

# Guidance on Financial Assurance Requirements in the Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2024

October 2025

## Background

The Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2024 (the Act) establishes a pilot program authorizing the Administrator of the U.S. Environmental Protection Agency (EPA) to grant up to 15 Good Samaritan permits for low risk projects designed to remediate historic mine residue at abandoned hardrock mine sites. The Administrator may grant a permit only if, among other considerations, the applicant for that permit has demonstrated to the satisfaction of the Administrator that the applicant has the financial resources to complete the project or has established a third-party Financial Assurance mechanism (collectively referred to as “FA”).<sup>1</sup> If a Good Samaritan is unable to complete the permit requirements, FA funds secured under a third-party mechanism are intended to provide funding to complete the permitted work and for the purpose of carrying out the Act without the use of taxpayer funds.

## Purpose

FA is required in Good Samaritan permits. This document provides guidance on fulfilling the FA component of Good Samaritan permits and does not cover other permit requirements. This guidance defines terms relevant to FA, discusses an initial and potentially modified project budget and FA mechanism, and describes how FA may be accessed and released by EPA with, as appropriate, the relevant federal land management agency.

## General

At the Administrator’s, and as appropriate the head of the relevant federal land management agency’s, discretion, a Good Samaritan permit may include general provisions applicable to all aspects of the Good Samaritan’s FA.<sup>2</sup> For example, a general provision may allow reasonable extensions, within EPA’s discretion, of specific timing requirements for certain FA-related actions. Permits may also include language indicating that disputes over FA or a project budget would be decided in EPA’s sole unreviewable discretion and not subject to dispute resolution.

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<sup>1</sup> The Good Samaritan Remediation of Abandoned Hardrock Mines Act, 138 Stat. 1692 – Pub. L. No. 118-155 Section 4(b)(1) and 4(m) (2024).

<sup>2</sup> Section 4(f)(1)(A).

## Definitions

The terms defined below provide information relevant to the FA requirements of a Good Samaritan permit.

“Administrator” means the Administrator of the EPA.

“Applicant” means the potential Good Samaritan that submits an application for a permit under the Act.

“Baseline conditions” (defined in Section 2(4) of the Act) means the current known or reasonably discoverable data regarding the concentrations, locations, and releases of any hazardous substances, pollutants, or contaminants as described in the Good Samaritan permit that are present at an abandoned hardrock mine site prior to undertaking any action under the Act.

“Commercial entity” means a business or legal person engaged in commercial activities with the primary goal of making a profit.

“Corporate guarantee” means a guarantee by an applicant’s parent or other corporate affiliate, made on behalf of the applicant, to fund or continue activities required by a Good Samaritan permit if the Good Samaritan is no longer able to complete the permit requirements.

“Federal land management agency” means any Federal agency authorized by law or executive order to exercise jurisdiction, custody, or control over land owned by the United States.

“Good Samaritan” has the meaning given in Section 2(8) of the Act.

“Good Samaritan permit” means a permit granted by the Administrator under Section 4(a)(1) of the Act as stated in Section 2(9) of the Act. Good Samaritan permits include specific FA and other requirements.

“Government entity” means non-federal government entities, including federally recognized Tribes.

“Historic mine residue” has the meaning given in Section 2(10) of the Act.

“Long-term monitoring” means activities required under a Good Samaritan permit to obtain and review information regarding changes to baseline conditions during and after the remediation project. Long-term monitoring ensures remediation objectives have been met and that site conditions have not become measurably worse. Long-term monitoring is a required component of an FA project budget.

“Measurable progress” means a demonstrable improvement in site conditions, as compared to baseline conditions. This progress should lead to achieving remediation goals, as described in the permit or determined by the Administrator and will, in part, determine the Good Samaritan’s project budget.

“Measurably worse” means an adverse impact to human health or the environment at the abandoned hardrock mine site as compared to the baseline conditions, such as a sustained decrease in water quality. The Good Samaritan permit may require FA for actions needed to address potential contingencies that could result in measurably worse conditions.

“Non-profit” means a non-governmental organization operating for public benefit rather than profit, with revenue used to further the organization’s purpose rather than distributed to owners or shareholders. Many nonprofits also receive tax-exempt status.

