

**DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION**



GUIDELINE No. 20

**BOND RELEASE CATEGORIES AND SUBMITTAL
PROCEDURES FOR COAL MINES**

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I. INTRODUCTION

This document is a guideline only. Its contents should not be interpreted by applicants, permittees, interested members of the public or organizations, or the Department of Environmental Quality, Land Quality Division (LQD) staff, or other local, state or federal governmental agency staff as mandatory. Except for specifically referenced regulations, this document has not been subject to rulemaking procedures and the contents are not to be interpreted as regulatory requirements. This guideline is based upon applicable provisions of the Wyoming Environmental Quality Act (WEQA) and LQD Coal Rules and Regulations (LQD Coal R&R) and it contains statements of LQD policy and statements of LQD preferred procedures.

The LQD emphasizes that preliminary meetings and exchanges of information are crucial to achieving mutual agreement on the request components and to the timely coordination and execution of all steps in the Bond Release process.

Permittees may propose alternative methods to achieve the basic performance standards embodied in the WEQA and Coal R&R. If permittees propose alternative methods, the LQD District staff and permittee should achieve basic agreement that the alternative methods are acceptable before submitting a Bond Release Request.

Wyoming's Regulatory Coal Program includes a Bonding System approved by the Office of Surface Mining Reclamation and Enforcement (OSMRE). The system was developed to address an OSMRE concern that backfilling of the existing pit had to be bonded in addition to the area yet to be mined. This would have significantly increased the size of most bonds and required every mine to complete Area Bond Release as described in Chapter 15 of the Coal R&R for backfilling every year. Through the creation of an additional bonding type called Area Bond both State and Federal concerns are addressed. Area Bond is described in Section II below.

II. LAND STATUS CATEGORIES FOR BOND RELEASE

In consultation with Coal Permittees and the Wyoming Mining Association (WMA), the LQD outlined five distinct calendar periods when distinct combinations of requirements and performance standards are applied. These "Categories" are explained in this Guideline and are defined in Coal R&R, Chapter 1, Section 2(dq).

The first step in any Bond Release process is to establish which Category the reclaimed lands fall within. Figure 1 can assist in establishing the proper Category.

NOTE: If facilities, roads or other structures have been part of the mining operation across more than one category, the LQD and the permittees should reach mutual agreement on the final reclamation. The LQD prefers that these agreements be written into the approved permit. If the currently approved permit addresses reclamation of such situations, the approved procedures stand until the permittee seeks a revision.

A. Category 1: Lands affected in order to conduct and/or support mining operations which were completed or substantially completed prior to May 24, 1969, the declared effective date of the Open Cut Land Reclamation Act (OCLRA).

If pre-OCLRA lands were used for any mining operations after May 23, 1969, the permittee incurs a reclamation liability for those lands. The nature of the reclamation liability and associated Bond Release standards are determined by the laws and regulations in effect when the pre-OCLRA lands were last used in the mining operation. The permittee should use Figure 1 to determine the applicable Bond Release category.

Attachment 1 presents further Bond Release criteria and procedures for Category 1 lands.

B. Category 2: Lands affected after May 23, 1969 in order to conduct or support mining operations which were completed or substantially completed on or before June 30, 1973.

The effective date of the OCLRA and effective date of the WEQA set the boundaries of this Category. W.S. §35-11-401(a) includes the qualifier that the provisions of the WEQA do not apply to "...operations that were completed or substantially completed prior to the effective date of this act..." The LQD interprets "substantially complete" to mean that all overburden was removed above the coal and that the recoverable (saleable) coal was removed from the pit prior to June 30, 1973.

If OCLRA lands were used in support of any mining operations after June 30, 1973, the performance standards of one of the subsequent Categories shall apply. The permittee should use Figure 1 and other information to determine the correct Category. The permittee should confirm this decision with the LQD.

Attachment 2 presents Bond Release criteria and procedures for Category 2 lands.

C. Category 3: Lands supporting operations which were not completed or substantially completed prior to July 1, 1973 and any affected lands or structures taken out of use between July 1, 1973 and May 25, 1975.

The effective date of the WEQA and the effective date of the 1975 LQD R&R frame this Category 3.

Attachment 3 presents Bond Release procedures for Category 3, 4 & 5.

D. Category 4: Lands where coal was removed prior to May 3, 1978 (which don't qualify for any of the previous Categories) and also includes lands and structures used to facilitate mining which were taken out of use between May 25, 1975 and May 3, 1978.

The effective date of the 1975 LQD Coal R&R and the effective date of the Office of Surface Mining Reclamation and Enforcement (OSM) Initial Regulatory Program frame this Category.

Figure 1 and other available information should be used to determine what lands fall within Category 4.

Attachment 3 presents Bond Release procedures for Category 3, 4 & 5.

E. Category 5: Lands where coal was not removed prior to May 3, 1978 or any lands and structures which were used on or after May 3, 1978 to facilitate mining.

The Federal Surface Mining Control and Reclamation Act (SMCRA) was promulgated on August 3, 1977. Federal rules in 30 CFR§710 through 723 specify provisions for the Initial Regulatory Program. Every coal permittee operating on the date of SMCRA's passage, received a letter dated 5/5/78 from Walt Ackerman, the LQD Administrator, which notified those Permittees of the need to submit a map that "...Shall show as of May 3, 1978, the lands from which coal has not yet been removed and the lands and structures which have been used or affected to facilitate mining." The LQD Administrator's 5/5/78 letter intended to clarify the SMCRA and LQD performance standards.

Figure 1 and other available information should be used to determine what lands fall within Category 5.

Attachment 3 presents Bond Release procedures for Category 3, 4 & 5.

