

## **AST FR – 3 Guidance**

### **Financial Test of Self Insurance**

To satisfy the requirements of W.Va. Code §22-3-7 and section 12 of the AST Rule by self-insurance, the Owner, Operator, or Guarantor shall;

1. Meet the financial test for New Worth (Alternative I) or Net Working Capital (Alternative II) as provided herein based on year-end financial statements for the latest completed financial reporting year;
2. Complete Form AST FR-3 exactly as shown, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted; and
3. Submit the completed AST FR-3 to the WVDEP, signed by the chief financial officer of the owner, operator, or guarantor, within 120 days of the close of each fiscal year.

#### Alternative I – Net Worth Test

1. The owner, operator, or guarantor, shall have a tangible net worth of at least \$10 million; and
2. The owner, operator, or guarantor, shall have a tangible net worth of at least ten times the sum of the following:
  - a. The applicable aggregate amount required by section 12.1.c. of the AST Rule less the amount obtained through another mechanism or combination of mechanisms in accordance with section 12.3 of the AST Rule, for which a financial test is used to demonstrate financial responsibility to the WVDEP; and
  - b. Any other liability coverage for which the owner or operator is using the test to demonstrate financial responsibility to the State or EPA, (this includes but is not limited to Subtitle C Hazardous waste facilities, SDWA hazardous waste injection wells, Subtitle I Underground Storage Tank facilities), and
3. The owner, operator, or guarantor, shall either:

- a. File financial statements annually with the U.S. Securities and Exchange Commission (SEC), the Energy Information Administration (EIA), or the Rural Utilities Service (RUS), the Board of Governors of the Federal Reserve System, the Comptroller of the Currency or the Federal Deposit Insurance Corporation; or
- b. Annually report the firm's tangible net worth to Dun & Bradstreet, and Dun & Bradstreet shall have assigned the firm a financial strength rating of 4A or 5A, and

The firm's year-end financial statements, if independently audited, cannot include an adverse auditor's opinion, a disclaimer of opinion, or a going concern qualification.

#### Alternative II - Net Working Capital Test

1. The owner, operator, or guarantor shall have a tangible net worth of at least \$10 million; and
2. The owner, operator, or guarantor shall have a tangible net worth of six times the sum of the following:
  - a. The applicable aggregate amount required by section 12.1.c. of the AST Rule less the amount obtained through another mechanism or combination of mechanisms in accordance with section 12.3 of the AST Rule, for which a financial test is used to demonstrate financial responsibility to the WVDEP; and
  - b. Any other liability coverage for which the owner or operator is using the test to demonstrate financial responsibility to the State or EPA, (this includes but is not limited to Subtitle C Hazardous waste facilities, SDWA hazardous waste injection wells, Subtitle I Underground Storage Tank facilities); and
3. The owner, operator, or guarantor shall have either:
  - a. At least 90 percent of assets in the United States, or
  - b. U.S. assets at least six times the sum of the following:
    - 1) The applicable aggregate amount required by section 12.1.c. of the AST Rule less the amount obtained through another mechanism or combination

of mechanisms in accordance with section 12.3 of the AST Rule, for which a financial test is used to demonstrate financial responsibility to the WVDEP; and

- 2) Any other liability coverage for which the Owner or Operator is using the test to demonstrate financial responsibility to the State or EPA, (this includes but is not limited to Subtitle C Hazardous waste facilities, SDWA hazardous waste injection wells, Subtitle I Underground Storage Tank facilities); and

4. The Owner, Operator, or Guarantor shall have either

- a. Net working capital of at least six times the sum of the following:

- 1) The applicable aggregate amount required by §12.1.c. of the AST Rule less the amount obtained through another mechanism or combination of mechanisms in accordance with §12.3 of the AST Rule, for which a financial test is used to demonstrate financial responsibility to the Department; and

- 2) Any other liability coverage for which the Owner or Operator is using the test to demonstrate financial responsibility to the State or EPA, (this includes but is not limited to Subtitle C Hazardous Waste Facilities, SDWA Hazardous Waste Injection Wells, Subtitle I Underground Storage Tank Facilities); or

- b. A current Standard & Poor's bond rating of AAA, AA, A or BBB, or a current Moody's bond rating of Aaa, Aa, A or Baa for the most recent bond issuance, and

