

40 C.F.R. § 267.151

Wording of the instruments.

(a) The chief financial officer of an owner or operator of a facility with a standardized permit who uses a financial test to demonstrate financial assurance for that facility must complete a letter as specified in § 267.143(f) of this chapter. The letter must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

I am the chief financial officer of [name and address of firm]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance for closure costs, as specified in [insert "subpart H of 40 CFR part 267" or the citation to the corresponding state regulation]. This firm qualifies for the financial test on the basis of having [insert "a current rating for its senior unsecured debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's" or "a ratio of less than 1.50 comparing total liabilities to net worth" or "a ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus \$10 million, to total liabilities."]

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

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

[If this firm qualifies on the basis of its bond rating fill in the requested information: "This firm has a rating of its senior unsecured debt of" [insert the bond rating] "from" [insert "Standard and Poor's" or "Moody's"]. Complete Line 1. Total Liabilities below and then skip the remaining questions in the next section and resume completing the form at the section entitled *Obligations Covered by a Financial Test or Corporate Guarantee.*]

[If this firm qualifies for the financial test on the basis of its ratio of liabilities to net worth, or sum of income, depreciation, depletion, and amortization to net worth, please complete the following section.]

*1. Total Liabilities	\$ _____
*2. Net Worth	\$ _____
*3. Net Income	\$ _____
*4. Depreciation	\$ _____
*5. Depletion (if applicable)	\$ _____
*6. Amortization	\$ _____

*7. Sum of Lines 3., 4., 5. & 6	\$ _____
---------------------------------	----------

[If the above figures are taken directly from the most recent audited financial statements for this firm insert “The above figures are taken directly from the most recent audited financial statements for this firm.” If they are not, insert “The following items are not taken directly from the firms most recent audited financial statements” [insert the numbers of the items and attach an explanation of how they were derived.]

[Complete the following calculations]

8. Line 1. ÷ Line 2. =	_____
9. Line 7. ÷ Line 1. =	_____
Is Line 8. less than 1.5?	_____ Yes _____ No
Is Line 9 greater than 0.10?	_____ Yes _____ No

[If you did not answer Yes to either of these two questions, you cannot use the financial test and need not complete this letter. Instead, you must notify the permitting authority for the facility that you intend to establish alternate financial assurance as specified in 40 CFR 267.143. The owner or operator must send this notice by certified mail within 90 days following the close of the owner or operator's fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements of this section. The owner or operator must also provide alternative financial assurance within 120 days after the end of such fiscal year.]

Obligations Covered by a Financial Test or Corporate Guarantee

[On the following lines list all obligations that are covered by a financial test or a corporate guarantee extended by your firm. You may add additional lines and leave blank entries that do not apply to your situation.]

Hazardous Waste Facility Name and ID	State	Closure	Post-Closure	Corrective Action
_____	_____	\$ _____	\$ _____	\$ _____
_____	_____	_____	_____	_____
Hazardous Waste Third Party Liability				\$ _____

Municipal Waste Facilities	State	Closure	Post-Closure	Corrective Action
_____	_____	\$ _____	\$ _____	\$ _____
_____	_____	_____	_____	_____

Underground Injection Control	State			Plugging action
	_____			\$ _____

Petroleum Underground Storage Tanks				_____
PCB Storage Facility Name and ID	State			Closure
	_____			\$ _____

Any financial assurance required under, or as part of an action undertaken under, the Comprehensive Environmental Response, Compensation, and Liability Act.

Site name	State	Amount
_____	_____	\$ _____

Any other environmental obligations that are assured through a financial test.

Name	Amount
_____	\$ _____

*10. Total of all amounts	\$ _____
*11. Line 10 + \$10,000,000 =	\$ _____
*12. Total Assets	\$ _____
*13. Intangible Assets	\$ _____
*14. Tangible Assets (Line 12 - Line 13)	\$ _____
*15. Tangible Net Worth (Line 14 - Line 1)	\$ _____
*16. Assets in the United States	\$ _____
Is Line 15 greater than Line 11?	_____ Yes _____ No
Is Line 16 no less than Line 10?	_____ Yes _____ No

[You must be able to answer Yes to both these questions to use the financial test for this facility.]

I hereby certify that the wording of this letter is identical to the wording specified in 40 CFR 267.151 as such regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

[After completion, a signed copy of the form must be sent to the permitting authority of the state or territory where the facility is located. In addition, a signed copy must be sent to every authority who (1) requires a

demonstration through a financial test for each of the other obligations in the letter that are assured through a financial test, or (2) accepts a guarantee for an obligation listed in this letter.]

This document is only available to subscribers. Please log in or purchase access.

[Purchase Login](#)