III. AREA AND INCREMENTAL BONDS

The WEQA and Coal R&R also define the Area and Incremental Bonds in terms of the total dollar value of the reclamation performance bond. Coal R&R Chapter 12, Section 2(a)(i) states:

"Area Bond: This bond calculation shall be no less than the estimated cost of completing the maximum amount of rough backfilling during the annual bonding period set forth in W.S. §35-11-411 and 35-11-417(c), in order to meet the applicable rough backfilling standards in Chapter 4 of these regulations and any other rough backfilling requirements of the approved permit".

Coal R&R Chapter 1, Section 2(ca) states that "rough backfilling means replacement sufficient material in the pit or pits including special disposal practices for toxic and acid-forming materials, special handling and placement of materials for stream reconstruction or alluvial valley floors, and compaction as required so as to render the affected area in a condition whereby the reclaimed land surface generally resembles the approved post mine contours".

Coal R&R Chapter 12, Section 2(a)(ii) states:

"Incremental Bond: This bond calculation shall be no less than the estimated cost of performing all reclamation requirements other than those covered by (a)(i) above, during the annual bonding period in order to meet the standards of the Act, the regulations, and the

provisions of the permit.”

A. Area Bond Release

See Guideline No. 21 for more information.

B. Phases of Incremental Bond Release

Coal R&R establish three phases of Incremental Bond Release.

1. Phase 1 Bond Release – Refer to Guideline No. 22 for associated verifications and Attachment 3 for bond release procedures.

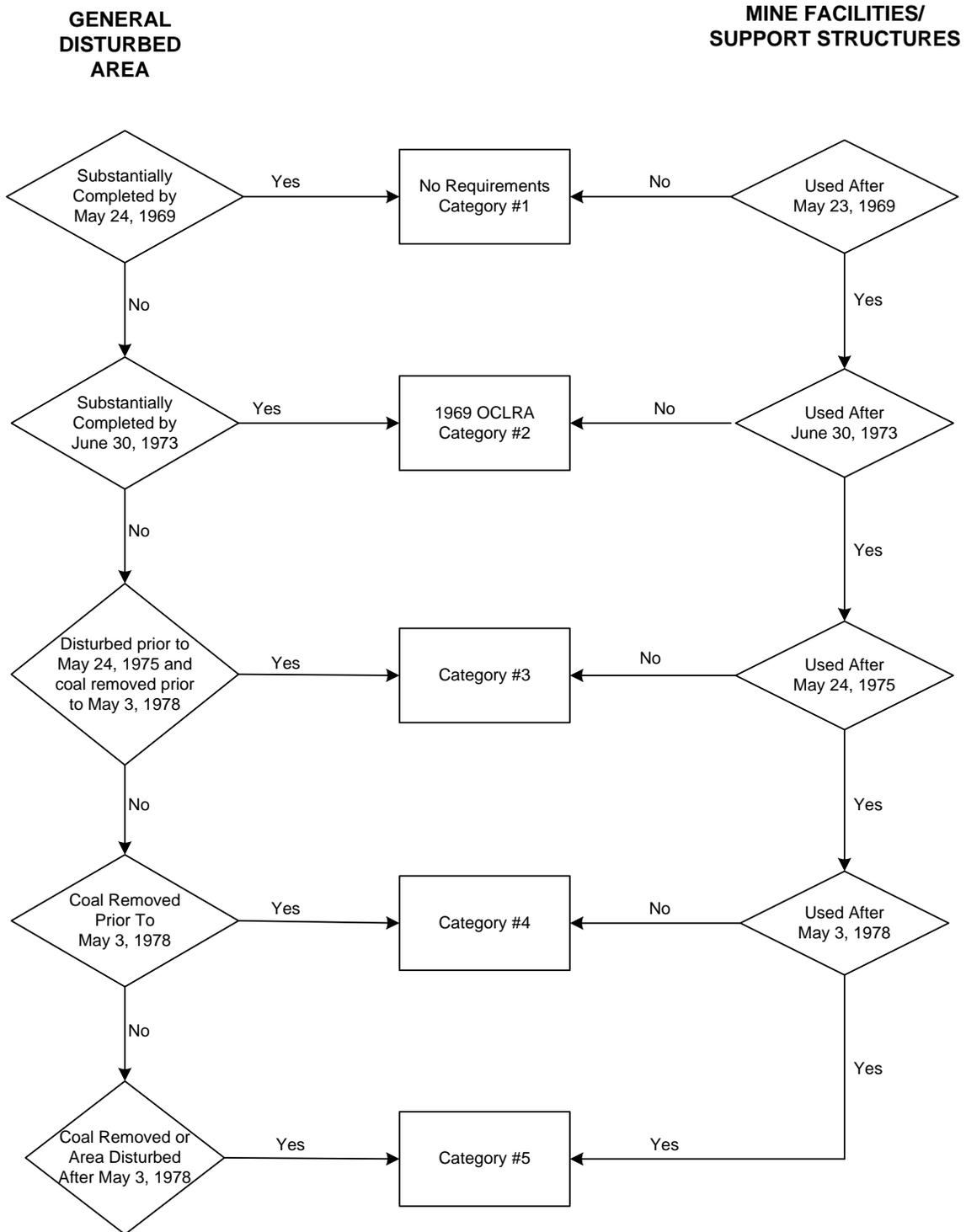
2. Phase 2 Bond Release – Refer to Guideline No. 23 for associated verifications and Attachment 3 for bond release procedures.

3. Phase 3 Bond Release – Refer to Guideline No. 25 for associated verifications and Attachment 3 for bond release procedures.

IV. OTHER DEFINITIONS

LQD Coal R&R, Chapter 1, Section 2 and W.S. §35-11-103 contains definitions and terms used in this guideline.

FIGURE 1



**ATTACHMENT 1:
BOND RELEASE CRITERIA AND PROCEDURES FOR CATEGORY 1**

Category 1 applies to all lands supporting operations that were completed or substantially completed prior to May 24, 1969, the effective date of the Open Cut Land Reclamation Act (OCLRA). There were no state mining laws promulgated prior to the OCLRA.

