

Bureau of Land Management, Interior

§ 3809.556

(b) Your estimate of the cost to reclaim your operations must be acceptable to BLM.

§ 3809.555 What forms of individual financial guarantee are acceptable to BLM?

You may use any of the following instruments for an individual financial guarantee, provided that the BLM State Director has determined that it is an acceptable financial instrument within the State where the operations are proposed:

(a) Surety bonds that meet the requirements of Treasury Department Circular 570, including surety bonds arranged or paid for by third parties;

(b) Cash in an amount equal to the required dollar amount of the financial guarantee, to be deposited and maintained in a Federal depository account of the United States Treasury by BLM;

(c) Irrevocable letters of credit from a bank or financial institution organized or authorized to transact business in the United States;

(d) Certificates of deposit or savings accounts not in excess of the maximum insurable amount as set by the Federal Deposit Insurance Corporation; and

(e) Either of the following instruments having a market value of not less than the required dollar amount of the financial guarantee and maintained in a Securities Investors Protection Corporation insured trust account by a licensed securities brokerage firm for the benefit of the Secretary of the Interior, acting by and through BLM:

(1) Negotiable United States Government, State and Municipal securities or bonds; or

(2) 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.

(f) Insurance, if its form and function is such that the funding or enforceable pledges of funding are used to guarantee performance of regulatory obligations in the event of default on such obligations by the operator. Insurance must have an A.M. Best rating of "superior" or an equivalent rating from a nationally recognized insurance rating service.

§ 3809.556 What special requirements apply to financial guarantees described in § 3809.555(e)?

(a) If you choose to use the instruments permitted under § 3809.555(e) in satisfaction of financial guarantee requirements, you must provide BLM, before you begin operations and by the end of each calendar year thereafter, a certified statement describing the nature and market value of the instruments maintained in that account, and including any current statements or reports furnished by the brokerage firm to the operator or mining claimant concerning the asset value of the account.

(b) You must review the market value of the account instruments by December 31 of each year to ensure that their market value continues to be not less than the required dollar amount of the financial guarantee. When the market value of the account instruments has declined by more than 10 percent of the required dollar amount of the financial guarantee, you must, within 10 calendar days after its annual review or at any time upon the written request of BLM, provide additional instruments, as defined in § 3809.555(e), to the trust account so that the total market value of all account instruments is not less than the required dollar amount of the financial guarantee. You must send a certified statement to BLM within 45 calendar days thereafter describing your actions to raise the market value of its account instruments to the required dollar amount of the financial guarantee. You must include copies of any statements or reports furnished by the brokerage firm to you documenting such an increase.

(c) If your review under paragraph (b) of this section demonstrates that the total market value of trust account instruments exceeds 110 percent of the required dollar amount of the financial guarantee, you may ask BLM to authorize a written release of that portion of the account that exceeds 110 percent of the required financial guarantee. BLM will approve your request only if you are in compliance with the terms and conditions of your notice or approved plan of operations.