



Rules of
Department of Natural Resources
Division 40—Land Reclamation Commission
Chapter 7—Bond and Insurance Requirements for
Surface Coal Mining and Reclamation Operations

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**Title 10—DEPARTMENT OF
NATURAL RESOURCES**

**Division 40—Land Reclamation
Commission**

**Chapter 7—Bond and Insurance
Requirements for Surface Coal Mining
and Reclamation Operations**

**10 CSR 40-7.010 General Requirements
for Bonding of Surface Coal Mining and
Reclamation Operations**

(Rescinded April 11, 1983)

AUTHORITY: section 444.810, RSMo Supp. 1979. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed April 14, 1980, effective Aug. 11, 1980. Amended: Filed Aug. 11, 1980, effective Dec. 11, 1980. Amended: Filed Dec. 10, 1980, effective April 11, 1981. Rescinded: Filed Dec. 9, 1982, effective April 11, 1983.

10 CSR 40-7.011 Bond Requirements

PURPOSE: This rule sets forth requirements for bonding of surface coal mining and reclamation operations pursuant to sections 444.830, 444.910 and 444.950, RSMo.

(1) Definitions.

(A) Increment means an area that is covered by a single bond and that is a portion of a permit area.

(B) Open pit means that area between the crest of the highwall to the toe of the spoil.

(C) Personal bond means an indemnity agreement is a sum certain executed by the permittee as principal which is supported by negotiable certificates of deposit or irrevocable letters of credit which may be drawn upon by the director if reclamation is not completed or if the permit is revoked prior to completion of reclamation.

(D) Phase I bond means a performance bond conditioned on the release of sixty percent (60%) of the bond upon the successful completion of Phase I reclamation of a permit area in accordance with the approved reclamation plan.

(E) Phase II bond means performance bond conditioned on the release of Phase II liability.

(F) Phase III bond means a performance bond conditioned on the release of Phase III liability.

(G) Self-bonding means an indemnity agreement in a sum certain executed by the applicant or by the applicant and any corporate guarantor and made payable to Missouri, with or without separate surety.

(H) Surety bond means an indemnity agreement in a sum certain payable to the regulatory authority, executed by the permittee as principal and which is supported by the performance guarantee of a corporation licensed to do business as a surety in the state where the operation is located.

(2) Requirement to File a Bond.

(A) After an application for a permit to conduct surface coal mining and reclamation operations has been approved under 10 CSR 40-6, but before the permit is issued, the applicant shall file with the director a performance bond payable to the State of Missouri. The performance bond shall be conditioned upon the faithful performance of all the requirements of the Surface Coal Mining Law, the regulatory program, the permit and the reclamation plan, and bonded liability shall continue until reclamation is completed and approved by the director. In the event of forfeiture, the amount remaining on the bond may be used to complete reclamation in any location in the permit area.

(B) The applicant shall file, with the approval of the director, a bond or bonds under one (1) of the following schemes to cover the bond amounts for the permit area as determined in accordance with 10 CSR 40-7.011(4):

1. A performance bond or bonds for the entire permit area;

2. A cumulative bond schedule and the performance bond required for full reclamation of the initial area to be disturbed; or

3. An incremental bond schedule and the performance bond required for the first increment in the schedule.

(3) Incremental Bonding.

(A) The applicant may file either a bond sufficient to cover the entire permit area or a bond for the increment in which the applicant will initiate and conduct surface coal mining and reclamation operations. Disturbance is prohibited on succeeding increments, underground shafts, tunnels, or operations prior to acceptance of bond.

(B) An operator shall not disturb acreage outside the boundary of a bonded increment until s/he has submitted to the director a bond for the proposed increment and has received notification from the director that the bond has been accepted.

(C) Independent increments shall be of sufficient size and configuration to provide for efficient reclamation operations should reclamation by the director become necessary pursuant to 10 CSR 40-7.031(3).

(D) The operator shall submit an incremental bonding schedule and identify the ini-

tial and successive areas or increments for bonding on the permit application map submitted for approval as provided in the application and shall specify the bond amount to be provided for each area or increment.

(4) Bond Amounts.

(A) The amount of the bond required for each bonded area shall:

1. Be determined by the director;

2. Depend upon the requirements of the approved permit and reclamation plan;

3. Reflect the probable difficulty of reclamation, giving consideration to such factors as topography, geology, hydrology, and revegetation potential; and

4. Be based on, but not limited to, the estimated cost submitted by the permit applicant.

(B) The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work has to be performed by the director in the event of forfeiture, and in no case shall the total bond initially posted for the entire area under one permit be less than ten thousand dollars (\$10,000).

(5) Changing Bond Amounts.

(A) The amount of the bond required and the terms of the acceptance of the applicant's bond shall be adjusted by the director from time-to-time as the area requiring bond coverage is increased or decreased or where the cost of future reclamation changes. The director may specify periodic times or set a schedule for reevaluating and adjusting the bond amount to fulfill this requirement.

(B) The director shall—

1. Notify the permittee and the surety, bank, savings and loan company, or third-party guarantor of any proposed adjustment to the bond amount; and

2. Provide the permittee an opportunity for an informal conference on the adjustment.

(C) A permittee may request reduction of the amount of the performance bond upon submission of evidence to the director proving that the permittee's method of operation or other circumstances reduces the estimated cost for the regulatory authority to reclaim the bonded area. Bond adjustments which involve undisturbed land or revision of the cost estimate of reclamation are not considered bond releases subject to the procedures of 10 CSR 40-7.021(3).

(D) In the event that an approved permit is revised in accordance with 10 CSR 40-6.090(4), the director shall review the bond for adequacy and, if necessary, shall require adjustment of the bond to conform to the permit as revised.



(6) Types of Bonds. The director may accept surety bonds, personal bonds and self-bonding.