A. Area and Incremental Bonds

If lands disturbed prior to May 24, 1969 occur within the coal permit boundary, they should be identified and tracked. The LQD acknowledges that the historical information is often unclear and incomplete; however, the LQD recommends the permittee construct and maintain as complete a reclamation history as possible for each land unit in this Category.

B. Bond Release Criteria

If pre-OCLRA lands exist within the permit area and if those lands have not been subsequently used for any part of the permitted mining operation, there are no statutory requirements for reclamation and no formal Bond Release procedures.

C. Continued Use of OCLRA Lands During Other Categories

If pre-OCLRA Lands were used for any mining operations after May 23, 1969, the permittee incurs a reclamation liability for those lands. The LQD and the permittee must reach mutual agreement on the final reclamation plan and final Bond Release standards for those affected lands prior to their reclamation. If these lands have already been reclaimed, the preliminary Bond Release discussions must resolve the applicable Category and the nature of the approved and applied reclamation procedures. The approved reclamation procedures and the Category will frame the Bond Release evaluation procedures.

**ATTACHMENT 2:
BOND RELEASE CRITERIA AND PROCEDURES FOR CATEGORY 2**

Category 2 applies to lands affected after May 23, 1969 in order to conduct and/or support mining operations that were completed or substantially completed on or before June 30, 1973.

A. Area and Incremental Bonds

The Open Cut Land Reclamation Act (OCLRA) did not include the concepts of Area or Incremental Bond calculations; however, the OCLRA allowed the Commissioner of State Lands to hold some reclamation performance bond. If the permittee has lands in Category 2, the permittee and LQD should confirm whether any bond exists so that the bond status is fully resolved in the Bond Release process. The Bond Release Request would clearly document reclamation responsibility and bond status.

B. Bond Release Criteria

The Rules and Regulations promulgated under the OCLRA established a small number of Bond Release criteria; the permittee and LQD staffs should consult the OCLRA for applicable standards.

Some permits may have included approved reclamation practices that differ from the OCLRA standards. The approved permit commitments take precedence. The Bond Release Request should identify those differences, include as complete a reference as possible to the LQD permit which contained the approved procedures, include the approved text or map as available, and make the case that the approved practices were executed.

C. Components of a Bond Release Request for Category 2 Lands

Before submitting a Bond Release Request, the permittee should fully resolve with the LQD that both parties agree that the lands truly fit Category 2 and that the reclaimed status warrants final Bond Release. This resolution should include a preliminary field assessment.

The LQD will use procedures of the LQD Coal R&R Chapter 15 to process and approve all Category 2 requests. This Attachment 2 outlines all necessary components.

The LQD has confirmed that the Office of Surface Mining (OSM) is not involved in the release of Category 2 lands. Thus, there is no contact with the OSM at any stage of the Category 2 process.

A Category 2 Bond Release Request should include:

1. An Organized Set of Elements Which:
 - a. Document that the affected lands fit within Category 2.

b. Document that the reclaimed units have not been affected by or used by post-OCLRA mining operations.

c. Identify the precise location of the reclaimed land units. The location is specified by legal subdivision (section, township, range, county) and municipal corporation (if any). The LQD suggests that the section notation include at least a ¼-¼ description. The LQD will accept a metes-and-bounds description of the reclaimed lands.

d. Tabulate the number of affected acres in the Bond Release Request.

e. Identify the permit number and date of approval for the original permit and the date of approval for the current permit term.

f. Identify the type and dollar value of the bond currently held on these Category 2 reclaimed units.

g. Include a map that shows the location of the reclaimed land. The LQD prefers that this map illustrate the post mine topography. The map or separate supporting information should tabulate or show:

(1) The acreage of the reclaimed land

(2) The dates of rough backfill

(3) The dates of topsoil replacement and replacement depths (if known)

(4) The dates of permanent seeding

(5) The location of earth dams constructed on the OCLRA reclamation units

2. Current names and addresses for Chapter 15 notifications:

a. Chapter 15, Section 1.(d) requires specific parties receive notification of the release request. The applicant will send out the notifications. The request should contain the names and mailing addresses for the following:

(1) Overlying and adjoining surface owners of record

NOTE: The LQD administrator interprets adjoining to mean owners whose land abut (i.e., are contiguous to) the reclaimed lands in the request. Surface owners of record include only the property owner and surface lessee listed in the county courthouse.

(2) Any incorporated municipality within 5 miles of the permit area.

(3) The county commissioners for the county which encompasses the permit

area.

(4) Each sewage treatment authority, water treatment authority and water company in the locality of the permit area.

NOTE: The LQD administrator interprets locality to mean within 0.5 mile of the permit area boundary.

3. Chapter 15, Section 3.(b) requires that "a surface owner, agent or lessee of record for the area covered by the release request shall be given notice of the inspection and may participate". The LQD will notify the following of the inspection if different than the applicant. The request should contain the names and mailing addresses for the following:

a. The agent of record for the surface owner of record for the reclaimed lands in the release request.

b. The lessee of record for the reclaimed lands in the release request.

D. Two Copies of the Bond Release Request

In order to maintain identical records in Cheyenne and District LQD offices, the LQD requests two (2) complete copies of the original Bond Release Request and all subsequent alterations be sent to the designated LQD Coordinator.

E. LQD Processing, Completeness Review, Field Inspection and Final Decision

Attachments 4 and 5 outline the Coal R&R Chapter 15 process for a Category 2 Bond Release request.

