



MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY
Remediation and Redevelopment Division

CERTIFICATE OF DEPOSIT OR TIME DEPOSIT ACCOUNT PART 201

This document provides instructions on the use of a Certificate of Deposit (Certificate) or Time Deposit Account (Account) to fulfill the requirements for financial assurance pursuant to Section 20114d(4)(b) of Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.20101 *et seq.* This document and attached model document are provided to the public as preliminary guidance as to the content, format, and terms of the Financial Assurance Mechanism (FAM) and are not intended, nor can they be relied upon to create any substantive or procedural rights by any other party.

Pursuant to Section 20114d of the NREPA, upon completion of remedial actions that satisfy the requirements of Part 201, a person may submit a No Further Action Report (NFA Report) to the Michigan Department of Environment, Great Lakes, and Energy (EGLE). If a postclosure agreement (Agreement) is required as part of the NFA Report, Section 20114d(4)(b) requires financial assurance to pay for monitoring, operation and maintenance, oversight, and other costs determined by EGLE to be necessary to assure the effectiveness and integrity of the remedial action unless the financial assurance is de minimis. The de minimis threshold is \$2,500 per year in 2001 dollars. A link to a Consumer Price Index Inflation Calculator is provided to determine if the current annual costs exceed the 2001 dollar value: [CPI Inflation Calculator](#). Section 20101(u) of the NREPA, defines financial assurance as a performance bond, escrow, cash, certificate of deposit, irrevocable letter of credit, corporate guarantee, or other equivalent security, or combination thereof.

If the proposed FAM is an interest bearing mechanism, the value of the FAM may be determined through a present worth analysis. EGLE guidance on present worth analysis can be found at the following location: [Present Worth Analysis Calculator](#).

If a person elects to use a Certificate or Account to meet its financial assurance obligations (Designated Party), the Designated Party must enter an “Agreement and Acceptance of Certificate of Deposit or Time Deposit Account (as applicable)” (Agreement and Acceptance Document) with EGLE and the financial institution that provides the following:

1. Worded in accordance with the model Agreement and Acceptance Document and reviewed and approved by EGLE prior to execution. Any modification to the model language may only be made with the concurrence of EGLE.
2. Executed on the letterhead of the financial institution; list EGLE as the sole beneficiary; and include the State of Michigan’s Federal Tax Identification Number: 38-6000134.
3. In an amount at least equal to, or greater than, the amount necessary to fund all monitoring, operation and maintenance, oversight, and other costs required to assure the effectiveness and integrity of the remedial action for the time frame(s) specified in the Postclosure Agreement.
4. Have a maturity date of not less than six (6) months. For Certificates or Accounts with maturity dates of less than one (1) year, the Certificate or Account must provide for automatic renewal. For

Certificates or Accounts that have a maturity date greater than one (1) year, the Designated Party must either renew or replace the Certificate or Account or provide an acceptable alternate form of financial assurance to EGLE at least sixty (60) days prior to the maturity date.

Please contact Mr. Brad Ermisch, Compliance and Enforcement Section, Remediation and Redevelopment Division (RRD), EGLE, at ermischb@michigan.gov or 517-275-1173 for any questions relating to this document or the attached model document; or you may call the RRD main number at 517-284-5087 for assistance.

Drafting Instructions: Copy and paste the text portion of the model document onto appropriate letterhead. Drafting notes and examples appear as ***italicized bold font***, insertion directions appear as ***[italicized bold font within bold brackets]***, and word choices appear as **[regular bold font within bold brackets]**.

