

Chapter 6

Financial Assurance Requirements

Section 1. Purpose.

(a) This Chapter provides for financial assurance arrangements in support of decontamination, decommissioning, reclamation, restoration, disposal, and any other activity required by the Department, for costs associated with the licensed facilities and sites.

Section 2. Scope.

(a) This Chapter sets forth the requirements of Wyoming Statute (W.S.) §§ 35-11-417 through 418 for the establishment of financial assurance arrangements for licensees listed in these rules. Such financial assurance arrangements may consist of surety bonds, federally insured certificates of deposit payable to the Department, cash deposits, certificates of deposits, deposits of government securities, irrevocable letters of credit issued by a bank organized to do business in the United States, or any combination of approved mechanisms.

(b) Licensees shall comply with the requirements of 10 Code of Federal Regulations (C.F.R.) Sections 20.1401-1405, as incorporated by reference in Chapter 3, Section 4 of these rules.

(c) References to 10 C.F.R. 20.1401 regarding Parts 50, 52, 54, 60, 63, and 72 are not incorporated by reference.

Section 3. Terms Unique to Financial Assurance.

(a) "Annual Review" is conducted during the review of the annual report which is due on the anniversary date of the establishment of the permit to mine or source material license in circumstances where no permit exists.

(b) "Cost Estimate" means a document containing the total costs that would be incurred if an independent contractor were hired to perform the decommissioning of the facility and disposal of licensed material, and all associated costs to the Department in conducting decommissioning oversight. Costs must reflect current approved estimated costs.

(c) "Facility" means the location within one building, vehicle, or under one roof and under the same administrative control: (1) at which the possession, use, processing, or storage of licensed material is or was authorized; or (2) may also mean multiple such locations at a site or part of a site.

Section 4. Financial Assurance.

(a) The Department requires specific source material licensees to furnish a decommissioning financial assurance arrangement in a dollar amount approved by the Department, as necessary to protect public health and safety, to ensure corrective action during

operation, to ensure decontamination and decommissioning of a facility or site, and for disposal of licensed material in the event of abandonment, insolvency, or other inability of the licensee to meet the requirements of the license, the Act, or these rules.

(b) The costs associated with reclamation in accordance with this Chapter shall be sufficient to ensure compliance with those standards established by the Department pertaining to bonds, sureties, and other financial arrangements to ensure adequate reclamation and long term management of such material and its disposal.

(c) Licensees shall provide the Department with cost-estimates that are reasonably accurate and these estimates shall include costs for the following:

(i) Disposal of licensed material;

(ii) Decontamination and decommissioning of buildings, facilities, and the site to a standard which achieves levels that allow release for unrestricted use of these areas upon decommissioning;

(iii) Reclamation of licensed areas to meet the requirements of 10 C.F.R. Sections 20.1401-1405;

(iv) Costs that would be incurred if an independent contractor was hired to dispose of radioactive materials and perform decontamination, decommissioning, and reclamation work including:

(A) The cost of removal and/or disposal of licensed material which is generated, stored, processed, or otherwise present at the facility or site; and

(B) The probable extent of contamination through the possession or use of licensed material, at or adjacent to the facility or site, and the probable cost of removal of such contamination;

(v) An adequate contingency factor.

(d) Prior to approval of an application for a new license, an applicant shall establish financial assurance arrangements to ensure the decontamination and decommissioning of the facility.

(e) Applicants shall provide an executed original copy of each financial assurance instrument required by this Chapter for approval by the Department as appropriate.

(i) An applicant for a new license shall submit a certification that financial assurance for decommissioning has been provided in the amount required by this Chapter. An executed original copy of each financial assurance instrument required by this Chapter and approved by the Department shall be submitted to the Department sixty (60) days prior to the approval of the Permit to Mine and Source Material License.

Section 5. Acceptable Financial Assurance Methods.

(a) Refer to W.S. §§ 35-11-417 through 418 for acceptable financial instruments and assurances.

(b) Self-insurance, or any arrangement that essentially constitutes self-insurance (for example, a contract with a state or federal agency), including bonding pursuant to W.S. § 35-11-417(d) will not satisfy the financial assurance requirements of these rules.

(c) The term of the financial assurance warranty shall automatically renew until termination of the license by the Department, unless it can be demonstrated that another arrangement would provide an acceptable level of assurance. The requirements for cancellation or substitution of the financial assurance warranty are outlined in W.S. §§ 35-11-420 and 35-11-421.

(d) The value of the financial assurance warranty shall not be dependent upon the success, profitability, or continued operation of the licensed operation.

Section 6. Periodic Review of Financial Assurances.

(a) As part of the annual report, a licensee shall provide to the Department written proof of the value of existing financial warranties and any licensee-proposed changes to the financial assurance warranties, including updated decommissioning plans, changes in cost estimates, or the changes to the type of warranty. The report shall describe any changes in operations, estimated costs, or any other circumstances that may affect the amount of required financial assurance warranties, including any increased cost attributable to inflation.

(b) Each financial assurance shall be subject to annual review, at a minimum, and approval by the Department to assure its continued adequacy of each warranty.

(c) With the approval of the Department, changes to the amount of a decommissioning financial assurance instrument may occur to account for increases or decreases in cost estimates resulting from inflation or deflation, changes in engineering plans, activities performed, or changes in any other condition affecting disposal, decontamination, and decommissioning costs.

(i) With the approval of the Department, reduction in the amount of decommissioning financial assurance may occur as decommissioning activities are completed, in accordance with an approved decommissioning plan or to reflect current site conditions and license authorization.

(d) Appropriate and adequate decommissioning financial assurances shall be maintained in effect and in good standing by the licensee until termination of the license or as otherwise authorized by the Department, regardless of whether decommissioning is phased through the life of licensed operations or occurs at the end.

(e) The Department fully adopts and hereby incorporates by reference the following: 10 C.F.R. 40.36 (d)(1)(ii) and (iii), and 40.36(d)(2)(i)-(viii).

(f) To reconcile differences due to incorporation of 10 C.F.R. 40.36(d)(iii) by

reference in paragraph (e), the following substitution shall be made:

(i) Where the words “paragraph (e) of this section” are used, substitute “Section 5 of this Chapter”.

Section 7. Financial Assurance Recordkeeping.

(a) Licensees shall keep records of financial assurances throughout the life of the license, including, but not limited to, records of the cost estimate performed for the decommissioning, the amount certified for decommissioning, and records of the funding method used for assuring funds.

(b) The Department fully adopts and hereby incorporates by reference the following: 10 C.F.R. 40.36(f)(1)-(3).

(c) To reconcile differences due to incorporation of 10 C.F.R. 40.36(f)(1) – (3) by reference in paragraph (b), the following substitutions and clarifications must be made:

(i) A reference to 10 C.F.R. 40.41(b) means Chapter 4, Section 7(e) of these rules.

(ii) A reference to 10 C.F.R. 20.1003 means Chapter 1, Section 5 of these rules.

(iii) A reference to 10 C.F.R. 20.2108 means Chapter 1, Section 11 of these rules.

(iv) A reference to 10 C.F.R. 20, Subpart E means “10 C.F.R. 20.1401 – 1406 as incorporated by reference in Chapter 3, Section 4 of these rules”.

(v) A reference to 10 C.F.R. 20.2002 means “10 C.F.R. 20.2002 as incorporated by reference in Chapter 3, Section 4 of these rules”.