



**MANITOBA**

**Mine Closure Regulation 67/99**

**MINE CLOSURE GUIDELINES**

**FINANCIAL ASSURANCE**

These guidelines have been developed and approved by a joint committee of government and mining industry representatives from Manitoba and it shall be reviewed and revised by a similar committee in the event of changes to  
*The Mines and Minerals Act.*

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## MANITOBA MINE CLOSURE GUIDELINES FINANCIAL ASSURANCE

These guidelines are not a substitute for *The Mines and Minerals Act* or the *Mine Closure Regulation* and have no legislative sanction. Their purpose is to provide direction on financial assurance acceptable to the Director of Mines relating to mine closure rehabilitation costs.

### FINANCIAL ASSURANCE

#### 14 Form of Financial Assurance Acceptable to the Director of Mines

- 14.1 In connection with a Mine Closure Plan, Financial Assurance is required to ensure that funds will be available for the eventual rehabilitation of Accumulation Areas as defined herein. Financial Assurance shall be in one of the following forms:
- a) a cheque made payable to the “Minister of Finance of Manitoba” with the funds to be held in trust for the proponent;
  - b) bonds issued by the Province of Manitoba (“the Province”) or another Canadian province, by Canada or by a Canadian municipality;
  - c) a guaranteed investment certificate or term deposit certificate, in Canadian dollars, issued to the Province by a bank, savings and credit union or trust company. The certificate must have a 12-month minimum term and be automatically renewable until the closure plan is completed;
  - d) an irrevocable, unconditional letter of credit issued to the Province by a bank, savings or credit union or trust company;
  - e) a security or guarantee policy issued to the Province by a company legally authorized to do so;
  - f) a security provided by a third party to the Province in a form acceptable to the Director;
  - g) security interests in unencumbered assets, goods, documents of title, securities, chattel papers, instruments, moneys, intangibles or interests that arise from assignment of accounts including a pledge of assets;
  - h) any other form of security or any other guarantee or protection that is acceptable to the Director;
  - i) any combination of things mentioned in clauses (a) to (h).

- 14.2 Income, if any, received with respect to Financial Assurance shall be for the account of the proponent. The excess, if any, by which such income exceeds \$10,000 in a particular calendar year shall be paid to the proponent in the first quarter of the following year.

## 15 Corporate Financial Test

- 15.1 (1) A proponent will be considered to have provided Financial Assurance for up to the entire life of the mine during the period in which the proponent's corporate credit rating meets or exceeds one of the following ratings from the stated credit rating services:
- a) A (low) from the Canadian Bond Rating Service Inc.
  - b) A (low) from the Dominion Bond Rating Service Limited.
  - c) A3 from Moody's Investor Services Inc.
  - d) A- from Standard & Poor's Inc.
  - e) a senior investment-grade rating from a rating service acceptable to the Director.
- (2) A proponent that provides Financial Assurance by complying with the test under subsection 15.1(1) shall, in the closure plan,
- a) name the rating service whose ratings are being relied upon;
  - b) submit confirmation from the service of its credit ratings for the proponent; and
  - c) identify the form and amount of Financial Assurance that the proponent will provide if the proponent ceases to comply with the test under subsection 15.1(1).
- (3) A proponent that has complied with the test in subsection 15.1(1) shall inform the Director,
- (a) within 7 days if any rating service named under clause (2)(a) downgrades the proponent's credit rating or issues a credit watch with respect to the proponent's credit rating; or
  - (b) within 30 days if any matter other than those mentioned in clause (a) arises that may materially affect the proponent's status in relation to Financial Assurance or the life of a mine.

(4) If, as a result of a downgrading under clause (3)(a), the proponent no longer complies with the corporate financial test under subsection 15.1(1), the proponent shall, within 30 days, provide the Director with Financial Assurance in the form and in the amount identified in accordance with clause (2)(c).

(5) Despite subsection 15.1(4), a proponent described in that subsection may provide evidence satisfactory to the Director that the proponent, although no longer complying with the corporate financial test under subsection 15.1(1), complies with the test set out in Section 15.2(1).

15.2 (1) A proponent will be considered to have provided Financial Assurance for up to the first half of the life of the mine during the period in which the proponent's corporate credit rating meets or exceeds one of the following ratings from the stated credit rating services:

- a) B++ (low) from the Canadian Bond Rating Service Inc.
- b) BBB (low) from the Dominion Bond Rating Service Limited.
- c) Baa3 from Moody's Investor Services Inc.
- d) BBB- from Standard & Poor's Inc.
- e) a middle investment-grade rating from a rating service acceptable to the Director.

(2) A proponent that provides Financial Assurance by complying with the test under subsection 15.2(1) shall, in the closure plan,

- a) name the rating service whose ratings are being relied upon;
- b) submit confirmation from the service of its credit ratings for the proponent; and
- c) identify the form and amount of Financial Assurance that the proponent will provide on the expiration of the first half of the life of the mine or if the proponent ceases to comply with the test under subsection 15.2(1).

(3) A proponent that has complied with the test under subsection 15.2(1) shall inform the Director,

- (a) within 7 days if any rating service named under clause (2)(a) downgrades the proponent's credit rating or issues a credit watch with respect to the proponent's credit rating; or
- (b) within 30 days if any matter other than those mentioned in clause (a) arises that may materially affect the proponent's status in relation to Financial Assurance or the life of a mine.

(4) If, as a result of a downgrading under clause (3)(a), the proponent no longer complies with the corporate financial test under subsection 15.2(1), the proponent shall, within 180 days, provide the Director with Financial Assurance in the form and in the amount identified in accordance with clause (2)(c).

(5) Upon the expiration of the first half of the mine life the proponent shall, within 180 days, provide the Director with Financial Assurance in the form and in the amount identified in accordance with clause (2)(c).

