**Section 332.260 Financial Surety Requirements**

a) The license applicant shall establish financial surety arrangements, prior to the Agency authorization of commencement of operations, to assure the availability of sufficient funds for decontaminating, decommissioning and reclaiming the source material milling facility, including reclamation of any tailings or waste disposal areas, and licensed site, as well as the stabilization and closure of the byproduct material disposal site and the long-term care payment.

b) An acceptable surety arrangement may consist of cash or negotiable securities deposited with the Agency, irrevocable assignments of savings or certificates of deposit, or the deposit of an instrument executed by the applicant or licensee and a corporate surety or financial institution with the Agency designated as the beneficiary. However, self insurance, or any arrangement that essentially constitutes self insurance (e.g., a contract with a State or federal agency) will not satisfy the surety requirement since this provides no additional assurance other than that which already exists through license requirements. The value of the deposit shall be equal to or greater than the amount of the surety required by subsection (c). Any surety arrangement must be available in Illinois subject to judicial process and execution in the event required for the purposes set forth in this Part.

c) The amount of funds to be ensured by the surety arrangements shall be greater than or equal to the Agency approved decommissioning cost estimates. Each decommissioning cost estimate shall be submitted for review and Agency approval and shall contain:

1) A detailed cost estimate for the decontamination, decommissioning, restoration and reclamation of buildings and the licensed site, stabilization and closure of the disposal area and the requirements of Section 332.270 for the long-term care payment in the amount reflecting:

A) The cost of an independent contractor to perform all decommissioning activities;

B) The cost of meeting Section 332.150 for unrestricted use;

C) The volume of onsite subsurface material containing residual radioactivity that will require remediation; and

D) A contingency factor of 25 percent of the total decommissioning cost estimate.

2) Identification of and justification for using the key assumptions contained in the decommissioning cost estimate;

3) A description of the method outlined in subsection (b) that will be used to assure funds for decommissioning, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility;

4) A certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning; and

5) A signed original of the financial surety instrument obtained to satisfy the requirements of subsection (b), unless a previously submitted and accepted financial surety instrument continues to cover the cost estimate for decommissioning.

d) To avoid duplication and expense, the Agency will accept surety arrangements that have been consolidated with surety arrangements established to meet requirements of other agencies in Illinois for decontamination, reclamation, restoration and disposal, if the applicant demonstrates, in writing, that the surety provides the same or a greater degree of protection for the licensed site, provided that the arrangements are adequate to satisfy these requirements and that the portion of the surety that covers the decommissioning, decontamination, reclamation and stabilization of the site and the long-term site surveillance and control is specifically identified and committed for use in accomplishing these activities.

e) The applicant's or licensee's surety arrangements and decommissioning cost estimate will be reviewed annually and at the time of license renewal by the Agency to assure that sufficient funds will be available for completion of the closure plan if the work was to be performed by an independent contractor. The amount of surety shall be adjusted to recognize any increases or decreases resulting from inflation, changes in engineering plans, activities performed, spills, leakage or migration of radioactive material producing additional contamination in onsite subsurface material that must be remediated to meet applicable remediation criteria, waste inventory increasing above the amount previously estimated, waste disposal cost increasing above the amount previously estimated, facility modifications, changes in authorized possession limits, actual remediation costs that exceed the previous cost estimate, onsite disposal, use of settling ponds, and any other conditions affecting costs. Financial surety shall be sufficient at all times to cover the cost of decommissioning and reclamation of the areas that are expected to be disturbed before the next license renewal. Regardless of whether closure is phased through the life of the operation or takes place at the end of operations, an appropriate portion of the surety shall be retained until final compliance with the closure plan is determined by the Agency. The appropriate portion of the surety to be retained shall be determined by the Agency based on review and analysis of the decommissioning cost estimate.

f) The term of the surety mechanism shall be open-ended, unless the licensee proposes another arrangement that provides an equivalent or greater level of assurance. The surety instrument shall provide that the surety mechanism will be automatically renewed and will not be cancelled unless the surety notifies both the Agency and the licensee at least 90 days prior to cancellation. Upon notice by the surety, the licensee shall submit to the Agency an acceptable replacement surety within 30 days after the notice. Proof of forfeiture shall not be necessary to collect the surety so that, in the event the licensee could not provide an acceptable replacement surety within the required time, the surety shall be automatically collected prior to its expiration or cancellation.

(Source: Amended at 39 Ill. Reg. 15719, effective November 24, 2015)