).
  - 3) The (sum of net income plus depreciation, depletion and amortization) divided by total liabilities shall be greater than 0.15 and total liabilities divided by net worth shall be less than 1.5.

- c) For hospitals to pass the financial test, a hospital shall meet either the criteria in subsection (c)(1) or (2) of this Section:
  - 1) For hospitals that issue bonds, a current rating for its most recent uninsured, uncollateralized and unencumbered bond issuance of AAA, AA or A as issued by Standard and Poor's, or Aaa, Aa or A as issued by Moody's.
  - 2) For hospitals that do not issue bonds, all of the following tests shall be met:
    - A) (Total revenues less total expenditures) divided by total revenues shall be equal to or greater than 0.04.
    - B) Long term debt divided by net fixed assets shall be less than or equal to 0.67.
    - C) (Current assets and depreciation fund) divided by current liabilities shall be equal to or greater than 2.55.
    - D) Operating revenues shall be at least 100 times the total current reclaiming cost estimate for all reclaiming activities for which the hospital is responsible under a parent company guarantee, a self-guarantee or a commitment to another regulatory agency (e.g., USEPA).

### **Section 326.150 Parent Company Guarantee as a Financial Assurance Arrangement**

Each licensee electing to use a parent company guarantee as a financial assurance arrangement shall be subject to the following requirements:

- a) The guarantor shall be a direct parent holding more than 50 percent of the voting stock of the licensee. A company shall not serve as a guarantor to a division of the company.
- b) Each licensee electing to use a parent company guarantee as a financial assurance arrangement shall submit a financial test, independently audited financial statements and other documents demonstrating that it passes the financial tests prescribed in Section 326.160 of this Part. At a minimum, documentation shall include all of the following:
  - 1) A parent company guarantee agreement, as described in subsection (b) of Appendix F of this Part, signed by the chief executive officer of the guarantor, that states in part that, if the licensee fails to conduct required reclamation activities, the parent company shall either:

- A) Conduct the required activities, or
  - B) Pay the guaranteed amount to the Agency as directed by the Director;
- 2) A copy of corporate bylaws, a letter, or other evidence indicating that the guarantor is the parent company of the licensee and that the guarantor has majority control of the licensee's voting stock;
  - 3) A letter, as described in subsection (a) of Appendix F of this Part, from the parent company's chief executive officer;
  - 4) A letter from the parent company's chief financial officer, as described in subsection (a) of Appendix F of this Part, demonstrating that the company passes the financial tests specified in Section 326.160 of this Part;
  - 5) The parent company's audited financial statements for the most recently completed fiscal year, including an independent auditor's report on the financial statements; and
  - 6) An independent auditor's special report, as described in subsection (d) of Appendix F of this Part, stating that the certified public accountant has compared the amounts specified in the letter from the chief financial officer with corresponding amounts in the audited year-end financial statements, and found no reason to believe that the amounts in the letter from the chief financial officer need to be adjusted.
- c) The parent company's independent certified public accountant shall have compared the data used by the parent company in the financial test, which shall be derived from the independently audited year end financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure, the licensee shall inform the Agency within 90 days of any matters coming to the attention of the auditor that cause the auditor to believe that the data specified in the financial test should be adjusted and that the parent company no longer passes the test.
  - d) After the initial financial test, the parent company shall repeat passage of the test within 90 days after the close of each succeeding fiscal year, and shall provide the documentation specified in subsection (b) of this Section.
  - e) If the licensee's parent company no longer meets the requirements of the applicable financial tests in Section 326.160 of this Part, the licensee shall send notice to the Agency of its intent to establish alternative financial assurance as specified in Section 326.170 of this Part. The notice shall 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 demonstrates that the parent company no longer meets the financial test requirements. The licensee shall secure alternative financial assurance within 120 days after the end of that fiscal year.

- f) The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the Agency. Cancellation shall not occur until either a replacement financial assurance arrangement is submitted in accordance with Section 326.170 of this Part or the Agency confirms that the licensee has performed reclaiming in accordance with 32 Ill. Adm. Code 330.
- g) The guarantee and financial test provisions specified in Section 326.160 of this Part shall remain in effect until the Agency has terminated the license, or until a replacement financial assurance arrangement is accepted by the Agency in accordance with Section 326.170 of this Part.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

### **Section 326.160 Financial Tests for Parent Company Guarantee**

A licensee may provide assurance of the availability of funds for reclaiming based on obtaining a parent company guarantee that funds will be available for reclaiming costs, provided that the parent company can demonstrate that it meets the applicable financial tests identified in this Section. To pass the financial test, the parent company shall demonstrate it meets the criteria specified in either subsection (a) or (b) of this Section.

- a) The parent company shall have:
  - 1) Two of the following three ratios:
    - A) A ratio of total liabilities to net worth less than 2.0;
    - B) A ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1;
    - C) A ratio of current assets to current liabilities greater than 1.5;
  - 2) Net working capital and tangible net worth, each at least 6 times the total current reclamation cost estimate for all decommissioning activities for which the company is responsible under a parent company guarantee, a self-guarantee or a commitment to another regulatory agency (e.g., USEPA);
  - 3) Tangible net worth of at least \$10 million; and
  - 4) Assets located in the United States amounting to at least 90 percent of

total assets or at least 6 times the total current reclamation cost estimate for all decommissioning activities for which the company is responsible under a parent company guarantee, a self-guarantee or a commitment to another regulatory agency (e.g., USEPA).

- b) Or the parent company shall have:
  - 1) A current rating for its most recent uninsured, uncollateralized and unencumbered bond issuance of AAA, AA, A or BBB as issued by Standard and Poor's, or Aaa, Aa, A or Baa as issued by Moody's;
  - 2) Tangible net worth of at least 6 times the total current reclamation cost estimate for all decommissioning activities for which the company is responsible under a parent company guarantee, a self-guarantee or a commitment to another regulatory agency (e.g., USEPA);
  - 3) Tangible net worth of at least \$10 million; and
  - 4) Assets located in the United States amounting to at least 90 percent of total assets or at least 6 times the total current reclamation cost estimate for all decommissioning activities for which the company is responsible under a parent company guarantee, a self-guarantee or a commitment to another regulatory agency (e.g., USEPA).

