

Bureau of Land Management, Interior

§ 3809.551

§ 3809.503 When must I provide a financial guarantee for my notice-level operations?

To see how this subpart applies to your notice, follow this table:

If—	Then—
(a) Your notice was on file with BLM on January 20, 2001.	You do not need to provide a financial guarantee unless you modify the notice or extend the notice under § 3809.333.
(b) Your notice was on file with BLM before January 20, 2001 and you choose to modify your notice as required by this subpart on or after that date.	You must provide a financial guarantee before you can begin operations under the modified notice. If you modify your notice, you must post a financial guarantee for the entire notice.

If—	Then—
(c) You file a new notice on or after January 20, 2001.	You must provide a financial guarantee before you can begin operations under the notice.

§ 3809.505 How do the financial guarantee requirements of this subpart apply to my existing plan of operations?

For each plan of operations approved before January 20, 2001, for which you or your predecessor in interest posted a financial guarantee under the regulations in force before that date, you must post a financial guarantee according to the requirements of this subpart no later than November 20, 2001, at the local BLM office with jurisdiction over the lands involved. You do not need to post a new financial guarantee if your existing financial guarantee satisfies this subpart. If you are conducting operations under a plan of operations approved before January 20, 2001, but you have not provided a financial guarantee, you must post a financial guarantee under § 3809.551 by September 13, 2001.

[66 FR 32575, June 15, 2001]

§ 3809.551 What are my choices for providing BLM with a financial guarantee?

You must provide BLM with a financial guarantee using any of the 3 options in the following table:

If—	Then—
(a) You have only one notice or plan of operations, or wish to provide a financial guarantee for a single notice or plan of operations.	You may provide an individual financial guarantee that covers only the cost of reclaiming areas disturbed under the single notice or plan of operations. See §§ 3809.552 through 3809.556 for more information.
(b) You are currently operating under more than one notice or plan of operations.	You may provide a blanket financial guarantee covering statewide or nationwide operations. See § 3809.560 for more information.

If—	Then—
(c) You do not choose one of the options in paragraphs (a) and (b) of this section.	You may provide evidence of an existing financial guarantee under State law or regulations. See §§3809.570 through 3809.573 for more information.

INDIVIDUAL FINANCIAL GUARANTEE

§ 3809.552 What must my individual financial guarantee cover?

(a) If you conduct operations under a notice or a plan of operations and you provide an individual financial guarantee, it must cover the estimated cost as if BLM were to contract with a third party to reclaim your operations according to the reclamation plan, including construction and maintenance costs for any treatment facilities necessary to meet Federal and State environmental standards. The financial guarantee must also cover any interim stabilization and infrastructure maintenance costs needed to maintain the area of operations in compliance with applicable environmental requirements while third-party contracts are developed and executed.

(b) BLM will periodically review the estimated cost of reclamation and the adequacy of any funding mechanism established under paragraph (c) of this section and require increased coverage, if necessary.

(c) When BLM identifies a need for it, you must establish a trust fund or other funding mechanism available to BLM to ensure the continuation of long-term treatment to achieve water quality standards and for other long term, post-mining maintenance requirements. The funding must be adequate to provide for construction, long-term operation, maintenance, or replacement of any treatment facilities and infrastructure, for as long as the treatment and facilities are needed after mine closure. BLM may identify the need for a trust fund or other funding mechanism during plan review or later.

§ 3809.553 May I post a financial guarantee for a part of my operations?

(a) Yes, BLM may authorize you to provide a financial guarantee covering a part of your operations if—

(1) Your operations do not go beyond what is specifically covered by the partial financial guarantee; and

(2) The partial financial guarantee covers all reclamation costs within the incremental area of operations.

(b) BLM will review the amount and terms of the financial guarantee for each increment of your operations at least annually.

§ 3809.554 How do I estimate the cost to reclaim my operations?

(a) You must estimate the cost to reclaim your operations as if BLM were hiring a third-party contractor to perform reclamation of your operations after you have vacated the project area. Your estimate must include BLM's cost to administer the reclamation contract. Contact BLM to obtain this administrative cost information.

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

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

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

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

(b) Cash in an amount equal to the required dollar amount of the financial