5. The fiscal year-end financial statements of the owner, operator, or guarantor, shall be independently audited, and cannot include an adverse auditor's opinion, a disclaimer of opinion, or a going concern qualification, and

6. If the financial statements of the owner, operator, or guarantor are not submitted annually to the U.S. Securities and Exchange Commission (SEC), the Energy Information Administration (EIA) or the Rural Utilities Service (RUS), the Owner, Operator, or Guarantor using the Alternative II test, shall obtain a special report by an independent certified public accountant which contains the accountant's certification that there are no material differences between the financial data in the

submission required under AST Form FR-6 and the independently audited year-end financial statements and footnotes for the latest completed Financial Reporting Year.

If an owner or operator finds that it no longer meets the requirements of Alternative I (Net Worth Test) or Alternative II (Net Working Capital Test), the owner or operator shall obtain alternative coverage within 150 days of the latest completed financial reporting year.

The WVDEP may require reports of financial condition at any time from the owner, operator, or guarantor. If the WVDEP finds, on the basis of such reports or other information, that the owner, operator, or guarantor no longer meets the requirements of Alternative I (Net Worth Test) or Alternative II (Net Working Capital Test), the owner or operator shall obtain alternate coverage within 30 days after notification by verifiable service of such a finding.

If the owner or operator fails to obtain alternate coverage within 150 days of finding that it no longer meets the requirements of Alternative I (Net Worth Test) or Alternative II (Net Working Capital Test), or within 30 days of notification by the Department that it no longer meets the requirements of Alternative I (Net Worth Test) or Alternative II (Net Working Capital Test), the owner or operator shall notify the WVDEP of such failure within 10 days.

The below template can be used to assist in filling out the AST FR-3 form. The brackets throughout this form contain instructions in red text. If you need to fill out the form you must download the AST FR-3 fillable PDF.

**AST FR-3  
Financial Test of Self Insurance  
Letter from Chief Financial Officer**

I am the chief financial officer of [*name and address of the Owner or Operator or Guarantor*]

This letter is in support of the use of [*the financial test of self-insurance” and/or “guarantee”*] to demonstrate financial responsibility for taking corrective action for releases from the presence, use, or operation of aboveground storage tanks (ASTs) in the aggregate amount of at least [*dollar amount*].

ASTs at the following facilities are assured by this financial test by this [*“Owner or Operator” and/or “Guarantor”*].

[*Attach tank schedule:*

*List for each facility: the name and address of the facility where tanks assured by this financial test are located, the tank registration number and the individual WVDEP issued Tank identification number.]*

A [*“financial test,” and/or “guarantee”*] is also used by [*“Owner” or “Operator” or “Guarantor”*] to demonstrate evidence of financial responsibility in the following amounts under other EPA regulations or State programs including but not limited to Subtitle C Hazardous Waste Facilities, SDWA Class I Hazardous Waste Injection Wells and aggregate UST coverage.

	Amount
Closure .....	_____
Post-Closure Care .....	_____
Liability Coverage .....	_____

Corrective Action .....	_____
Plugging and Abandonment .....	_____
Other .....	_____
<b>TOTAL</b>	_____

This [*“Owner or Operator,” or “Guarantor”*] has not received an adverse opinion, a disclaimer of opinion, or a “going concern” qualification from an independent auditor on its financial statements for the latest completed fiscal year.

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Name*

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Date*

[Fill in the information for Alternative I or Alternative II depending on which method is being used to demonstrate compliance with the financial test requirements for self-insurance.]

**Alternative I**

1. Amount of AST Annual Aggregate coverage being assured by a financial test, and/or guarantee: \_\_\_\_\_ \$\_\_\_\_\_
2. Amount of other liability coverage covered by a financial test, and/or guarantee: (This includes but is not limited to Subtitle C Hazardous Waste Facilities, SDWA Class I Hazardous Waste Injection Wells and aggregate UST coverage)  

\$\_\_\_\_\_
3. Sum of lines 1 and 2 \$\_\_\_\_\_
4. Total tangible assets: \$\_\_\_\_\_
5. Total liabilities \$\_\_\_\_\_

(if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line and add that amount to line 6)