### **Section 326.170 Modification or Replacement of Financial Assurance Arrangements**

The licensee shall not substitute, modify or replace financial assurance arrangements filed with the Agency without prior approval by the Agency.

- a) Substitute or replacement financial assurance arrangements shall meet the requirements of this Part.
- b) Proposed modifications to financial assurance arrangements already filed with the Agency shall be submitted in writing to the Agency for approval.
- c) Existing financial assurance arrangements shall not be released by the Agency until the proposed modifications or replacement financial assurance arrangements have been approved and filed in accordance with Section 326.90 of this Part.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

### **Section 326.180 Drawing on Financial Assurance Arrangements**

If a licensee fails to perform required reclamation activities or fails to obtain substitute or replacement financial assurance arrangements approved by the Agency, the Agency will exercise its rights under the applicable financial assurance arrangement. Notice of the Agency's action

shall be provided to the licensee at the address on file with the Agency.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

### **Section 326.190 Implementation**

The following procedures shall apply in implementing this Part:

- a) No new specific licenses shall be issued by the Agency after June 1, 2000, unless all financial assurance requirements have been addressed as specified in this Part.
- b) For specific licenses issued after December 1, 2005, financial assurance arrangements shall be based upon the activity authorized on a specific radioactive material license.
- c) All specific licensees shall review their cost estimate and reclamation plans at the time of renewal or when there is a change to the radiation safety program that would impact the amount of financial assurance on file with the Agency.
- d) Financial assurance arrangements for generally licensed devices shall be due within 90 days from the date of notification by the Agency.
- e) Unless the arrangement is required to be revised for another reason, previously issued financial assurance arrangements do not have to be revised specifically to substitute the Illinois Emergency Management Agency for Illinois Department of Nuclear Safety, its predecessor agency (or to substitute Agency for Department).

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

**Section 326.APPENDIX A Quantities of Material for Major Possessor Determination**

Radionuclide	Abbrev.	UNSEALED FORMS		SEALED SOURCES	
		MBq	mCi	GBq	Ci
Actinium-227	Ac-227	0.037	0.001	370	10
Aluminum-26	Al-26	370	10	37000	1000
Americium-241	Am-241	0.037	0.001	370	10
Americium-242m	Am-242m	0.037	0.001	370	10
Americium-243	Am-243	0.037	0.001	370	10
Antimony-125	Sb-125	3700	100	37000	1000
Barium-133	Ba-133	3700	100	37000	1000
Berkelium-247	Bk-247	0.037	0.001	370	10
Berkelium-249	Bk-249	3.7	0.1	37000	1000
Beryllium-10	Be-10	37	1	37000	1000
Bismuth-207	Bi-207	370	10	37000	1000
Bismuth-210m	Bi-210m	3.7	0.1	37000	1000
Cadmium-109	Cd-109	37	1	37000	1000
Cadmium-113	Cd-113	3700	100	37000	1000
Cadmium-113m	Cd-113m	3.7	0.1	37000	1000
Calcium-41	Ca-41	3700	100	37000	1000
Californium-248	Cf-248	0.37	0.01	3700	100
Californium-249	Cf-249	0.037	0.001	370	10
Californium-250	Cf-250	0.037	0.001	370	10
Californium-251	Cf-251	0.037	0.001	370	10
Californium-252	Cf-252	0.037	0.001	370	10
Carbon-14	C-14	37000	1000	37000	1000
Cerium-144	Ce-144	37	1	37000	1000
Cesium-134	Cs-134	370	10	37000	1000
Cesium-135	Cs-135	3700	100	37000	1000
Cesium-137	Cs-137	370	10	37000	1000
Chlorine-36	Cl-36	370	10	37000	1000
Cobalt-60	Co-60	37	1	37000	1000
Curium-243	Cm-243	0.037	0.001	370	10
Curium-244	Cm-244	0.037	0.001	370	10
Curium-245	Cm-245	0.037	0.001	370	10
Curium-246	Cm-246	0.037	0.001	370	10
Curium-247	Cm-247	0.037	0.001	370	10
Curium-248	Cm-248	0.037	0.001	370	10
Einsteinium-254	Es-254	0.37	0.01	3700	100
Europium-150 (34.2y)	Eu-150	37	1	37000	1000
Europium-152	Eu-152	37	1	37000	1000
Europium-154	Eu-154	37	1	37000	1000
Europium-155	Eu-155	370	10	37000	1000
Gadolinium-148	Gd-148	0.037	0.001	370	10

Gadolinium-152	Gd-152	3700	100	37000	1000
Germanium-68	Ge-68	370	10	37000	1000
Hafnium-172	Hf-172	37	1	37000	1000
Hafnium-182	Hf-182	3.7	0.1	37000	1000
Holmium-166m	Ho-166m	37	1	37000	1000
Hydrogen-3	H-3	37000	1000	37000	1000
Indium-115	In-115	3700	100	37000	1000
Iodine-129	I-129	37	1	37000	1000
Iron-55	Fe-55	3700	100	37000	1000
Iron-60	Fe-60	37	1	37000	1000
Lanthanum-137	La-137	370	10	37000	1000
Lanthanum-138	La-138	3700	100	37000	1000
Lead-202	Pb-202	370	10	37000	1000
Lead-205	Pb-205	3700	100	37000	1000
Lead-210	Pb-210	0.37	0.01	3700	100
Lutetium-173	Lu-173	370	10	37000	1000
Lutetium-174	Lu-174	370	10	37000	1000
Lutetium-176	Lu-176	3700	100	37000	1000
Manganese-53	Mn-53	37000	1000	37000	1000
Manganese-54	Mn-54	3700	100	37000	1000
Mercury-194	Hg-194	37	1	37000	1000
Molybdenum-93	Mo-93	370	10	37000	1000
Neptunium-235	Np-235	3700	100	37000	1000
Neptunium-236 (1.15x105y)	Np-236	0.037	0.001	370	10
Neptunium-237	Np-237	0.037	0.001	370	10
Nickel-59	Ni-59	3700	100	37000	1000
Nickel-63	Ni-63	3700	100	37000	1000
Niobium-93m	Nb-93m	370	10	37000	1000
Niobium-94	Nb-94	37	1	37000	1000
Osmium-194	Os-194	37	1	37000	1000
Palladium-107	Pd-107	370	10	37000	1000
Platinum-193	Pt-193	37000	1000	37000	1000
Plutonium-236	Pu-236	0.037	0.001	370	10
Plutonium-238	Pu-238	0.037	0.001	370	10
Plutonium-239	Pu-239	0.037	0.001	370	10
Plutonium-240	Pu-240	0.037	0.001	370	10
Plutonium-241	Pu-241	0.37	0.01	3700	100
Plutonium-242	Pu-242	0.037	0.001	370	10
Plutonium-244	Pu-244	0.037	0.001	370	10
Potassium-40	K-40	3700	100	37000	1000
Promethium-144	Pm-144	370	10	37000	1000
Promethium-145	Pm-145	370	10	37000	1000
Promethium-146	Pm-146	37	1	37000	1000
Promethium-147	Pm-147	370	10	37000	1000
Protactinium-231	Pa-231	0.037	0.001	370	10
Radium-226	Ra-226	3.7	0.1	37000	1000

