
Rules of
Department of Natural Resources
Division 40—Land Reclamation Commission
Chapter 9—Abandoned Mine Reclamation Fund;
Abandoned Mine Reclamation and Restoration

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**Title 10—DEPARTMENT OF
NATURAL RESOURCES**

**Division 40—Land Reclamation
Commission**

**Chapter 9—Abandoned Mine
Reclamation Fund; Abandoned Mine
Reclamation and Restoration**

10 CSR 40-9.010 Abandoned Mine Reclamation Fund

PURPOSE: This rule sets forth requirements for the abandoned mine reclamation fund pursuant to sections 444.810, 444.915, 444.920 and 444.940.2, RSMo.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Definitions. For the purposes of 10 CSR 40-9, the following terms have been defined:

(A) Abandoned mine reclamation fund or fund means a separate fund established by section 444.810(11), RSMo (1986), to which monies granted by the director of the office under an approved state reclamation program and other monies are deposited in the fund;

(B) Emergency means an extreme danger which presents a high probability of considerable physical harm to persons, property or the environment before the danger can be abated under normal program operation procedures;

(C) Expended means that monies have been paid out by the state for work that has been accomplished or services rendered;

(D) Extreme danger means a condition which could reasonably be expected to cause considerable physical harm to persons, property or the environment and to which persons or improvements on real property are currently exposed;

(E) Federal abandoned mine reclamation fund or federal fund is a trust fund established on the books of the United States Treasury for the purpose of accumulating revenue designated for reclamation of abandoned mine lands, and other activities authorized by the Act;

(F) Office means the Office of Surface Mining and Enforcement of the Department of the Interior;

(G) Reclamation activities means restoration, reclamation, abatement, control or prevention of adverse effects of mining;

(H) State reclamation plan means a plan submitted by the state and approved by the office under 30 CFR 884 for the reclamation of land and water adversely affected by past mining; and

(I) State reclamation program means a program established by the state for the reclamation of land and water adversely affected by past mining, including the state reclamation plan and annual application for grants under the state reclamation plan.

(2) Revenue to the abandoned mine reclamation fund shall include:

(A) Amounts granted to the state by the office for purposes of conducting the approved state reclamation plan;

(B) Monies collected by the state from charges for uses of lands acquired or reclaimed with monies from the fund under 10 CSR 40-9.050;

(C) Monies recovered by the state through the satisfaction of liens filed against privately-owned lands reclaimed with monies from the fund under 10 CSR 40-9.060;

(D) Monies recovered by the state from the sale of lands acquired with monies from the fund under 10 CSR 40-9.050; and

(E) Such other monies as received from grants or other funds or gifts from public and private agencies and individuals.

(3) Monies deposited in the fund shall be used to carry out the state reclamation plan.

*AUTHORITY: section 444.810, RSMo 1994. * Original rule filed June 11, 1981, effective Oct. 13, 1981.*

**Original authority 1979, amended 1983, 1993.*

10 CSR 40-9.020 Reclamation—General Requirements

PURPOSE: This rule sets forth requirements for abandoned mine reclamation done with moneys from the abandoned mine reclamation fund pursuant to sections 444.810, 444.915, 444.920, 444.935 and 444.940, RSMo.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any

interested person at a cost established by state law.

(1) Land and water are eligible for reclamation activities if—

(A) They were mined for coal or affected by coal mining processes before August 3, 1977;

(B) They were inadequately reclaimed;

(C) There is no continuing responsibility for reclamation by the operator, permittee or agent of the permittee under statutes of the state or federal government, or the state as a result of bond forfeiture. Bond forfeiture will render lands or water ineligible only if the amount forfeited is sufficient to pay the total cost of the necessary reclamation. In cases where the forfeited bond is insufficient to pay the total cost of reclamation, additional moneys from the fund will be sought under 30 CFR 886 and 30 CFR 888;

(D) Notwithstanding subsections (1)(A)–(C) of this rule, coal lands and waters damaged and abandoned after August 3, 1977, by coal mining processes are also eligible for reclamation activities if—

1. They were mined for coal or affected by coal mining processes; and

2. The mining occurred and the site was left in either an unreclaimed or inadequately reclaimed condition between August 4, 1977 and ending on or before November 21, 1980, and that funds for reclamation or abatement which are available pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site; or

3. The mining occurred and the site was left in either an unreclaimed or inadequately reclaimed condition during the period beginning on August 4, 1977 and ending on or before November 5, 1990, and that the surety of such mining operator became insolvent during such period, and as of November 5, 1990, funds immediately available from proceedings relating to such insolvency, or from any financial guarantee or other source are not sufficient to provide for adequate reclamation or abatement at the site; and

4. The commission finds in writing that the site meets the eligibility requirements of this section and the priority objectives stated in subsections (4)(A) and (B) of this rule and that the reclamation priority of the site is the same or more urgent than the reclamation priority for other lands and waters eligible pursuant to this section. Priority will be given to those sites which are in the immediate vicinity of a residential area or which have an adverse economic impact upon a community;

(E) Monies available from sources outside the fund or which are ultimately recovered from responsible parties involving lands eligible pursuant to subsection (1)(D) of this rule, shall either be used to offset the cost of the reclamation or transferred to the fund if not required for further reclamation activities at the permitted site; and

(F) If reclamation of a site covered by an interim or permanent program permit is carried out under the state reclamation program, the permittee of the site shall reimburse the abandoned mine land reclamation fund for the cost of the reclamation that is in excess of any bond forfeited to ensure reclamation. In performing reclamation under subsection (1)(D) of this rule, the commission shall not be held liable for any violations of any performance standards or reclamation requirements specified in Chapter 444, RSMo 1994 nor shall a reclamation activity undertaken on such lands or waters be held to any standards set forth in Chapter 444, RSMo 1994.

(2) Land and water which were mined or affected by mining for minerals and materials other than coal shall be eligible for reclamation activities with federal funds under the state reclamation program when requested by the governor to the director of the office and the director of the office has found in writing that—

(A) The conditions of section (1) of this rule have been met;

(B) The reclamation has been requested by the governor;

(C) All reclamation with respect to abandoned coal mine land and water has been accomplished within the state or the reclamation is necessary for the protection of public health and safety; and

(D) Moneys allocated to the state for the state reclamation program by the federal government are available for the work.

(3) Left or abandoned in either an unreclaimed or inadequately reclaimed condition means lands and water—

(A) Which meet the conditions of section (1) or (2) of this rule; and

(B) Which continue, in their present condition, to substantially degrade the quality of the environment, prevent or damage the beneficial use of land or water resources, or endanger the health or safety of the public.

