

COAL SURFACE MINING RECLAMATION REGULATIONS

4 VAC 25-130-801.17. Bond release application.

(a) The permittee participating in the Pool Bond Fund, or any person authorized to act upon his behalf, may file an application with the division for the Phase I, II or III release of ~~all or part of~~ the bond furnished in accordance with 4 VAC 25-130-801.12(b) for the permit area or any applicable increment thereof. The bond release application, the procedural requirements and the released percentages shall be consistent with the release criteria of 4 VAC 25-130-800.40. ~~areas which have been adequately reclaimed and vegetation established pursuant to the postmining land use. A minimum of one (1) full growing season or a minimum of twelve (12) months, whichever is longer, must have elapsed before the division will determine that the vegetation is adequately established.~~ However, in no event shall the total bond of the permit be less than the minimum amounts established pursuant to ~~4 VAC 25-130-801.12(b)~~ Section 45.1-241 and 45.1-270.3.B of the Virginia Coal Surface Mining Control and Reclamation Act prior to completion of Phase III reclamation of the entire permit area. ~~the two full growing seasons and compliance with 4 VAC 25-130-801.18. Bond liability shall continue for not less than five years, or as provided by 4 VAC 25-130-800.13 or 4 VAC 25-130-800.17(b).~~

~~(1) Applications may only be filed at times or seasons that allow the division to evaluate properly the reclamation operations alleged to have been completed. The times or seasons appropriate for the evaluation of certain types of reclamation shall be~~

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identified in the mining and reclamation operations plan required in Subchapter VG and approved by the division.

~~(2) The application shall include copies of letters sent to adjoining property owners, surface owners, local government bodies, planning agencies, and sewage and water treatment facilities or water companies in the locality of the permit area, notifying them of the permittee's intention to seek release of performance bond(s). These letters shall be sent before the permittee files the application for release.~~

~~(3) Within 30 days after filing the application for release the permittee shall submit proof of publication of the advertisement required by Paragraph (b) of this section. Such proof of publication shall be considered part of the bond release application.~~

~~(b) The permittee seeking total or partial bond release shall, at the time of filing an application under this section, advertise the filing of the application as provided by 4 VAC 25-130-800.40(a)(2).~~

~~(c) The division shall inspect and evaluate the reclamation work involved within 30 days after receiving a completed application for bond release, or as soon thereafter as weather conditions permit. The surface owner, or agent, or lessee shall be given notice of such inspection and may participate with the division in making the bond release~~

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~~inspection.~~

~~(d) Division review and decision.~~

~~(1) The division shall consider, during the inspection evaluation, hearing and decision:~~

~~(i) Whether the permittee has met the criteria for release of the bond under 4 VAC 25-130-801.18;~~

~~(ii) The degree of difficulty in completing any remaining reclamation, restoration, or abatement work; and~~

~~(iii) Whether pollution of surface and subsurface water is occurring, the probability of future pollution or the continuance of any present pollution, and the estimated cost of abating any pollution.~~

~~(2) If no public hearing has been held under Paragraph (e), the division shall notify the permittee and any other interested parties in writing of its decision to release or not to release all or part of the performance bond or deposit within 60 days from the receipt of the completed application, or within 30 days from the public hearing if a public hearing was held.~~

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~~(3) The notice of the decision shall state the reasons for the decision, and recommend any corrective actions necessary to secure the release.~~

~~(4) The division shall not release the bond until:~~

~~(i) When any application for total or partial bond release is filed with the division, the division has notified the town, city, or other municipality nearest the operation and the county in which the surface coal mining operation is located by certified mail at least 30 days prior to the release of all or a portion of the bond; and~~

~~(ii) The right to request a public hearing pursuant to 4 VAC 25-130-800.40(f) has not been exercised, or a final decision by the Hearing Officer approving the release has been issued pursuant to 4 VAC 25-130-800.40(f).~~

~~(e) Any person wishing to contest the division's decision to approve or disapprove the bond release shall have the right to appeal in accordance with 4 VAC 25-130-800.40(f). In the event of an appeal, the division shall conduct the proceeding as provided by 4 VAC 25-130-800.40(f) through (h).~~

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4 VAC 25-130-801.18. Criteria for release of bond.

(a) ~~The division shall release the bond furnished in accordance with Section 45.1-241 and 45.1-270.3 of the Virginia Coal Surface Mining Control and Reclamation Act through the standards specified at 4VAC 25-130-800.40 upon receipt of an application for Phase I, II or III release, applicable to the permit area following completion of all reclamation, restoration, and abatement work required of the permittee by the approved plans, this chapter, and the Act.~~

(b) ~~The division shall terminate jurisdiction for the permit area, or any increment thereof upon approval of the Phase III bond release for that area. The minimum period of bond liability for the entire permit shall continue for not less than five years following completion of all reclamation work. This period of liability shall be in accordance with the provisions of 4 VAC 25-130-800.13 and 4 VAC 25-130-800.17(b). The total amount of bond for the permit area following this period of liability shall be as provided in Paragraph (c) of this section.~~

(c) ~~The division may choose to release portions of the bond, if the areas sought for release are capable of supporting the proposed postmining land use independent of the successful completion of the reclamation of portions of the permit area still under bond or not yet initially disturbed. A minimum of two full growing seasons must have elapsed before the division will consider any bond release for the permit area. Reclamation shall~~

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be deemed to be adequate when:

~~(1) Revegetation has been established in accordance with the approved reclamation plan and the standards for the success of revegetation are met;~~

~~(2) The lands are not contributing suspended solids to stream flow or runoff outside the permit area in excess of the requirements of Subchapter VK or the approved permit plans; and~~

~~(3) With respect to prime farmlands, soil productivity has been returned to the level of yield as required by 4 VAC 25-130-785.17 and Part 823 when compared with non-mined prime farmland in the surrounding areas as determined from the soil survey performed under the plan approved under 4 VAC 25-130-785.17; and~~

~~(4) The provisions of a plan approved by the division for the sound future management of any permanent impoundment by the permittee or landowner have been implemented to the satisfaction of the division.~~

~~(d) In the event a forfeiture occurs after partial bond release the division may, after utilizing the available bond monies, utilize the Fund as necessary to complete reclamation liabilities for the permit area.~~