Radium-228	Ra-228	3.7	0.1	37000	1000
Rhenium-186m	Re-186m	370	10	37000	1000
Rhenium-187	Re-187	37000	1000	37000	1000
Rhodium-101	Rh-101	370	10	37000	1000
Rhodium-102	Rh-102	370	10	37000	1000
Rubidium-87	Rb-87	3700	100	37000	1000
Ruthenium-106	Ru-106	37	1	37000	1000
Samarium-145	Sm-145	37000	100	37000	1000
Samarium-146	Sm-146	37	1	37000	1000
Samarium-147	Sm-147	3700	100	37000	1000
Samarium-151	Sm-151	370	10	37000	1000
Selenium-79	Se-79	3700	100	37000	1000
Silicon-32	Si-32	37	1	37000	1000
Sodium-22	Na-22	370	10	37000	1000
Strontium-90	Sr-90	3.7	0.1	37000	1000
Tantalum-179	Ta-179	3700	100	37000	1000
Tantalum-180m	Ta-180m	37000	1000	37000	1000
Technetium-97	Tc-97	37000	1000	37000	1000
Technetium-98	Tc-98	370	10	37000	1000
Technetium-99	Tc-99	3700	100	37000	1000
Tellurium-123	Te-123	3700	100	37000	1000
Terbium-157	Tb-157	370	10	37000	1000
Terbium-158	Tb-158	37	1	37000	1000
Thallium-204	Tl-204	3700	100	37000	1000
Thorium-228	Th-228	0.037	0.001	370	10
Thorium-229	Th-229	0.037	0.001	370	10
Thorium-230	Th-230	0.037	0.001	370	10
Thorium-232	Th-232	3700	100	37000	1000
Thulium-171	Tm-171	370	10	37000	1000
Tin-119m	Sn-119m	3700	100	37000	1000
Tin-121m	Sn-121	37000	1000	37000	1000
Tin-126	Sn-126	370	10	37000	1000
Titanium-44	Ti-44	37	1	37000	1000
Uranium-232	U-232	0.037	0.001	370	10
Uranium-233	U-233	0.037	0.001	370	10
Uranium-234	U-234	0.037	0.001	370	10
Uranium-235	U-235	0.037	0.001	370	10
Uranium-236	U-236	0.037	0.001	370	10
Uranium-238	U-238	3700	100	37000	1000
Vanadium-49	V-49	37000	1000	37000	1000
Zirconium-93	Zr-93	37	1	37000	1000
Thorium-natural		3700	100	37000	1000
Uranium-natural		3700	100	37000	1000

When a combination of nuclides is involved, the limit for the combination shall be derived as follows: For each nuclide, the licensee shall determine the ratio between the quantity authorized

on the license and the quantity established in this Appendix A for the form of the material (sealed source or unsealed material). If the sum of the ratios for all nuclides is greater than one, then the licensee shall post financial assurance arrangements.

AGENCY NOTE: Possession of special nuclear material (Plutonium, Uranium-233 and Uranium-235) is limited to quantities not sufficient to form a critical mass as defined in 32 Ill. Adm. Code 310.20.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

**Section 326.APPENDIX B Wording for Surety Bonds**

A surety bond guaranteeing funds for reclamation, as specified in 32 Ill. Adm. Code 326.100, shall contain the following provisions, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

**SURETY BOND**

Date bond executed:

Effective date:

Principal: [legal name and business address of licensee]

Type of organization: [insert "individual," "partnership" or "corporation"]

State of incorporation:

Surety(ies): [Name(s) and business address(es)]

License number(s), name, address and reclamation cost for each facility guaranteed by this bond:

Total penal sum of bond: \$ \_\_\_\_\_

Surety's bond number:

KNOW ALL PERSONS BY THESE PRESENTS, That we, the Principal and Surety(ies) hereto, are firmly bound to the Illinois Emergency Management Agency, 1035 Outer Park Drive, Springfield, Illinois 62704 (hereinafter called Agency), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

WHEREAS said Principal is required, under the Radiation Protection Act of 1990, to have a license in order to receive, possess, store and use radioactive material at the facility identified above; and

WHEREAS said Principal is required to provide financial assurance for reclamation as a condition of the license;

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform reclamation, whenever required to do so, of each facility for which this bond guarantees funds for reclamation, to the satisfaction of the Director, Illinois Emergency Management Agency, in accordance with acceptable practices for protection of health and safety pursuant to all applicable laws, statutes, rules and regulations, as such laws, statutes, rules and regulations may be amended;

OR, if the Principal shall provide alternative financial assurance as specified in 32 Ill. Adm. Code 326.170, and obtain the written approval of such assurance from the Illinois Emergency Management Agency, within 90 days after the date notice of cancellation is received by both the Principal and the Agency from the Surety(ies), then this obligation shall be null and void; otherwise, it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described herein.