6. Tangible Net Worth (subtract line 5 from line 4): \_\_\_\_\_ \$ \_\_\_\_\_

7. Is line 6 at least \$10 million? \_\_\_\_\_ Yes\_ No\_\*  
(Tangible Net Worth at least \$10million)

8. Is line 6 at least 10 times line 3? \_\_\_\_\_ Yes\_ No\_\*  
(Tangible Net Worth 10X's the sum of other environmental obligations)

**\*If the answer to line 7 or line 8 is "No", this test cannot be used to meet the AST Financial Responsibility requirements.**

*Complete Lines 9-11 OR Line 12 9.*

9. Have financial statements for the latest fiscal year been filed with the Securities and Exchange Commission? \_\_\_\_\_ Yes\_ No\_

10. Have financial statements for the latest fiscal year been filed with the Energy Information Administration? \_\_\_\_\_ Yes\_ No\_

11. Have financial statements for the latest fiscal year been filed with the Rural Utilities Service? \_\_\_\_\_ Yes\_ No\_

12. Has financial information been provided to Dun & Bradstreet, and has Dun & Bradstreet provided a financial strength rating of 4A or 5A?

(Answer "Yes" only if both criteria have been met.) \_\_\_\_\_ Yes\_ No\_

13. Have year-end financial statements which do not include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

(Answer "Yes" only if both criteria have been met) \_\_\_\_\_ Yes\_ No\_

### **Alternative II**

1. Amount of AST Annual Aggregate coverage being assured by a financial test, and/or guarantee: \_\_\_\_\_ \$ \_\_\_\_\_

2. Amount of other liability coverage covered by a financial test, and/or guarantee: (This includes but is not limited to Subtitle C Hazardous Waste Facilities, SDWA Class I Hazardous Waste Injection Wells and aggregate UST coverage) ...  
\$ \_\_\_\_\_

3. Sum of lines 1 and 2: \_\_\_\_\_ \$ \_\_\_\_\_

4. Total tangible assets: \_\_\_\_\_ \$ \_\_\_\_\_

5. Total liabilities

(if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line and add that amount to line 6): \$ \_\_\_\_\_

6. Tangible Net Worth (subtract line 5 from line 4): \_\_\_\_\_ \$ \_\_\_\_\_

7. Total assets in the U.S. (required only if less than 90 percent of assets are located in the U.S.): \_\_\_\_\_ \$ \_\_\_\_\_

8. Is line 6 at least \$10 million? \_\_\_\_\_ Yes\_ No\_\*  
(Tangible Net Worth at least \$10 million)

9. Is line 6 at least 6 times line 3? \_\_\_\_\_ Yes\_ No\_\*  
(Tangible Net Worth 6X's other environmental obligations)

**\*If the answer to line 8 or line 9 is "No", this test cannot be used to meet the AST Financial Responsibility requirements.**

10. Are at least 90 percent of assets located in the U.S.? \_\_\_\_\_ Yes\_ No\_\*\*  
(If "No," complete line 11)

11. Is line 7 at least 6 times line 3? (U.S. assets at least six times the required amount of AST coverage

plus other environmental liabilities) \_\_\_\_\_ Yes\_ No\_

*(Complete Lines 12-15 OR Lines 16-18)*

12. Current Assets: \_\_\_\_\_ \$ \_\_\_\_\_

13. Current Liabilities: \_\_\_\_\_ \$ \_\_\_\_\_

14. Net working capital (subtract line 13 from line 12): \_\_\_\_\_ \$ \_\_\_\_\_

15. Is line 14 at least 6 times line 3? \_\_\_\_\_ Yes\_ No\_

**-OR-**

16. Current bond rating of most recent bond issue: \_\_\_\_\_



17. Name of rating service: \_\_\_\_\_

18. Date of maturity of bond: \_\_\_\_\_

19. Have financial statements for the latest fiscal year been filed with the Securities and Exchange Commission (SEC), the Energy Information Administration (EIA), or the Rural Utilities Service (RUS)? \_\_\_\_\_ Yes\_ No\_\*

\*(If "No," please attach a report from an independent certified public accountant certifying that there are no material differences between the data as reported in lines 4-18 above and the financial statements for the latest fiscal year).

20. The firm's year-end financial statements have been independently audited and do not include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification \_\_\_\_\_ Yes\_ No\_