



Ohio Administrative Code

Rule 3701:1-43-13 Financial assurance and record keeping for decommissioning.

Effective: May 15, 2023

Each licensee or applicant for a license subject to the requirements of rule 3701:1-43-10 of the Administrative Code will post with the director, financial assurance, or security, to ensure the protection of the public health and safety and the environment in the event of abandonment, default, or other inability or unwillingness of the licensee to meet the requirements of Chapter 3748. of the Revised Code. Financial assurance arrangements will:

(A) Consist of financial assurance for decommissioning, either by a decommissioning funding plan or certification of financial assurance, provided by the licensee and approved by the director prior to the issuance of the license and provided by one or more of the following methods:

(1) Prepayment by depositing into an account segregated from licensee assets and outside the licensee's administrative control, cash or liquid assets such that the amount of funds will be sufficient to pay decommissioning costs. Prepayment may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

(2) Surety, insurance, or other method in accordance with paragraph (F) of rule 3701:1-40-17 of the Administrative Code, that guarantees that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A guarantee by the applicant or licensee will not be used in combination with any other financial methods used to satisfy the requirements of this paragraph or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company.

(3) A parent company guarantee of funds for decommissioning costs based on a financial test may be used provided that the parent company meets the requirements specified in appendix B to rule 3701:1-40-17 of the Administrative Code. A parent company guarantee will not be used in combination with other financial methods to satisfy the requirements of this rule.

(4) For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee



for decommissioning costs based on a financial test may be used provided that the guarantee meets the requirements of appendix C to rule 3701:1-40-17 of the Administrative Code.

(5) For commercial companies that do not issue bonds, a guarantee of funds for decommissioning costs may be used provided that the guarantee meets the requirements of appendix D to rule 3701:1-40-17 of the Administrative Code.

(6) For nonprofit colleges, universities, hospitals, or research and development entities, a guarantee of funds for decommissioning costs may be used provided that the guarantee meets the requirements of appendix E to rule 3701:1-40-17 of the Administrative Code. The director may need proof of nonprofit status.

(7) An external sinking fund in which deposits are made at least annually, coupled with a surety method or insurance, the value of which may decrease by the amount being accumulated in the sinking fund. An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities. The surety or insurance provisions will be as stated in paragraph (A)(2) of this rule.

(8) In the case of state or local government licensee, a statement of intent containing a cost estimate for decommissioning or an amount specified in paragraphs (C)(1) to (C)(3) of rule 3701:1-40-17 of the Administrative Code, and indicating that funds for decommissioning will be obtained when necessary. As used in this rule, "state or local government licensee" does not include government owned or assisted colleges, universities or hospitals.

(B) Each decommissioning funding plan will contain a cost estimate for decommissioning and a description of the method of assuring funds for decommissioning in accordance with paragraph (A) of this rule, including the means for adjusting cost estimates and associated funding levels at each renewal over the life of the facility. The decommissioning funding plan will also contain a certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning and a signed original of the financial instrument



obtained to satisfy the requirements of paragraph (A) of this rule.

(C) Be established prior to issuance of the license or the commencement of operations to assure that sufficient funds will be available to carry out the decontamination and decommissioning of the facility;

(D) Be continuous for the duration of the license and for a period coincident with the applicant or licensee's responsibility under Chapter 3748. of the Revised Code and the rules promulgated thereunder; and

(E) Be available in Ohio subject to judicial process and execution in the event needed for the purposes set forth.