

1 10A NCAC 15 .0354 is proposed for amendment as follows:

2
3 **10A NCAC 15 .0354 METHODS OF FINANCIAL ASSURANCE FOR DECOMMISSIONING**

4 (a) Licensees or applicants for a radioactive materials license authorizing the use of:

5 (1) byproduct material shall provide for financial assurance in compliance with 10 CFR 30.35(f);

6 (2) source material shall provide for financial assurance in compliance with 10 CFR 40.36(e); and

7 (3) special nuclear material shall provide for financial assurance in compliance with 10 CFR 70.25(f).

8 (b) Licensees or applicants for a radioactive materials license authorizing the use of any combination of radioactive
9 material listed in Paragraph (a) of this Rule, shall provide for financial assurance in accordance with the evaluation
10 performed for Rule .0353(c) of this Section.

11 (c) Notwithstanding Rule .0117 of this Chapter, the regulations cited in this Rule from 10 CFR Chapter I (2015) are
12 hereby incorporated by reference, excluding subsequent amendments and editions. Copies of these regulations are
13 available free of charge at [http://www.ecfr.gov/cgi-bin/text-](http://www.ecfr.gov/cgi-bin/text-id?SID=2beeece594411a03e50b2468ae31f89b&pid=20160101&tpl=/ecfrbrowse/Title10/10tab_02.tpl)
14 [id?SID=2beeece594411a03e50b2468ae31f89b&pid=20160101&tpl=/ecfrbrowse/Title10/10tab_02.tpl](http://www.ecfr.gov/cgi-bin/text-id?SID=2beeece594411a03e50b2468ae31f89b&pid=20160101&tpl=/ecfrbrowse/Title10/10tab_02.tpl).

15 ~~(a) Financial assurance for decommissioning as required by Rule .0353 of this Section must be provided by one or~~
16 ~~more of the following methods:~~

17 ~~(1) prepayment, where:~~

18 ~~(A) Prepayment is the deposit prior to the start of operation into an account segregated from~~
19 ~~licensee assets and outside the licensee's administrative control of cash or liquid assets such~~
20 ~~that the amount of funds would be sufficient to pay decommissioning costs; and~~

21 ~~(B) Prepayment may be in the form of a trust, escrow account, government fund, certificate of~~
22 ~~deposit, or deposit of government securities.~~

23 ~~(2) a surety method, insurance, or other guarantee method, where:~~

24 ~~(A) These methods guarantee that decommissioning costs will be paid should the licensee~~
25 ~~default;~~

26 ~~(B) A surety method may be in the form of a surety bond, letter of credit, or line of credit;~~

27 ~~(C) A parent company guarantee of funds for decommissioning costs based on a financial test~~
28 ~~may be used if the parent company and guarantee meet the criteria contained in Rule .0355~~
29 ~~of this Section;~~

30 ~~(D) A parent company guarantee may not be used in combination with other financial methods~~
31 ~~to satisfy the requirements of this Section; and~~

32 ~~(E) Any surety method or insurance used to provide financial assurance for decommissioning~~
33 ~~shall contain the following conditions:~~

34 ~~(i) The surety method or insurance shall be open ended or, if written for a specified~~
35 ~~term, such as five years, shall be renewed automatically unless 90 days or more~~
36 ~~prior to the renewal date, the issuer notifies the agency, the beneficiary, and the~~
37 ~~licensee of its intention not to renew;~~

1 ~~(ii) The surety method or insurance shall provide that the full face amount be paid to~~
2 ~~the beneficiary automatically prior to the expiration date without proof of~~
3 ~~forfeiture if the licensee fails to provide a replacement acceptable to the agency~~
4 ~~within 30 days after receipt of notification of cancellation;~~

5 ~~(iii) The surety method or insurance shall be payable to a trust established for~~
6 ~~decommissioning costs. The trustee and trust shall be acceptable to the agency.~~
7 ~~An acceptable trust includes an appropriate state or federal government agency or~~
8 ~~an entity which has the authority to act as a trustee and whose trust operations are~~
9 ~~regulated and examined by a federal or state agency;~~

10 ~~(iv) The surety method or insurance shall remain in effect until the agency has~~
11 ~~terminated the license.~~

12 ~~(3) an external sinking fund where:~~

13 ~~(A) Deposits are made at least annually, coupled with a surety method or insurance, the value~~
14 ~~of which may decrease by the amount being accumulated in the sinking fund;~~

15 ~~(B) An external sinking fund is a fund established and maintained by setting aside funds~~
16 ~~periodically in an account segregated from licensee assets and outside the licensee's~~
17 ~~administrative control in which the total amount of funds would be sufficient to pay~~
18 ~~decommissioning costs at the time termination of operation is expected;~~

19 ~~(C) An external sinking fund may be in the form of a trust, escrow account, government fund,~~
20 ~~certificate of deposit or deposits of government securities; and~~

21 ~~(D) The surety or insurance provisions shall be as stated in Subparagraph (a)(2) of this Rule.~~

22 ~~(4) in the case of federal, state or local government licensees, a statement of intent containing a cost~~
23 ~~estimate for decommissioning or an amount based on the provisions of Rule .0353 of this Section,~~
24 ~~and indicating that funds for decommissioning shall be obtained when required by the agency.~~

25
26 *History Note: Authority G.S. 104E-7; 104E-18;*

27 *Eff. May 1, 1992;*

28 *Transferred and Recodified from 15A NCAC 11 .0354 Eff. February 1, 2015; 2015;*

29 *Amended Eff. March 1, 2017.*