

49-415. Reclamation reports; release of bond, when; hearing; conduct of hearing. Within 60 days after the date of expiration of a permit, the operator shall file with the secretary a report stating the exact number of acres of land affected by the operation, the extent of the reclamation already accomplished by it, and such other information as may be required by the secretary. The report shall be accompanied by a copy of the map filed with the original application which shall show any revisions made necessary by result of the operation.

The operator may file a request with the secretary for release of all or part of a bond. The secretary shall prescribe by regulation procedures consistent with the national surface mining control and reclamation act of 1977 (public law 95-87), for public advertisement of such release request, notification of interested property owners and public agencies, inspection and evaluation of requests, corrective action, public hearings, and release of bonds. The secretary may release in whole or in part any bond if satisfied the reclamation covered by the bond has been accomplished as required by this act according to the following schedule:

(1) When the operator completes the backfilling, regrading, and drainage control of a bonded area in accordance with the operator's approved reclamation plan, the release of 60% of the bond for the applicable permit area.

(2) After revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan. When determining the amount of bond to be released after successful revegetation has been established, the department shall retain that amount of bond for the revegetated area which would be sufficient for a third party to cover the cost of reestablishing revegetation for the period required by the national surface mining control and reclamation act of 1977 (public law 95-87). No part of the bond or deposit shall be released under this paragraph so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or run-off outside the permit area in excess of the requirements set by law or until soil productivity for prime farm lands has returned to equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from a soil survey performed. Where a silt dam is to be retained as a permanent impoundment, the portion of bond may be released under this paragraph as long as provisions for sound future maintenance by the operator or the landowner have been made with the department.

(3) When the operator has completed successfully all surface coal mining and reclamation activities, the remaining portion of the bond shall be released, but not before the expiration of the period specified for operator responsibility. No bond shall be fully released until all reclamation requirements of this act are fully met.

Any person with a valid legal interest which might be adversely affected by release of the bond or the responsible officer or head of any federal, state, or local governmental agency which has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation, or is authorized to develop and enforce environmental standards with respect to such operations shall have the right to file written objections to the proposed release from bond with the secretary within 30 days after the last publication of notice as required by the secretary and specified by rules and regulations adopted by the secretary. If written objections are filed, and a hearing requested, the secretary shall inform all the interested parties of the time and place of the hearing, and hold a public hearing in the locality of the surface coal mining operation proposed for bond release within 30 days of the request for such hearing. The date, time, and location of such public hearings shall be advertised by the department in a newspaper of general circulation in the locality for two consecutive weeks. The secretary shall hold a public hearing in the locality of the surface coal mining operation proposed for bond release within 30 days of the request for such hearing.

For the purpose of such hearing the secretary or hearing officer shall have the authority and is hereby empowered to administer oaths, subpoena witnesses, or written or printed materials, compel the attendance of witnesses, or production of the materials, and take evidence including but not limited to inspections of the land affected and other surface coal mining operations carried on by the applicant in the general vicinity. A verbatim record of each public hearing required by this act shall be made, and a transcript made available on the motion of any party or by order of the secretary.

History: L. 1968, ch. 395, § 15; L. 1978, ch. 208, § 11; L. 1979, ch. 169, § 8; L. 1988, ch. 192, § 20; July 1.