

Attachment E

Description of Financial Assurance Options

Financial Assurance mechanisms may be placed in two basic categories:

- 1) Funds are actually *set aside* (escrows, trusts, and deposits with the Regulatory Authority)
- 2) *financial guarantees* (bonds, letters of credit, and insurance).

▶ Deposit with the Regulatory Authority (funds set aside) - A deposit of *cash, certificate of deposit or U.S. Government Securities* with the RA to guarantee performance of obligations under a reclamation permit.

▶ Escrow account (funds set aside) - The permittee transfers *cash, certificates of deposit or U.S. Government Securities* and put into the custody of a third party, (usually a bank or financial institution). The escrow account is established by the permittee to satisfy the financial assurance requirements.

▶ Irrevocable trust (funds set aside) - A trust fund is an arrangement in which a separate legal entity, the trust, is created by the permittee to hold property or funds solely for the purpose of guaranteeing performance of obligations under a reclamation permit.

▶ Bond or surety bond (financial guarantee) - Also known as either:
• a *performance bond* - surety company promises to pay for or perform reclamation or
• a *forfeiture bond* - surety company promises to make a cash payment for the bond amount
A bond is an instrument provided by a surety company for which the permittee pays a fee. This is a 3-party agreement that serves as a guarantee that the provider will pay costs associated with fulfilling the permittee's obligations in the event of default

▶ Insurance (financial guarantee) - An applicant takes out a closure insurance policy from an insurance company. The policy must be issued in an amount adequate to cover the reclamation costs. The RA is the beneficiary of the policy.

▶ Irrevocable letter of credit (financial guarantee) - This is similar to a bond with a bank or financial institution taking the place of a surety. A irrevocable letter of credit is established solely for the purpose of guaranteeing performance of obligations under a reclamation permit. The bank or financial institution agrees to pay in event of default.

▶ Net worth test - Method in which a permittee may demonstrate the financial viability of their company. Please refer to NR 135.40 (13), Wis. Adm. Code, for details of the legal review requirements. To do this, an applicant must provide sufficient financial data to demonstrate compliance with minimum financial standards. The company must satisfy specific financial criteria and pass several financial ratios. The application must be supported by the opinion of an independent certified public accountant in order to establish proof of financial responsibility. The data used to demonstrate the financial viability must be taken from the company's audited financial statements from the most recently completed fiscal year. The financial information must be resubmitted every year, using the most current financial statement data.