(4) Reclamation Objectives and Priorities. Reclamation projects shall meet one (1) or more of the objectives stated in this section. The objectives are stated in the order of priority with the highest priority first. Preference among those projects competing for

available resources shall be given to projects meeting higher priority objectives. The objectives are based on the need for—

(A) Protection of public health, safety, general welfare and property from extreme danger resulting from the adverse effects of past coal mining practices;

(B) Protection of public health, safety and general welfare from adverse effects of past coal mining practices which do not constitute an extreme danger;

(C) Restoration of eligible land and water and the environment previously degraded by adverse effects of past coal mining practices, including measures for the conservation and development of soil, water (excluding channelization), woodland, fish and wildlife, recreation resources and agricultural productivity;

(D) Research and demonstration projects relating to the development of surface coal mining reclamation and water quality control program methods and techniques;

(E) Protection, repair, replacement, construction or enhancement of public facilities such as utilities, roads, recreation and conservation facilities adversely affected by past coal mining practices;

(F) Development of publicly-owned land adversely affected by past coal mining practices, including land acquired under 10 CSR 40-9.050, for recreation and historic purposes, conservation and reclamation purposes and open space benefits;

(G) Protection of the public from hazards endangering life and property resulting from the adverse effects of past noncoal mining practices. However, upon request of the governor, such work may be undertaken before the priorities related to past coal mining have been fulfilled;

(H) Protection of the public from hazards to health and safety from the adverse effects of past noncoal mining practices;

(I) Restoration of the environment degraded by the adverse effects of past noncoal mining; and

(J) Construction of public facilities in communities impacted by coal development when the governor certifies that all other objectives of the fund have been met, the available impact funds are inadequate for such construction and the director concurs.

(5) Reclamation Project Evaluation. Proposed reclamation projects and completed reclamation work shall be evaluated in terms of the factors stated in this section. The factors shall be used to determine whether or not proposed reclamation will be undertaken and to assign priorities to proposals intended to meet the same objective under section (4) of

this rule. Completed reclamation shall be evaluated in terms of the factors set forth below as a means to identify conditions which should be avoided, corrected or improved in plans for future reclamation work. The factors shall include:

(A) The need for reclamation work to accomplish one (1) or more specific reclamation objectives as stated in section (4) of this rule;

(B) The availability of technology to accomplish the reclamation work with reasonable assurance of success. In the case of research and demonstration projects, the research capability and plans shall provide reasonable assurance of beneficial results without residual adverse impacts;

(C) The specific benefits of reclamation which are desirable in the area in which the work will be carried out. Benefits to be considered include, but are not limited to, the:

1. Protection of human life, health or safety;

2. Protection of the environment, including air and water quality, abatement of erosion and sedimentation, fish, wildlife and plant habitat, visual beauty, historic or cultural resources and recreation resources;

3. Protection of public or private property;

4. Abatement of adverse social and economic impacts of past mining on persons or property including employment, income and land values or uses, or assistance to persons disabled, displaced or dislocated by past mining practices;

5. Improvement of environmental conditions which may be considered to generally enhance the quality of human life;

6. Improvement of the use of natural resources, including post-reclamation land uses which—

A. Increase the productive capability of the land to be reclaimed;

B. Enhance the use of surrounding lands consistent with existing land-use plans;

C. Provide for construction or enhancement of public facilities; and

D. Provide for residential, commercial or industrial developments consistent with the needs and plans of the community in which the site is located; and

7. Demonstration to the public and industry of methods and technologies which can be used to reclaim areas disturbed by mining;

(D) The acceptability of any additional adverse impacts to people or the environment that will occur during or after reclamation and of uncorrected conditions, if any, that will continue to exist after reclamation;

(E) The Costs of Reclamation. Consideration shall be given to both the economy and efficiency of the reclamation work and to the results obtained or expected as a result of reclamation;

(F) The availability of additional coal or other mineral or material resources within the project area which—

1. Results in a reasonable probability that the desired reclamation will be accomplished during the process of future mining; or

2. Requires special consideration to assure that the resource is not lost as a result of reclamation and that the benefits of reclamation are not negated by subsequent, essential resource recovery operations;

(G) The acceptability of post-reclamation land uses in terms of compatibility with land uses in the surrounding area, consistency with applicable state, regional and local land-use plans and laws, and the needs and desires of the community in which the project is located; and

(H) The probability of post-reclamation management, maintenance and control of the area consistent with the reclamation completed.

AUTHORITY: section 444.810, RSMo Supp. 1999. Original rule filed June 11, 1981, effective Oct. 13, 1981. Amended: Filed Sept. 15, 1994, effective April 30, 1995. Amended: Filed March 21, 2000, effective Oct. 30, 2000.*

**Original authority: 444.810, RSMo 1979, amended 1983, 1993, 1995.*



MISSOURI DEPARTMENT OF NATURAL RESOURCES
LAND RECLAMATION COMMISSION
SURETY BOND
(SURFACE COAL MINING LAW)

P.O. BOX 176
JEFFERSON CITY, MISSOURI 65102

SURETY COMPANY BOND NUMBER	PERMIT NUMBER	INCREMENT NUMBER
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KNOW ALL MEN BY THESE PRESENTS, That the undersigned _____
(NAME OF PERMITTEE)

of _____
(ADDRESS OF PERMITTEE)

as Principal, and _____
(NAME OF SURETY)

of _____
(ADDRESS OF SURETY)

as Surety, are held and firmly bound unto the State of Missouri, payable to the Treasurer of the State of Missouri, to the credit of the Mined Land Reclamation Fund in the sum of _____ Dollars (\$ _____) as security to guarantee the Principal's legal obligations as provided below.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas the above named Principal did on the _____ day of _____, 19____, file with the Land Reclamation Commission an application to secure a permit to engage in surface coal mining and reclamation operations in the State of Missouri, under the terms and provisions of Sections 444.800 to 444.970, RSMo; that said application has been approved for operations under Permit Number _____, Increment Number _____, consisting of _____ acres; that the Principal will undertake operations and complete reclamation on the affected land in accordance with the statutes, regulations of the Commission, conditions of the permit, and the approved reclamation plan; and that this bond is subject to forfeiture pursuant to the statutes and regulations for failure to so comply.

Now if the said Principal shall faithfully perform all of the requirements of Sections 444.800 to 444.970, RSMo, and shall comply with the regulations of the Land Reclamation Commission at 10 CSR Division 40, with the conditions of the permit issued to Principal as identified herein, or any amendments to said permit, and with the approved reclamation plan submitted with the application for said permit and any amendments to said reclamation plan, and shall successfully complete reclamation on the area covered by said permit according to said statutes, regulations, permit conditions and reclamation plan as they pertain to reclamation and operations prior to completion of reclamation, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.



The Surety shall not cancel this bond, for any reason whatsoever, including, but not limited to, nonpayment of premium, bankruptcy or insolvency of the Principal, or issuance of notices of violations or cessation orders and assessment of penalties with respect to the operations covered by this bond, unless the Surety shall first give actual notice in writing to both the Commission and the Principal of intent to cancel the bond, stating the reasons therefor, sixty (60) days in advance of such cancellation. The obligations of the bond may not be cancelled as to acreage affected prior to the expiration of the sixty-day notice period.

Application for release of the obligations of this bond may be made to the Commission in accordance with the provisions of Sections 444.875 and 444.950, RSMo.

NOW THEREFORE, We, the undersigned, intending to be legally bound by this agreement, jointly and severally bind ourselves, our heirs, administrators, executors, successors, and assigns.

