

Ministry of Northern Development and Mines

Publicly Posting Financial Assurance Information



Mineral Exploration and Development Branch
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Authority

The *Mining Act, R.S.O. 1990, Chapter M.14* (the Mining Act) and its regulations provide the framework for the Ministry of Northern Development Mines to support and regulate safe, transparent, and environmentally responsible mining practices in Ontario.

Part VII of the Mining Act and *Regulation 240/00* set out the requirements for Financial Assurance (FA) to be provided, along with the Certified Closure Plan, in a separate appendix with the Closure Plan. Part VII also sets out the requirement that financial or commercial information provided to support the amount or form of FA is to be kept confidential.

The [Open Data Directive](#) states that “Government Data is Open by Default unless exempted from release in limited and specific circumstances as specified in the directive.”

- Data that is subject to statutory confidentiality requirements, (i.e. exempt from publications under the *Freedom of Information and Protection of Privacy Act, 1990*, the *Personal Health Information Protection Act, 2004* and/ or other statutes).
- Data that should not be disclosed for legal, security, confidentiality, privacy or commercial sensitivity reasons.

Principles

Guiding Principles

Ontario’s renewed Mineral Development Strategy (MDS) direction is “to become the global leader in sustainable mineral development and production”. Financial assurance is fundamental to ensure Ontario has a mining industry that is efficient and regulated by improving regulatory efficiency, predictability and transparency. MNDM is working to make a wide variety of data not only open and available, but accessible for the public to view.

Policy Statement

Ontario’s Open Data Directive states that “The Government of Ontario promotes an Open by Default approach to the proactive release of data” and “The Open Data initiative supports government efficiency, effectiveness and innovation. Faster and easier access to Government Data through a one-window data portal facilitates evidence-based policy, informs service delivery and promotes greater transparency and accountability.”

The Open Data Directive promotes Data Management practices which enable the proactive and ongoing release of Government Data and is to be implemented in a manner that is consistent with existing legal obligations, restrictions and requirements, this includes the *Accessibility for Ontarians with Disabilities Act, 2005 (AODA)*. Closure Plans are not currently AODA compliant and therefore unless granted an exemption under the AODA will not be posted digitally. However, Ontario's Financial Assurance Information falls under the Open Data Directive and therefore are publicly shared.

Purpose

The purpose of this operational policy is to provide guidance to ministerial officials and Mineral Exploration and Development section clients submitting a closure plan with the associated financial assurance. The policy outlines the public access requirements of Financial Assurance information.

Application and Scope

Background

In 2015, The Auditor General of Ontario recommended that “to inform the public on the potential liabilities related to mine close-out costs, the Ministry of Northern Development and Mines should annually publish the approved mine closure plans (for rehabilitation and restoration), including the estimated closure cost and associated financial assurance held by the ministry”. In order to provide accurate information, the ministry will post the updated financial assurance values quarterly, by the month end following the end of the fiscal quarter.

Regulation 240/00, section 13 (1) and (2) of the *Mining Act* requires that all companies are required to provide a Closure Plan that specifies the form and amount of the Financial Assurance to be provided by the proponent in respect of the project. Currently, the information included in a closure plan becomes a public document once filed. The site name, proponent's name, amount and form of Financial Assurance for any project is available upon request. The Auditor recommended that the information should not only be public but also accessible and published.

Initially all aspects of financial assurance were kept confidential. However, confidentiality only applies to background and supporting materials used to “establish” the financial assurance. Information about the amount or type of FA was not confidential. The idea behind the confidentiality provision seemed to be to protect the underlying financial information that would be required specifically to establish the corporate financial test form of financial assurance. The other types of financial

assurance don't require similar potentially sensitive information about the company's financial status.

Mandatory Requirements

Any company with an operating mine in Ontario must submit a Closure Plan with associated Financial Assurance.

What information will be posted?

- Company name
- Mine site
- Financial Assurance amount
- Financial Assurance form

The posting will *not* include the following confidential information:

- Cost estimates consisting of actual quotes from identified vendors or contractors used to support cost estimates for rehabilitation work
- Commercial information related to proprietary technology or processes used in rehabilitation

When will the information be posted?

The information will be posted quarterly by the end of the month following the fiscal quarter.

Who will be posting the information?

The Mineral Exploration and Development Section is responsible for posting Financial Assurance Information on the MNM website.

Where will the information be posted?

Financial Assurance Information will be posted to MNM's Website

Contact

For any and all inquiries about The Public Posting of Financial Assurance Information Policy please contact:

Ministry of Northern Development and Mines
Mineral Development and Lands Branch
933 Ramsey Lake Road
Sudbury, Ontario P3E 6B5 Canada
Toll Free Telephone: 1-888-415-9845
Email: ndmminister@ontario.ca

Authority Detail - (Act or Regulation)

Mining Act: **Section 145, Subsection (13.1) of Regulation 240/00**

A closure plan shall specify the form and amount of the financial assurance to be provided by the proponent in respect of the project.

Mining Act: **Section 145, Subsection (13.2) of Regulation 240/00**

The financial assurance shall be submitted with the closure plan

Mining Act: **Section 145 Subsection (11), of Regulation 240/00**

“Subsection (10) prevails over the *Freedom of Information and Protection of Privacy Act, 1996, c. 1, Sched. O. s. 26.*

Open Data Directive: The Government of Ontario promotes an Open by Default approach to the proactive release of Data.

Terms and Definitions

Financial Assurance: Required as part of a closure plan shall be in the amount specified in the closure plan filed with the Director of the Mineral Development and Lands Branch or any amendment to it

Closure Plan: A plan to rehabilitate a site or mine hazard that has been prepared in the prescribed manner and filed in accordance with the Mining Act and that includes

provision in the prescribed manner of financial assurance to the Crown for the performance of the closure plan requirements.

Proponent: The holder of an unpatented mining claim or licence of occupation or an owner as defined in section 1;

Owner:

“owner”, when used in the Mining Act; Parts VII, IX and XI, includes,

- (a) every current owner, lessee or occupier of all or part of a mine, mine hazard or mining lands,
- (b) an agent of the current owner, lessee or occupier, or a person designated by the owner, lessee, occupier or agent as being responsible for the control, management and direction of all or part of a mine, mine hazard or mining lands, and
- (c) subject to subsections (4) to (13), a secured lender who enters into possession of all or part of a mine, mine hazard or mining lands pursuant to the security it holds with respect to the mine, mine hazard or mining lands; (“propriétaire”)

Machine-readable: is a format in which Data (or Metadata) can be understood and directly used by a computer. See Open Data Guidebook for a list of machine-readable file formats.

Open by Default: is a presumption in favour of disclosure over non-disclosure.