Upon notification by the Agency that the Principal has been found in violation of the reclamation requirements of the Agency, for a facility for which this bond guarantees funds for performance of reclamation, the Surety(ies) shall pay the reclamation cost amount guaranteed for the facility to the Agency as directed by the Director.

Upon notification by the Agency that the Principal has failed to provide alternative financial assurance as specified in 32 Ill. Adm. Code 326.170 and obtain written approval of such assurance from the Agency during the 120 days following receipt by both the Principal and the Director of a notice of cancellation of the bond, the Surety(ies) shall pay the amount guaranteed for the facility(ies) to the Agency as directed by the Director.

The Surety(ies) hereby waive(s) notification of amendments to licenses, applicable laws, statutes, rules and regulations and agree(s) that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the licensee and to the Agency; provided, however, that cancellation shall not occur during the 180 days beginning on the date of receipt of the notice of cancellation by both the Principal and the Agency, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies); provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Agency.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this SURETY BOND and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies).

PRINCIPAL

[Signature(s)]

[Below each signature, type or print that person's name and title]

Corporate seal:

CORPORATE SURETY(IES)

[Name and address]

State of incorporation:

Liability limit: \$ \_\_\_\_\_

[Signature(s)]

[Below each signature, type or print that person's name and title]

Corporate seal:

[For every co-surety, provide signature(s), corporate seal and other information in the same manner as for the Surety above.]

Bond premium: \$ \_\_\_\_\_

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

## Section 326.APPENDIX C Wording for Letters of Credit

A letter of credit, as specified in 32 Ill. Adm. Code 326.110, shall contain the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

### IRREVOCABLE STANDBY LETTER OF CREDIT

Director  
Illinois Emergency Management Agency

Date: \_\_\_\_\_

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit No. \_\_\_\_\_ in your favor, at the request and for the account of [licensee's name and address] up to the aggregate amount of [in words] U.S. dollars \$ \_\_\_\_\_, available upon presentation of:

- A) Your sight draft, bearing reference to this letter of credit No. \_\_\_\_\_; and
- B) Your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Illinois Radiation Protection Act of 1990."

This letter of credit is effective as of [date] and shall expire on [date at least 1 year later], but such expiration date shall be automatically extended for a period of [at least 1 year] on [date] and on each successive expiration date, unless, at least 180 days before the current expiration date, we notify both you and [licensee's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. Unless released by the Illinois Emergency Management Agency (hereinafter called Agency), the Agency may draw upon this letter of credit if a new letter of credit or other financial assurance arrangement approved in writing by the Agency is not furnished 60 days prior to the expiration date. The Agency may delay the drawing if the issuing institution grants an extension of the term of this letter of credit. During the last 30 days of any extension, the Director may draw on this letter of credit if the licensee has failed to provide an alternative financial assurance arrangement approved in writing by the Agency. [Financial institution] shall give immediate notice to [licensee] and the Agency of any notice received or action filed alleging (1) the insolvency or bankruptcy of [financial institution] or (2) any violations of regulatory requirements that could result in suspension or revocation of [financial institution's] charter or license to do business. The financial institution also shall give immediate notice if [financial institution], for any reason, becomes unable to fulfill its obligation under this letter of credit.

Whenever this letter of credit is drawn on under and in compliance with the terms of the letter of credit, we shall duly honor such draft upon its presentation to us within 30 days, and we shall pay the amount of the draft to the Agency in accordance with your instructions.

Each draft must bear on its face the clause: "Drawn under Letter of Credit No. \_\_\_\_\_, dated \_\_\_\_\_, and the total of this draft and all other drafts previously drawn under this letter of credit does not exceed [fill in amount]."

[Signature(s) and title(s) of official(s) of issuing institution] [Date]

This credit is subject to [the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce, or the Uniform Commercial Code].

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

## Section 326.APPENDIX D Wording for Certificates of Deposit

A certificate of deposit, as specified in 32 Ill. Adm. Code 326.120, shall contain the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

### CERTIFICATE OF DEPOSIT

[Name and address of financial institution]  
Certificate of Deposit [insert date]  
No. \_\_\_\_\_ [insert \$ amount]

[Licensee name and address] has deposited not subject to check [spell out dollar amount] Dollars [insert numerical value \$ ] payable to the Illinois Emergency Management Agency (hereinafter called the Agency) [insert number of months] months after date, upon presentation of this certificate properly endorsed. The funds are deposited for the purpose of providing financial assurance for the cost of reclamation as required by 32 Ill. Adm. Code 326. Accordingly, this certificate shall be renewed automatically unless (a) [financial institution] receives written notice from the Agency of (1) the default of [licensee] on these obligations, (2) the termination of the facility license, or (3) the substitution of another financial assurance arrangement; or (b) [financial institution] provides a minimum of 180 days written notice of its decision not to renew as provided in the Agency's rules. In the event the Agency notifies [financial institution] that [licensee] has not complied with its reclamation obligations under the Agency's rules or its obligation to provide replacement financial assurance acceptable to the Agency, [financial institution] shall pay the amount deposited to the Agency.

[Financial institution] waives all rights of lien which it has or might have against this certificate.

The deposit documented in this certificate is insured by the Federal Deposit Insurance Corporation.

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(Cashier)

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

## Section 326.APPENDIX E Wording for Self-Guarantee Documents

- a) A self-guarantee, as specified in 32 Ill. Adm. Code 326.130, shall contain letters from the chief executive officer and the chief financial officer containing the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

### CHIEF EXECUTIVE OFFICER

I am the [chief executive officer or equivalent] of [name and address of firm], a [insert "proprietorship," "partnership," or "corporation"]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in 32 Ill. Adm. Code 326.

I hereby certify that [name of firm] is currently a going concern, and that it possesses positive tangible net worth in the amount of \$\_\_\_\_\_.

This firm [insert "is required" or "is not required"] to file a Form 10K with the U.S. Securities and Exchange Commission for the latest fiscal year. The fiscal year of this firm ends on [month, day].