(A) Surety bonds shall be subject to the following conditions:

1. The surety bond shall be submitted on a form provided by the director;

2. No bond of a surety company will be accepted unless the bond shall not be cancellable for any reason whatsoever, including, but not limited to, nonpayment of premium, bankruptcy or insolvency of the permittee or issuance of notices of violations or cessation orders and assessment of penalties with respect to the operations covered by the bond, except that surety bond coverage for lands not disturbed may be cancelled if the surety provides written notification and the director is in agreement. The director shall advise the surety, within thirty (30) days after receipt of a notice to cancel bond, whether the bond may be cancelled on an undisturbed area;

3. A surety company's bond shall not be accepted in excess of ten percent (10%) of the surety company's capital surplus account as shown on a balance sheet certified by a certified public accountant;

4. The total amount of the bonds issued by a surety on behalf of any permittee shall not exceed thirty percent (30%) of the surety company's capital surplus account as shown on a balance sheet certified by a certified public accountant;

5. The surety shall be licensed to conduct a surety business in Missouri;

6. Both the surety and the permittee shall be primarily liable for completion of reclamation, with the surety's liability being limited to the penalty amount of the bond;

7. The bond shall provide that—

A. The surety will give prompt notice to the permittee and the director of any notice received or action filed alleging the insolvency or bankruptcy of the surety or alleging any violations of regulatory requirements which could result in suspension or revocation of the surety's license to do business; and

B. In the event the surety becomes unable to fulfill its obligations under the bond for any reason, notice shall be given immediately to the permittee and the director;

8. The bond shall provide a mechanism for a surety company to give prompt notice to the director and the permittee of any action filed alleging the insolvency or bankruptcy of the surety company, or the permittee, or alleging any violations which would result in suspension or revocation of the surety license to do business. Upon the incapacity of a surety by reason of bankruptcy or insolvency, or suspension or revocation of its license, the permittee shall be deemed to be without bond

coverage in violation of subsection (2)(A) and shall promptly notify the director. The director, upon notification of the surety's bankruptcy or insolvency, or suspension or revocation of its license, shall issue a notice of violation against any operator who is without bond coverage. The notice shall specify a reasonable period to replace bond coverage, not to exceed ninety (90) days. During this period, the director or his/her authorized agent shall conduct weekly inspections to ensure continuing compliance with other permit requirements, the regulatory program and the law. The notice of violation, if abated within the period allowed, shall not be counted as a notice of violation for purposes of determining a pattern of willful violation under 10 CSR 40-7.031(1)(F)2. and need not be reported as a past violation in permit applications under 10 CSR 40-6.030(2) or 10 CSR 40-6.100(2). If a notice of violation is not abated in accordance with the schedule, a cessation order shall be issued requiring immediate compliance with 10 CSR 40-3.150(4). The operator shall also immediately begin to conduct reclamation operations in accordance with the reclamation plan. Mining operations shall not resume until the director has determined that an acceptable bond had been posted; and

9. The bond shall be forfeitable upon revocation of the underlying permit.

(B) Personal bonds secured by certificates of deposit shall be subject to the following conditions:

1. The bonds shall be submitted on a form provided by the director;

2. The certificate(s) shall be in the amount of the bond or in an amount greater than the bond and shall be made payable to or assigned to the State of Missouri, both in writing and upon the records of the bank or savings and loan company issuing the certificates, and shall be automatically renewable at the end of the term of the certificate. If assigned, banks and savings and loan companies issuing the certificate(s) waive all rights of set off or liens against the certificate(s);

3. Interest on the certificate of deposit shall be paid to the permittee;

4. No single certificate of deposit shall exceed the sum of one hundred thousand dollars (\$100,000) nor shall any permittee submit certificates of deposit aggregating more than one hundred thousand dollars (\$100,000) or the maximum insurable amount as determined by the Federal Deposit Insurance Corporation from a single bank or savings and loan company. The issuing bank or savings and loan company must be insured by the Federal Deposit Insurance Corporation;

5. The certificate of deposit shall be kept in the custody of the State of Missouri until the bond is released by the director;

6. The bank or savings and loan company issuing the certificate(s) of deposit for bonding purposes shall give prompt notice to the director and the permittee of any insolvency or bankruptcy of the bank or savings and loan company;

7. The bond shall provide a mechanism for a bank or savings and loan company to give prompt notice to the director and the permittee of any action filed alleging the insolvency or bankruptcy of the bank, savings and loan company or the permittee, or alleging any violations which would result in suspension or revocation of the bank or savings and loan company charter or license to do business. Upon the incapacity of any bank or savings and loan company by reason of insolvency or bankruptcy, or suspension or revocation of its charter or license the permittee shall be deemed to be without bond coverage in violation of subsection (2)(A). The director, upon notification of the bank's or savings and loan company's bankruptcy or insolvency, or suspension or revocation of its charter or license, shall issue a notice of violation against any operator who is without bond coverage. The notice shall specify a reasonable period to replace bond coverage, not to exceed ninety (90) days. During this period, the director or his/her authorized agent shall conduct weekly inspections to ensure continuing compliance with other permit requirements, the regulatory program and the law. A notice of violation, if abated within the period allowed, shall not be counted as a notice of violation for purposes of determining a pattern of willful violation under 10 CSR 40-7.031(1)(F)2. and need not be reported as a past violation in permit applications under 10 CSR 40-6.030(2) or 10 CSR 40-6.100(2). If a notice of violation is not abated in accordance with the schedule, a cessation order shall be issued requiring immediate compliance with 10 CSR 40-3.150(4). The operator shall also immediately begin to conduct reclamation operations in accordance with the reclamation plan. Mining operations shall not resume until the director has determined that an acceptable bond has been posted; and

8. The bond shall be forfeitable upon revocation of the underlying permit.

(C) Personal bonds secured by letters of credit shall be subject to the following conditions:

1. The bond and the letters of credit shall be submitted on forms provided by the director;

2. The letter of credit shall be no less than the face amount of the bond and shall be



irrevocable. A letter of credit used as security in areas requiring continuous bond coverage shall be forfeited and shall be collected by the director if not replaced by other suitable bond or letter of credit at least thirty (30) days before its expiration date;

3. The beneficiary of the letter of credit shall be the State of Missouri;

4. The letter of credit shall be issued by a bank authorized to do business in the United States. If the issuing bank is located in another state, a bank located in Missouri must confirm the letter of credit. Confirmations shall be irrevocable and on a form provided by the director;

5. The letter of credit shall be governed by Missouri law. The Uniform Customs and Practice for Documentary Credits, fixed by the International Chamber of Commerce, shall not apply;

6. The letter of credit shall provide that the director may draw upon the credit by making a demand for payment, accompanied by his/her statement that the commission has declared the permittee's bond forfeited;

7. The issuer of a letter of credit or confirmation shall warrant that the issuance will not constitute a violation of any statute or regulation which limits the amount of loans or other credits which can be extended to any single borrower or customer or which limits the aggregate amount of liabilities which the issuer may incur at any one (1) time from issuance of letters of credit and acceptances;

