

Permanent Program Federal Lands

Bond Release Guidance

Office of Surface Mining
Western Region
Approved 2/6/01

Federal Lands Bond Release Guidance

The Western Region of the Office of Surface Mining Reclamation and Enforcement (OSM), has prepared this guidance document to clarify OSM's role in the release of reclamation performance bonds on coal mines involving Federal Lands where a Co-operative Agreement exists between a State and the U.S. Department of the Interior. This guidance document is not intended to replace nor supplement the regulations.

Discussion

Bond release on Federal Lands where a Cooperative Agreement with a State exists may occur at the completion of the phases of reclamation defined by the appropriate State Regulations and upon receipt and approval by the State of an application for release under the State Program. However, under 30 CFR 740.15(d)(3) OSM is required to concur in State's performance bond releases where there is an approved mining plan.

The Federal Lands rule change in 1983 eliminated the need for dual permitting on Federal lands, delegated to the States (under Cooperative Agreements) the SMCRA responsibilities, and defined the respective roles of Federal Agencies for Federal Lands, including Secretarial approval of a Mining Plan submitted as part of a Mining Plan Decision Document where leased Federal coal is involved.

The revised rule authorized States with Cooperative Agreements to assume the entire responsibility for the SMCRA permitting on Federal Lands. This delegation of SMCRA responsibilities included bonding and bond release. OSM's concurrence in bond release where there is an approved mining plan is complimentary to and not duplicative of the State bond release activity and focuses on documenting that reclamation is consistent with the approved mining plan for non-SMCRA issues.

Procedure

Since the United States Office of Surface Mining is a co-payee on bonds covering Federal lands, OSM must administratively release the bond in cooperation with the State Regulatory Authority. OSM must also concur in the release where there is an approved mining plan.

Upon notification by the State Regulatory Authority that a bond release application is being processed on Federal Lands covered by an approved mining plan, the Field Office will schedule an inspection and review of the parcel subject to the release application. This may include a site visit but does not necessarily require one.

Procedures for a bond release inspection will conform with the requirements of the State-specific Cooperative Agreement. OSM's Bond Release concurrence will be achieved by the applicable Field Office documenting the results of the inspection/review after determining whether the reclamation is consistent with the approved mining plan for all known Federal non-SMCRA issues.

The Field Office Director shall provide the RA with a letter concurring in the bond release or explaining the reasons why OSM's concurrence may not be given.

Depending upon the kind of bond being released [i.e., surety bond, certificate of deposit, etc.], the Bond Approving Officials of the respective agencies may need to coordinate the endorsement of instruments, release of deeds of trust, if applicable, or joint letters of release to banks that issued letters of credit, or joint letters to surety companies, as necessary.