Origin of Draft 8 Trust Fund Rules
July 2020

05. Trusts. Trusts are subject to the requirements of Sections 47-1512(l) and 68-1, Idaho Code. The proposed trustee, range of investments, initial funding, schedule of payments, trustee fees, and expected rate of return are subject to review and approval by the Department through a memorandum of agreement with the operator. Trusts are also subject to the following conditions:

- a. The joint party on the trust must be identical to the entity identified in the reclamation plan or in the permanent closure plan as the party obligated to complete reclamation or permanent closure.
- b. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.
- c. Equities may include stock funds or stock index funds, but not individual stocks or direct investments in the operator’s company or parent company. Corporate equities must not exceed seventy percent (70%) of the total value of the trust fund.
- d. Bonds or money market funds must be investment-grade rated securities having a Standard and Poor's rating of AAA or AA or an equivalent rating from a nationally recognized securities rating service.
- e. Payments into the trust will be made as follows:
  - i. When used to cover reclamation or permanent closure costs, the trust fund will be initially funded in an amount at least equal to the costs estimated in the approved reclamation or permanent closure plan for reclamation of existing surface disturbances covered by the chapter and any surface disturbances to occur in the first year of the trust fund. Annual payments to keep pace with increased disturbance and reclamation costs will occur as needed no later than thirty (30) days after each annual anniversary of the date of the initial payment.
  - ii. When used to cover a portion of reclamation or permanent closure costs in combination with other types of financial assurance, the initial and annual payments will be the pro-rata amount of the reclamation or permanent closure costs as described in subparagraph 122.05.e.i of these rules.
  - iii. When used to cover the anticipated post-closure costs, a payment schedule will be created in the memorandum of agreement. The post-closure costs must be fully funded by the time the post-closure period occurs.
- f. Disbursements from the trust will only occur upon written authorization of the Department.
- g. Trusts will be irrevocable.
- h. Income accrued on trust funds will be retained in the trust, except as otherwise agreed by the director under the terms of an agreement governing the trust.