

CHAPTER 50
IOWA ABANDONED MINED LAND RECLAMATION PROGRAM
[Prior to 12/28/88, see Soil Conservation Department, 780—Ch 27]

27—50.1 to 50.9 Reserved.

27—50.10(207) Authority and scope. This chapter establishes procedures and standards to be followed by the division of soil conservation and water quality, Iowa department of agriculture and land stewardship, in accordance with the policies of the state soil conservation and water quality committee, to participate in the federal abandoned mined land and reclamation program as established in the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, and Iowa Code chapter 207.

These rules will also provide for the establishment of a state abandoned mined land fund for use in conducting the Iowa abandoned mined land reclamation program, and will also establish authority for the division to request, receive and administer grant moneys for use in the program.

[ARC 2192C, IAB 10/14/15, effective 11/18/15; ARC 3243C, IAB 8/2/17, effective 9/6/17]

27—50.11(207) Rules or subrules are severable. If any provision of a rule or subrule or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the rule or subrule which can be given effect without invalid provision or application, and to this end the provisions of these rules or subrules are severable.

27—50.12 to 50.19 Reserved.

27—50.20(207) Definition of terms.

50.20(1) “*Emergency*” means a sudden danger or impairment that presents a high probability of substantial physical harm to the health, safety or general welfare of people before the danger can be abated under normal program operation procedures.

50.20(2) “*Extreme danger*” means a condition that could reasonably be expected to cause substantial physical harm to persons, property, or the environment and to which persons or improvements on real property are currently exposed.

50.20(3) “*Reclamation activities*” means restoration, reclamation, abatement, control or prevention of adverse effects of mining.

50.20(4) “*State reclamation program*” or “*program*” means a program established by the division in this chapter for reclamation of land and water adversely affected by past mining, including the reclamation plan and annual applications for grants under the plan.

50.20(5) “*State abandoned mined land fund*” or “*fund*” means a separate fund established by the division for the purpose of accounting for moneys granted by the director of the office of surface mining reclamation and enforcement (OSM) under an approved state reclamation program and other moneys authorized by these rules to be deposited in the fund.

50.20(6) “*Left or abandoned in either an unreclaimed or inadequately reclaimed condition*” means land and water:

a. Where all mining processes ceased and no current permit for continuing operations existed as of August 3, 1977, or, if a permit did exist on that date, but all mining processes had ceased, it has since lapsed and has not been renewed or superseded by a new permit as of the date of the request for reclamation assistance; and

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

27—50.21 to 50.29 Reserved.

27—50.30(207) State abandoned mined land fund. Revenue to the fund shall include:

50.30(1) Amounts granted to the state by OSM for purpose of conducting the Iowa reclamation plan.

50.30(2) Moneys collected by the state from charges for uses of land acquired or reclaimed with moneys from the fund.

50.30(3) Moneys recovered by the state through the satisfaction of liens filed against privately owned lands reclaimed with moneys from the fund.

50.30(4) Moneys recovered by the state from the sale of lands acquired with moneys from the fund.

50.30(5) Such other moneys as the state decides should be deposited in the fund for use in carrying out the Iowa abandoned mined land program.

27—50.31 to 50.39 Reserved.

27—50.40(207) Eligible lands and water.

50.40(1) Coal mined lands and associated waters are eligible for reclamation activities if:

- a. They were mined or affected by mining processes;
- b. They were mined prior to August 3, 1977, and left or abandoned in either an unreclaimed or inadequately reclaimed condition; and
- 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.

50.40(2) Lands and water which were mined or affected by mining for minerals and materials other than coal shall be eligible for reclamation activities if:

- a. The conditions of subrule 50.40(1) have been met;
- b. The reclamation has been requested by the governor;
- c. All reclamation with respect to abandoned coal mined land and water has been accomplished within the state or the reclamation is necessary for the protection of the public health and safety.

27—50.41 to 50.49 Reserved.

27—50.50(207) Reclamation objectives and priorities.

50.50(1) Reclamation projects shall reflect the priorities set out in Section 403 of Public Law 95-87 (30 U.S.C. 1233) and should be accomplished in accordance with OSM's "Final Guidelines for Reclamation Programs and Projects" (45 FR 14810-14819, March 6, 1980).