8. The bank issuing the letter(s) of credit for bonding purposes shall give prompt notice to the director and the permittee of any insolvency or bankruptcy of the bank;

9. The bond shall provide a mechanism for a bank to give prompt notice to the director and the permittee of any action filed alleging the insolvency or bankruptcy of the bank or the permittee, or alleging any violations which would result in suspension or revocation of the bank's charter or license to do business. Upon the incapacity of any bank by reason of insolvency or bankruptcy, or suspension or revocation of its charter or license, the permittee shall be deemed to be without bond coverage in violation of subsection (2)(A). The director, upon notification of the bank's bankruptcy or insolvency, or suspension or revocation of its charter or license, shall issue a notice of violation against any operator who is without bond coverage. The notice shall specify a reasonable period to replace bond coverage, not to exceed ninety (90) days. During this period, the director or his/her authorized agent shall conduct weekly inspections to ensure continuing compliance with other permit requirements, the regulatory program and the law. A notice of

violation, if abated within the period allowed, shall not be counted as a notice of violation for purposes of determining a pattern of willful violation under 10 CSR 40-7.031(1)(F)2. and need not be reported as a past violation in permit applications under 10 CSR 40-6.030(2) or 10 CSR 40-6.100(2). If a notice of violation is not abated in accordance with the schedule, a cessation order shall be issued requiring the immediate compliance with 10 CSR 40-3.150(4). The operator shall also immediately begin to conduct reclamation operations in accordance with the reclamation plan. Mining operations shall not resume until the director has determined that an acceptable bond has been posted; and

10. The bond shall be forfeitable upon revocation of the underlying permit.

(D) Self-Bonding.

1. Definitions. For the purposes of this section only—

A. Current assets means cash or other assets or resources which are reasonably expected to be converted to cash or sold or consumed within one (1) year or within the normal operating cycle of the business;

B. Current liabilities means obligations which are reasonably expected to be paid or liquidated within one (1) year or within the normal operating cycle of the business;

C. Fixed assets means plant and equipment, but does not include land or coal in place;

D. Liabilities means obligations to transfer assets or provide services to other entities in the future as a result of past transactions;

E. Net worth means total assets minus total liabilities and is equivalent to owners' equity;

F. Parent corporation means a corporation which owns or controls the applicant; and

G. Tangible net worth means net worth minus intangibles such as goodwill and rights to patents or royalties.

2. The director may accept a self-bond if the following conditions are met by the applicant or its parent corporation guarantor:

A. The applicant designates an agent for service of process in the state;

B. The applicant has been in continuous operation as a business entity the five (5) years immediately preceding the application. The director may accept the bond of a joint venture with fewer than five (5) years of continuous operation if each member has been in continuous operation for the five (5) years preceding the application;

C. The applicant submits financial information in sufficient detail to show one (1) of the following:

(I) The applicant has a current Moody's Investor Service or Standard and Poor's rating for its most recent bond issuance of A or higher;

(II) The applicant has a tangible net worth of at least ten (10) million dollars, a ratio of total liabilities to net worth of two and one-half (2 1/2) times or less and a ratio of current assets to current liabilities of 1.2 times or greater; or

(III) The applicant's fixed assets in the United States total at least twenty (20) million dollars and the applicant has a ratio of total liabilities to net worth of two and one-half (2 1/2) times or less and a ratio of current assets to current liabilities of 1.2 times or greater; and

D. The applicant submits—

(I) Financial statements for the last complete fiscal year, accompanied by a report prepared by an independent certified public accountant, in conformity with generally accepted accounting principles, containing the accountant's audit opinion or review opinion of the financial statements with no adverse opinion; and

(II) Unaudited financial statements for completed quarters in the current fiscal year; and

(III) Additional unaudited information as requested by the director.

3. Parent and non-parent corporation third-party guarantors.

A. The director may accept a written guarantee for an applicant's self-bond from a parent corporation guarantor, if the guarantor meets the conditions of paragraph (6)(D)2.A. through D. as if it were the applicant. Such a written guarantee shall be referred to as a "corporate guarantee." The terms of the corporate guarantee shall provide for the following:

(I) If the applicant fails to complete the reclamation plan, the guarantor shall do so or the guarantor shall be liable under the indemnity agreement to provide funds to the director sufficient to complete the reclamation plan, but not to exceed the bond amount.

(II) The corporate guarantee shall remain in force unless the guarantor sends notice of cancellation by certified mail to the applicant and to the director at least ninety (90) days in advance of the cancellation date, and the director accepts the cancellation.

(III) The cancellation may be accepted by the director if the applicant obtains suitable replacement bond before the cancellation date or if the lands for which the



self-bond, or portion thereof, was accepted have not been disturbed.

B. The director may accept a written guarantee for an applicant's self-bond from a non-parent corporation guarantor if the guarantor meets the conditions of subparagraphs (6)(D)2.A. through D. as if it were the applicant. The applicant must still meet the requirements of subparagraphs (6)(D)2.A., B. and D. of this rule. The written guarantee shall provide for the following:

(I) If the applicant fails to complete the reclamation plan, the guarantor shall do so or the guarantor shall be liable under the indemnity agreement to provide to the director funds, up to the bond amount, sufficient to complete the reclamation plan;

(II) The non-parent corporation guarantee shall remain in force unless the guarantor sends notice of cancellation by certified mail to the applicant and to the director at least ninety (90) days in advance of the cancellation date and the director accepts the cancellation; and

(III) The cancellation may be accepted by the director only if the applicant obtains suitable replacement bond before the cancellation or if the covered lands have not been disturbed.

4. The total amount of the outstanding and proposed self-bonds for surface coal mining and reclamation operations shall not exceed twenty-five percent (25%) of the applicant's or third-party guarantor's tangible net worth in the United States, as determined by a certified public accountant.

5. For a self-bond, the guarantor shall execute an indemnity agreement according to the following:

A. The indemnity agreement shall be executed and signed by all persons and parties who are to be bound by it, including the parent and non-parent corporations, and shall bind each jointly and severally. If the applicant is a partnership, joint venture or a syndicate, the agreement shall bind the partner or party who has a beneficial interest, directly or indirectly, in the applicant;

B. Corporations applying for a self-bond, and parent and non-parent corporations guaranteeing a permittee's self-bond, shall submit an indemnity agreement signed by two (2) corporate officers who are authorized to bind the corporations. A copy of the authorization shall be provided to the director along with an affidavit certifying that the agreement is valid under all applicable federal and state laws. In addition, the guarantor shall provide a copy of the corporate authorization demonstrating that the corporation may guarantee the self-bond and execute the indemnity agreement; and

C. Pursuant to 10 CSR 40-7.031(3), the applicant, parent and non-parent corporation shall be required to complete the approved reclamation plan for the lands in default or to pay to the director an amount necessary to complete the approved reclamation plan, not to exceed the bond amount. If permitted under state law, the indemnity agreement when under forfeiture shall operate as a judgement against those parties liable under the indemnity agreement.