PRINCIPAL'S SIGNATURE		SURETY'S SIGNATURE	
SIGNATURE	DATE	SIGNATURE	DATE
NAME		NAME	
OFFICIAL POSITION		OFFICIAL POSITION	
STATE OF MISSOURI COUNTY OF		STATE OF MISSOURI COUNTY OF	
APPEARED BEFORE ME THIS _____ DAY OF _____ _____, 19____, _____		APPEARED BEFORE ME THIS _____ DAY OF _____ _____, 19____, _____	
_____ TO ME PERSONALLY KNOWN, WHO EXECUTED THE ABOVE AS THEIR FREE ACTS AND DEEDS.		_____ TO ME PERSONALLY KNOWN, WHO EXECUTED THE ABOVE AS THEIR FREE ACTS AND DEEDS.	
NOTARY PUBLIC	MY COMMISSION EXPIRES	NOTARY PUBLIC	MY COMMISSION EXPIRES
<p>Where one signs by virtue of Power of Attorney for a surety company, such Power of Attorney must be filed with the bond.</p> <p>Any notices to or correspondence with the surety hereunder shall be to the following name and address:</p>			
NAME		ADDRESS	
BOND ACCEPTED BY THE DIRECTOR: SIGNATURE			DATE

MO 780-1155 (2-94)



MISSOURI DEPARTMENT OF NATURAL RESOURCES
LAND RECLAMATION COMMISSION
ASSIGNMENT OF CERTIFICATE OF DEPOSIT

P.O. BOX 176
JEFFERSON CITY, MO 65102

On this _____ day of _____, 19____, _____
hereinafter referred to as "Payee(s)", assigns the following C.D.'s in full to the State of Missouri, Land Reclamation Commission,
hereinafter referred to as "State" as security for reclamation liabilities incurred by _____,
hereinafter referred to as "Permittee", in the conduct of coal mining activities as described by 444.830 to 444.970, RSMo:

CERTIFICATE	ISSUING BANK	AMOUNT	DATE OF ISSUE
CERTIFICATE	ISSUING BANK	AMOUNT	DATE OF ISSUE
CERTIFICATE	ISSUING BANK	AMOUNT	DATE OF ISSUE
CERTIFICATE	ISSUING BANK	AMOUNT	DATE OF ISSUE
CERTIFICATE	ISSUING BANK	AMOUNT	DATE OF ISSUE
CERTIFICATE	ISSUING BANK	AMOUNT	DATE OF ISSUE
CERTIFICATE	ISSUING BANK	AMOUNT	DATE OF ISSUE

CERTIFICATE OF DEPOSIT HOLDER(S)

NOW, THEREFORE, the parties hereto, intending to be legally bound hereby, agree as follows:

1. The Payee(s) assign(s) and pledge(s) the aforesaid CD's and any renewals thereof, to the State as collateral, to guarantee the Permittee's legal obligations as provided in the attached Personal Bond secured by a Certificate of Deposit.
2. The Payee(s) hereby authorizes the State to withdraw any portion or all of the moneys on deposit with the Bank pursuant to the aforesaid CD's, at any time and from time to time upon default of any of the obligations provided or referred to in the attached Personal Bond.
3. The Payee(s) hereby authorizes the Bank, upon written demand by the State, to pay to the State any portion or all of the moneys on deposit with the Bank pursuant to the aforesaid CD's at any time and from time to time, without further notice to, consent of or endorsement by the undersigned Payee(s).
4. The Payee(s) do(es) hereby agree, represent and warrant that, except as assigned and pledged herein, the aforesaid CD's and the moneys thereby represented have not nor will be sold, assigned, transferred, pledged, or promised as a security interest in any manner whatsoever without written consent of the State and that the aforesaid CD's are assigned and pledged herewith free and clear of any and all liens, encumbrances, pledges, restrictions, security interests and agreements.

FIRST PAYEE'S SIGNATURE		SECOND PAYEE'S SIGNATURE	
SIGNATURE	DATE	SIGNATURE	DATE
NAME		NAME	
OFFICIAL POSITION		OFFICIAL POSITION	
STATE OF MISSOURI, COUNTY OF _____	STATE OF MISSOURI, COUNTY OF _____	STATE OF MISSOURI, COUNTY OF _____	STATE OF MISSOURI, COUNTY OF _____
APPEARED BEFORE ME THIS _____ DAY OF _____	APPEARED BEFORE ME THIS _____ DAY OF _____	APPEARED BEFORE ME THIS _____ DAY OF _____	APPEARED BEFORE ME THIS _____ DAY OF _____
_____, 19____, _____	_____, 19____, _____	_____, 19____, _____	_____, 19____, _____
_____ TO ME PERSONALLY KNOWN,	_____ TO ME PERSONALLY KNOWN,	_____ TO ME PERSONALLY KNOWN,	_____ TO ME PERSONALLY KNOWN,
WHO EXECUTED THE ABOVE AS THEIR FREE ACTS AND DEEDS.	WHO EXECUTED THE ABOVE AS THEIR FREE ACTS AND DEEDS.	WHO EXECUTED THE ABOVE AS THEIR FREE ACTS AND DEEDS.	WHO EXECUTED THE ABOVE AS THEIR FREE ACTS AND DEEDS.
NOTARY PUBLIC	MY COMMISSION EXPIRES	NOTARY PUBLIC	MY COMMISSION EXPIRES

MO 780-0832 (3-94)



WHEREAS, the Bank desires to act as the custodian for the benefit of the State of the moneys represented by the aforesaid CD's and subject to the terms and conditions contained herein.

The Bank hereby acknowledges that assignment and pledge of the aforesaid CD's to the State and agrees to record the assignment upon the back of the CD's and upon the books of the bank. Further, the Bank acknowledges and agrees that it shall hold the moneys represented by the CD's as a custodian and agent for the State and shall be liable to the State for any and all losses to the principal amount(s) of the aforesaid CD's caused in any manner whatsoever during the term of this Agreement. THE BANK EXPRESSLY AGREES TO WAIVE ANY AND ALL RIGHTS OR OBLIGATIONS, INCLUDING THOSE UNDER FEDERAL AND STATE LAW, TO DEDUCT ANY PENALTY FOR WITHDRAWAL BY THE STATE PRIOR TO MATURITY FROM THE PRINCIPAL AMOUNT OF THE CD'S IF SUCH DEDUCTION WOULD REDUCE THE AMOUNT OF COLLATERAL ASSIGNED AND PLEDGED TO THE STATE TO AN AMOUNT WHICH IS INSUFFICIENT TO SATISFY, IN FULL, THE BOND OBLIGATION AS PROVIDED IN ATTACHED COLLATERAL BOND. THE BANK EXPRESSLY ASSUMES THE RESPONSIBILITY TO DESIGN THE CD'S SO THAT NO SUCH PENALTY CAN BE ASSESSED AGAINST THE STATE'S RIGHT TO THE AFORESAID CD'S.

The Bank hereby waives, for the duration of this Assignment, all rights of setoff or liens or any other claims which it now has or might, in the future, have against the aforesaid CD's or the deposited moneys upon which the certificate(s) were issued. Any conditions pertaining to said CD's to the contrary are hereby expressly rescinded.

The Bank hereby agrees to: (a) renew automatically said certificate(s) for the same term as that for which it or they were originally issued, and (b) collect, from time to time, all interest on the certificate(s) or otherwise as required in writing by the State.