50.50(2) Reclamation of eligible noncoal mined lands and waters shall comply with the provisions of Section 409 of Public Law 95-87 (30 U.S.C. 1239).

27—50.51 to 50.59 Reserved.

27—50.60(207) Reclamation project evaluation. Proposed reclamation projects and completed reclamation work shall be evaluated in terms of the factors stated in this rule. 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 as 27—50.50(207). Completed reclamation shall be evaluated in terms of the factors set forth below as a means of identifying conditions which should be avoided, corrected, or improved in plans for future reclamation work. The factors shall include:

50.60(1) The need for reclamation work to accomplish one or more specific reclamation objectives.

50.60(2) 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.

50.60(3) 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:

- a. Protection of human life, health, or safety.
- b. Protection of the environment, including air and water quality, abatement of erosion sedimentation, fish, wildlife, and plant habitat, visual beauty, historic or cultural resources and recreation resources.

- c.* Protection of public or private property.
- d.* 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.
- e.* Improvement of environmental conditions which may be considered to generally enhance the quality of human life.
- f.* Improvement of the use of natural resources, including postreclamation land uses which:
 - 1. Increase the productive capability of the land to be reclaimed.
 - 2. Enhance the use of surrounding lands consistent with existing land use plans.
 - 3. Provide for construction or enhancement of public facilities.
 - 4. Provide for residential, commercial, or industrial developments consistent with the needs and plans of the community in which the site is located.
- g.* Demonstration to the public and industry of methods and technologies which can be used to reclaim areas disturbed by mining.

50.60(4) 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.

50.60(5) 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.

50.60(6) The availability of additional coal or other mineral or material resources within the project area which:

- a.* Results in a reasonable probability that the desired reclamation will be accomplished during the process of future mining; or
- b.* Requires special consideration to ensure 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.

50.60(7) The acceptability of postreclamation 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 to which the project is located.

50.60(8) The probability of postreclamation management, maintenance and control of the area consistent with the reclamation completed.

27—50.61 to 50.69 Reserved.

27—50.70(207) Consent to entry. The division 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 their 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 lands and any special conditions for entry. This statement shall not include any commitment by the division to perform reclamation work nor to compensate the owner for entry.

27—50.71 to 50.79 Reserved.

27—50.80(207) Entry for studies or exploration.

50.80(1) The division or 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.

50.80(2) If the owner of the land to be entered under this section will not provide consent to entry, the division shall 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 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 30 days before entry.

27—50.81 to 50.89 Reserved.

27—50.90(207) Entry and consent to reclaim.

50.90(1) The division or its agents, employees, or contractors, may enter upon land to perform reclamation activities if the consent of the owner cannot be obtained.

50.90(2) Prior to entry under this rule, the division shall find in writing with support reasons that:

- a.* Land or water resources have been adversely affected by past coal mining practices;
- b.* The adverse effects have advanced, so that in the interest of the public health, safety, or the general welfare, action to restore, reclaim, abate, control or prevent should be taken; and
- c.* 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
- d.* The owner will not give permission for the division, 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.

50.90(3) The division shall give notice of its intent to enter for purposes of conducting reclamation at least 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 rule. If the owner is not known, or if the current mailing address of the owner is not known, notice shall be posted in one 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 rule may be inspected or obtained.

27—50.91 to 50.99 Reserved.

27—50.100(207) Land eligible for acquisition.

50.100(1) Land adversely affected by past coal mining practices may be acquired with moneys from the fund if approved in advance by OSM. OSM will determine if:

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

50.100(2) Coal refuse disposal sites and all coal refuse thereon may be acquired with moneys from the fund if approved in advance by OSM and if the acquisition of the land is necessary for successful reclamation and will serve the purposes of the program or if public ownership is desirable to meet an emergency situation and prevent reoccurrence of adverse effects of past coal mining practices.

50.100(3) The division shall acquire only such interests in the land as are necessary for the reclamation work planned or the postreclamation use of the land. Interest in improvements on the land, mineral rights, or associated water rights may be acquired if:

- a.* The interests are necessary to the reclamation work planned or the postreclamation use of the land; and
- b.* Adequate written assurance 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.