6. Self-bonded permittees and third-party guarantors shall submit an update of the information required under subparagraphs (6)(D)2.C. and D. within ninety (90) days after the close of their fiscal years.

7. If the financial conditions of the permittee or the third-party guarantor change so that the criteria of this section are not satisfied, the permittee shall notify the director immediately and post an alternate bond in the same amount as the self-bond.

8. Upon notification that the financial conditions of the permittee no longer satisfy this section, the permittee shall be deemed to be without bond coverage in violation of subsection (2)(A). The director shall issue a notice of violation against any operator who is without bond coverage. The notice shall specify a reasonable period to replace bond coverage, not to exceed ninety (90) days. During this period, the director or his/her authorized agent shall conduct weekly inspections to ensure continuing compliance with other permit requirements, the regulatory program and the law. The notice of violation, if abated within the period allowed, shall not be counted as a notice of violation for purposes of determining a pattern of willful violation under 10 CSR 40-7.031(1)(F)2. and need not be reported as a past violation in permit applications under 10 CSR 40-6.030(2) or 10 CSR 40-6.100(2). If a notice of violation is not abated in accordance with the schedule, a cessation order shall be issued requiring immediate compliance with 10 CSR 40-3.150(4). The operator shall also immediately begin the conduct reclamation operations in accordance with the reclamation plan. Mining operations shall not resume until the director has determined that an acceptable bond has been posted.

9. The bond shall be forfeitable upon revocation of the underlying permit.

(7) Replacement of Bonds.

(A) Permittees may replace existing surety or personal or self-bonds with other surety or personal or self-bonds, if the liability which has accrued against the permittee on the permit area is transferred to these replacement bonds.

(B) Existing performance bonds will not be released until the permittee has submitted and the director has approved acceptable replacement performance bonds. A replacement of performance bonds pursuant to this section shall not constitute a release of liability under 10 CSR 40-7.021.

AUTHORITY: section 444.810, RSMo 2000. Original rule filed Dec. 9, 1982, effective April 11, 1983. Emergency amendment filed June 27, 1986, effective July 7, 1986, expired Nov. 4, 1986. Amended: Filed June 27, 1986, effective Oct. 27, 1986. Amended: Filed Dec. 15, 1987, effective April 1, 1988. Rescinded and readopted: Filed Sept. 15, 1988, effective Jan. 15, 1989. Amended: Filed July 3, 1990, effective Nov. 30, 1990. Amended: Filed May 15, 1992, effective Jan. 15, 1993. Amended: Filed Sept. 15, 1994, effective April 30, 1995. Amended: Filed March 21, 2000, effective Oct. 30, 2000. Emergency amendment filed Dec. 21, 2005, effective Jan. 1, 2006, expired June 29, 2006. Amended: Filed Dec. 1, 2005, effective July 30, 2006.*

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

10 CSR 40-7.020 Form, Conditions and Terms of Performance Bonds and Liability Insurance

(Rescinded April 11, 1983)

AUTHORITY: section 444.810, RSMo Supp. 1979. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed Dec. 10, 1980, effective April 11, 1981. Rescinded: Filed Dec. 9, 1982, effective April 11, 1983.

10 CSR 40-7.021 Duration and Release of Reclamation Liability

PURPOSE: This rule sets forth requirements for the duration and release of reclamation liability pursuant to sections 444.810, 444.830, 444.855, 444.875 and 444.950, RSMo.

(1) Period of Liability.

(A) Liability applicable to a permit shall continue until all reclamation, restoration and abatement work required of the permittee under the regulatory program and the provisions of the permit and reclamation plan have been completed and the permit terminated by release of the permittee from any further liability in accordance with this rule.

(B) Duration of Phase III Liability.

1. The period of Phase III liability shall begin when Phase II liability is released.



2. The permittee, on areas under Phase III liability or the five (5)-year responsibility period, may use normal husbandry practices including mowing; application of pesticides; application of soil amendments equal to or less than that recommended by the high management yield goals of the United States Soil Conservation Service, United States Department of Agriculture (USDA); subsoiling which occurs less than two feet (2') below the surface and which does not remove the vegetation from the surface; burning; overseeding to maintain the approved composition of the stand; tree planting and tree pruning. These practices shall not cause the Phase III liability period or the five (5)-year responsibility period to be extended if the permittee can demonstrate that—1) discontinuance of these measures after the liability period expires will not reduce the probability of permanent revegetation success, 2) the practices are normal husbandry practices within the region on unmined lands having land uses similar to the approved postmining land use of the area and 3) the practices are necessary to prevent exploitation, destruction or neglect of the resource and to maintain the prescribed level of use or productivity. Repair of rills and gullies shall not cause the Phase III liability period to be extended when rills and gullies develop after the initiation of the Phase III liability period and when that repair is restricted to the filling, grading and reseeded of the eroded portion of the area.

3. A portion of the permit area that requires augmentation may be separated from the original area upon approval by the commission or director. The period of Phase III liability shall commence anew on the area requiring augmentation when the augmentation is completed. The period of liability for the area which did not require augmentation shall continue in effect without extension.

(C) A regulatory authority may terminate its jurisdiction under the regulatory program over the reclaimed site of a completed surface coal mining and reclamation operation or increment, when the regulatory authority determines in writing that under the—

1. Initial program all requirements imposed under 10 CSR 40-2, 10 CSR 40-3, 10 CSR 40-4 and 10 CSR 40-8 have been successfully completed; or

2. Permanent program all requirements imposed under the applicable regulatory program have been successfully completed or, where a performance bond was required, the regulatory authority has made a final decision in accordance with this chapter to release the performance bond fully.

(D) Following a termination under subsection (1)(C) of this rule, the regulatory author-

ity shall reassert jurisdiction under the regulatory program over a site if it is demonstrated that the bond release or written determination referred to in subsection (1)(C) of this rule was based upon fraud, collusion or misrepresentation of a material fact.