## **16 Assets as Financial Assurance Pursuant to Subsection 14.1(g)**

If the Financial Assurance to be provided is in the form of a pledge of assets pursuant to subsection 14.1(g), the following minimum requirements must be met:

- a) the portion of the Financial Assurance that may be covered by a pledge of assets shall be such as is acceptable to the Director,
- b) an appraisal of the assets to be pledged, prepared as of a date not more than three years after the date of the last appraisal by an independent appraiser acceptable to the Director, must be provided to the Director,
- c) any significant change in the nature or appraised value of the approved pledged assets must be reported annually, and
- d) if the appraised value in (c) falls short of the portion of Financial Assurance to be covered by a pledge of assets as per (a) additional Financial Assurance in the amount of such shortfall must be provided by the proponent to the Director within 90 days of reporting the appraised value to the Director.

## **17 Amount of Financial Assurance**

17.1 The amount of the Financial Assurance depends on the Mine Closure Plan and corresponds to the estimated cost of restoration, monitoring and perpetual care and treatment of Accumulation Areas, defined in subsection 17.2, as set out in the Mine Closure Plan. The Director may, upon application by a proponent, determine that the amount of Financial Assurance may be less than the full estimated cost of the restoration, monitoring and perpetual care and treatment of Accumulation Areas.

17.2 Accumulation areas targeted by the Financial Assurance and upon which the amount of Financial Assurance is calculated include, but are not limited to:

- (a) tailings ponds, including sedimentation and polishing ponds
- (b) waste rock piles
- (c) mining waste piles
- (d) concentrate and ore stockpiles
- (e) mine water ponds
- (f) shaft caps, buildings and any other safety hazards identified in the Mine Closure Plan.

## **18 Timing of Financial Assurance**

- 18.1 The amount of Financial Assurance to be provided is established based on the expected mine life, which is as set out in the Mine Closure Plan as approved by the Director.
- 18.2 The amount of Financial Assurance, determined as per Section 17, to be provided in any particular year of the mine life is determined as per Table I.
- 18.3 The first installment of Financial Assurance, determined as per Table I, is to be provided within 60 days following the approval of the Mine Closure Plan. The Director may allow, on application by a proponent, a later date for provision of the first installment.
- 18.4 Where the mine life is less than ten years, an installment may be postponed and added to the next annual installment. No postponement is possible in the last two years of the mine life.
- 18.5 Where the mine life is expected to last ten years or more, two consecutive installments may be postponed and added to the next annual installment. No more than two installments may be in a postponed condition at any time. No postponement is possible in the last two years of the mine life.

## **19 Transition**

Proponents of mining operations in existence on the date on that this guideline becomes effective shall establish Financial Assurance approved by the Director pursuant to these guidelines by December 31, 2001 or such later date as may be approved by the Director.

## **20 Co-ownership**

Partners or joint owners in a mine site may underwrite the Financial Assurance according to the percentage of their holdings in the mine. The partners or joint owners may also choose to appoint an operator to be responsible for providing the Financial Assurance.

## **21 Review of Mine Closure Plan and Financial Assurance**

- 21.1 The Mine Closure Plan is to be revised from time to time in accordance with the Manitoba *Mines and Minerals Act*, Chapter M162 and regulations thereto (collectively, the "Act"). The Mine Closure Plan may also be reviewed whenever amendments are justified by changes in mining activities; these amendments may be made on the operator's initiative or at the request of the Director.
- 21.2 In conjunction with the review and revision of a Mine Closure Plan the amount of the Financial Assurance may be increased or reduced based on such factors as:
  - (a) the progress of the rehabilitation work compared to the schedule in the Mine Closure Plan;

- (b) the amount of pre-closure rehabilitation work completed when the mine is shut down;
- (c) changes in the nature or cost of work to be done pursuant to the Mine Closure Plan.

## **22 Failure to Carry Out Closure Work**

- 22.1 The amount, if any, by which the cost of the work set out in the Mine Closure Plan and carried out or caused to be carried out by the Director pursuant to the Act exceeds the Financial Assurance shall be paid by the proponent to the Province.
- 22.2 The amount, if any, by which the Financial Assurance exceeds the cost of the work set out in the Mine Closure Plan and carried out or caused to be carried out by the Director pursuant to the Act shall be returned by the Province to the proponent.

## **23 Duration of Financial Assurance**

The Financial Assurance shall remain in effect until the work set out in the Mine Closure Plan is complete or the Director releases the Financial Assurance.

## **24 Changes in Legislation**

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**TABLE I**

**Recommended Schedule of Annual Amounts to be Provided  
Per \$1 of Financial Assurance**

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15
<b>Expected Mine Life (years)</b>															
1	1.00														
2	1.00	-													
3	.500	.500	-												
4	.111	.333	.556	-											
5	.063	.187	.313	.437	-										
6	-	.063	.187	.313	.437	-									
7	-	.030	.123	.180	.300	.367	-								
8	-	.028	.030	.102	.173	.300	.367	-							
9	-	.020	.028	.040	.092	.153	.300	.367	-						
10	-	-	.020	.055	.095	.163	.177	.225	.265	-					
11	-	-	.016	.020	.050	.090	.157	.177	.225	.265	-				
12	-	-	.012	.016	.020	.050	.088	.147	.177	.225	.265	-			
13	-	-	.010	.030	.050	.063	.080	.100	.130	.150	.180	.207	-		
14	-	-	-	.010	.030	.050	.063	.080	.100	.130	.150	.180	.207	-	
15 or more	-	-	-	.010	.010	.020	.050	.063	.080	.100	.130	.150	.180	.207	-

**Note: Actual amounts are subject to approval of the Director of Mines.**