**Section 326.90 Financial Assurance Arrangements**

This Section shall apply to applicants for specific licenses and general and specific licensees required to secure and file financial assurance arrangements with the Agency.

a) The licensee or applicant shall choose from the financial assurance arrangements specified in Sections 326.100 through 326.160.

b) The wording of the financial assurance arrangement shall contain the provisions described in this Part, and may use wording identical to the wording of the corresponding arrangement in Appendices B through F. No additional restrictions may be placed on any financial assurance arrangement filed with the Agency.

c) A signed original of the financial assurance arrangement shall be provided to and filed with the Agency in a dollar amount greater than or equal to either the amount specified in Section 326.70(a) or the amount specified in a cost estimate approved by the Agency in order to continuously cover the cost estimate for decommissioning.

1) The cost estimate and reclamation plan shall be reviewed annually by the licensee or when required by the Agency. The Agency may require the licensee to adjust the value of the cost estimate and reclamation plan to recognize any increases or decreases resulting from inflation or deflation, changes in engineering plans, activities performed and any other condition affecting costs for reclamation. These changes will be required to ensure that sufficient financial assurance amounts are provided and retained to cover cost of reclamation.

2) When a change in activities not requiring a license amendment would raise the cost estimate for reclamation to an amount greater than the amount of the financial assurance arrangements currently filed with the Agency, the licensee shall notify the Agency within 60 days after the increase. This notification shall include submission of revised cost estimates and reclamation plans for Agency review and approval. Upon approval of the revised cost estimates, the licensee may be required to file additional financial assurance arrangements at least equal to this increase.

3) When a license amendment would raise the cost estimate for reclamation to an amount greater than the amount of the financial assurance arrangements currently filed with the Agency, the amendment shall be held until the required financial assurance arrangements are established.

4) When the current reclamation cost estimate decreases, upon the written request of the licensee, and provided that the decrease is verified by the Agency, the Agency shall authorize the reduction in the amount of financial assurance required for the facility to the amount of the approved amended reclamation cost estimate.

AGENCY NOTE: If the license is amended and the licensee no longer meets the criteria for needing a reclamation plan (specified in Section 326.60 or 326.70(b)), but still must secure financial assurance in accordance with Section 326.70(a), the licensee may substitute new arrangements to meet the requirements of Section 326.70(a).

5) For specific licensees, the term of the financial assurance arrangement shall be for the period from issuance of the license until termination of the license by the Agency in accordance with 32 Ill. Adm. Code 330.

6) For general licensees, the term of the financial assurance arrangement shall be for the period from approval of the financial assurance arrangement until all devices covered by the instrument have been properly transferred or disposed of.

7) The Agency will release all financial assurance arrangements not drawn upon pursuant to Section 326.180, upon termination of the license, or if the license is amended so that the license is no longer subject to financial assurance requirements of Section 326.60 or 326.70.

d) Use of Multiple Financial Assurance Arrangements. The licensee or applicant may utilize more than one financial assurance arrangement per facility to satisfy the requirement specified in this Section. Unless agreed otherwise by the Agency and the licensee, financial assurance arrangements may be drawn upon in any order determined by the Agency. The arrangements shall be as specified in Appendices B-F, and the sum value of all arrangements shall be in an amount greater than or equal to either the amount specified in Section 326.70(a), or the amount specified in a cost estimate approved by the Agency.

e) Use of a Financial Assurance Arrangement for Multiple Facilities or Multiple Licensees at a Facility. The licensee or applicant may use a financial assurance arrangement specified in Appendices B-F to meet the requirements of this Section for more than one license, or more than one facility owned or operated in Illinois. The arrangement submitted to the Agency shall include a list indicating, for each facility, the registration numbers, license numbers, names, addresses and amounts of funds for reclamation assured by the arrangement. The amount of funds available through the financial assurance arrangement shall not be less than the aggregate total of the funds that would be available if separate arrangement had been filed and maintained for each license or facility. If more than one license exists for a facility, the amount of funds for each license shall be specified.

f) Any applicant or licensee who fulfills the requirements of this Section by obtaining a surety bond or letter of credit will be deemed to be without the required financial assurance arrangement in the event of commencement of bankruptcy proceedings involving the issuing institution, or a suspension, termination or revocation of the authority of the institution issuing the surety bond or letter of credit to issue those instruments. The applicant or licensee shall establish other Agency-approved financial assurance arrangements within 30 days after such an event.

(Source: Amended at 39 Ill. Reg. 15697, effective November 24, 2015)