“Operations and maintenance” means actions begun after the remediation project has been completed that are designed to ensure the work required in the permit remains effective as performed. Operations and maintenance costs should be accounted for in the project budget.

“Potential contingencies” means ways in which conditions may become measurably worse than the baseline conditions as described in the permit. A specific contingency plan<sup>3</sup> must be submitted with an application for a Good Samaritan permit, and activities that would be needed to address these contingencies should be accounted for in the project budget. Contingencies may include, for example, emergencies (such as slope failures or water impoundment failures), adverse events (such as the release or threat of release of historic mine residue from the site or other threat to public health or welfare), or other unusual circumstances (such as fires, floods, or weather damage).

“Project budget” means the estimated total cost of the permitted work and all requirements under a Good Samaritan permit as determined by the Administrator. A proposed project budget must be submitted by the applicant<sup>4</sup> in sufficient detail to allow an informed determination by the Administrator and should include at least the estimated cost of 1) the remediation work, 2) long-term monitoring, 3) operations and maintenance, and 4) measures to address any contingencies identified in the permit application.<sup>5</sup> The estimate may be updated while FA is required, as needed.

## Initial Project Budget

The permitted work required in a Good Samaritan permit must be secured by FA. The application for a Good Samaritan permit must include a proposed project budget with a supporting rationale for review by EPA.<sup>6</sup> The project budget should include at least the estimated cost of the proposed project, long-term monitoring, operations and maintenance, and measures to address any potential contingencies.<sup>7</sup> EPA will assess this estimate and may require further rationale, supplemental material, or pose questions regarding the budget. As part of its determination, EPA may require the Good Samaritan to adjust the budget and may also, as a part of general application review, include additional components in the permit.<sup>8</sup> EPA may accept the applicant’s initial budget or accept an adjusted budget. The final project budget that is included in the Good Samaritan permit should then be secured by the Good Samaritan’s FA.

## Form of FA

Applicants have two options to satisfy the Act’s FA requirements. Applicants can either:

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<sup>3</sup> Section 4(c)(10).

<sup>4</sup> Section 4(b)(11).

<sup>5</sup> Section 4(m)(1)(A)(vi)(III) and (V).

<sup>6</sup> Project budgets are location, fact, and project specific. EPA may be able to assist in identifying resources potentially useful in preparing project budgets.

<sup>7</sup> Section 4(m)(1)(A)(vi)(III) and (V).

<sup>8</sup> Section 4(c)(12)(B).

1. demonstrate, to the satisfaction of the Administrator, that they have **access to the necessary financial resources**; or
2. establish a **third-party FA mechanism**.<sup>9</sup>

The form of FA, including a specific type of third-party FA mechanism if a third-party mechanism is proposed, should be included as a draft in the application. After review, EPA may accept the proposed FA or require changes, as appropriate.

## Access to Financial Resources

If an applicant chooses to show access to financial resources necessary to complete the permitted work, the applicant should provide a project budget for its proposed remediation project and substantiate its funding source(s). Funding may be provided through direct support (defined below) and/or indirectly through an external funding mechanism (e.g., a grant). In either case, a commitment of the availability of this funding through the length of the project should be demonstrated to the Administrator's satisfaction. This is a 'first-party' form of FA, in which the applicant is the party holding the resources that will serve as FA for the project.

Funding through direct support entails the Good Samaritan funding the project through its own accounts. If the funding is through direct support, the Good Samaritan should demonstrate its healthy financial condition and that it will remain solvent and liquid over the anticipated length of the project. EPA may request specific materials for review, based on the details of the application.<sup>10</sup> Some examples of materials EPA may request to review include:

1. An account showing sufficient funding, as determined and verified by EPA;
2. A supporting letter from a financial institution;
3. Audited financial statements accompanied by an auditor's report and/or statement in conformance with [U.S. Generally Accepted Accounting Principles](#) (GAAP); or
4. For non-profit entities, fundraising performance/review that would demonstrate successful fundraising capacities. Success may be demonstrated through a preexisting review conducted by a non-profit assessment entity that evaluates and rates charities in the United States based on financial health and accountability, such as Charity Navigator, subject to EPA's approval. If preexisting reviews are not available, EPA may conduct its own review of fundraising data provided to EPA.

EPA anticipates that a direct funding review would use industry standard ratios to determine the party's financial viability while FA is required.