The Bank agrees that any delay by the State in enforcing its rights to the aforesaid CD's pursuant to the attached Personal Bond shall not affect the State's rights to the CD's.

BANK'S SIGNATURE	
SIGNATURE	DATE
NAME	
OFFICIAL POSITION	
STATE OF MISSOURI, COUNTY OF _____	
APPEARED BEFORE ME THIS _____ DAY OF _____	
_____, 19____, _____	
TO ME PERSONALLY KNOWN, WHO EXECUTED THE ABOVE AS THEIR FREE ACTS AND DEEDS.	
NOTARY PUBLIC	MY COMMISSION EXPIRES

MO 780-0832 (3-94)



MISSOURI DEPARTMENT OF NATURAL RESOURCES
LAND RECLAMATION COMMISSION

**PERSONAL BOND SECURED BY A CERTIFICATE OF DEPOSIT
(SURFACE COAL MINING LAW)**

P.O. BOX 176
JEFFERSON CITY, MISSOURI 65102

PERMIT NUMBER	INCREMENT NUMBER
---------------	------------------

KNOW ALL MEN BY THESE PRESENTS, That the undersigned _____ of
(NAME OF PERMITTEE)
 _____, as Permittee,
(ADDRESS OF PERMITTEE)
 is held and firmly bound to the State of Missouri, payable to the Treasurer of the State of Missouri, to the credit of the
 Mined Land Reclamation Fund in the sum of _____ Dollars
 (\$ _____) for the payment of such sum, well and truly to be made, we jointly and severally bind ourselves, our
 heirs, administrators, executors, successors and assigns. This obligation is secured by Certificate of Deposit(s) as described herein:

CERTIFICATE NUMBER	ISSUING BANK/ADDRESS	AMOUNT

Each Certificate of Deposit described above is payable to the Treasurer of the State of Missouri or is assigned to the State of Missouri, and shall be kept in the custody of the State of Missouri until successful completion of the conditions of this obligation, and shall be forfeitable by the State of Missouri, acting through the Land Reclamation Commission, if the conditions of this obligation are not met.

THE CONDITION OF THIS OBLIGATION IS SUCH, That since the above named Permittee did on the _____ day of _____, 19 _____, file with the Land Reclamation Commission an application to secure a permit to engage in surface coal mining and reclamation operations in the State of Missouri, under the terms and provisions of Sections 444.800 to 444.970, RSMo, that said application has been approved for operations under Permit Number _____, Increment Number _____, consisting of _____ acres; that the Permittee will undertake operations and complete pit reclamation on the affected land in accordance with the statutes, regulations of the Commission, conditions of the permit, and the approved reclamation plan; and that this bond is subject to forfeiture pursuant to the statutes and regulations for failure to so comply on any area of the affected permit. The forfeited amount of this bond shall be the full effective amount of this bond. The forfeited amount from this bond may be applied to any area of the entire permit.

Now if the Permittee shall faithfully perform all the requirements of Sections 444.800 to 444.970, RSMo, and shall comply with the regulations of the Land Reclamation Commission at 10 CSR Division 40, with the conditions of the permit issued to Permittee as identified herein, or any amendments to said permit, and with the approved reclamation plan submitted with the application for said entire permit and any amendments to said reclamation plan, and shall successfully complete reclamation on the area covered by the entire permit acreage according to said statutes, regulations, permit conditions and reclamation plan as they pertain to reclamation and operations prior to completion of reclamation, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

Application for release of the obligations of this bond may be made to the Commission in accordance with the provisions of Sections 444.875 and 444.950, RSMo.

PERMITTEE (PRINT OR TYPE)		PERMITTEE SIGNATURE	OFFICIAL TITLE
NOTARY PUBLIC EMBOSSEER SEAL	STATE OF MISSOURI		COUNTY (OR CITY OF ST. LOUIS)
	SUBSCRIBED AND SWORN BEFORE ME, THIS		
	DAY OF 19		
	NOTARY PUBLIC SIGNATURE	MY COMMISSION EXPIRES	USE RUBBER STAMP IN CLEAR AREA BELOW.
NOTARY PUBLIC NAME (TYPED OR PRINTED)			

No single Certificate of Deposit shall exceed the sum of \$100,000.00, nor shall any permittee submit Certificates aggregating more than \$100,000.00 from a single bank. The issuing bank(s) must be protected by the Federal Deposit Insurance Corporation (F.D.I.C.).

BOND ACCEPTED BY THE DIRECTOR (SIGNATURE)	DATE
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MO 780-1331 (2-94)



MISSOURI DEPARTMENT OF NATURAL RESOURCES
LAND RECLAMATION COMMISSION

**PERSONAL BOND SECURED BY A LETTER OF CREDIT
(SURFACE COAL MINING LAW)**

P.O. BOX 176
JEFFERSON CITY, MO 65102

BOND NUMBER	PERMIT NUMBER	INCREMENT NUMBER
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KNOW ALL MEN BY THESE PRESENTS, That the undersigned _____ of
(NAME OF PERMITTEE)

(ADDRESS OF PERMITTEE)

_____, as Obligor

is held and firmly bound unto the State of Missouri payable to the Treasurer of the State of Missouri, to the credit of the
Mined Land Reclamation Fund in the penal sum of _____ Dollars (\$ _____)

for the payment of such sum, well and truly to be made, we jointly and severally bind ourselves, our heirs, administrators,
executors, successors, and assigns. This obligation is secured by Irrevocable Letter of Credit No. _____

dated _____, issued by the _____,
(NAME OF ISSUING BANK)

of _____,
(ADDRESS OF ISSUING BANK)

in the amount of \$ _____, (and an Irrevocable Confirmation of Letter of Credit, Document

No. _____, dated _____, issued by the _____,
(NAME OF CONFIRMING BANK)

of _____,
(ADDRESS OF CONFIRMING BANK)

in the amount of \$ _____).

THE CONDITION OF THIS OBLIGATION is such, that:

Whereas, the above named Obligor did on the _____ day of _____, 19 _____, file with the
Director of the Land Reclamation Commission an application to secure Permit No. _____ to conduct surface coal
mining and reclamation operations in accordance with the statutes at 444.800 to 444.970 and the regulations at 10 CSR
40 Chapters 1 through 8;

Whereas, obligations guaranteed by this bond shall be in effect for Increment _____ of the above referenced permit;
such increment being described in Attachment A of this bond;

Whereas, the Obligor has chosen to post this bond as a guarantee that the reclamation of land disturbed during these
surface coal mining operations will be completed as required by the statutes and regulations and as specified in the permit
as issued and subsequently amended; and

Whereas, the Obligor agrees to guarantee this obligation and to indemnify, defend, and hold harmless the State of Missouri,
Land Reclamation Commission from any and all losses and expenses which the Land Reclamation Commission may sustain
as a result of the Obligor's failure to comply with the conditions of this obligation.

Now, therefore, the conditions of the obligations are such that, this bond shall remain in full force and effect until the



Obligor faithfully completes reclamation as set forth in the statutes, regulations and the above referenced permit.