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

[Signature]

[Below the signature, type or print that person's name and title]

[Date]

### CHIEF FINANCIAL OFFICER

I am the [chief financial officer or equivalent] of [name and address of firm], a [insert "proprietorship," "partnership," or "corporation"]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in 32 Ill. Adm. Code 326.

[Complete the following paragraph regarding facility(ies) and associated cost estimates or amounts specified in 32 Ill. Adm. Code 326.70. For each facility, include its license number, name, address and current cost estimates for the specified activities.]

This firm guarantees, through the self-guarantee submitted to demonstrate compliance under 32 Ill. Adm. Code 326, the reclamation of the following facility(ies) owned or operated by this firm. The current cost estimates or amounts specified in 32 Ill. Adm. Code 326.70, so guaranteed, are shown for each facility:

<u>Name of Facility</u>	<u>Location of Facility</u>	<u>Cost Estimate or 326.70 Amounts</u>
-------------------------	-----------------------------	--

This firm [insert "is required" or "is not required"] to file a Form 10K with the U.S. Securities and Exchange Commission for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the financial test required by 32 Ill. Adm. Code 326.140 are derived from this firm's independently audited, year-end financial statements and footnotes for the latest completed fiscal year, ended [date].

[Insert completed financial test applicable to licensee from subsection (c), (d) or (e) of this Appendix.]

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

[Signature]

[Below the signature, type or print that person's name and title]

[Date]

- b) A self-guarantee, as specified in 32 Ill. Adm. Code 326.130, shall contain the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

### **SELF-GUARANTEE**

Self-guarantee made this [date] by [name and address of licensee], a [insert "proprietorship," "partnership," or "corporation"] organized under the laws of the State of [insert name of state], herein referred to as "licensee," to the Illinois Emergency Management Agency (hereinafter called the Agency).

#### Recitals

- 1) The licensee has full authority and capacity to enter into this guarantee [if guarantor is a corporation, add the following phrase "under its bylaws, articles of incorporation, and the laws of the State of [insert licensee's state of incorporation], its state of incorporation."]. [If the licensee has a Board of Directors, insert the following: "Licensee has approval from its Board of Directors to enter into this guarantee."]
- 2) This guarantee is being issued to comply with regulations issued by the Agency, pursuant to the Radiation Protection Act of 1990. The Agency has promulgated regulations in 32 Ill. Adm. Code 326 that require that general or specific licensees provide assurance that funds will be available when needed for reclamation activities.

- 3) The guarantee is issued to provide financial assurance for reclamation activities for [identify licensed facility(ies)] as required by 32 Ill. Adm. Code 326. The reclamation costs are as follows: [insert the current cost estimates or amounts specified in 32 Ill. Adm. Code 326.70 guaranteed for each identified facility].
- 4) The licensee meets or exceeds the financial test criteria specified in 32 Ill. Adm. Code 326.140 and agrees to comply with all notification requirements as specified in 32 Ill. Adm. Code 326.
- 5) Reclamation activities as used in this Appendix E refers to the activities required by 32 Ill. Adm. Code 330 for reclamation of facility(ies) identified in this Appendix E.
- 6) The licensee guarantees to the Agency that it will:
  - A) Carry out the required reclamation activities as required by 32 Ill. Adm. Code 330; or
  - B) Upon written notification from the Agency, pay the reclamation cost amount guaranteed for the facility(ies) to the Agency directed by the Director.
- 7) The licensee shall submit revised financial statements, financial test data and an auditor's special report and reconciling schedule annually within 90 days after the close of the licensee's fiscal year.
- 8) If, at the end of any fiscal year before termination of this guarantee, the licensee fails to meet the financial test criteria, the licensee shall send within 90 days after the end of the fiscal year, by certified mail, return receipt requested, notice to the Agency that the licensee intends to provide alternative financial assurance as specified in 32 Ill. Adm. Code 326.170. Within 120 days after the end of the fiscal year, the licensee shall provide such financial assurance.
- 9) The licensee shall notify the Agency promptly if the ownership of the licensee is transferred and shall maintain this guarantee until the new parent firm or the licensee provides alternative financial assurance acceptable to the Agency.
- 10) The licensee, 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 Agency-approved reclamation 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 32 Ill. Adm. Code 326.

- 11) All bound parties shall be jointly and severally liable for all litigation costs incurred by the Agency in any successful effort to enforce this guarantee.
- 12) The licensee shall remain bound under this guarantee for as long as the licensee must comply with the applicable financial assurance requirements of 32 Ill. Adm. Code 326 for the previously listed facility(ies), except that the licensee may cancel this guarantee by meeting the requirements of 32 Ill. Adm. Code 326.170.
- 13) If the licensee fails to provide alternative financial assurance as specified in 32 Ill. Adm. Code 326.170, the licensee shall make full payment under this guarantee.
- 14) If the licensee files financial reports with the U.S. Securities and Exchange Commission, then it shall promptly submit them to the Agency during each year in which this guarantee is in effect.

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

Effective date: \_\_\_\_\_

[Name of licensee]

[Signature of chief executive officer or equivalent]

[Below the signature, type or print that person's name and title]

Signature of witness or notary: \_\_\_\_\_

c) Financial test documentation for self-guarantee for a commercial company issuing bonds:

1) Current reclaiming and decommissioning cost estimates or certified amounts

A) Current reclaiming cost estimate or certified amount for all decommissioning activities covered by this self-guarantee \$ \_\_\_\_\_

B) Total reclaiming cost estimates and certified amounts for all decommissioning activities covered by other NRC or Agreement State guarantees, parent company guarantees or self-guarantees \$ \_\_\_\_\_

C) Total amounts for all decommissioning activities \$ \_\_\_\_\_

under parent company guarantees, self-guarantees and commitments to other regulatory agencies (e.g., USEPA) \_\_\_\_\_