If funding is provided indirectly through an external funding mechanism, for example, a grant to fund the permitted work, that funding instrument should be provided to EPA for review and verification.

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<sup>9</sup> Section 4(m)(1)(A)(vi)(V)(aa)-(bb).

<sup>10</sup> While Section 4(d) investigative sampling permits do not require FA mechanisms, Section 4(d)(3)(A), referencing Section 4(c)(5), does require investigative sampling permits to provide "a detailed description of . . . the resources available to the person," which EPA may evaluate in a similar method as this first option under a Good Samaritan permit.

While Good Samaritan permit requirements remain active, the Good Samaritan should demonstrate how it intends to maintain access to the financial resources needed to complete the project. To ensure this, a Good Samaritan permit may require the Good Samaritan to annually resubmit updated materials substantiating funding to EPA for review. If at any time while FA is required EPA determines the Good Samaritan no longer has access to adequate financial resources, the Good Samaritan may be required to establish a third-party FA mechanism.

## Third-Party FA Mechanism

If an applicant cannot demonstrate to the satisfaction of the Administrator access to financial resources, or chooses not to, then the applicant must obtain a third-party FA mechanism. If a third-party FA mechanism is established, it should identify the Administrator or the head of the relevant federal land management agency, as appropriate, as beneficiary.<sup>11</sup> This is considered ‘third-party’ FA because the resources securing the project are held by a party other than the applicant. In the event the Good Samaritan does not complete the remediation under the Good Samaritan permit, EPA may retain and use the funds secured by the FA mechanism.<sup>12</sup> Those funds may then be used to complete the permitted work and for the purpose of carrying out the Act.<sup>13</sup>

The Act suggests several possible third-party FA mechanisms, such as a letter of credit, a trust, a surety bond, a corporate guarantee from a parent or other corporate affiliate, or insurance.<sup>14</sup> EPA will review proposed mechanisms on a case-specific basis that may be guided by the below general considerations.

A letter of credit provided as a third-party FA mechanism should be an irrevocable letter of credit, payable to or at the direction of EPA or the relevant federal land management agency, that is issued by an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency.

A fully funded trust fund should be established for the benefit of EPA or the relevant federal land management agency and administered by a trustee that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. On at least an annual basis, a balance statement should be provided to EPA by the Good Samaritan or the trustee to ensure the balance of the trust remains sufficient.

A surety bond guaranteeing payment, performance of the permit requirements, or both, should be issued by a surety company among those listed as acceptable sureties on federal bonds as set forth in Circular 570 of the U.S. Department of the Treasury and should not exceed the listed limitations in Circular 570.

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<sup>11</sup> Section 4(m)(1)(A)(vi)(V)(bb)(AA).

<sup>12</sup> Section 4(m)(1)(A)(vi)(V)(aa)-(bb)(BB) and Section 5(d).

<sup>13</sup> Section 4(m)(1)(A)(vi)(V)(bb) and Section 5(b)(3) and (d).

<sup>14</sup> The Act provides a non-exclusive list of potential third-party FA mechanisms, and EPA may be willing to accept mechanisms not listed in the Act. Good Samaritans wishing to propose an alternative third-party FA mechanism should consult with EPA on whether the proposal would meet applicable requirements. For example, EPA could consider whether escrow accounts, certificates of deposit, or pooled liquid financial resources provided by multiple Good Samaritans would be acceptable.

A draft mechanism submitted by an applicant should substantially follow EPA's [Financial Assurance Cleanup Enforcement Model Language and Sample Documents](#). References in these models to Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) settlements and CERCLA Work should be replaced with Good Samaritan permitted work and requirements. After the draft mechanism is provided to EPA and any EPA changes are incorporated, the Good Samaritan should finalize the mechanism with the financial institution and provide EPA with a signed original mechanism. Multiple mechanisms may be used to cover the full FA amount if the mechanisms are limited to letters of credit, funded trust funds, or surety bonds guaranteeing payment.

While the Act includes insurance policies in its list of suggested FA mechanisms, in EPA's experience with other FA programs this option imposes excessive monitoring and review requirements on EPA. This type of mechanism may not be suitable for a pilot program with limited permits and a time limit for reporting to Congress, and accordingly, insurance policies are disfavored as a Good Samaritan FA mechanism.

