
40 C.F.R. § 280.95

Financial test of self-insurance.

(a) An owner or operator, and/or guarantor, may satisfy the requirements of § 280.93 by passing a financial test as specified in this section. To pass the financial test of self-insurance, the owner or operator, and/or guarantor must meet the criteria of paragraph (b) or (c) of this section based on year-end financial statements for the latest completed fiscal year.

(b)

(1) The owner or operator, and/or guarantor, must have a tangible net worth of at least ten times:

(i) The total of the applicable aggregate amount required by § 280.93, based on the number of underground storage tanks for which a financial test is used to demonstrate financial responsibility to EPA under this section or to a state implementing agency under a state program approved by EPA under 40 CFR part 281;

(ii) The sum of the corrective action cost estimates, the current closure and post-closure care cost estimates, and amount of liability coverage for which a financial test is used to demonstrate financial responsibility to EPA under 40 CFR 264.101, 264.143, 264.145, 265.143, 265.145, 264.147, and 265.147 or to a state implementing agency under a state program authorized by EPA under 40 CFR part 271; and

(iii) The sum of current plugging and abandonment cost estimates for which a financial test is used to demonstrate financial responsibility to EPA under 40 CFR 144.63 or to a state implementing agency under a state program authorized by EPA under 40 CFR part 145.

(2) The owner or operator, and/or guarantor, must have a tangible net worth of at least \$10 million.

(3) The owner or operator, and/or guarantor, must have a letter signed by the chief financial officer worded as specified in paragraph (d) of this section.

(4) The owner or operator, and/or guarantor, must either:

(i) File financial statements annually with the U.S. Securities and Exchange Commission, the Energy Information Administration, or the Rural Utilities Service; or

(ii) Report annually the firm's tangible net worth to Dun and Bradstreet, and Dun and Bradstreet must have assigned the firm a financial strength rating of 4A or 5A.

(5) The firm's year-end financial statements, if independently audited, cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

(c)

(1) The owner or operator, and/or guarantor must meet the financial test requirements of 40 CFR 264.147(f)(1),

substituting the appropriate amounts specified in § 280.93(b)(1) and (2) for the “amount of liability coverage” each time specified in that section.

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