**ATTACHMENT 3:
BOND RELEASE PROCEDURES FOR CATEGORIES 3, 4, AND 5**

Bond Release involves two distinct review processes: 1) Documentation of Verification(s) and appropriate Performance Standard(s) and/or permit commitment(s) fulfillment and 2) a Coal R&R Chapter 15 administrative process. Each Bond Release Request should specify what type of Bond Release or what combinations of types are sought. The documentation process is ongoing and is routinely and continually evaluated during routine compliance inspections, Annual Report reviews or reviews of separately submitted reports. Guidance on the Verification process for different Phases of Bond Release may be found in Guideline Nos. 21, 22, 23, and 25. The Chapter 15 Bond Release process is initiated by a Bond Release Request once all Verifications have and applicable performance standards and/or permit commitments have been satisfactorily fulfilled.

A. Types of Bond Release and Criteria

The LQD Coal R&R have been revised many times since the May 25, 1975 version. The WEQA has also been occasionally revised over the same time period. Components of the approved Mine Plan and Reclamation Plan may also constitute and/or may modify Performance Standards. For each type of Bond Release, there may be subtle differences in the requirements based on whether the lands fall into Category 3, 4, or 5. Figure 1 may be used to determine the appropriate Land Category for the reclamation unit. Below are descriptions of each Bond Release Type and Table 1 at the end of this section provides detail as to what criteria are required to be met for each Verification.

1. Area Bond Release

Guideline No. 21 details Verifications necessary for Area Bond Release. These Verifications must be approved prior to an Area Bond Release request.

a. Components of an Area Bond Release Request

- 1) See Attachment 4 for standard components of a Chapter 15 Bond Release Request.
- 2) Documentation to be included in an Area Bond Release Request.
 - i. Documentation that Rough Backfill Verification has been achieved.

2. Phase 1 Bond Release

LQD Coal R&R Chapter 15, Section 5.(a)(i) allows release of 60% of the Incremental Bond "...when the operator completes the backfilling, regrading, topsoil replacement, recontouring and drainage control of a bond area in accordance with his approved reclamation plan..."

Guideline No. 22 details Verifications necessary for Phase 1 Bond Release and Table 1 details the applicable aspects of each Verification by land category. These Verifications must be approved prior to a Phase 1 Bond Release request.

- a. Components of a Phase 1 Bond Release Request.
 - 1) See Attachment 4 for standard components of a Chapter 15 Bond Release Request.
 - 2) Documentation to be included in a Phase 1 Bond Release Request

The LQD Administrator declares that the Coal R&R Chapter 15 process is primarily administrative in nature. In most cases, a Chapter 15 Bond Release Request should contain no technical data. The permittee and the LQD must resolve that all applicable Verifications and performance standards and/or permit commitments have been met prior to a Chapter 15 Bond Release Request.

Unless the permittee has a written previous agreement with the LQD, the Phase 1 Bond Release Request should include a clear record that the following steps have been addressed for all lands within the release request.

- i. Documentation that Rough Backfill Verification or Area Bond Release has been achieved.
- ii. Documentation that Stream Channel Reconstruction Verification has been achieved.
- iii. Documentation that Soil Depth Verification has been achieved.
 - a. Categories 3 and 4 - LQD will not require verification of topsoil redistribution depths; however, if barren areas are obvious in number or total areal extent or if they are obviously due to toxic or acid-forming materials, the permittee must marshal information to explain the observations.

3. Phase 2 Bond Release

LQD Coal R&R Chapter 15, Section 5.(a)(ii) allows for release of greater than sixty percent (60%) of the Incremental Bond under certain reclamation conditions. These Coal R&R do not specify the upper limit but state that "The amount the Director determines must be retained for the permit area which would be sufficient for a third party to cover the cost of reestablishing vegetation so as to comply with the [Wyoming Environmental Quality] Act and all rules and regulations promulgated thereunder".

W.S. §35-11-417(e) states that "When the reclamation plan for any affected land has been completed, the administrator may recommend to the director the release of up to

seventy-five percent (75%) of the bond required for that affected land. The remaining portion of the bond shall be not less than ten thousand dollars (\$10,000.00), and shall be held for a period of at least five (5) years after the date of reduction to assure proper revegetation and restoration of groundwater".

This statute appears to conflict with Chapter 15, Section 5.(a)(ii) in requiring residual bond costs greatly in excess of "...the cost of reestablishing vegetation..."; however, there is no conflict between W.S. §35-11-417(e) and Chapter 15 because W.S. §35-11-423(d) states that "the council shall promulgate rules and regulations governing the release of bonds for surface coal mining operations in compliance with P.L. 95-87...which shall be controlling not withstanding other provisions of W.S. §35-11-417 and 35-11-423 to the contrary". The terms of Chapter 15 are the controlling provisions.

Guideline No. 23 details Verifications for Phase 2 Bond Release and Table 1 details the applicable aspects of each Verification by land category. These Verifications must be approved prior to a Phase 2 Bond Release request.

- a. Components of a Phase 2 Bond Release Request.
 - 1) See Attachment 4 for standard components of a Chapter 15 Bond Release Request.
 - 2) Documentation to be included in a Phase 2 Bond Release Request

The LQD Administrator declares that the Coal R&R Chapter 15 process is primarily administrative in nature. In most cases, a Chapter 15 Bond Release Request should contain no technical data. The permittee and the LQD must resolve all applicable Verifications and performance standards and/or permit commitments have been satisfactorily fulfilled.

Unless the permittee has a written previous agreement with the LQD, the Phase 2 Bond Release Request should include a clear record that the following steps have been addressed for all lands within the release request.

- i. Documentation that Vegetation Establishment Verification has been achieved (see Table 1).
 - a. Category 3 & 4 Lands - LQD will accept barren areas, which are relatively few in number and relatively small in areal extent when compared to the total acreage of the Category 3 & 4 lands. They must also reflect, to some extent, native conditions. In all cases, the bare areas must be surficially stable and must not be actively eroding into or depositing sediment onto other reclaimed lands.
- ii. Documentation that Surficial Stability Verification has been achieved.

iii. Documentation that Permanent Impoundment Construction/Renovation Design and SEO Approval Verification have been achieved (see Table 1).

iv. Documentation that Phase 1 Bond Release has been achieved.