In certain situations, EPA may accept a corporate guarantee from a parent or other corporate affiliate of the applicant. Use of a corporate guarantee may be allowed after consideration of the proposed project, including factors such as the scope and complexity of the project, the risk posed by the project, the estimated cost of the project, the extent of potential contingencies, and other factors deemed relevant by EPA. While all Good Samaritan pilot projects must pose a low risk to the environment, a corporate guarantee may be more appropriate for projects such as those presenting less complexity, lower costs to perform the permitted work, or fewer potential contingencies.<sup>15</sup> Partial corporate guarantees combined with another mechanism may not be accepted.

Depending on the type of entity providing a corporate guarantee, the entity would be required to meet the criteria listed in the relevant appendix to this guidance. Appendix A contains the criteria a non-profit entity should meet to provide a corporate guarantee. Appendix B contains the criteria a government entity should meet to provide a corporate guarantee. Appendix C contains the criteria a commercial entity should meet to provide a corporate guarantee.

## Corporate Guarantee Supporting Materials and Annual Submittals

For any type of corporate guarantee, the party providing the guarantee should submit to EPA: (1) a copy of an independent certified public accountant's report of the entity's financial statements for the latest completed fiscal year, in conformance with [U.S. GAAP](#), which should not express an adverse opinion or disclaimer of opinion; and (2) a letter from its chief financial officer (or equivalent). These materials should substantially follow EPA's [Financial Assurance Cleanup Enforcement Model Language and Sample Documents](#). References in these models to CERCLA settlements and CERCLA Work should be replaced with Good Samaritan permit information and requirements.

These documents should be resubmitted annually while FA remains required for the Good Samaritan project. The submittal date may be 90 days after the close of the guarantor's fiscal year,

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<sup>15</sup> A corporate guarantee is a non-liquid FA mechanism, and therefore poses a higher financial risk to EPA and the taxpayer if a Good Samaritan is unable to complete the permitted work.

or other date as determined by EPA. If the guarantor determines it no longer meets the relevant corporate guarantee criteria, the Good Samaritan should notify EPA within 30 days and provide an alternative FA mechanism. If EPA determines the guarantor no longer meets the corporate guarantee criteria, EPA will inform the Good Samaritan, and within 30 days of this notice being received, the Good Samaritan should establish a new FA mechanism.

## Modification to a Project Budget

While FA is required, the project budget may need adjustment at appropriate intervals. Permits may include language regarding project budget modification, which will subsequently impact the amount of required FA. For example, as work is completed, the estimated cost to complete the remaining work may change, or if a permit is modified to change the scope of a project or permitted work, the project's budget would also likely change. As the project budget changes, either decreasing or increasing, the required FA amount may change accordingly. When the estimated cost of remaining work increases, within 60 days the Good Samaritan should adjust its project budget accordingly, inform EPA, and adjust the FA to match the new project budget. The Good Samaritan may also request EPA approval to lower the required FA amount by providing an updated project budget, with supporting information, to EPA. Before the project budget is adjusted, EPA must review and accept the newly prepared estimate. The appropriate interval to consider adjusting FA to match a revised project budget may depend on project-specific factors. Project budgets for longer term projects may also need yearly updates reflecting impacts on costs from sources such as inflation.

## Modification of the Form of FA

Good Samaritan permits may also allow modification of the form of FA. For example, permits may include a provision allowing the Good Samaritan to request a change to the form of FA at appropriate intervals. Changing the form of an FA mechanism encompasses actions such as switching from using a surety bond to a letter of credit, or from a letter of credit provided by one bank to a letter of credit provided by a different bank. In this situation, the old FA mechanism may only be released or cancelled after a new finalized FA mechanism is in effect. This requires EPA to have accepted the new mechanism and be in receipt of an original of the new mechanism that has been signed by all parties.

## Access to FA

If a Good Samaritan does not complete the remediation under the Good Samaritan permit, EPA may access the funds secured by an FA mechanism.<sup>16</sup> When the Administrator initially determines that a Good Samaritan will not complete the permitted work, EPA will notify the Good Samaritan in writing of this determination and grant the Good Samaritan a reasonable period of time to demonstrate that it is still capable of completing the work. In the Administrator's discretion, if the

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<sup>16</sup> Section 4(m)(1)(A)(vi)(V)(aa)-(bb)(BB) and Section 5(d).