Total for line 1 \$ \_\_\_\_\_

2) Current bond rating of most recent unsecured issuance of this firm

Rating \_\_\_\_\_

Name of rating service \_\_\_\_\_

3) Date of issuance of bond \_\_\_\_\_

4) Date of maturity of bond \_\_\_\_\_

5)\* Tangible net worth\*\* (if any portion of the cost estimates for reclaiming or decommissioning is included in total liabilities on your firm's financial statements, you may add the amount of that portion to this line) \$ \_\_\_\_\_

6)\* Total assets in United States (required only if less than 90 percent of firm's assets are located in the United States) \$ \_\_\_\_\_

	<u>Yes</u>	<u>No</u>
7) Is line 5 at least 10 times line 1?	<input type="checkbox"/>	<input type="checkbox"/>
8) Are at least 90 percent of the firm's assets located in the United States? If not, complete line 9	<input type="checkbox"/>	<input type="checkbox"/>
9) Is line 6 at least 10 times line 1?	<input type="checkbox"/>	<input type="checkbox"/>
10) Is rating specified on line 2 "A" or better	<input type="checkbox"/>	<input type="checkbox"/>
11) Does the licensee have at least one class of equity securities registered under the Securities Exchange Act of 1934?	<input type="checkbox"/>	<input type="checkbox"/>

-----  
\* Denotes figures derived from financial statements.

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

d) Financial test documentation for commercial companies that have no outstanding rated bonds:

- 1) Current reclaiming and decommissioning cost estimates or certified amounts
- A) Current reclaiming cost estimate or certified amount for all decommissioning activities covered by this self-guarantee \$ \_\_\_\_\_
- B) Total reclaiming cost estimates or certified amounts for all decommissioning activities covered by other NRC or Agreement State guarantees, parent company guarantees or self-guarantees \$ \_\_\_\_\_
- C) Total amounts for all decommissioning activities under parent company guarantees, self-guarantees and commitments to other regulatory agencies (e.g., USEPA) \$ \_\_\_\_\_

Total for line 1

- 2)\* Total liabilities (if any portion of the cost estimates for reclaiming or 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)\* Net worth \$ \_\_\_\_\_
- 5)\* The sum of net income plus depreciation, depletion and amortization \$ \_\_\_\_\_
- 6)\* Total assets in United States (required only if less than 90 percent of firm's assets are located in the United States) \$ \_\_\_\_\_

- |   | <u>Yes</u>               | <u>No</u>                |
|---|--------------------------|--------------------------|
| 7) Is line 3 greater than \$10 million, or at least 10 times line 1, whichever is greater             | <input type="checkbox"/> | <input type="checkbox"/> |
| 8) Are at least 90 percent of the firm's assets located in the United States? If not, complete line 9 | <input type="checkbox"/> | <input type="checkbox"/> |

- 9) Is line 6 at least 10 times line 1?
- 10) Is line 5 divided by line 2 greater than 0.15?
- 11) Is line 2 divided by line 4 less than 1.5?

-----

\* Denotes figures derived from financial statements.

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

e) Financial test documentation for self-guarantee for hospitals (Complete either Alternative 1 or Alternative 2):

Alternative 1

1) Current bond rating of most recent unsecured ,uncollateralized and unencumbered issuance of this institution

Rating \_\_\_\_\_

Name of rating service \_\_\_\_\_

2) Date of issuance of bond \_\_\_\_\_

3) Date of maturity of bond \_\_\_\_\_

4) Is the rating specified on line 1 "a" or better 

<u>Yes</u>	<u>No</u>
<input type="checkbox"/>	<input type="checkbox"/>

Alternative 2

1) Current reclaiming and decommissioning cost estimates or certified amounts

A) Current reclaiming cost estimate or certified amount for all decommissioning activities covered by this self-guarantee \$ \_\_\_\_\_

B) Total reclaiming cost estimates and certified amounts for all decommissioning activities covered by other NRC or Agreement State guarantees, parent company guarantees or self-guarantees \$ \_\_\_\_\_

C)	Total amounts for all decommissioning activities under parent company guarantees, self-guarantees and commitments to other regulatory agencies (e.g., USEPA)	\$ _____	
	Total for line 1	\$ _____	
2)*	Total revenues	\$ _____	
3)*	Operating revenues	\$ _____	
4)*	Total expenditures	\$ _____	
5)*	Total 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?	<input type="checkbox"/>	<input type="checkbox"/>

Guarantor shall meet each of the following ratios:

		<u>Yes</u>	<u>No</u>
11)	Is (line 2 minus line 4) divided by line 2 at least 0.04?	<input type="checkbox"/>	<input type="checkbox"/>
12)	Is line 5 divided by line 6 less than or equal to 0.67?	<input type="checkbox"/>	<input type="checkbox"/>
13)	Is (line 7 plus line 8) divided by line 9 at least 2.55?	<input type="checkbox"/>	<input type="checkbox"/>

-----

\* Denotes figures derived from financial statements.

\*\* Net fixed assets is defined as fixed assets minus accumulated depreciation.

- f) A self-guarantee, as specified in 32 Ill. Adm. Code 326.130 and 326.140, shall include submission of an auditor's special report containing the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

**AUDITOR'S CONFIRMATION OF CHIEF FINANCIAL OFFICER'S LETTER**

We have examined the financial statements of [self-guarantor's name] for the year ended [insert date], and have issued our report thereon dated [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. [Self-guarantor's name] has prepared documents to demonstrate its financial responsibility under the Illinois Emergency Management Agency's financial assurance regulations, 32 Ill. Adm. Code 326. This letter is furnished to assist the licensee [insert IEMA license number and name] 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 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 licensee's financial statements for the year ended [date];
- 2) Confirmed that the amounts in the column "Per CFO's Letter" agree with the amounts in the chief financial officer's letter;
- 3) Confirmed that the amounts 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 paragraphs (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.