4. Phase 3 Bond Release

Coal R&R Chapter 15, Section 5.(a)(iii) allows the release of the remaining portion of the Incremental Bond "after the operator has successfully completed all surface coal mining and reclamation activities and complied with the reclamation requirements of the Act, regulation, and permit."

Guideline No. 25 details Verifications for Phase 3 Bond Release and Table 1 details the applicable aspects of each Verification by land category. These Verifications must be approved before submitting a Phase 3 Bond Release Request.

a. Components of a Phase 3 Bond Release Request.

1) See Attachment 4 for standard components of a Chapter 15 Bond Release Request.

2) Documentation to be included in a Phase 3 Bond Release Request:

The LQD Administrator declares that the Coal R&R Chapter 15 process is primarily administrative in nature. In most cases, a Chapter 15 Bond Release Request should contain no technical data. The Permittee and the LQD must resolve that all applicable Verifications and performance standards and/or permit commitments have been satisfactorily fulfilled.

Unless the permittee has a written previous agreement with the LQD, the Phase 3 Bond Release Request should include a clear record that the following steps have been addressed for all lands within the release request.

i. Documentation that Phase 1 Bond Release has been achieved.

ii. Documentation that Phase 2 Bond Release has been achieved; or that Surficial Stability Verification and Permanent Impoundment Construction/Renovation Design and SEO Approval Verification has been achieved as appropriate (see Table 1).

iii. Documentation that Mitigation Wetlands Verification has been achieved as appropriate (see Table 1).

iv. Documentation that Revegetation Success Verification has been

achieved as appropriate (See Table 1).

a. Category 4 Land. The 1975 LQD R&R required the submittal of quantitative data to verify vegetation cover amounts. The lands must have a vegetation cover, which clearly stabilizes the land, and demonstrates the "capability of an area to withstand grazing pressure at least comparable to that which it could have sustained prior to mining". Even though there is no specific mention of vegetation production being a criterion for Bond Release evaluation, the LQD holds that evaluation of the capability of the land must include knowledge of the herbaceous plant productivity of the reclaimed lands. Consequently, the operator will be required to provide one of the following sets of information to document the adequacy of vegetation production:

A. LQD 1975 R&R Chapter II, Section 5.f. discusses vegetation performance demonstrations relative to Bond Release. Vegetation sampling can be in the form of herbaceous plant productivity data from the reclaimed units. The data must be generated by a field sampling program based upon standard methods approved by the LQD. The data will be gathered during the last growing season prior to the request and must sample at least one designated land unit in order to demonstrate at least equality between reclaimed and native data sets. See Guideline No. 25, Section II.B.4. for additional information on vegetation sampling for revegetation success verification.

B. LQD 1975 R&R Chapter II, Section 5.f. discusses grazing performance demonstrations relative to Bond Release. Grazing demonstrations should be in the form of tabulated data that demonstrate the successful implementation of a grazing program on the reclaimed units. The grazing program goals and procedures must be approved by the LQD.

v. Documentation that Tree Replacement Verification has been achieved as appropriate (see Table 1).

TABLE 1

SUMMARY of COAL BOND RELEASE VERIFICATIONS		Category¹		
		3	4	5
AREA BOND Ref. LQD Guideline 21	Rough Backfill Verification (RBV)	√	√	√
	• “As-built” map demonstrating acceptable postmine topography	√	√	√
	• Drainage divides	√	√	√
	• Elevation tolerance	√	√	√
	• Hill slopes, lengths and profiles	√	√	√
	• Valley bottom alignment, slopes and profile	√	√	√
	• Special commitments (Alluvial Valley Floors, alluvial reconstruction)	√	√	√
PHASE 1 (Max Increment 60%) Ref. LQD Guideline 22	PHASE 1 BOND RELEASE INCLUDES PRIOR DEMONSTRATION OF ROUGH BACKFILL VERIFICATION			
	Stream Channel Reconstruction Verification (SSRV)			
	• “As built” drawings/data for designed channels		√	√
	• Demonstration of acceptable “tie-in” (match points)	√	√	√
	• Suitable channel morphology (gradients, lengths, profiles, sinuosity)	√	√	√
	• No depression > 0.5 acre-ft. unless approved	√	√	√
	• Backfill quality in drainage channels and floodplains			√
	Soil Depth Verification (SDV)			
	• Map showing location and acreage of topsoil replacement units	√	√	√
	• Topsoil replacement volume calculations for each unit			√
	• Actual topsoil replacement depth for each topsoil replacement unit			√
	• Comparison of actual vs. permit-required replacement depths			√
	• Topsoil fertility testing data <i>if required</i>			√
	• Location of approved topsoil substitutes <i>if applicable</i>			√
				√