Good Samaritan remains unable to complete the permitted work, then EPA may require that the funds secured by an FA mechanism be deposited into a Good Samaritan Mine Remediation Fund.<sup>17</sup>

Good Samaritans should keep EPA updated on any potential changes to the status of their FA mechanism, especially if the mechanism's issuer intends to cancel or let the mechanism expire without renewal. If this occurs, to remain in compliance with the permit, the Good Samaritan should establish replacement FA at least 30 days before the original mechanism is no longer valid. If the Good Samaritan fails to provide an EPA-accepted replacement at least 30 days prior to the mechanism's cancellation date, the permit language should allow EPA to access the funds secured by the mechanism before it is cancelled. In that situation, EPA may require that the funds secured by an FA mechanism be deposited into a Good Samaritan Mine Remediation Fund.

## Release of FA

Good Samaritan permits should include instructions regarding the release of FA. Releasing FA may be appropriate after the Administrator determines that all obligations under a Good Samaritan permit are complete. In that situation, EPA will notify the Good Samaritan that the FA mechanism may be terminated. The termination of a Good Samaritan permit does not necessarily mean that all permit obligations are complete.<sup>18</sup>

## Disclaimer

This document is intended solely as guidance for employees of the U.S. Environmental Protection Agency. It is not a rule and does not create any legal obligations. Whether and how EPA applies this guidance in any given case will depend on the facts of the case.

## Further Information

For further information, please contact Jamey Watt in the Office of Mountains, Deserts, and Plains at [watt.jamey@epa.gov](mailto:watt.jamey@epa.gov).

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<sup>17</sup> Either the Administrator or the head of the relevant federal land management agency must be named as beneficiary on the FA mechanism. Section 4(m)(1)(A)(vi)(V)(bb)(AA). EPA and the relevant federal land management agencies will likewise coordinate on the administration of this Fund, as appropriate.

<sup>18</sup> If long term operations and maintenance are otherwise sufficiently funded on federal land through a Good Samaritan Mine Remediation Fund, then permit obligations for operations and maintenance may be deemed complete. Sections 5(b)(4) and 4(r)(5).

# Appendix A:

Criteria a non-profit entity should meet to provide a corporate guarantee

## Non-Profit Entity

A non-profit entity should meet the following criteria (either the rating requirement or both ratio and financial requirements):

**(A) Rating requirement:** Demonstrate a high rating from a non-profit assessment entity that evaluates and rates charities in the United States based on financial health and accountability, such as a current rating of 3 or 4 stars as issued by an organization such as [Charity Navigator](#).

OR

**(B) Ratio requirements:**

- (1) Operating Reserve: a ratio of operating reserve to annual expense budget no less than 25%;
- (2) Program Efficiency: a ratio of program expenses to total expenses no less than 75%;
- (3) Non-Profit Working Capital: a ratio of current assets to current liabilities greater than 1;
- (4) Non-Profit Operating Margin: a ratio of total revenue minus total expenses to total revenue greater than 0;
- (5) Saving Indicator: a ratio of total revenue minus total expenses to expenses greater than 1; and
- (6) Non-Profit Burn Rate: a ratio of start balance to end balance against the number of months measured.

AND

**(C) Financial requirements:**

- (1) Demonstrate three to six months' worth of operating income (also demonstrated in the Operating Reserve ratio);
- (2) Demonstrate consistent income stream; and
- (3) Demonstrate its funding sources and that its funding is not provided by a single source.

# Appendix B:

Criteria a government entity should meet to provide a corporate guarantee

## Government Entity

A government entity that meets the criteria of paragraphs (A) through (C) of this section may demonstrate FA up to the amount specified in paragraph (D) of this section:

### **(A) Financial requirement:**

- (1) The applicant may satisfy paragraph (A)(1)(a) or (b) of this section as applicable:
  - (a) If the applicant has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, it should have a high rating from a bond rating institution such as a current rating of Aaa, Aa, A, or Baa1, as issued by Moody's, and AAA, AA, A, or BBB+, as issued by Standard and Poor's, on all such general obligation bonds; or
  - (b) The applicant should be able to satisfy each of the following financial ratios based on the applicant's most recent audited annual financial statement:
    - (i) A ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and
    - (ii) A ratio of annual debt service to total expenditures less than or equal to 0.20.
- (2) The applicant should prepare its financial statements in conformity with [U.S. GAAP](#) for government entities and have its financial statements audited by an independent certified public accountant (or appropriate State agency).
- (3) A government entity is not eligible to assure its obligations under this section if it:
  - (a) Is currently in default on any outstanding general obligation bonds; or
  - (b) Has any outstanding general obligation bonds rated lower than Baa1 as issued by Moody's or BBB+ as issued by Standard and Poor's; or
  - (c) Operated at a deficit equal to five percent or more of total annual revenue in its most recent fiscal year; or
  - (d) Receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant (or appropriate State agency) auditing its financial statement as required under paragraph (A)(2) of this section.
- (4) The following terms used in this paragraph are defined as follows:
  - (a) Deficit equals total annual revenue minus total annual expenditures;

- (b) Total revenue includes revenue from all taxes and fees but does not include the proceeds from borrowing or asset sales, excluding revenue from funds managed by the government entity on behalf of a specific third party;
- (c) Total expenditures include all expenditures excluding capital outlays and debt repayment;
- (d) Cash plus marketable securities is all the cash plus marketable securities held by the government entity on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions; and
- (e) Debt service is the amount of principal and interest due on a loan in a given time period, typically the current year.

**(B) Public notice requirement:** The government entity should place a reference to the sum of the project budget and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the financial test into its next comprehensive annual financial report (CAFR) after the issuance of the Good Samaritan permit. Disclosure should include the permit requirements and the estimated cost remaining to be recognized.

**(C) Recordkeeping and reporting requirement:** The government entity should provide and annually resubmit within 90 days after the close of the entity's fiscal year the following items to EPA:

- (1) A letter signed by the government entity's chief financial officer that:
  - (a) Lists all the current project budgets and cost estimates covered by a financial test, as described in paragraph (D) of this section;
  - (b) Provides evidence and certifies that the government entity meets the conditions of paragraphs (A)(1), (A)(2), and (A)(3) of this section; and
  - (c) Certifies that the government entity meets the conditions of paragraphs (B) and (D) of this section.
    - (i) The government entity's independently audited year-end financial statements for the latest fiscal year (except for government entities where audits are required every two years where unaudited statements may be used in years when audits are not required), including the unqualified opinion of the auditor who should be an independent, certified public accountant or an appropriate State agency that conducts equivalent comprehensive audits;
    - (ii) A report to the government entity from the government entity's independently certified public accountant or the appropriate State agency based on performing an agreed

upon procedures engagement relative to the financial ratios required by paragraph (A)(1)(b) of this section, if applicable, and the requirements of paragraphs (A)(2) and (A)(3)(C) and (D) of this section. The certified public accountant or State agency's report should state the procedures performed and the certified public accountant or State agency's findings; and

- (iii) A copy of the comprehensive annual financial report (CAFR) used to comply with paragraph (B) of this section or certification that the requirements of General Accounting Standards Board Statement 18 have been met.

**(D) Calculation of costs to be assured:** The costs for which an applicant can assure under this paragraph is determined as follows:

- (1) If the government entity does not assure other environmental obligations through a financial test, it may assure a Good Samaritan project budget that equals up to 43 percent of the government entity's total annual revenue.
- (2) If the government entity assures other environmental obligations through a financial test, it should add those costs to the project budget it seeks to assure under this paragraph. The total that may be assured should not exceed 43 percent of the government entity's total annual revenue.

## Appendix C:

Criteria a commercial entity should meet to provide a corporate guarantee

### Commercial Entity

All structures of commercial entities should meet the following criteria:

**(A) The guarantor has:**

- (1) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and
- (2) Net working capital and tangible net worth each at least twelve times the sum of the project budget and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; and
- (3) Tangible net worth of at least \$75 million; and
- (4) Assets located in the United States amounting to at least 90% of total assets or at least twelve times the sum of the project budget and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; and
- (5) A current rating for its senior unsecured debt of Aaa, Aa1, Aa2, Aa3, A1, A2, A3, or Baa1 as issued by [Moody's](#) and AAA, AA+, AA, AA-, A+, A, A-, or BBB+ as issued by [Standard and Poor's](#).