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RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

DECEMBER 84

1. The financial requirement regulations (40 CFR §264 and §265, Subpart H) require that owners and operators of all hazardous waste management facilities establish financial assurance to cover the cost of closing their respective facilities. The regulations provide six methods for establishing financial assurance. One method is a financial test and corporate guarantee for closure (§264.143(f)(10) and 265.143(e)(10)). Using this method, a parent corporation (guarantor) can provide the financial assurance for an owner/operator of a subsidiary company. If a facility becomes a separate company, completely autonomous form the parent company, may the ex-parent company provide financial assurance for the owner/operator of the newly independent company?

   No; the ex-parent company may not provide financial assurance for the newly independent company. Sections 264.143(f)(10) and 265(e)(10) state that "The guarantor must be the parent corporation of the owner or operator." Therefore, the newly independent company must establish its own financial assurance since its ex-parent company can no longer function as its guarantor. This financial assurance must be in place upon independence.

   Source: Joe Freedman (202) 382-7700
   Research: Gordon Davidson