27—50.101 to 50.109 Reserved.

27—50.110(207) Procedures for acquisition.

50.110(1) 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).

50.110(2) 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.

50.110(3) When necessary, land or interests 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.

27—50.111 to 50.119 Reserved.

27—50.120(207) Acceptance of gifts of land.

50.120(1) The division may accept donations of title to land or interest in land that 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.

50.120(2) Offers to make a gift of the land or interests in land shall be in writing and shall include:

- a. A statement of the interest which is being offered.
- b. A legal description of the land and a description of any improvements on it.
- c. 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.
- d. A statement that:
 1. The donor is the record owner of interest being offered.
 2. The interest offered is free and clear of all encumbrances except as clearly stated in the offer.
 3. There are no adverse claims against the interest offered.
 4. There are not unredeemed tax deeds outstanding against the interest offered.
 5. There is no continuing responsibility by the operator under state or federal statutory law for reclamation.
- e. An itemization of any unpaid taxes or assessments levied, assessed or due which could operate as a lien on the interest offered.

50.120(3) 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 Mining Control and Reclamation Act of 1977, Public Law 95-87, and Iowa Code chapter 207.” Title to donated land shall be in the name of the state of Iowa.

27—50.121 to 50.129 Reserved.

27—50.130(207) Management of acquired lands.

50.130(1) Land acquired under this rule may be used pending disposition under rule 50.140(207) for any lawful purpose that is not inconsistent with the reclamation activities and postreclamation uses for which it was acquired.

50.130(2) Any user of land acquired under this part 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 cost to the state for providing the benefit, whichever is appropriate. The division may waive the fee if found in writing that such a waiver is in the public interest.

50.130(3) All use fees collected shall be deposited in the state abandoned mined land fund, unless previously appropriated or otherwise authorized by the general assembly, for the specific purpose of operating and maintaining improvement of the land.

27—50.131 to 50.139 Reserved.

27—50.140(207) Disposition of reclaimed lands.

50.140(1) Prior to disposition of any acquired land, the division shall publish a notice which describes the proposed disposition of the land in a newspaper of general circulation in the area where the land is located for a minimum of four successive weeks. The notice shall provide at least 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 a person.

50.140(2) The division may transfer administrative responsibility for land acquired under this part 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:

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

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

50.140(3) The division may transfer title to abandoned and unreclaimed land to the United States to be reclaimed and administered by OSM, and maintain a preference right to purchase land from OSM after reclamation is completed. The price shall be the fair market value of the land in its reclaimed condition less any portion of the land acquisition price paid by the division.

50.140(4) The division may sell land acquired under this part by public sale if the land is suitable for industrial, commercial, residential, or recreational development and if the development is consistent with local, state or federal land use plans for the area in which the land is located.

a. Land shall be sold by public sale only if it is found that retention by the state or disposal under other paragraphs of this rule is not in the public interest.

b. Land shall be sold for not less than the fair market value under a system of competitive bidding which includes at a minimum:

1. Publication of a notice once a week for four weeks in a newspaper of general circulation in the locality in which the land is located. The 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.

2. Provisions for sealed bids to be submitted prior to the sale date followed by an oral auction open to the public.

50.140(5) All moneys received from the disposal of land under this rule shall be deposited in the state abandoned mined land fund.

27—50.141 to 50.149 Reserved.

27—50.150(207) Operations on private land. Reclamation activities may be carried out on private land if a consent to enter is obtained or if entry is required and made.

27—50.151 to 50.159 Reserved.

27—50.160(207) Appraisals.

50.160(1) A notarized appraisal of the fair market value of private land to be reclaimed shall be obtained from an independent professional appraiser, with exceptions as noted in 50.160(4). Such appraisal shall meet the quality of appraisal practices found in the handbook on “Uniform Appraisal Standards for Federal Land Acquisitions” (Interagency Land Acquisition Conference, 1973). The appraisal shall be obtained before any reclamation activities are started, unless the work must start without delay to abate an emergency. Where an emergency exists, the appraisal shall be completed at the earliest practical time and before related nonemergency work is commenced. The appraisal shall state the fair market value of the land as adversely affected by past mining.