1. Area and Incremental Bond definitions do not apply to Category 1 and Category 2 lands.

COAL BOND RELEASE VERIFICATIONS (cont.)		Category			Bond Release Verification Timeline
		3	4	5	
PHASE 2 (Max. Increment 75%) REF. LQD Guideline 23	PHASE 2 BOND RELEASE INCLUDES PRIOR DEMONSTRATION OF ALL VERIFICATIONS ASSOCIATED WITH PHASE 1 BOND RELEASE				
	Vegetation Establishment Verification (VEV)				
	<ul style="list-style-type: none"> Inspection and ocular qualitative assessment 				√ √ √
	Surficial Stability Verification (SSV)				
	<ul style="list-style-type: none"> Ocular assessment of surface stability (i.e. no rills and gullies) 				√ √ √
	Permanent Impoundment Construction/Renovation and SEO Approval Verification (PIV)				
	<ul style="list-style-type: none"> SEO approved permit for the post mine land use 				√ √ √
	<ul style="list-style-type: none"> Surface land owner consent 				√ √ √
<ul style="list-style-type: none"> Renovate pond to meet post mine design criteria 				√ √	
PHASE 3 Ref. LQD Guideline 25	PHASE 3 BOND RELEASE INCLUDES PRIOR DEMONSTRATION OF ALL VERIFICATIONS ASSOCIATED WITH PHASE 2 BOND RELEASE				
	Mitigation Wetlands Verification (MWV)				
	<ul style="list-style-type: none"> Approval by United States Army Corps of Engineers 				√
	Revegetation Success Verification² (RSV)				√ √ √
	<ul style="list-style-type: none"> Cover 				√ √
	<ul style="list-style-type: none"> Production 				√
	<ul style="list-style-type: none"> Species Diversity & Composition 				√
	<ul style="list-style-type: none"> Shrub Establishment 				√
Tree Establishment Verification (TEV)				√	80% of trees have been in place for 8 years and all trees have been in place for at least 2 growing seasons.

2. See Guideline No. 25 for information on Revegetation Success for all land categories.

**ATTACHMENT 4:
STANDARD SUBMITTAL REQUIREMENTS FOR A CHAPTER 15 BOND
RELEASE REQUEST**

1. Coal R&R Chapter 15 Completeness information:

Coal R&R Chapter 15, Section 1.(a) lists the specific information which must be present and that allows the LQD Administrator to "...determine the request is complete".

The presence of the following information in the release request and the LQD's determination that the information is accurate will allow the LQD to declare the request **Complete** as per Coal R&R Chapter 15, Section 1.(b) documentation that the reclaimed lands fit within the appropriate Category.

- a. Identification of the reclaimed units by legal subdivision (section, township, range, county). The LQD suggests that the section notation include no more than a ¼-¼ description. The LQD will accept a metes-and-bounds description of the reclaimed lands.
- b. Tabulation of the number of acres.
- c. Statement of the permit number and date of approval for the original permit.
- d. The type and amount of bond, and type and portion sought to be released.
- e. A map that shows the location of the reclaimed land. The LQD prefers that this map illustrate the post mine topography. The map should show the acreage of each separate bond release unit.
- f. A notarized statement signed by the applicant's authorized representative, which certifies that all applicable reclamation activities have been accomplished in accordance with the Act, the regulations, and the approved permit.

2. Supporting Information

Coal R&R Chapter 15 does not strictly require the following information for a bond release request; however, the LQD asks the permittee to include this information as an organized component of a Bond Release Request.

- a. Chapter 15, Section 1.(d) requires specific parties receive notification of the release request. The request should contain the current names and mailing addresses for the following:

- (1) Overlying and adjoining surface owners of record

NOTE: the LQD administrator interprets adjoining to mean owners whose land abut (i.e., are contiguous to) the reclaimed lands in the request. Surface owners of record include only the property owner and surface lessee listed in the county courthouse.

- (2) Any incorporated municipality within 5 miles of the permit area.
- (3) The County Commissioners for the County which encompasses the reclaimed lands.

NOTE: the LQD administrator interprets locality to mean within 0.5 mile of the permit area boundary.

b. Chapter 15 Section 3.(b) requires that "A surface owner, agent or lessee of record for the area covered by the release request shall be given notice of the inspection and may participate." The request should contain the names and mailing addresses for the following who will be notified of the inspection by the LQD:

- (1) The agent of record for the surface owner of record for the reclaimed lands in the release request.
- (2) The lessee of record for the reclaimed lands in the release request.

3. Number of Copies of the Bond Release Request

a. For Category 5, three (3) complete copies of the original Bond Release Request and all subsequent alterations should be sent to the designated LQD coordinator. When declared **Complete** one copy will be forwarded to the OSM Casper Area Office (OSM-CAO) by the LQD coordinator.

b. For all other land categories two (2) complete copies of the original request and all subsequent alterations should be sent to the LQD coordinator.

4. LQD Processing, Completeness Review, Field Inspection and Final Decision

Attachment 5 outlines LQD processing for a Bond Release Request.

**ATTACHMENT 5:
LQD PROCESSING, REVIEW AND FINAL DECISION
PROCEDURES UNDER COAL R&R CHAPTER 15 FOR
CATEGORIES 2, 3, 4 AND 5 AND W.S. § 35-11-423 FOR CATEGORY 1**

A. Introduction

Attachment 5 outlines the LQD's internal and external steps and applicable statutory schedules when processing a Coal R&R Chapter 15 Bond Release Request. An Area Bond Release Request must use the Coal R&R Chapter 15 process. All Incremental Bond Release Requests must use the Coal R&R Chapter 15 process. This Attachment is roughly arranged in order of the steps in the overall Coal R&R Chapter 15 process for all combinations of Categories 2, 3, 4 and 5 Bond Release Requests.

There is no formal Bond Release for Category 1 lands. When appropriate, the LQD will state that no bond costs are held on Category 1 lands. If Category 1 lands are commingled with any Category 2, 3, 4 or 5 Bond Release Request, the release request will proceed through the Coal R&R Chapter 15 process unless the permittee and the LQD achieve other agreements.

B. Numbers of Request Copies Sent to the LQD

1. Categories 2, 3, and 4 Bond Release Request

The applicant submits two (2) complete copies to the LQD District Office.

2. Category 5 Release Request

The applicant submits three (3) complete copies to the LQD District Office. The additional copy when declared **Complete** will be forwarded to the OSM-CAO.

C. Initial LQD Processing

1. Temporary File Number (TFN) Assignment

The District Office Supervisor will secure a TFN for preliminary tracking of the Bond Release Request.