LIABILITY UNDER THIS OBLIGATION:

a) begins on the date of issuance of the above referenced permit and extends until reclamation is completed to the satisfaction of the Land Reclamation Commission; and

b) continues until the bond is released or replaced in accordance with 10 CSR 40-7.021, or until the permit has been sold, reassigned or otherwise transferred in accordance with 10 CSR 40-6.090(10);

The failure of the Obligor to fulfill the obligations specified by the statutes, regulations and the permit, shall subject this bond and the underlying Letter of Credit to forfeiture. The beneficiary of the forfeited amount shall be the Treasurer of the State of Missouri.

Application for release of the obligations on this bond may be made to the Commission in accordance with the provisions of Sections 444.875 and 444.950, RSMo.

OBLIGOR'S SIGNATURE

SIGNATURE	
NAME	
OFFICIAL TITLE	DATE

NOTARY'S SIGNATURE

NOTARY PUBLIC EMBOSSEY OR BLACK INK RUBBER STAMP SEAL	STATE OF	COUNTY (OR CITY OF ST. LOUIS)
	SUBSCRIBED AND SWORN BEFORE ME, THIS	
	DAY OF	19
	USE RUBBER STAMP IN CLEAR AREA BELOW.	
NOTARY PUBLIC SIGNATURE	MY COMMISSION EXPIRES	
NOTARY PUBLIC NAME (TYPED OR PRINTED)		

Letters of Credit will be accepted only from banks or trust companies in the United States. If the bank is located in another state, a bank located in Missouri must confirm the letter of credit. Letters of credit and confirmations must be irrevocable, and must be on the forms provided by the Director.

BOND ACCEPTED BY THE DIRECTOR: SIGNATURE	DATE
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IRREVOCABLE LETTER OF CREDIT

DIRECTOR
MISSOURI LAND RECLAMATION COMMISSION
P. O. BOX 176
JEFFERSON CITY, MISSOURI 65102

OUR LETTER OF CREDIT NUMBER _____

DATE OF ISSUANCE _____

DEAR SIR:

We, the _____ of
(NAME OF ISSUING BANK)

(ADDRESS OF ISSUING BANK)

hereby establish, at the request of _____ (Customer)
our Irrevocable Letter of Credit No. _____, in favor of the State of Missouri,
Land Reclamation Commission, in the amount of _____ dollars
(\$ _____), effective immediately.

This Letter of Credit is issued in conjunction with certain Personal Bonds given or to be given by Customer to you as a condition of the issuance by you of certain Surface Coal Mining and Reclamation Operations Permits to Customer. The bonds and permits to which this Letter of Credit applies are listed in Attachment A hereto incorporated by reference herein. It is intended that as Customer requests additional permits be issued by you, and submits Personal Bonds to you for the issuance of those permits, we will supplement Attachment A, up to the aggregate sum of _____ dollars (\$ _____). Attachment A shall be supplemented by our submittal to you of a substitute Attachment A, in the same form and fully executed, with a cumulative listing of bonds and permits covered by this Letter of Credit.

Funds under this Letter of Credit are available to you upon presentation to us of your written demand for payment, accompanied either by your statement that the Missouri Land Reclamation Commission has declared forfeited one or more of Customer's bonds listed in Attachment A, or by your statement that this Letter of Credit has not been replaced by the Customer as required by Attachment B. The demand and statement shall be substantially in the form of the document set forth in Attachment C, incorporated by reference herein.

We hereby agree to honor any and all demands for payment made in compliance with the terms of this Letter of Credit, up to the sum stated above. Payment hereunder shall be by our cashier's check payable in U. S. currency to the order of the Treasurer of the State of Missouri to the credit of the Mined Land Reclamation Fund at your address above stated.

This Letter of Credit will terminate only upon the happening of one of these conditions:

1. We receive written notice from you that all of Customer's above-referenced bonds have been released, accompanied by the original of this Letter of Credit; or
2. We receive written notice from you that all of Customer's above-referenced bonds have been secured by other instruments, and that this Letter of Credit is no longer needed, accompanied by the original of this Letter of Credit; or
3. We receive written notice from you that the Customer's bond has been forfeited and you draw upon and we pay the total amount of this Letter of Credit; or
4. You receive written notice from us per Attachment B that we do not elect to renew this Letter of Credit, in which event you may draw upon this Letter of Credit in accordance with the terms of Attachment B.

Our liability under this Letter of Credit shall be reduced to the extent that you notify us in writing that Customer's above-referenced bond has been partially released in a specified amount.

We warrant that the issuance of this Letter of Credit will not constitute a violation of any statute or regulation which limits the amount of loans or other credit which can be extended to any single borrower or customer, or which limits the aggregate amount of liabilities, which we may incur at any one time from the issuance of Letters of Credit and acceptances. We agree that by making demand for payment hereunder, neither you, nor the Missouri Land Reclamation Commission, nor the State of Missouri, makes any warranties to us, either express or implied.

This Letter of Credit shall be governed by Missouri Law, including the Uniform Commercial code as found in Chapter 400, RSMo. The Uniform Customs and Practice for Documentary Credits, fixed by the International Chamber of Commerce, shall not be applicable to this Letter of Credit.



Correspondence concerning this Letter of Credit, including demand for payment, shall be addressed to us at _____

We certify that the officer of agent signing this letter is authorized by us to execute this Letter of Credit on our behalf.

Very truly yours,

STATE OF MISSOURI) COUNTY OF _____) SS.		SIGNATURE
APPEARED BEFORE ME THIS _____ DAY OF _____, 19____		NAME
AND _____ TO ME PERSONALLY KNOWN, WHO EXECUTED THE ABOVE AS THEIR FREE ACTS AND DEEDS.		OFFICIAL POSITION
NOTARY PUBLIC	MY COMMISSION EXPIRES	TELEPHONE
STATE OF MISSOURI) COUNTY OF _____) SS.		COUNTERSIGNED
APPEARED BEFORE ME THIS _____ DAY OF _____, 19____		_____ PRESIDENT OR VICE PRESIDENT
AND _____ TO ME PERSONALLY KNOWN, WHO EXECUTED THE ABOVE AS THEIR FREE ACTS AND DEEDS.		
NOTARY PUBLIC	MY COMMISSION EXPIRES	



ATTACHMENT A					
<p style="text-align: right;">DATE _____, 19 ____</p> <p>FOLLOWING IS A LIST OF THE BOND NUMBERS, PERMIT NUMBERS, INCREMENT NUMBERS, AND ACRES PRESENTLY COVERED UNDER LETTER OF CREDIT NUMBER _____. LETTER OF CREDIT NUMBER _____ IS FOR \$ _____, AND THE DOLLARS BELOW REFLECT THE AMOUNT OF THIS LETTER OF CREDIT WHICH IS COMMITTED TO SPECIFIC BONDS AND PERMITS AS OF THIS DATE.</p>					
LOCATION DESCRIPTION	PERMIT NUMBERS	INCREMENT NUMBER	BOND NUMBER	ACRES	DOLLARS
<p>TOTAL BOND APPLICATION TO LETTER OF CREDIT NO. _____ AS OF _____, 19 ____ IS _____</p>					
STATE OF MISSOURI) COUNTY OF _____) SS.			SIGNATURE		
APPEARED BEFORE ME THIS _____ DAY OF _____, 19 ____			NAME		
AND _____ TO ME PERSONALLY KNOWN, WHO EXECUTED THE ABOVE AS THEIR FREE ACTS AND DEEDS.			OFFICIAL POSITION		
NOTARY PUBLIC		MY COMMISSION EXPIRES	TELEPHONE		
STATE OF MISSOURI) COUNTY OF _____) SS.			COUNTERSIGNED		
APPEARED BEFORE ME THIS _____ DAY OF _____, 19 ____			_____ PRESIDENT OR VICE PRESIDENT		
AND _____ TO ME PERSONALLY KNOWN, WHO EXECUTED THE ABOVE AS THEIR FREE ACTS AND DEEDS.					
NOTARY PUBLIC		MY COMMISSION EXPIRES			