(2) Criteria and Schedule for Release of Reclamation Liability. Reclamation liability shall be released in three (3) phases.

(A) An area shall qualify for release of Phase I liability upon completion of backfilling and grading, topsoiling, drainage control and initial seeding of the disturbed area. Phase I bond shall be retained on unreclaimed temporary structures, such as roads, siltation structures, diversions and stockpiles.

(B) An area shall qualify for release of Phase II liability when—

1. A permanent vegetative cover that meets the approved reclamation plan and is sufficient to control erosion is in place and no further augmentation of the vegetation is necessary;

2. With respect to woodlands and wildlife areas, the stocking of trees and shrubs has been established in accordance with 10 CSR 40-3.120(7) or 10 CSR 40-3.270(7);

3. The lands are not contributing suspended solids to stream flow or runoff outside the permit area in excess of the requirements of section 444.855.2(10), RSMo, 10 CSR 40-3 and 10 CSR 40-4, the regulatory program or the permit;

4. A plan for achieving Phase III release has been approved for the area requested for release and the plan has been incorporated into the permit;

5. For the prime farmland soils, the soil productivity for prime farmlands shall have been returned to the equivalent levels of yield as non-mined land of the same soil type in the surrounding areas under equivalent management practices as determined from the soil survey performed pursuant to 10 CSR 40-4.030; and

6. Where a silt dam is to be retained as a permanent impoundment pursuant to 10 CSR 40-3.040(10), the Phase II portion of the bond may be released under this subsection as long as provisions for sound future maintenance by the operator or the landowner have been made with the director.

(C) An area shall qualify for release of Phase III liability when—

1. Vegetation has been established in accordance with the approved reclamation plan and the standards for the success of revegetation are met;

2. As required by 10 CSR 40-6.060(4) and 10 CSR 40-4.030, soil productivity, with

respect to prime farmlands, has been returned to the equivalent levels of yield as non-mined prime farmland of the same soil type in the surrounding area under equivalent management practices, as determined from the soil survey performed under section 444.820.2(16), RSMo and the plan approved under 10 CSR 40-6.060(4);

3. The permittee has successfully completed all surface coal mining and reclamation operations in accordance with the approved reclamation plan so that the land is capable of supporting any postmining land use approved pursuant to 10 CSR 40-3.130 or 10 CSR 40-3.300;

4. The permittee has achieved compliance with the requirements of the law, the regulatory program and the permit; and

5. The applicable liability period under section 444.855.2(20), RSMo and this rule has expired.

(D) Bond Release.

1. Phase I—After the operator completes the backfilling, grading, topsoiling, drainage control, and initial seeding of the disturbed area in accordance with the approved reclamation plan, the director may release sixty percent (60%) of the bond for the applicable area.

2. Phase II—After vegetation has been established on the regraded mined lands in accordance with the approved reclamation plan, the director may release an additional amount of bond. When determining the amount of bond to be released after successful vegetation has been established, the director shall retain that amount of bond for the vegetated area which would be sufficient to cover the cost of reestablishing vegetation if completed by a third party and for the period specified in 10 CSR 40-7.021(1)(B) for reestablishing vegetation.

3. Phase III—After the operator has completed successfully all surface coal mining and reclamation activities, the director may release the remaining portion of the bond, but not before the expiration period specified for the period of liability in 10 CSR 40-7.021(1)(B).

(E) The permit shall terminate on all areas where all bonds have been released.

(3) Procedures for Obtaining Release of Reclamation Liability.

(A) Reclamation Liability Release Application. The permittee may file an application with the commission for release of all or part of the reclamation liability applicable to a particular permit when all or part of the permit area meets the requirements of subsection (2)(A), (B), (C) or (E).



1. The application shall include copies of letters sent to the owner of the surface rights of the proposed release area, lessee of surface rights of the proposed release area, owners of adjoining property, the clerk of the county (and city, if any) in which any portion of the permit area lies and any planning or zoning authority, sewer district or company or water district or company whose jurisdiction or service area encompasses any portion of the permit area, notifying them of the permittee's intention to seek release of reclamation liability. These letters shall be sent before the permittee files the application for release. The letters sent to the owner of surface rights and any county or city clerk shall be certified.

2. Within forty-five (45) days after filing the application for release, the permittee shall submit proof of—

A. The advertisement required by subsection (3)(B) of this rule; and

B. Receipt of the letters sent to the surface owner and county or city clerks under paragraph (3)(A)1. or proof of good faith effort to deliver the letters.

(B) Newspaper Advertisement of Application. At or before the time of filing an application under this section, the permittee shall advertise the filing of the application in a newspaper of general circulation in the locality of the permit area. The advertisement shall—

1. Be placed in the newspaper at least once a week for four (4) consecutive weeks, with the last publication occurring within thirty (30) days after the application for release is filed;

2. Show the name of the permittee, including the number and date of issuance or renewal of the permit;

3. Show the location and the number of acres of lands subject to the application;

4. Show the total amount of bond in effect for the permit area and the amount for which release is sought, if applicable;

5. State the phase of liability for which release is being sought and summarize the reclamation work that must have been completed to qualify for the release;

6. State, if a Phase III release is requested, that this represents total release of the permittee's liability; and

7. State that written comments, objections and requests for a public hearing may be submitted to the commission, provide the address of the commission's office and the closing date by which comments, objections and requests must be received, which date shall be sixty (60) days after the filing of the application.

(C) At the time of final or Phase III bond release submittal, the operator shall include evidence that an affidavit has been recorded with the recorder of deeds in the county where the mined land is located generally describing the parcel or parcels of land where operations such as underground mining, auger mining, covering of slurry ponds, or other underground activities occurred which could impact or limit future use of that land. This requirement shall be applicable to mined land where Phase I reclamation was completed on or after September 1, 1992.

(D) Notarized Statement of Accomplished Reclamation. The permittee shall include in the application for reclamation liability release a notarized statement which certifies that all applicable reclamation activities have been accomplished in accordance with the requirements of the Surface Coal Mining Law, the regulatory program, and the approved reclamation plan. Such certification shall be submitted for each application and each phase of bond release.

(4) Objections, Inspections, Review, Decision and Public Hearings for Release of Reclamation Liability.

(A) Objections.

