

DIVISION OF MINED LAND RECLAMATION		PROCEDURE NO.	2.3.09
PROCEDURES MANUAL		ISSUE DATE	August 2, 2005
SUBJECT	Bond Release	Section	Technical/Permitting
		Last Revised	8/18/00

OBJECTIVE AND INTENT:

To ensure each application for partial or total bond release is reviewed by the Field Inspector and appropriate office personnel in a timely manner and in accordance with the regulatory requirements.

GENERAL:

A bond release application may be filed only at the time or season identified in the permit's "Operation Plan". It is preferred that vegetation release applications be submitted to the Division between April 15th and October 15th so the Division may properly evaluate the success of the reclamation operations.

The Inspector shall inform the permittee that the complete bond release application (**DMLR-PT-212** with **DMLR-PT-034E**) and supporting information must be reviewed and initialed by the Inspector prior to its submittal to the Big Stone Gap office.

Types of Bond Releases:

(4 VAC 25-130-800.40)

- Phase 1. Up to 60% release for backfilling, regrading and drainage control on the entire permit or designated areas, if applicable.
- Phase 2. Revegetation release on the entire permit or designated areas, if applicable. Reclamation standards and required growing seasons completed.
- Phase 3. Total release after reclamation requirements of the Act and the permit are fully met.

Third Party Responsibility:

Reclamation bonds on industrial, commercial, or residential areas of permits may be released under 4 VAC 25-130-800.13 (d)(2) prior to the five-year period of responsibility for revegetation under Parts 4 VAC 25-130-816 and 4 VAC 25-130-817, provided a demonstration is made that:

- There has been compliance with all appropriate performance standards (e.g., the elimination of all highwalls);
- The permittee has demonstrated that the implementation of the approved alternate postmining land use is beyond the control of the permittee;
- The plans reflect the alternate postmining land use on the site;
- Only the portions of the permit that are approved under the third party criteria (and not subject to the five year extended liability period) may be released; and

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- The permittee has demonstrated that the proposed land use has been achieved (i.e., sufficient site construction is underway or completed to clearly establish the achievement of the land use).

PROCEDURES:

Field Review:

The Field Inspector shall:

- review the bond release application¹ for accuracy and completeness.
- initial the bond release application and have his or her comments addressed by the permittee prior to the application's submittal to the Big Stone Gap office.
- retain a copy of the bond release application.
- ensure the contents of the sample public notice are correct.
- assign the publication number, and instruct the permittee to publish the public advertisement in a local newspaper of general circulation in the locality of the surface coal mining operation at least once a week for four consecutive weeks.
- receive the application² from the permittee and submit it to the Big Stone Gap office for public inspection by the first date of publication of the public notice.
- schedule the bond release inspection and notify OSM, the surface owner, agent, or lessee of their right to participate in the inspection. The inspection shall be conducted within 30 days of receipt of the bond release application, or as soon thereafter as weather conditions permit.
- ensure that the application (both pool and cost bond) contains an estimated cost for all remaining reclamation to be performed, in order to justify the amount of bond requested to be released. The estimated cost should include, but not be limited to, the cost of:
 1. reseeding (\$125/acre or \$10,000.00, whichever is greater, when this is the only item that applies).
 2. structure removal (ponds, buildings, roads, etc.).
 3. equipment removal.
 4. discharge(s) treatment.
 5. re-eliminating highwalls that have been re-exposed due to backfill settlement.
 6. mobilizing the equipment needed to perform reclamation.
- recommend (by inspection report) whether or not the bond may be released. The inspection report will be forwarded to the Enforcement Secretary, who will route a copy to the Review Inspector.

¹ Guidance Memorandum No. 7-03 describes the process of submitting an electronic bond reduction/release application.

² For an electronic application – in addition to the electronic copy, a copy of the map(s), signature forms, and certification(s). The permittee should provide 2 copies of a paper application.

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- review the notarized statement required by 4 VAC 25-130-800.40(a)(3).

Office Review:

Upon receipt of the bond release application, the permitting Office Services Specialist shall check for the Field Inspector’s initials, log, and route the material to the Review Inspector. The Review Inspector shall coordinate the review process by ensuring:

- notification of receipt of the bond release application is sent within two days to the town, city or other municipality nearest to and the county in which the mining operation is located.
- the application is routed within two days for any appropriate technical review.
- the Field Inspector is notified of any deficiencies in the application.
- any written comments (received within 30 days after the last date of publication of the advertisement of the bond release application) are forwarded to the appropriate DMLR personnel (by copy) and the original copies are placed in the appropriate permit files.

The Review Inspector will ensure that appropriate review is conducted within 10 days of permitting’s receipt of the application. For any bond reductions or adjustments request in excess of \$200,000, the Review Inspector shall ensure the request is reviewed in detail by the:

- Reclamation Program Manager for an operation participating in the Coal Surface Mining Reclamation Fund.
- Environmental Engineer Consultant for an operation cost bonded.

Upon receipt of the Field Inspector’s recommendation to approve the application and the resolution of any public concerns (written comments or hearings), the Review Inspector will draft the decision document within 5 days from the close of the public comment period or hearing decision and process the application.

The Reclamation Program Manager shall notify the permittee and other interested persons of the DMLR’s decision (to approve or deny application) within 60 days of receipt of the complete application or 30 days from the public hearing (4 VAC 25-130-800.40(b)(2) and (d) and 4 VAC 25-130-801.17(d)(2)). The written decision shall include any necessary corrective actions and inform of the right of appeal. The decision will be based on the cumulative recommendations of the technical reviewers and the Field Inspector, following their respective evaluations of the application pursuant to bond release criteria.

If an administrative review hearing is requested, the written request shall be promptly forwarded to the Hearings Coordinator. The Hearings Coordinator shall schedule the appropriate hearing, and notify the Reclamation Services Manager, Reclamation Program Manager, Review Inspector, and other interested parties per the **DMLR Administrative Hearings Manual**.

Prior to releasing a cash or Certificate of Deposit performance bond, the permit Office Services

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Specialist shall check:

1. with the Hearings Coordinator to determine if the permittee has any outstanding civil penalties, and
2. the permit file's face sheet for Notice(s) of Levy or Lien(s).

(The Division shall retain or disburse the bond moneys for outstanding debts as permitted or required by state or federal law.)