MO 780-1471 (3-94)



ATTACHMENT B

To Letter of Credit No. _____

This Letter of Credit shall expire one (1) year from date of issuance, but shall be deemed automatically renewed for an additional period of one (1) year beyond the current or any future expiration date unless at least ninety (90) days prior to any such expiration date we, the issuing bank, notify the Missouri Land Reclamation Commission, in writing, certified mail, return receipt requested, at the address shown on page 1 of the Letter of Credit, that we do not elect to renew this Letter of Credit for any such additional period. Upon your receipt of such notification, you may withdraw the total effective amount of the Letter of Credit hereunder by your drafts, at sight, on us, bearing reference to this Letter of Credit number and accompanied by your signed statement that the proceeds of the draft will be retained by the Missouri Land Reclamation Commission and held in lieu of the Letter of Credit. Cancellation shall not affect any liability incurred and accrued hereunder prior to the termination of the ninety (90)-day period.

ATTACHMENT C
FORM OF DEMAND FOR PAYMENT

[LETTERHEAD]

[NAME AND ADDRESS OF ISSUING
OR CONFIRMING BANK]

RE: DEMAND FOR PAYMENT UNDER YOUR LETTER OF CREDIT

[OR CONFIRMATION OF LETTER OF CREDIT] NO. _____

DEAR SIRs:

Pursuant to the above-referenced Letter of Credit [or Confirmation of Letter of Credit], we hereby order that you pay to us the sum of \$ _____, by your cashier's check to the order of the Treasurer of Missouri, to the credit of the Mine Land Reclamation Fund, directed to be undersigned.

We state to you that the Missouri Land Reclamation Commission has declared and forfeited Personal Bond No. _____, given to us by _____ (PERMITTEE) as a condition of the issuance of Surface Coal Mining and Reclamation Operations Permit No. _____, Increment No. _____.

Very truly yours,

DIRECTOR
LAND RECLAMATION COMMISSION



CONFIRMATION OF IRREVOCABLE LETTER OF CREDIT

DIRECTOR
MISSOURI LAND RECLAMATION COMMISSION
P.O. BOX 176
JEFFERSON CITY, MISSOURI 65102

OUR LETTER OF CREDIT NUMBER

DATE OF ISSUANCE

DEAR SIR:

We, the (NAME OF CONFIRMING BANK)
of (ADDRESS OF CONFIRMING BANK)
at the request of (NAME OF ISSUING BANK)
of (ADDRESS OF ISSUING BANK)
hereby confirm Irrevocable Letter of Credit No. , dated
issued by (NAME OF ISSUING BANK)
to you in the amount of \$, a copy of which is attached hereto and incorporated by reference.

By this Confirmation we undertake to honor each demand for payment made by you under the above-referenced Letter of Credit and presented to us according to its terms, up to the amount stated above. Payment of each demand shall be as specified in the above-referenced Letter of Credit. This Confirmation shall be subject to all the terms, conditions, warranties and limitations in the above-referenced Letter of Credit, and this Confirmation shall terminate only under the conditions stated in the above-referenced Letter of Credit. When construing this Confirmation according to the terms, conditions and limitations of the above-referenced Letter of Credit, the term "this Confirmation" shall be substituted for the term "this Letter of Credit".

Correspondence concerning this Confirmation, including demands for payment, shall be addressed to us at

We certify that the officer or agent signing this letter is authorized by us to execute this Confirmation of Letter of Credit on our behalf.

VERY TRULY YOURS,

Notary Public signature and countersignature section with fields for STATE OF MISSOURI, COUNTY OF, APPEARED BEFORE ME THIS DAY OF, AND TO ME PERSONALLY KNOWN, WHO EXECUTED THE ABOVE AS THEIR FREE ACTS AND DEEDS, NOTARY PUBLIC, MY COMMISSION EXPIRES, SIGNATURE, NAME, OFFICIAL POSITION, TELEPHONE, COUNTERSIGNED, PRESIDENT OR VICE PRESIDENT.

MO 780-0015 (1-86)

10 CSR 40-9.030 Rights of Entry

PURPOSE: This rule sets forth requirements for the entry onto land by the state under the state reclamation plan for purposes of reclamation and of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and performing reclamation work pursuant to sections 444.810, 444.825 and 444.940, RSMo (1986).

(1) Consent to Entry. The commission, its agents, employees or contractors shall take all reasonable actions to obtain written consent from the owner of record of the land or property to be entered in advance of such entry. The consent shall be in the form of a signed statement by the owner of record or his/her authorized agent which, as a minimum, includes a legal description of the land to be entered, the projected nature of work to be performed on the land and any special conditions for entry. The statement shall not include any commitment by the state to perform reclamation work nor to compensate the owner for entry.

(2) Entry for Studies or Exploration.

(A) The commission, its agents, employees or contractors shall have the right to enter upon any property for the purpose of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and the feasibility of restoration, reclamation, abatement, control or prevention of such adverse effects.

(B) If the owner of the land to be entered under this section will not provide consent to entry, the commission will give notice in writing to the owner of its intent to enter for purposes of study and exploration to determine the existence of adverse effects of past coal mining practices which may be harmful to the public health, safety or general welfare. The notice shall be by mail, return receipt requested, to the owner, if known, and shall include a statement of the reasons why entry is believed necessary. If the owner is not known, or the current mailing address of the owner is not known, or the owner is not readily available, the notice shall be posted in one (1) or more places on the property to be entered where it is readily visible to the public and advertised once in a newspaper of general circulation in the locality in which the land is located. Notice shall be given at least thirty (30) days before entry.

(C) Entry required to investigate and explore reported emergency conditions will be governed by 10 CSR 40-9.030(4).

(3) Entry for Reclamation.

(A) The commission, its agents, employees or contractors may enter upon land to perform reclamation activities if the consent of the owner cannot be obtained.

(B) Prior to entry under this section, the commission shall find in writing with supporting reasons that—

1. Land or water resources have been adversely affected by past coal mining practices;

2. The adverse effects are at a stage where, in the interest of the public health, safety or the general welfare, action to restore, reclaim, abate, control or prevent should be taken;

3. The owner of the land or water resources where entry must be made to restore, reclaim, abate, control or prevent the adverse effects of past coal mining practices is not known or readily available; or

4. The owner will not give permission for the commission, its agents, employees or contractors to enter upon such property to restore, reclaim, abate, control or prevent the adverse effects of past coal mining practices.

