

WAC 173-360A-1061 Mechanism—Guarantee. (1) **Applicability of mechanism.** An owner or operator may satisfy the requirements of WAC 173-360A-1015 by obtaining a guarantee that conforms to the requirements of this section.

(2) **Eligibility of guarantor.** The guarantor must be:

(a) A firm that:

(i) Possesses a controlling interest in the owner or operator;

(ii) Possesses a controlling interest in a firm described under

(a) (i) of this subsection; or

(iii) Is controlled through stock ownership by a common parent firm that possesses a controlling interest in the owner or operator; or

(b) A firm engaged in a substantial business relationship with the owner or operator and issuing the guarantee as an act incident to that business relationship.

(3) **Financial test of guarantor.** Within one hundred twenty days of the close of each financial reporting year the guarantor must demonstrate that it meets the financial test criteria of WAC 173-360A-1060 based on year-end financial statements for the latest completed financial reporting year by completing the letter from the chief financial officer described in WAC 173-360A-1060(3) and must deliver the letter to the owner or operator.

(4) **Responsibilities upon failure of test.** If the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year, within one hundred twenty days of the end of that financial reporting year the guarantor must send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator. If the department notifies the guarantor that the guarantor no longer meets the requirements of the financial test of WAC 173-360A-1060 (2) (a) or (b) and (3), the guarantor must notify the owner or operator within ten days of receiving such notification from the department. In both cases, the guarantee will terminate no less than one hundred twenty days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator must obtain alternate coverage as specified in WAC 173-360A-1035(5).

(5) **Content of guarantee.** The guarantee must be worded as set forth in WAC 173-360A-1081, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(6) **Standby trust.** An owner or operator who uses a guarantee to satisfy the requirements of WAC 173-360A-1015 must establish a standby trust fund when the guarantee is obtained. Under the terms of the guarantee, all amounts paid by the guarantor under the guarantee will be deposited directly into the standby trust fund in accordance with instructions from the department under WAC 173-360A-1050. This standby trust fund must meet the requirements specified in WAC 173-360A-1066.

[Statutory Authority: Chapter 90.76 RCW. WSR 18-15-083 (Order 16-02), § 173-360A-1061, filed 7/18/18, effective 10/1/18.]