1. Written objections to the proposed liability release may be filed with the commission by any affected person within sixty (60) days after the filing of the application. For the purpose of this rule, an affected person is—

A. Any person with a valid legal interest which might be adversely affected by the liability release; or

B. The responsible officer or head of any federal, state or local governmental agency which—

(I) Has jurisdiction by law or special expertise with respect to any environmental, social or economic impact involved in the operation; or

(II) Is authorized to develop and enforce environmental standards with respect to surface coal mining and reclamation operations.

2. At the time of filing written objections, the objector may request that a public hearing be held. If a public hearing is requested—

A. The hearing shall be held in the locality of the surface coal mining operation proposed for bond release or in Cole County, at the option of the objector, within ninety (90) days after the application was filed;

B. The director shall inform the permittee and all persons who have filed objections or comments of the time, date and place of the hearing and shall publish notice of the

hearing in a newspaper of general circulation in the locality of the permit area once a week for two (2) consecutive weeks before the hearing;

C. The hearing shall be adjudicatory in nature. The commission may subpoena witnesses and printed materials, and compel the attendance of witnesses and production of the materials at the hearing. A verbatim record of the hearing shall be made and the transcript made available at the request of any party or by order of the commission; and

D. At the hearing, the permittee shall have the burden of presenting a preponderance of evidence to show that the area meets all criteria for release of liability.

(B) Inspection. The commission shall cause an inspection and evaluation of the reclamation work involved to be made within thirty (30) days after receiving a completed application for liability release or as soon after that as weather conditions permit. The surface owner and lessee of the surface rights or their representatives shall be given notice of the inspection and may accompany the inspector on the inspection. The director may arrange with the permittee to allow access to the permit area, upon request by any person with an interest in bond release, for the purpose of gathering information relevant to the proceeding.

(C) Review and Decision.

1. The commission shall decide to release or not to release the reclamation liability as follows:

A. Not before the sixtieth day but not after the ninetieth day from the receipt of the application if no hearing is held pursuant to subsection (4)(A)2. and if the inspection was held within thirty (30) days of receipt of the application;

B. If a hearing is held pursuant to paragraph (4)(A)2. or subsection (4)(D), within thirty (30) days after the public hearing; or

C. If the inspection is delayed due to unfavorable weather, within sixty (60) days of the inspection, but not before the sixtieth day from the receipt of the application.

2. The commission shall notify, in writing, the permittee and all persons who have filed objections or comments of its decision to release or not to release reclamation liability within ten (10) days of making the decision.

3. The notice of the decision shall state the reasons for the decision and recommend corrective actions necessary to secure the release.

(D) Right to a Public Hearing. At the time the permittee is notified of the decision of the commission under paragraph (4)(C)2. of this



rule, s/he shall also be notified of his/her right to a public hearing, if the application for release of liability has been denied and if a public hearing has not been held. The permittee may request a hearing within thirty (30) days after being notified on the decision of the commission.

1. The hearing shall be held in the locality of the surface coal mining operation that was proposed for bond release or in Cole County, at the option of the permittee, within ninety (90) days after the permittee is notified of the decision of the commission.

2. The director shall inform the permittee and all persons who have filed comments of the time, date and place of the hearing and shall publish notice of the hearing in a newspaper of general circulation in the locality of the permit area once a week for two (2) consecutive weeks before the hearing.

3. The hearing shall be adjudicatory in nature. The commission may subpoena witnesses and printed materials and compel the attendance of witnesses and production of the materials at the hearing. A verbatim record of the hearing shall be made and the transcript made available at the request of any party or by order of the commission.

4. At the hearing, the permittee shall have the burden of presenting a preponderance of evidence to show that the area meets all criteria for release of liability.

(5) At the time of final or Phase III bond release submittal, the operator shall include evidence that an affidavit has been recorded with the recorder of deeds in the county where the mined land is located, generally describing the parcel(s) of land where operations such as underground mining, auger mining, covering of slurry ponds, or other underground activities occurred which could impact or limit future use of that land. This requirement shall be applicable to mined land where Phase I reclamation was completed on or after September 1, 1992.

AUTHORITY: section 444.810, RSMo 2000. Original rule filed Dec. 9, 1982, effective April 11, 1983. Amended: Filed June 27, 1986, effective Oct. 27, 1986. Amended: Filed Aug. 4, 1987, effective Nov. 23, 1987. Rescinded and readopted: Filed Sept. 15, 1988, effective Jan. 15, 1989. Amended: Filed July 3, 1990, effective Nov. 30, 1990. Amended: Filed May 15, 1992, effective Jan. 15, 1993. Amended: Filed Sept. 15, 1994, effective April 30, 1995. Amended: Filed March 21, 2000, effective Oct. 30, 2000. Emergency amendment filed Dec. 21, 2005, effective Jan. 1, 2006, expired June 29, 2006.*

Amended: Filed Dec. 1, 2005, effective July 30, 2006.

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

10 CSR 40-7.030 Procedures, Criteria and Schedule for Release of Performance Bonds

(Rescinded April 11, 1983)

AUTHORITY: section 444.810, RSMo Supp. 1979. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed April 14, 1980, effective Aug. 11, 1980. Amended: Filed Aug. 13, 1980, effective Dec. 11, 1980. Amended: Filed Dec. 10, 1980, effective April 11, 1981. Rescinded: Filed Dec. 9, 1982, effective April 11, 1983.

10 CSR 40-7.031 Permit Revocation, Bond Forfeiture and Authorization to Expend Reclamation Fund Monies

PURPOSE: This rule clarifies, revises and sets forth requirements, criteria and procedures for permit revocation, bond forfeiture and authorization to expend reclamation fund monies pursuant to sections 444.810, 444.830, 444.885, 444.960 and 444.970, RSMo.

(1) Criteria for Permit Suspension or Revocation. A permit shall be subject to suspension or revocation if any of the following conditions apply:

(A) The permittee has failed to abate a notice of delinquent reclamation within the time established for the abatement;

(B) The permittee has failed to abate a cessation order within the time established pursuant to 10 CSR 40-8.030(6)(C)3.;

(C) The permittee has become insolvent, failed in business, been adjudicated bankrupt, filed a petition in bankruptcy or for a receiver or had such a petition filed against him/her; or had a receiver appointed by any court or a creditor of the permittee, has attached or executed a judgment against the permittee's equipment, materials or facilities at the permit area, and the permittee cannot demonstrate or prove the ability to continue to operate in compliance with the regulatory program and the permit and plan;

(D) Any other permit issued to the permittee, or to any entity in which the permittee is a principal, or to any entity in which a principal of the permittee is a principal, or to an entity controlled by or under common control with the permittee, has been revoked and the reclamation plan for that permit has not been

completed; or if the reclamation plan for that permit has been completed, the person to whom that permit was issued has not fully paid the costs of the completion to the reclamation fund;

(E) The permittee has failed to comply with any conditions established by the commission pursuant to paragraph (2)(E)1. or 2.; or

(F) A pattern of violations of any requirements of the regulatory program, or any permit conditions required by the law, exists or has existed and the violations were caused by the permittee willfully or through unwarranted failure to comply with those requirements or conditions.