--END OF GUIDANCE AND INSTRUCTIONS--

CERTIFICATE OF DEPOSIT OR TIME DEPOSIT ACCOUNT MODEL

AGREEMENT AND ACCEPTANCE OF [insert CERTIFICATE OF DEPOSIT or TIME DEPOSIT ACCOUNT as applicable]

Name of Designated Party: **[insert name of Designated Party]**

Designated Party's Address: **[insert Designated Party's Address]**

Name of Facility: **[insert Name of Facility]**

Address of Facility: **[insert Address of Facility]**

EGLE Site ID No.: **[insert EGLE Site ID number]**

State of Michigan Federal Tax Identification No.: 38-6000134

It is agreed between the Michigan Department of Environment, Great Lakes, and Energy (EGLE), and **[insert name of person submitting NFA Report]** (Designated Party) that the attached **[insert Certificate of Deposit (Certificate) or Time Deposit Account (Account)]**, **[insert Certificate or Account reference number]**, in the amount of **[\$[insert numeric amount] [(insert amount in written text)]**, issued by **[insert name of issuing financial institution and address]** on **[insert effective date]**, in the name of and for the sole benefit of EGLE, is accepted as financial assurance for monitoring, operation and maintenance, oversight, and other costs determined by EGLE to be necessary to assure the effectiveness and integrity of the remedial action documented in the no further action report submitted to EGLE by the Designated Party on **[insert date of submittal]** pursuant to Section 20114d(4)(b) of Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

1. This **[insert Certificate or Account]** will mature on **[insert date]** and **[insert will or will not]** renew automatically.
2. All interest accruing to the **[insert Certificate or Account]** shall be maintained as part of the **[insert Certificate or Account]**.
3. EGLE's Authorized Representative (Part 201 implementing Division Director) is the only person who may **[insert cash the Certificate or make withdrawals from the Account]**. If any of the following occur, EGLE's Authorized Representative may **[insert cash the Certificate or make withdrawals upon the Account]** as follows:
 - (a) If the Designated Party does not renew or replace the **[insert Certificate or Account]** or provide an alternate, acceptable form of financial assurance to EGLE at least sixty (60) days prior to the maturity date of the **[insert Certificate or Account]**, the EGLE Authorized Representative may **[insert cash the Certificate or make withdrawals upon the Account]**.
 - (b) If the Designated Party does not provide for monitoring, operation and maintenance, and other costs determined to be necessary by EGLE to assure the effectiveness and integrity of the remedial action and EGLE, upon providing a 30-day notice to the Designated Party,

implements the response activities, the EGLE Authorized Representative may ***[insert cash the Certificate or make withdrawals upon the Account]*** to reimburse EGLE for its response activity costs.

- (c) If the Designated Party does not reimburse EGLE within thirty (30) days of the Designated Party's receipt of a summary of costs from EGLE, EGLE's Authorized Representative may ***[insert cash the Certificate or make withdrawals upon the Account]*** for the amount of response activity costs the Designated Party owes EGLE.
- 4. If the ***[insert Certificate or Account]*** is cashed by the EGLE Authorized Representative, all accrued interest shall be paid to the EGLE Authorized Representative.
- 5. If cashing the ***[insert Certificate or Account]*** results in a surplus of funds (i.e., funds in excess of the estimated costs for monitoring, operation and maintenance, oversight, and other costs determined to be necessary by EGLE to assure the effectiveness and integrity of the remedial action), the surplus funds will be held by the State in the Environmental Response Fund, trust, or escrow to be invested at a rate or rates of interest to be determined at the State's sole discretion. These funds will be used solely for response activities.

Michigan Department of Environment, Great Lake, and Energy:

By: _____
Signature

Type or print name

Title: _____
Type or print

Date: _____

[insert name of Designated Party], Designated Party:

By: _____
Signature

Type or print name

Title: _____
Type or print

Date: _____

Acknowledged by **[insert name of Issuing Institution]**, Issuing Institution:

By: _____
Signature

Type or print name

Title: _____
Type or print

Date: _____

If you need this information in an alternate format, contact EGLE-Accessibility@Michigan.gov or call 800-662-9278.

EGLE does not discriminate on the basis of race, sex, religion, age, national origin, color, marital status, disability, political beliefs, height, weight, genetic information, or sexual orientation in the administration of any of its programs or activities, and prohibits intimidation and retaliation, as required by applicable laws and regulations. Questions or concerns should be directed to the Nondiscrimination Compliance Coordinator at EGLE-NondiscriminationCC@Michigan.gov or 517-249-0906.

This form and its contents are subject to the Freedom of Information Act and may be released to the public.