

Article 11. Financial Assurance Mechanisms

§ 3802. Definitions. The following definitions shall govern the interpretation of this article:

(a) "Budget Set Aside" means a financial assurance mechanism, meeting the requirements of Section 3806.2 of this article, by which a government entity proposes to make specific identified monies within the entity's budget available to perform reclamation pursuant to the approved reclamation plan.

(b) "Financial Assurance ~~Amount-Cost Estimate~~" means ~~that the~~ amount of money necessary to conduct and complete reclamation on the mined lands in accordance with the approved reclamation plan, plus a reasonable estimate of the administrative costs and expenses which would be incurred by the lead agency or the Department of Conservation, the total of which shall be calculated in accordance with section 3804, and shall constitute an obligation to pay by the operator.

(c) "Financial Assurance Mechanism" means an instrument, fund or other form of Financial Assurance as provided in Section 2773.1 ~~(a) and (e)~~ of the Public Resources Code and this Article.

(d) "Pledge of Revenue" means a financial assurance mechanism meeting the requirements of Section 3806.1, of this Article, by which a governmental entity proposes to make specific, identified future revenue available to perform reclamation pursuant to the approved reclamation plan.

NOTE

Authority cited: Section 2755, Public Resources Code. Reference: Sections 2726-~~2734~~2736, Public Resources Code.

§ 3803. Financial Assurance Mechanisms. ~~As outlined by this article, financial assurances~~ Financial Assurance Mechanisms may take the form of any one or a combination of the following: ~~which the lead agency, upon review by the Department of Conservation, reasonably determines are adequate to perform reclamation in accordance with the approved reclamation plan.~~

(a) For non-governmental entity operators:

- (1) Surety bonds;
- (2) Irrevocable letters of credit; and
- (3) Trust funds;

(b) For governmental entity operators:

- (1) Surety bonds;
- (2) Irrevocable letters of credit;
- (3) Trust funds;
- (4) Pledges of Revenue; or
- (5) Budget Set Aside.

NOTE

Authority cited: Sections 2755 and 2773.1, Public Resources Code. Reference: Section 2773.1(e), Public Resources Code.

Adopt new § 3803.1. Surety Bonds

Surety bonds submitted as a Financial Assurance Mechanism shall be provided on an approved form set forth in California Code of Regulations, Title 11, Division 1, Chapter ~~1~~, Subchapter 2, Article 53. Copies of approved surety bond forms may be obtained by contacting the board.

NOTE

Authority cited: Sections 2755, 2773.1, and 2773.4, Public Resources Code. Reference: Sections 2773.1 (a)(1) and 2773.4 (e)(3) Public Resources Code.

Adopt new § 3803.2. Irrevocable Letters of Credit

Irrevocable Letters of Credit submitted as a Financial Assurance Mechanism shall be provided only from a ~~bank~~ financial institution authorized to do business in the State of California. The Irrevocable Letter of

Credit shall be on, or attached to, the ~~bank's financial institution's~~ letterhead and include the text on form ILoC-1 (1/18), which is hereby incorporated by reference. Non-substantial changes to the text of form ILoC-1 (1/18) may be made to accommodate the ~~bank's financial institution's~~ business practices with respect to Irrevocable ~~Letters~~ Letters of Credit, but shall not conflict with or materially alter form ILoC-1 (1/18) subject to the procedures set forth in Public Resources Code section 2773.4, subdivisions (e)(2)(A) and (B).

NOTE

Authority cited: Sections 2755, 2773.1, and 2773.4, Public Resources Code. Reference: Sections 2773.1 (a)(1) and 2773.4 (e)(3) Public Resources Code.

Adopt new § 3803.3. Trust Funds

Trust funds in the form of Certificate of Deposits or other cash financial instruments submitted as Financial Assurance Mechanisms shall be on, or attached to, the ~~bank's financial institution's~~ letterhead and include the text on form CD-1 (1/18), which is hereby incorporated by reference. Non-substantial changes to the text of form CD-1 (1/18) may be made to accommodate the ~~bank's financial institution's~~ business practices with respect to the specific type of trust fund, but shall not conflict with or materially alter form CD-1 (1/18) subject to the procedures set forth in Public Resources Code section 2773.4, subdivisions (e)(2)(A) and (B). Certificate of Deposits or other cash financial instruments shall be provided only from federally insured depository institutions authorized to do business in the State of California using federally insured accounts.

NOTE

Authority cited: Sections 2755, 2773.1, and 2773.4, Public Resources Code. Reference: Section 2773.1 (a)(1) and 2773.4 (e)(3) Public Resources Code.