1. Willful violation means an act or omission which violates the regulatory program or any permit condition required by the regulatory program, committed by a person who intends the result which actually occurs. Unwarranted failure to comply means the failure of the permittee to prevent the occurrence of any violation of the permit or any requirement of the regulatory program due to indifference, lack of diligence or lack of reasonable care, or the failure to abate any violation of the permit or the regulatory program due to indifference, lack of diligence or lack of reasonable care. Violations by any person conducting surface coal mining operations on behalf of the permittee shall be attributed to the permittee unless the permittee establishes that they were acts of deliberate sabotage.

2. The commission or director may determine that a pattern of violations exists, or has existed, based on two (2) or more inspections of the permit area within any twelve (12) months after considering the circumstances, including:

A. The number of violations cited on more than one (1) occasion of the same or related requirements of the regulatory program or the permit;

B. The number of violations cited on more than one (1) occasion of different requirements of the regulatory program or the permit; and

C. The extent to which the violations were isolated departures from lawful conduct.

3. The director shall promptly review the history of violations of any permittee who has been cited for violations of the same or related requirements of the program or the permit during three (3) or more inspections of the permit area within any twelve (12)-month period. If, after the review, the director determines that a pattern of violations exists or has existed, s/he shall issue an order to show cause as provided in subsection (2)(A) of this rule.



4. Whenever a permittee fails to abate a violation contained in a notice of violation or cessation order within the abatement period set in the notice of violation or cessation order or as subsequently extended, the director shall review the permittee's history of violations to determine whether a pattern of violations exists pursuant to this section and, if so, shall issue an order to show cause as provided for in subsection (2)(A) of this rule.

(2) Procedures.

(A) If the director determines that a permit should be revoked or suspended as set out in section (1), s/he shall issue an order to the permittee, by certified mail or hand delivery, requiring him/her to show cause why his/her permit and right to mine under the regulatory program should not be suspended or revoked. A copy of this show-cause order shall be filed with the commission.

(B) Upon receipt of the show-cause order, the permittee shall have thirty (30) days in which to answer the show-cause order and request a hearing before the commission to show cause why the permit should not be suspended or revoked. If a hearing is requested—

1. It shall be held within sixty (60) days of the receipt of the request by the commission;

2. The director shall advertise the time and place of the hearing once a week for two (2) weeks in a newspaper in the locality of the permit; and

3. Notice of the hearing, if any portion of the permit is bonded, shall be sent by the director to any surety or issuer of letter of credit, or guarantor of self-bonding.

(C) If the permittee fails to request a hearing within the time allowed, the matters set forth in the show-cause order shall be conclusive and the commission shall issue its findings of fact, conclusions of law and order declaring the permit revoked at the first regularly scheduled commission meeting following the expiration of the thirty (30)-day period provided to request a hearing.

(D) If a hearing is held pursuant to subsection (2)(B) of this rule, the commission shall issue a written findings of facts and conclusions of law and, if appropriate, an order suspending or revoking the permit within forty-five (45) days after the hearing.

(E) In lieu of the hearing provided for in subsection (2)(B) of this rule, the commission either may—

1. Enter into a consent order with the permittee to correct the underlying causes of the show-cause order if the consent agreement will not unreasonably delay reclamation; or

2. Extend the abatement period as follows if the cause of the show-cause order is a failure to abate a notice of delinquent reclamation within the time established for the abatement:

A. The extension of the abatement period shall be set by the commission and shall not exceed one (1) year from the abatement date established pursuant to 10 CSR 40-8.030(18)(B) or (C) that the permittee did not meet;

B. An extension may only be approved if the commission finds that the failure to abate the notice of delinquent reclamation is not due to a lack of diligence by the permittee.

(3) Bond Forfeiture.

(A) If a permit is revoked, the commission shall declare all applicable bonds to be forfeited.

(B) If the director determines that the surety, issuer of a letter of credit or certificate of deposit, guarantor of self-bonding or former permittee desires to and is capable of completing reclamation, or a portion of reclamation, the director, with approval of the commission and under additional terms and conditions as s/he deems necessary or prudent to assure that reclamation, or a portion of reclamation, is completed expeditiously, may enter into an agreement with the surety, issuer of a letter of credit or certificate of deposit, or former permittee where the person is allowed to complete reclamation, or a portion, on a set schedule of compliance in lieu of collection of the forfeited bond. The reclamation operations shall be in accordance with a compliance schedule which meets the conditions of the regulatory program. The performer of reclamation shall also demonstrate that they have the ability to satisfy the conditions, except where the commission may approve partial releases authorized under 10 CSR 40-7.021(2), no surety, issuer or guarantor liability shall be released until successful completion of all reclamation under the terms of the permit, including applicable liability periods of 10 CSR 40-7.021(1). If the surety, issuer of a letter of credit or certificate of deposit or former permittee fails to complete reclamation, or a portion of reclamation, according to the schedule of compliance, the director shall take action to collect the forfeited bond and any instruments securing the bond.

(C) The entry of an order declaring a bond forfeited shall automatically authorize the director, with the assistance of the attorney general, if necessary, to take whatever actions are necessary to collect the forfeited bond and any instruments securing the bond.

(4) Declaration of Permit Revocation.

(A) For bonds forfeited before January 1, 2006, the director is authorized to utilize duly appropriated reclamation fund monies as specified in 10 CSR 40-7.041(1) to ensure compliance with all applicable regulations and satisfactory completion of the reclamation plan;

(B) For bonds forfeited on or after January 1, 2006, the director is authorized to utilize forfeited bonds to ensure compliance with all applicable regulations and satisfactory completion of the reclamation plan.

1. In the event the estimated amount forfeited is insufficient to pay for the full cost of reclamation, the operator shall be liable for remaining costs. The director may complete or authorize completion of reclamation of the bonded area and may recover from the operator all costs of reclamation in excess of the amount forfeited.