2. TFN Use and TFN File Content

The assigned TFN will be used on all LQD documents, memoranda, letters, etc. which should be in the LQD TFN files. The decision to file e-mail documents shall reside with the LQD Bond Release Coordinator. In general, the content of the LQD Cheyenne and District Office TFN file should be identical.

D. Triggers for Coal R&R Chapter 15 Statutory Review and Decision Schedule

1. Category 1

There is no statutory review schedule nor process.

2. Categories 2, 3, 4 And 5

Coal R&R Chapter 15 establishes three major statutory schedule requirements for the LQD when processing Categories 2, 3, 4 and 5 Bond Release Requests:

- a. Coal R&R Chapter 15, Section 1.(b) requires a statement of a **Complete** or **Incomplete** request within 15 days of the date the District receives the request.

- b. Coal R&R Chapter 15, Section 3.(a) requires a field inspection of the reclaimed lands within 60 days of the LQD's declaration of a Complete request.

- c. If there are no public objections, Coal R&R Chapter 15, Section 4.(a) requires the Director's decision within 75 days of the LQD's declaration of a Complete request.

E. Schedule for Appointing the Bond Release Coordinator

Since the Coal R&R Chapter 15 process is administrative, a Chapter 15 release request will not contain technical information. The District Supervisor may appoint other persons to assist the Bond Release Coordinator as needed.

F. Composition of LQD Bond Release Review Team

The District Supervisor shall assign the Bond Release Coordinator and all additional review team members. In general, the Coordinator and team will consist only of members from the District staff which administers the specific coal permit.

G. LQD Completeness Review

1. Category 1

There is only a general review of information establishing the Category 1 designation and no statement of a **Complete** request.

2. Categories 2, 3, 4 and 5

- a. LQD reviews Bond Release Request within 15 days of receipt and makes a statement of **Complete** or **Incomplete** as per Coal R&R Chapter 15, Section 1.(b). The review documents the presence or absence of the materials listed under the applicable elements of Attachment 2 or 3.

- b. If the LQD declares the request **Incomplete**, there is no statutory response schedule imposed upon the permittee; however, when the LQD receives the applicant's responses, LQD's

response remains under the 15-day limit of Coal R&R Chapter 15, Section 1.(b).

c. When the LQD declares the request **Complete**, the LQD letter to the operator also provides specific directions for the public notice and public mailings required by Coal R&R Chapter 15, Section 1.(c). LQD SOP 1.9 provides directions and formats.

H. LQD Notification of the OSM-CFO

1. Categories 2, 3 And 4

The LQD sends the OSM-CAO a copy of the **Complete** declaration letter and explains that all lands were affected prior to SMCRA. The LQD does not send a copy of the **Complete** request, does not request OSM-CAO participation in the field inspection and does not request OSM-CAO concurrence.

2. Category 5

The LQD sends the OSM-CAO a copy of the **Complete** request and the **Complete** declaration letter. The LQD's cover letter explains that the lands were affected after SMCRA and whether any Federal surface ownership occurs within the boundaries of the release request lands and requests an OSM-CFO decision on attendance at the LQD's field inspection.

NOTE: If a Federal agency has surface ownership of any land within the request, this LQD notification letter should identify the Federal surface owner and ask OSM-CAO to secure concurrence from that Federal agency. This letter should ask that OSM-CAO's concurrence statement(s) arrive prior to the end of the 60 day field inspection deadline listed in Coal R&R Chapter 15, Section 3.(a).

I. LQD Records of the Coal R&R Chapter 15, Section 1.(c), (d) and (e) Public Notice Process

1. Category 1

Neither public notice nor public mailings are required.

2. Categories 2, 3, 4 And 5

a. The LQD's **Complete** request declaration shall request a copy of the Public Notice and the Publisher's Affidavit. Receipt of these documents shall constitute verification that the applicant has completed this statutory requirement.

b. The LQD's **Complete** request declaration shall request copies of the letters which fulfill the public mailing requirement of Section 1.(d). Receipt of the letters constitutes verification that the applicant has completed this requirement.

J. LQD conducts and records the Coal R&R Chapter 15, Section 3.(a) and (b) field inspection

1. Category 1

No field inspection is required.

2. Categories 2, 3, And 4

The LQD Coordinator schedules the field inspection considering:

- a. The statutory schedule specified in Coal R&R Chapter 15, Section 3.(a).
- b. The possibility that the parties listed in Coal R&R Chapter 15, Section 3.(b) may attend. The LQD Coordinator should invite these parties and secure their clear decision on participation.
- c. The final decision schedule specified in Coal R&R Chapter 15, Section 4.(a).
- d. Prevailing field conditions.

The LQD Coordinator should establish the inspection date and process in writing.

3. Category 5

The LQD Coordinator schedules the field inspection considering all the elements outlined in Section J.2. above, and the fact that the OSM-CAO is invited to attend the LQD field inspection. In general, all the LQD team members will attend the field inspection. The inspection should be scheduled as early as possible in the process.

4. The LQD Team Conducts The Field Inspection To Specifically Evaluate The Criteria Listed In Coal R&R Chapter 15, Section 3.(a).

The LQD Coordinator ensures that a single, consolidated field inspection report is written in a timely fashion considering the final decision schedule of Coal R&R Chapter 15, Section 4.(a). The inspection report should specifically address the criteria in Coal R&R Chapter 15, Section 3.(a).

K. LQD Notifications Of Coal R&R Chapter 15, Section 4.(b)

1. Category 1

There is no municipality notification required.

2. Category 2, 3, 4 and 5

As soon as possible after the field inspection but within the schedule imposed by Section 4.(b), the LQD Coordinator should execute the specified mailing(s) by certified letter.

L. The LQD compiles Director's decision recommendation when the LQD Administrator accepts no objections under Coal R&R Chapter 15, Section 2.