---

Signature

---

Date

**AUDITOR'S SCHEDULE RECONCILING AMOUNTS IN CFO'S LETTER**

[Name of self-guarantor]

		<u>Year ended [date]</u>		
<u>Line # in CFO'S Letter</u>		<u>Per Financial Statements</u>	<u>Reconciling Items</u>	<u>Per CFO's Letter</u>
6	Total current liabilities	X		
	Long-term debt	X		
	Deferred income taxes	<u>X</u> XX		
	Accrued decommissioning cost included in current liabilities		X	
	Total liabilities (less accrued decommissioning cost)			X
4	Net worth	XX		
	Less: Cost in excess of value of tangible assets acquired	<u>X</u> XX		
	Accrued decommissioning costs included in current liabilities		X	
	Tangible net worth (plus decommissioning costs)			XX

(Balance of schedule is not illustrated.)

AGENCY NOTE: This illustrates the form of schedule that is contemplated. Details and reconciling items will differ in specific situations.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

## Section 326.APPENDIX F Wording for Parent Company Guarantee Documents

- a) A parent company guarantee, as specified in 32 Ill. Adm. Code 326.150, shall contain letters from the chief executive officer and the chief financial officer containing the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

### CHIEF EXECUTIVE OFFICER

I am the [chief executive officer or equivalent] of [name and address of firm], a [insert "proprietorship", "partnership", or "corporation"]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in 32 Ill. Adm. Code 326.

I hereby certify that [name of firm] is currently a going concern, and that it possesses positive tangible net worth in the amount of \$\_\_\_\_\_.

This firm [insert "is required" or "is not required"] to file a Form 10K with the U.S. Securities and Exchange Commission for the latest fiscal year. The fiscal year of this firm ends on [month, day].

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

[Signature]

[Below the signature, type or print that person's name and title]

[Date]

### CHIEF FINANCIAL OFFICER

I am the [chief financial officer or equivalent] of [name and address of firm], a [insert "proprietorship", "partnership", or "corporation"]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in 32 Ill. Adm. Code 326.

[Complete the following paragraph regarding facility(ies) and associated cost estimates or amounts specified in 32 Ill. Adm. Code 326.70. For each facility, include its license number, name, address and current cost estimates for the specified activities.]

This firm guarantees, through the parent company guarantee submitted to demonstrate compliance under 32 Ill. Adm. Code 326, the reclamation of the following facility(ies) owned or operated by subsidiary(ies) of this firm. The current cost estimates or amounts specified in 32 Ill. Adm. Code 326.70, so guaranteed, are shown for each facility:

Name of Facility

Location of Facility

Cost Estimate or  
326.70 Amounts

This firm [insert "is required" or "is not required"] to file a Form 10K with the U.S. Securities and Exchange Commission for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the financial test required by 32 Ill. Adm. Code 326.160 are derived from this firm's independently audited, year-end financial statements and footnotes for the latest completed fiscal year, ended [date].

[Insert completed financial test from subsection (c) of this Appendix F.]

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

[Signature]

[Below the signature, type or print that person's name and title]

[Date]

- b) A parent company guarantee, as specified in 32 Ill. Adm. Code 326.150, shall contain the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

### **PARENT COMPANY GUARANTEE**

Guarantee made this [date] by [name of guaranteeing entity], a [insert "proprietorship," "partnership," or "corporation"] organized under the laws of the State of [insert name of state], herein referred to as "guarantor," to the Illinois Emergency Management Agency (hereinafter called the Agency), on behalf of our subsidiary [licensee] of [business address].

#### Recitals

- 1) The guarantor has full authority and capacity to enter into this guarantee [if guarantor is a corporation, add the following phrase "under its bylaws, articles of incorporation, and the laws of the State of [insert licensee'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 to comply with regulations issued by the Agency, pursuant to the Radiation Protection Act of 1990. The Agency has promulgated regulations in 32 Ill. Adm. Code 326 that require that general or specific licensees provide assurance that funds will be available when needed for reclamation activities.

- 3) The guarantee is issued to provide financial assurance for reclamation activities for [identify licensed facility(ies)] as required by 32 Ill. Adm. Code 326. The reclamation costs are as follows: [insert the current cost estimates or amounts specified in 32 Ill. Adm. Code 326.70 guaranteed for each identified facility].
- 4) The guarantor meets or exceeds the financial test criteria specified in 32 Ill. Adm. Code 326.160 and agrees to comply with all notification requirements as specified in 32 Ill. Adm. Code 326.
- 5) The guarantor has majority control of the voting stock for the following licensee(s) covered by this guarantee. [For each facility, include its license number, name, address and current cost estimates for the specified activities.]
- 6) Reclamation activities as used in this Appendix F refers to the activities required by 32 Ill. Adm. Code 330 for reclamation of facility(ies) identified in this Appendix.
- 7) For value received from [licensee], [if the guarantor is a corporation, add "and pursuant to the authority conferred upon the guarantor by ["the unanimous resolution of its directors" or "the majority vote of its shareholders"], a certified copy of which is attached,"] the guarantor guarantees to the Agency that if the licensee fails to perform the required reclamation activities as required by 32 Ill. Adm. Code 330, the guarantor shall:
  - A) Carry out the required reclamation activities; or
  - B) Upon written notification from the Agency, pay the reclamation cost amount guaranteed for the facility(ies) to the Agency as directed by the Director.
- 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 after the close of the parent guarantor's fiscal year.
- 9) The guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, it fails to meet the financial test criteria, the licensee shall send within 90 days after the end of the fiscal year, by certified mail, return receipt requested, notice to the Agency that the licensee intends to provide alternative financial assurance as specified in 32 Ill. Adm. Code 326.170. Within 120 days after the end of the fiscal year, the guarantor shall establish such financial assurance if [the licensee] has not done so.