2. In the event the amount of performance bond forfeited is more than the amount necessary to complete reclamation, the unused funds shall be returned by the director to the party from whom they were collected.

AUTHORITY: section 444.810, RSMo 2000. Original rule filed Dec. 9, 1982, effective April 11, 1983. Emergency amendment filed Sept. 26, 1985, effective Oct. 7, 1985, expired Feb. 4, 1986. Amended: Filed Dec. 3, 1985, effective March 24, 1986. Rescinded and readopted: Filed June 27, 1986, effective Oct. 27, 1986. Amended: Filed Sept. 15, 1988, effective Jan. 15, 1989. Amended: Filed July 3, 1990, effective Nov. 30, 1990. Amended: Filed May 15, 1992, effective Jan. 15, 1993. Emergency amendment filed Dec. 21, 2005, effective Jan. 1, 2006, expired June 29, 2006. Amended: Filed Dec. 1, 2005, effective July 30, 2006.*

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

10 CSR 40-7.040 Performance Bond Forfeiture Criteria and Procedure
(Rescinded April 11, 1983)

AUTHORITY: section 444.810, RSMo Supp. 1979. Original rule filed Oct. 12, 1979, effective Feb. 11, 1980. Amended: Filed April 14, 1980, effective Aug. 11, 1980. Amended: Filed Dec. 10, 1980, effective April 11, 1981. Rescinded: Filed Dec. 9, 1982, effective April 11, 1983.



10 CSR 40-7.041 Form and Administration of the Coal Mine Land Reclamation Fund

PURPOSE: This rule sets forth requirements for administration of the Coal Mine Land Reclamation Fund pursuant to sections 444.960, 444.965 and 444.970, RSMo.

(1) Expenditure of Reclamation Fund Monies.

(A) After revocation of a permit and forfeiture of the associated bonds, Reclamation Fund monies shall be used by the director to complete reclamation pursuant to the approved reclamation plan and shall be used for administrative costs to the commission resulting directly from activities necessary to complete reclamation. All monies assessed for the Coal Mine Land Reclamation Fund after September 1, 1988, are allocated so that forty percent (40%) of the assessments are applied to the reclamation of those permits that have been revoked by the commission prior to September 1, 1988, and sixty percent (60%) of the assessments are applied to the reclamation of those permits that have been revoked by the commission after September 1, 1988. All monies within the Coal Mine Land Reclamation Fund as of September 1, 1988, are allocated to forfeitures which occurred before September 1, 1988. The monies within the fund may be utilized by the director on any phase of reclamation.

(B) Proceeds from any collectable performance bonds shall be expended or committed to specific aspects of reclamation to which the bonds apply before Reclamation Fund monies are employed to complete those aspects of reclamation, except that—

1. Reclamation Fund monies may be expended by the director before proceeds from bonds are expended or committed when the expenditure will result in a net savings to the Reclamation Fund; and

2. Reclamation Fund monies shall be expended by the director before proceeds from bonds are expended or committed when expeditious work is necessary to comply with the laws, regulations, conditions of the permit or reclamation plan. This work may include, but shall not be limited to, treatment of acid mine drainage, erosion control and maintenance of water control structures.

(C) No Reclamation Fund monies may be used to correct disturbances that were caused by a person who did not have a duly approved permanent program permit.

(2) Reimbursement of the Reclamation Fund.

(A) If a permittee fails to complete a reclamation plan and the completion must be made by or on behalf of the commission, the

permittee or any principal of the permittee or any entity in which a principal of the permittee is a principal or any entity controlled by or under common control with the permittee shall not operate a coal mining operation in Missouri until the costs of the completion have been fully paid by the permittee to the Reclamation Fund.

(B) The amount to be repaid to the Reclamation Fund shall include the interest that the state treasurer could have earned on the monies expended if the expenditure had not been made.

(C) The commission shall pursue all legal remedies available to it to recover monies expended from the Reclamation Fund from the responsible permittee, except where the commission in its sole judgment determines that the cost of pursuing the legal remedies will be greater than the sums expected to be recovered. The cost of pursuing the legal remedies shall be charged to the Reclamation Fund.

AUTHORITY: section 444.810, RSMo 2000. Original rule filed Dec. 9, 1982, effective April 11, 1983. Emergency amendment filed June 27, 1986, effective July 7, 1986, expired Nov. 4, 1986. Amended: Filed June 27, 1986, effective Oct. 27, 1986. Rescinded and readopted: Filed Sept. 15, 1988, effective Jan. 15, 1989. Amended: Filed May 15, 1992, effective Jan. 15, 1993. Amended: Filed Sept. 15, 1994, effective April 30, 1995. Emergency amendment filed Dec. 21, 2005, effective Jan. 1, 2006, expired June 29, 2006. Amended: Filed Dec. 1, 2005, effective July 30, 2006.*

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

10 CSR 40-7.050 Requirements, Conditions and Terms of Liability Insurance

PURPOSE: This rule sets forth the requirements, conditions and terms of liability insurance pursuant to sections 444.810 and 444.830, RSMo.

(1) Requirement to File a Certificate of Liability Insurance. Each applicant for a permit shall submit as part of the permit application a certificate issued by an insurance company authorized to do business in this state.

(2) Terms and Conditions for Liability Insurance.

(A) The applicant shall submit, at the time of permit application, a certificate certifying that the applicant has a public liability insurance policy in force for the surface coal mining and reclamation operation for which the

permit is sought. The policy shall provide for personal injury and property damage protection in an amount adequate to compensate all persons injured or property damaged as a result of surface coal mining and reclamation operations, including the use of explosives and damage to water wells and any entitlement to compensation under the applicable provisions of state law. Minimum insurance coverage for bodily injury shall be three hundred thousand dollars (\$300,000) for each occurrence and five hundred thousand dollars (\$500,000) aggregate; and minimum insurance coverage for property damage shall be three hundred thousand dollars (\$300,000) for each occurrence and five hundred thousand dollars (\$500,000) aggregate.

(B) The policy shall be maintained in full force during the life of the permit or any renewal, including completion of all reclamation operations.

(C) The policy shall include a rider requiring that the insurer notify the director whenever substantive changes are made in the policy, including any termination or failure to renew.

AUTHORITY: section 444.810, RSMo 2000. Original rule filed Dec. 9, 1982, effective April 11, 1983. Amended: Filed Dec. 17, 2012, effective July 30, 2013.*

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