50.160(2) An appraisal of the fair market value of all land reclaimed shall be obtained after all reclamation activities have been completed. The appraisal shall be obtained in accordance with 50.160(1) and shall state the market value of the land reclaimed.

50.160(3) The landowner shall receive a statement of the increase in market value, an itemized statement of reclamation expenses and notice that a lien will or will not be filed against the property.

50.160(4) Appraisals for privately owned land which fall under subrule 50.170(1) shall be obtained from an independent professional appraiser.

27—50.161 to 50.169 Reserved.

27—50.170(207) Liens.

50.170(1) The division shall place a lien against land reclaimed if the reclamation results in an increase in the fair market value based on the pre- and postreclamation appraisals.

a. 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 operations which necessitated the reclamation work.

b. The division may waive the lien if the cost of filing it, including indirect costs, exceeds the increase in fair market value as a result of reclamation activities.

c. The lien may be waived if the reclamation work performed on private land primarily benefits 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.

50.170(2) If a lien is to be filed, the division shall, within six months after completion of the reclamation work, file a statement in the district court of the county for the lands to be liened. Such statement shall consist of an account of moneys expended for the reclamation work, together with notarized copies of the appraisals obtained. The amount reported to be the increase in value of the property shall constitute the amount of the lien recorded and shall have priority as a lien second only to the lien of real estate taxes imposed upon the land.

50.170(3) Within 60 days after the lien is filed by the division, the landowner may bring civil action in the district court of the county in which the reclaimed land lies to determine the increase in market value of the land as a result of reclamation work. Any aggrieved party may appeal in the manner provided by law.

27—50.171 to 50.179 Reserved.

27—50.180(207) Satisfaction of liens.

50.180(1) 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 and shall be satisfied in accordance with this paragraph. Testate and intestate transfers are excluded from this rule if the entire parcel of land subject to the lien is transferred and the transferee is related to the transferor within the second degree of consanguinity or affinity.

50.180(2) The department shall maintain or renew liens from time to time as may be required.

50.180(3) Moneys derived from the satisfaction of liens established under this part shall be deposited in the state abandoned mined land fund.

These rules are intended to implement Iowa Code chapter 207.

27—50.181 to 50.189 Reserved.

27—50.190(207) Abandoned mined land (AML) program forms.

50.190(1) *Availability of forms.* Copies of forms utilized in the AML program are available at the following address: Division of Soil Conservation and Water Quality, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319.

50.190(2) Bidding forms for construction projects.

Form number	Description
AML-001	<i>Proposal.</i> This form is used to document bid proposals from potential contractors for conducting reclamation work on abandoned mined lands. The form also includes a noncollusion affidavit. 2 pages.
AML-002	<i>Proposal Guarantee Bond.</i> This form identifies the bidder and the surety, lists the amount of the bid guarantee bond and provides for notarization of the signatures of the bound parties. 1 page.
AML-003	<i>Nondiscrimination Clause.</i> This form is used to document that the contractor is morally and legally committed to nondiscrimination in employment. 1 page.
AML-004	<i>Minority and Women Business Enterprise Solicitation Reporting Form.</i> This form is used to document the contractor's solicitation of subcontract or subsubcontract bids from minority or women business enterprises. 1 page.
AML-005	<i>Certificate of Nonsegregated Facilities.</i> This form is used to certify that the construction contractor does not maintain or provide employees any segregated facilities at any of contractor's establishments. 1 page.
AML-006	<i>Contract.</i> This form documents the agreement between the contractor and the division for the fulfillment of work in accordance with performance set forth and the payment therefor in accordance with the agreed-upon price. 2 pages.
AML-007	<i>Performance Bond.</i> This form identifies the contractor and the surety and binds them to the state of Iowa performing the contract in accordance with the plans, specifications, and contract documents. The form lists the amount of the bond and provides for notarization of the signatures of the contractor and surety. 2 pages.

This rule is intended to implement Iowa Code section 207.21.

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