- 10) The guarantor agrees to notify the Agency promptly if the ownership of the licensee or parent firm is transferred and to maintain this guarantee until the new parent firm or the licensee provides alternative financial assurance acceptable to the Agency.
- 11) The guarantor agrees that, within 30 days after it determines that it no longer meets the financial test criteria or it is disallowed from continuing as a guarantor for [the licensee], it shall establish an alternative financial assurance as specified in 32 Ill. Adm. Code 326.170 as applicable, in the name of [licensee] unless [licensee] had done so.
- 12) The guarantor as well as its successors and assigns shall remain bound jointly and severally under this guarantee notwithstanding any or all of the following: amendment or modification of the license or Agency-approved reclamation 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 32 Ill. Adm. Code 326.
- 13) The guarantor agrees that all bound parties shall be jointly and severally liable for all litigation costs incurred by the Agency in any successful effort to enforce the agreement against the guarantor.
- 14) The guarantor shall remain bound under this guarantee for as long as [licensee] must comply with the applicable financial assurance requirements of 32 Ill. Adm. Code 326 for the previously listed facility(ies), except that the guarantor may cancel this guarantee by meeting the requirements of 32 Ill. Adm. Code 326.170.
- 15) The guarantor agrees that if [licensee] fails to provide alternative financial assurance as specified in 32 Ill. Adm. Code 326.170, the guarantor shall provide such alternative financial assurance in the name of [licensee] or make full payment under this guarantee.
- 16) If the guarantor files financial reports with the U.S. Securities and Exchange Commission, then it shall promptly submit them to the Department during each year in which this guarantee is in effect.

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

Effective date: \_\_\_\_\_

[Name of guarantor]

[Signature of chief executive officer or equivalent]

[Below the signature, type or print that person's name and title]

Signature of witness or notary: \_\_\_\_\_

- c) Financial test documentation for parent company guarantee (Complete either Alternative 1 or Alternative 2):

Alternative 1

- 1) Current reclaiming and decommissioning cost estimates or certified amounts
- A) Current reclaiming cost estimate or certified amount for all decommissioning activities covered by this parent company guarantee \$ \_\_\_\_\_
  - B) Total reclaiming cost estimates or certified amounts for all decommissioning activities covered by other NRC or Agreement State guarantees, parent company guarantees or self-guarantees \$ \_\_\_\_\_
  - C) Total amounts for all decommissioning activities under parent company guarantees, self-guarantees and commitments to other regulatory agencies (e.g., USEPA) \$ \_\_\_\_\_
- Total for line 1 \$ \_\_\_\_\_
- 2) \* Total liabilities (if any portion of the cost estimates for reclaiming or 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) \* 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 (required only if less than 90 percent of firm's assets are located in the United States) \$ \_\_\_\_\_

Yes      No

10) Is line 3 at least \$10 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 the firm's assets located in the United States? If not, complete line 14

14) Is line 9 at least 6 times line 1?

Guarantor shall 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?

\* Denotes figures derived from financial statements.

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

Alternative 2

1) Current reclaiming and decommissioning cost estimates or certified amounts

A) Current reclaiming cost estimate or certified amount for all decommissioning activities covered by this parent company guarantee \$ \_\_\_\_\_

B) Total reclaiming cost estimates or certified amounts for all decommissioning activities covered by other NRC or Agreement State guarantees, parent company guarantees or self-guarantees \$ \_\_\_\_\_

C) Total amounts for all decommissioning activities under parent company guarantees, self-guarantees and commitments to other regulatory agencies (e.g., USEPA) \$ \_\_\_\_\_

Total for line 1 \$ \_\_\_\_\_

2) Current bond rating of most recent unsecured, uncollateralized and unencumbered issuance of this firm

Rating \_\_\_\_\_

Name of rating service \_\_\_\_\_

3) Date of issuance of bond \_\_\_\_\_

4) Date of maturity of bond \_\_\_\_\_

5) Tangible net worth\*\* (if any portion of estimates for reclaiming or decommissioning is included in total liabilities on your firm's financial statements, you may add the amount of that portion to this line) \$ \_\_\_\_\_

6) Total assets in United States (required only if less than 90 percent of firm's assets are located in the United States) \$ \_\_\_\_\_

	<u>Yes</u>	<u>No</u>
7) Is line 5 at least \$10 million?	<input type="checkbox"/>	<input type="checkbox"/>
8) Is line 5 at least 6 times line 1?	<input type="checkbox"/>	<input type="checkbox"/>
9) Are at least 90 percent of the firm's assets located in the United States? If not, complete line 10	<input type="checkbox"/>	<input type="checkbox"/>
10) Is line 6 at least 6 times line 1?	<input type="checkbox"/>	<input type="checkbox"/>
11) Is the rating specified on line 2 BBB or better (if issued by Standard & Poor's) or Baa or better (if issued by Moody's)?	<input type="checkbox"/>	<input type="checkbox"/>

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\* Denotes figures derived from financial statements.

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

- d) A parent company guarantee, as specified in 32 Ill. Adm. Code 326.150, shall include submission of an auditor's special report containing the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

#### **AUDITOR'S CONFIRMATION OF CHIEF FINANCIAL OFFICER'S LETTER**

We have examined the financial statements of [name of parent guarantor] ("Company") for the year ended [insert date], and have issued our report thereon dated [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.

The Company has prepared documents to demonstrate its financial responsibility under the Illinois Emergency Management Agency's financial assurance regulations, 32 Ill. Adm. Code 326. This letter is furnished to assist the licensee [insert Agency license number and name] 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 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 [date];
- 2) Confirmed that the amounts in the column "Per CFO's Letter" agree with the amounts in the chief financial officer's letter;
- 3) Confirmed that the amounts 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 paragraphs (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.

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Signature

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Date

**AUDITOR'S SCHEDULE RECONCILING AMOUNTS IN CFO'S LETTER**

[COMPANY]

Year ended [date]

<u>Line # in CFO's Letter</u>		<u>Per Financial Statements</u>	<u>Reconciling Items</u>	<u>Per CFO's Letter</u>
6	Total current liabilities	X		
	Long-term debt	X		
	Deferred income taxes	<u>X</u> XX		
	Accrued decommissioning costs included in current liabilities		X	
	Total liabilities (less accrued decommissioning costs)			X
4	Net worth	XX		
	Less: Cost in excess of value of tangible assets acquired	<u>X</u> XX		
	Accrued decommissioning costs Included in current liabilities		X	
	Tangible net worth (plus decommissioning costs)			XX

(Balance of schedule is not illustrated.)

AGENCY NOTE: This illustrates the form of schedule that is contemplated. Details and reconciling items will differ in specific situations.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)