1. Category 1

When appropriate the Annual Report and bond calculations closure letter should note that Category 1 bond costs have disappeared from bond calculations.

2. Categories 2, 3, 4 And 5

As soon as possible after completion of the Public Notice and comment period and as far in advance of the 75-day statutory schedule established by Coal R&R Chapter 15, Section 4.(a), the LQD Coordinator should construct the following and forward them in hard copy and electronic copy to the LQD Administrator.

a. Decision Recommendation Memorandum

This memorandum, authored by the LQD Coordinator, should:

- clearly note conclusions of the field inspection.
- state that the LQD has proper verification of the Public Notice process.
- state that there were no formal objections in response to the Public Notice.
- state that the LQD has proper verification of the applicant's public mailings.
- state the date of the field inspection and reference the attached consolidated inspection report for achievement of field criteria.
- state that the LQD completed its municipality notification requirement.
- state whether OSM-CFO or other Federal agency concurrence was required; if required, note the date and author of the concurrence.
- clearly identify the statutory deadline for a final decision.
- clearly state a recommendation for approval or disapproval and reference the draft decision letter.

b. Draft Decision Letter

The letter should use the current format and content specified by the LQD Administrator's policy. The signature blocks are the DEQ Director and LQD Administrator.

M. The LQD compiles Director's decision when objections and Environmental Quality Council (EQC) hearings occur under Coal R&R Chapter 15, Section 2.

1. Category 1

The public notice process does not apply to Category 1 lands.

2. Categories 2, 3, 4 And 5

a. Decision Recommendation Memorandum

Coal R&R Chapter 15, Section 4.(a) requires the Director's decision within 30 days after the EQC's written decision. The LQD Coordinator prepares a decision memorandum outlining the same points listed in item L.2. above, and adding a brief chronology of the objection(s) and the EQC's decision(s).

b. Draft Decision Letter

The LQD Coordinator prepares the draft approval letter and includes it with the Director's recommendation.

c. Director's Notice To Objectors

The Coordinator would also prepare a draft letter for the Director's signature to execute the requirement in the last sentence of Coal R&R Chapter 15, Section 4.(a) and include this with the recommendation memorandum.

ATTACHMENT 6

SEMI-CHRONOLOGICAL TRACKING SHEET FOR
CHAPTER 15 BOND RELEASE APPLICATION

Applicant Address _____ Contact Address _____ Permit No. _____
 (if different from Applicant) _____
 TFN _____
 Total acres _____
 Total \$\$ Value _____
 Type of bond release _____
 Phone Number _____ Phone Number _____ Date application declared **Complete**
 FAX Number _____ FAX Number _____
 Last day for field inspection _____
 Date Public Comment ends _____
 Last day for Director's decision _____

DATE	ACTION	STATUTORY/ CLOCK COMPONENT
	1. Application date stamped in District Office	Triggers 15-day review requirement
	2. Temporary Filing Number secured from Cheyenne	None
	3. Application sent to Cheyenne with appropriate directions	None
	4. First review declares Complete or Incomplete as per Components of Chapter 15, Section 1(b)(i)-(v) _____ If Complete, skip to item 6 below _____ If Incomplete, send Incomplete notice to applicant with all review comments	Finish within 15 days of receipt
	5. Receipt and review of responses from applicant	Triggers next 15-day review component
	6. Application declared Complete : _____ Sent by certified mail w/return receipt _____ Attach public notice format and mailing Requirements sheet from LQD Coal SOP No. 1.9 (Format No. 12)	Trigger 60-day inspection and requirement and 75-day Director's decision requirement
	7. Complete application sent to OSM-CAO _____ Attach copy of Complete declaration _____ Note need to establish field inspection date	None
	8. Operator provide notice of request for bond release to be published at least 1 per week for 4 consecutive weeks _____ Public notice shall follow LQD Coal SOP No. 1.9 (Format No. 12)	Public notice must be initiated within 15 days of completeness notification
	9. Operator notify parties as outlined in Chapter 15, Section 1.(e).	Mailing must be initiated within 15 days of completeness notification
	10. LQD notifies municipality and/or county of prospective Bond release approval	Target issue date is at least 30 days in

DATE	ACTION	STATUTORY/ CLOCK COMPONENT
	_____ Certified mail w/return receipt	advance of expected Director's decision
	11. LQD establishes Chapter 15 Section 3(a) field inspection Date: _____ Issue written notice of inspection date, time, etc. to applicant _____ Issue written notice of inspection date, time, etc. to OSM-CAO _____ Issue written notice of inspection date, etc. to other Parties as per Chapter 15, Section 3(b)	Inspection must occur within 60 days of date of complete declaration
	12. Date of field inspection and expected participants	None
	13. LQD issue Chapter 15 Section 3(a) inspection report and Conclusions: _____ Send to applicant _____ Send to OSM-CAO and seek written concurrence _____ Send to any other party who attended inspection	None
	14. OSM-CAO concurrence letter received	None
	15. Operator shall provide to Administrator: _____ Publisher's affidavit of public notice _____ copies of applicant's intent public mailing letter	None
	16. Public Notice dates	Four consecutive weeks starting within 15 days of complete declaration
	17. Public comments ends	30 days after date of last Public Notice
	18. LQD prepares approval recommendation for LQD Administrator and Director signatures _____ Address memorandum to the Bond Analyst _____ Note completion of Chapter 15 process and coordinator and attach copy of Semi-Chronological Tracking Sheet _____ Reference OSM-CAO concurrence letter _____ Approval letter should approximate the known format and include requisite Attachment _____ Make clear note of statutory deadline for Director's decision _____ Send an electronic draft of Director's approval letter to the Bond Analyst	As soon as possible after end of public comment period and as far in advance of the 75-day Director's decision deadline as possible.