(C) The commission will give notice of its intent to enter for purposes of conducting reclamation at least thirty (30) days before entry upon the property. The notice shall be in writing and shall be mailed, return receipt requested, to the owner, if known, with a copy of the findings required by this section. If the owner is not known, or if the current mailing address of the owner is not known, notice shall be posted in one (1) or more places on the property to be entered where it is readily visible to the public and advertised once in a newspaper of general circulation in the locality in which the land is located. The notice posted on the property and advertised in the newspaper shall include a statement of where the findings required by this section may be inspected or obtained.

(4) Entry for Emergency Reclamation.

(A) The commission, its agents, employees or contractors shall have the right to enter upon any land where an emergency exists and on any other land to have access to the land where the emergency exists to restore, reclaim, abate, control or prevent the adverse effects of coal mining practices and to do all things necessary or expedient to protect the public health, safety or general welfare.

(B) Prior to entry under this section, the director shall make a written finding with supporting reasons that—

1. An emergency exists constituting a danger to the public health, safety or general welfare;

2. Emergency restoration, reclamation, abatement, control or prevention of adverse effects of past coal mining is necessary; and

3. No other person or agency will act expeditiously to restore, reclaim, abate, control or prevent the adverse effects of past coal mining practices.

(C) Notice to the owner shall not be required prior to entry for emergency reclamation. The director shall make reasonable efforts to notify such owner and obtain consent prior to entry consistent with the emergency conditions that exist. Written notice shall be given to the owner as soon after entry as practical. The notice shall be mailed, return receipt requested, to the owner, if known, and shall include a copy of the findings required by this section. If the owner is not known, or if the current mailing address of the owner is not known, notice shall be posted on the property entered in one (1) or more places where it is readily visible to the public and advertised once in a newspaper of general circulation in the locality in which the land is located. The notice posted on the property and advertised in the newspaper shall include a statement that an emergency existed and where the findings required by this section may be inspected or obtained.

(D) The moneys expended for such work, and the benefits accruing to any such premises so entered, shall be chargeable against such land and shall mitigate or offset any claim in, or action brought by any owner of any interest in such premises for any alleged damages as a result of the entry.

AUTHORITY: section 444.810, RSMo 1994. Original rule filed June 11, 1981, effective Oct. 13, 1981.*

**Original authority 1979, amended 1983, 1993.*

10 CSR 40-9.040 Acquisition of Land and Water for Reclamation

PURPOSE: This rule sets forth requirements for the acquisition of land and water for reclamation purposes by the state under the state reclamation plan pursuant to sections 444.810, 444.925.3, 444.925.4 and 444.940, RSMo (1986).

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any



interested person at a cost established by state law.

(1) Land Eligible for Acquisition.

(A) Land adversely affected by past coal mining practices may be acquired by the commission with federal moneys from the fund if approved in advance by the office. Prior to acquisition of such land, the commission shall find in writing that acquisition is necessary for successful reclamation and that—

1. The acquired land will serve recreation, historic, conservation and reclamation purposes or provide open space benefits after restoration, reclamation, abatement, control or prevention of adverse effects of past coal mining practices; and

2. Permanent facilities such as a mine drainage treatment plant or a relocated stream channel will be constructed on the land for the restoration, reclamation, abatement, control or prevention of the adverse effects of past coal mining practices.

(B) Coal refuse disposal sites and all coal refuse thereon may be acquired by the commission if approved in advance by the office. Prior to approval of acquisition of such sites, the commission shall find in writing that the acquisition of such land is necessary for successful reclamation and will serve the purposes of the state reclamation program or that public ownership is desirable to meet an emergency situation and prevent recurrence of adverse effects of past coal mining practices.

(C) The commission in acquiring land under this rule shall acquire only such interests in the land as are necessary for the reclamation work planned or the post-reclamation use of the land. Interest in improvements on the land, mineral rights or associated water rights may be acquired if—

1. Severance of such interests from the surface estate cannot be made; or

2. Such interests are necessary to the reclamation work planned or the post-reclamation use of the land; and

3. Adequate written assurances cannot be obtained from the owner of the severed interest that future use of the severed interest will not be in conflict with the reclamation to be accomplished.

(2) Procedures for Acquisition.

(A) An appraisal of the fair market value of all land or interest in land to be acquired shall be obtained from a professional appraiser. The appraisal shall state the fair market value of the land as adversely affected by past mining and shall otherwise conform to the requirements of the handbook on *Uniform Appraisal Standards for Federal Land*

Acquisitions (Interagency Land Acquisition Conference 1973).

(B) When practical, acquisition shall be by purchase from a willing seller. The amount paid for interests acquired shall reflect the fair market value of the interests as adversely affected by past mining.

(C) When necessary, land or interest in land may be acquired by condemnation. Condemnation procedures shall not be started until all reasonable efforts have been made to purchase the land or interests in lands from a willing seller.

(D) The commission in acquiring land under this rule shall comply, at a minimum and to the extent applicable, with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC 4601; 41 CFR 114-50); Solicitor of the Interior's Regulations for Approval of Title to Lands and Condemnation (I SRM 6.1); and Regulations of the Attorney General under Order No. 440-70 dated October 2, 1970 establishing standards for title approval of lands to be acquired for federal public purposes.

(E) Titles to all interest in land acquired shall be in the name of the state and shall be recorded in accordance with applicable state law.

(3) Acceptance of Gifts of Land.

(A) The commission may accept donations of title to land or interest in land which is necessary for reclamation activities. A donation shall not be accepted if the terms or conditions of acceptance are inconsistent with the objectives or requirements of the program.

(B) Offers to make a gift of such land or interest in land shall be in writing and shall include:

1. A statement of the interest which is being offered;

2. A legal description of the land and a description of any improvements on it;

3. A description of any limitations on the title or conditions as to the use or disposition of the land existing or to be imposed by the donor;

4. A statement that—

A. The offeror is the record owner of the interest being offered;

B. The interest offered is free and clear of all encumbrances except as clearly stated in the offer;

C. There are no adverse claims against the interest offered;

D. There are no unredeemed tax deeds outstanding against the interest offered; and

E. There is no continuing responsibility by the operator under state or federal law for reclamation; and

5. An itemization of any unpaid taxes or assessments levied, assessed or due which could operate as a lien on the interest offered.

(C) If the offer is accepted, a deed of conveyance shall be executed, acknowledged and recorded. The deed shall state that it is made "as a gift under the Surface Coal Mining Law", RSMo (1986). Title to donated land shall be in the name of the governor of the state of Missouri.

AUTHORITY: section 444.810, RSMo 1994. Original rule filed June 11, 1981, effective Oct. 13, 1981.*

**Original authority 1979, amended 1983, 1993.*

10 CSR 40-9.050 Management and Disposition of Land and Water

PURPOSE: This rule sets forth requirements for management and disposition of land and water acquired for reclamation purposes by the state under the state reclamation plan pursuant to sections 444.810, 444.825.5, 444.825.6 and 444.940, RSMo (1986).

(1) Management of Acquired Lands.

(A) Land acquired under 10 CSR 40-9.040 may be used pending disposition under section (2) of this rule for any lawful purpose that is not inconsistent with the reclamation activities and post-reclamation uses for which it was acquired.

