

## Bureau of Land Management, Interior

## § 3809.591

public interest to do so, the State Director may terminate a revised corporate guarantee and require an acceptable replacement financial guarantee after due notice and a reasonable time to obtain a replacement.

### MODIFICATION OR REPLACEMENT OF A FINANCIAL GUARANTEE

#### **§ 3809.580 What happens if I modify my notice or approved plan of operations?**

(a) If you modify a notice or an approved plan of operations under § 3809.331 or § 3809.431 respectively, and your estimated reclamation cost increases, you must increase the amount of the financial guarantee to cover any estimated additional cost of reclamation and long-term treatment in compliance with § 3809.552.

(b) If you modify a notice or an approved plan of operations under § 3809.331 or § 3809.431 respectively, and your estimated reclamation cost decreases, you may request BLM decrease the amount of the financial guarantee for your operations.

#### **§ 3809.581 Will BLM accept a replacement financial instrument?**

(a) Yes, if you or a new operator have an approved financial guarantee, you may request BLM to accept a replacement financial instrument at any time after the approval of an initial instrument. BLM will review the offered instrument for adequacy and may reject any offered instrument, but will do so by a decision in writing, with a complete explanation of the reasons for the rejection, within 30 calendar days of the offering.

(b) A surety is not released from an obligation that accrued while the surety bond was in effect unless the replacement financial guarantee covers such obligations to BLM's satisfaction.

#### **§ 3809.582 How long must I maintain my financial guarantee?**

You must maintain your financial guarantee until you or a new operator replace it with another adequate financial guarantee, subject to BLM's written concurrence, or until BLM releases the requirement to maintain your financial guarantee after you have completed reclamation of your operation

according to the requirements of § 3809.320 (for notices), including any measures identified as the result of consultation with BLM under § 3809.313, or § 3809.420 (for plans of operations).

### RELEASE OF FINANCIAL GUARANTEE

#### **§ 3809.590 When will BLM release or reduce the financial guarantee for my notice or plan of operations?**

(a) When you (the mining claimant or operator) have completed all or any portion of the reclamation of your operations in accordance with your notice or approved plan of operations, you may notify BLM that the reclamation has occurred and request a reduction in the financial guarantee or BLM approval of the adequacy of the reclamation, or both.

(b) BLM will then promptly inspect the reclaimed area. We encourage you to accompany the BLM inspector.

(c) For your plan of operations, BLM will either post in the local BLM office or publish notice of final financial guarantee release in a local newspaper of general circulation and accept comments for 30 calendar days. Subsequently, BLM will notify you, in writing, whether you may reduce the financial guarantee under § 3809.591, or the reclamation is acceptable, or both.

#### **§ 3809.591 What are the limitations on the amount by which BLM may reduce my financial guarantee?**

(a) This section applies to your financial guarantee, but not to any funding mechanism established under § 3809.552(c) to pay for long-term treatment of effluent or site maintenance. Calculation of bond percentages in paragraphs (b) and (c) of this section does not include any funds held in that kind of funding mechanism.

(b) BLM may release up to 60 percent of your financial guarantee for a portion of your project area when BLM determines that you have successfully completed backfilling; regrading; establishment of drainage control; and stabilization and detoxification of leaching solutions, heaps, tailings, and similar facilities on that portion of the project area.

(c) BLM may release the remainder of your financial guarantee for the

**§ 3809.592**

same portion of the project area when—

(1) BLM determines that you have successfully completed reclamation, including revegetating the area disturbed by operations; and

(2) Any effluent discharged from the area has met applicable effluent limitations and water quality standards for one year without needing additional treatment, or you have established a funding mechanism under § 3809.552(c) to pay for long-term treatment, and any effluent discharged from the area has met applicable effluent limitations and water quality standards water for one year with or without treatment.

**§ 3809.592 Does release of my financial guarantee relieve me of all responsibility for my project area?**

(a) Release of your financial guarantee under this subpart does not release you (the mining claimant or operator) from responsibility for reclamation of your operations should reclamation fail to meet the standards of this subpart.

(b) Any release of your financial guarantee under this subpart does not release or waive any claim BLM or other persons may have against any person under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9601 *et seq.*, or under any other applicable statutes or regulations.

**§ 3809.593 What happens to my financial guarantee if I transfer my operations?**

You remain responsible for obligations or conditions created while you conducted operations unless a transferee accepts responsibility under § 3809.116, and BLM accepts an adequate replacement financial guarantee. Therefore, your financial guarantee must remain in effect until BLM determines that you are no longer responsible for all or part of the operation. BLM can release your financial guarantee on an incremental basis. The new operator must provide a financial guarantee before BLM will allow the new operator to conduct operations.

**43 CFR Ch. II (10–1–06 Edition)**

**§ 3809.594 What happens to my financial guarantee when my mining claim or millsite is patented?**

(a) When your mining claim or millsite is patented, BLM will release the portion of the financial guarantee that applies to operations within the boundaries of the patented land. This paragraph does not apply to patents issued on mining claims within the boundaries of the California Desert Conservation Area.

(b) BLM will release the remainder of the financial guarantee, including the portion covering approved access outside the boundaries of the mining claim, when you have completed reclamation to the standards of this subpart.

**FORFEITURE OF FINANCIAL GUARANTEE**

**§ 3809.595 When may BLM initiate forfeiture of my financial guarantee?**

BLM may initiate forfeiture of all or part of your financial guarantee for any project area or portion of a project area if—

(a) You (the operator or mining claimant) refuse or are unable to conduct reclamation as provided in the reclamation measures incorporated into your notice or approved plan of operations or the regulations in this subpart;

(b) You fail to meet the terms of your notice or your approved plan of operations; or

(c) You default on any of the conditions under which you obtained the financial guarantee.

**§ 3809.596 How does BLM initiate forfeiture of my financial guarantee?**

When BLM decides to require the forfeiture of all or part of your financial guarantee, BLM will notify you (the operator or mining claimant) by certified mail, return receipt requested; the surety on the financial guarantee, if any; and the State agency holding the financial guarantee, if any, informing you and them of the following:

(a) BLM's decision to require the forfeiture of all or part of the financial guarantee;

(b) The reasons for the forfeiture;

(c) The amount that you will forfeit based on the estimated total cost of