(B) Any user of land acquired under 10 CSR 40-9.040 shall be charged a use fee. The fee shall be determined on the basis of the fair market value of the benefits granted to the user, charges for comparable uses within the surrounding area or the costs to the state for providing the benefits, whichever is appropriate.

(C) All use fees collected shall be deposited in the fund in accordance with 10 CSR 40-9.010.

(2) Disposition of Reclaimed Lands.

(A) Prior to the disposition of any land acquired under this section, the commission shall—

1. Publish a notice which describes the proposed disposition of the land in a newspaper of general circulation within the area where the land is located for a minimum of four (4) successive weeks. The notice shall provide at least thirty (30) days for public comment and state where copies of plans for disposition of the land may be obtained or reviewed and the address to which comments

on the plans should be submitted. The notice shall also state that a public hearing will be held if requested by any person;

2. Hold a public hearing if requested as a result of the public notice. The commission may determine that a hearing is appropriate even if a request is not received. It shall be scheduled at a time and place that affords local citizens and political subdivisions the maximum opportunity to participate. The time and place of the hearing shall be announced in a newspaper of general circulation in the area in which the land is located at least thirty (30) days before the hearing. All comments received at the hearing shall be recorded; and

3. Make a written finding that the proposed disposition is appropriate considering all comments received and consistent with any local, state or federal law or regulations which apply.

(B) The administrative responsibility for land acquired under this part may be transferred in accordance with applicable law, and with approval of the regional director of the office, to any agency or political subdivision of the state with or without cost to that agency. The agreement, including amendments, under which a transfer is made shall specify—

1. The purposes for which the land may be used consistent with the authorization under which the land was acquired; and

2. That the administrative responsibility for the land will revert to the commission if, at any time in the future, the land is not used for the purposes specified.

(C) In accordance with applicable law and with approval by the regional director of the office, title to abandoned and unreclaimed land may be transferred to the United States to be reclaimed and administered by the office.

(D) The commission, in accordance with applicable law and with the approval of the regional director of the office, may sell land acquired under 10 CSR 40-9.040 by public sale if such land is suitable for industrial, commercial, residential or recreational development and if such development is consistent with local, state or federal land-use plans for the area in which the land is located.

1. Land shall be sold by public sale only if it is found that retention by the state or disposal under this section is not in the public interest.

2. Land will be sold for not less than fair market value in accordance with the following minimum procedures, and such other procedures utilized for each sale:

A. Publication of a notice once a week for four (4) consecutive weeks in a

newspaper of general circulation in the locality in which the land is located. This notice shall describe the land to be sold, state the appraised value, state any restrictive covenants which will be a condition of the sale, and state the time and place of the sale; and

B. Sealed bids to be submitted prior to the sale date followed by an oral auction open to the public.

(E) All monies received from disposal of land under this rule shall be deposited in the abandoned mine reclamation fund.

*AUTHORITY: section 444.810, RSMo 1994. * Original rule filed June 11, 1981, effective Oct. 13, 1981.*

**Original authority 1979, amended 1983, 1993.*

10 CSR 40-9.060 Reclamation on Private Lands

PURPOSE: This rule sets forth requirements concerning reclamation done on private lands pursuant to sections 444.810, 444.930 and 444.940, RSMo (1986).

(1) Reclamation activities may be carried out on private land if a consent to enter is obtained under 10 CSR 40-9.030(1), or if entry is required and made under 10 CSR 40-9.030(3) or 10 CSR 40-9.030(4).

(2) Appraisals.

(A) A notarized appraisal of private land to be reclaimed which may be subject to a lien under subsection (3)(A) of this rule shall be obtained from an independent appraiser. The appraisal shall state—

1. The estimated market value of the property in its unreclaimed condition; and

2. The estimated market value of the property as reclaimed.

(B) This appraisal shall be made prior to start of reclamation activities. The commission shall furnish to the appraiser information of sufficient detail in the form of plans, factual data, specifications, etc. to make these appraisals. When reclamation requires more than six (6) months to complete, an updated appraisal under paragraph (2)(A)2. shall be made to determine if the increase in value as originally appraised has actually occurred. This updated appraisal shall not include any increase in value of the land as unreclaimed. If the updated appraisal value results in lower increase in value, this increase shall be used as a basis for the lien. However, an increase in value resulting from the updated appraisal shall not be considered in determining a lien. The commission shall provide appraisal stan-

dards for projects consistent with generally acceptable appraisal practice.

(3) Liens.

(A) The commission has the discretionary authority to place or waive a lien against land reclaimed if the reclamation results in a significant increase in the fair market value.

1. The basis for making a determination of what constitutes a significant increase in market value or what factual situation constitutes a waiver of lien will be made by the commission pursuant to section 444.930, RSMo (1986) and consistent with state laws governing liens.

2. A lien shall not be placed against the property of a surface owner who acquired title prior to May 2, 1977 and who did not consent to, participate in or exercise control over the mining operation which necessitated the reclamation work;

3. The lien may be waived by the commission if the cost of filing it, including indirect costs to the state exceeds the increase in fair market value as a result of reclamation activities.

4. The lien may be waived by the commission if findings made prior to construction indicate that the reclamation work performed on private land shall primarily benefit health, safety or environmental values of the greater community or area in which the land is located, or if reclamation is necessitated by an unforeseen occurrence and the work performed to restore that land will not result in a significant increase in the market value of the land as it existed immediately before the occurrence;

(B) If a lien is to be filed, the commission, within six (6) months after completion of the reclamation work, shall file a statement in the office having responsibility under applicable law for recording judgments and placing liens against land. This statement shall consist of notarized copies of the appraisals obtained under section (2) of this rule and may include an account of moneys expended for reclamation work. The amount reported to be the increase in value of the property shall constitute the amount of the lien recorded in and shall have priority as a lien second only to the lien of real estate taxes imposed upon the land. The lien shall be recorded in compliance with existing federal and state laws; provided, however, that prior to the time of the actual filing of the proposed lien, the landowner shall be notified of the amount of the proposed lien and shall be allowed a reasonable time to prepay that amount instead of allowing the lien to be filed against the property involved.



(C) Within sixty (60) days after the lien is filed, the landowner may request a hearing before the commission to determine the increase in the market value as a result of the restoration, reclamation, abatement, control or prevention of the adverse effects of past mining practices. The increase in value shall constitute the amount of the lien and shall be recorded with the statement filed under subsection (3)(B) of this rule. Any party aggrieved by the decision may appeal as provided by law.

(4) Satisfaction of Liens.

(A) A lien placed on private property shall be satisfied, to the extent of the value of the consideration received, at the time of transfer of ownership. Any unsatisfied portion shall remain as a lien on the property.

(B) The commission shall maintain or renew the lien from time to time as may be required under state law.

(C) Monies derived from the satisfaction of liens established under this part shall be deposited in the abandoned mine reclamation fund.

AUTHORITY: section 444.810, RSMo 1994. Original rule filed June 11, 1981, effective Oct. 13, 1981. Amended: Filed March 18, 1987, effective June 25, 1987.*

**Original authority 1979, amended 1983, 1993.*