

§ 800.30

30 CFR Ch. VII (7-1-10 Edition)

(2) The regulatory authority may accept a written guarantee for an applicant's self-bond from any corporate guarantor, whenever the applicant meets the conditions of paragraphs (b)(1), (b)(2) and (b)(4) of this section, and the guarantor meets the conditions of paragraphs (b)(1) through (b)(4) of this section. Such a written guarantee shall be referred to as a "non-parent corporate guarantee." The terms of this guarantee shall provide for compliance with the conditions of paragraphs (c)(1)(i) through (c)(1)(iii) of this section. The regulatory authority may require the applicant to submit any information specified in paragraph (b)(3) of this section in order to determine the financial capabilities of the applicant.

(d) For the regulatory authority to accept an applicant's self-bond, the total amount of the outstanding and proposed self-bonds of the applicant for surface coal mining and reclamation operations shall not exceed 25 percent of the applicant's tangible net worth in the United States. For the regulatory authority to accept a corporate guarantee, the total amount of the parent corporation guarantor's present and proposed self-bonds and guaranteed self-bonds for surface coal mining and reclamation operations shall not exceed 25 percent of the guarantor's tangible net worth in the United States. For the regulatory authority to accept a non-parent corporate guarantee, the total amount of the non-parent corporate guarantor's present and proposed self-bonds and guaranteed self-bonds shall not exceed 25 percent of the guarantor's tangible net worth in the United States.

(e) If the regulatory authority accepts an applicant's self-bond, an indemnity agreement shall be submitted subject to the following requirements:

(1) The indemnity agreement shall be executed by all persons and parties who are to be bound by it, including the parent corporation guarantor, and shall bind each jointly and severally.

(2) Corporations applying for a self-bond, and parent and non-parent corporations guaranteeing an applicant's self-bond shall submit an indemnity agreement signed by two corporate officers who are authorized to bind their

corporations. A copy of such authorization shall be provided to the regulatory authority along with an affidavit certifying that such an agreement is valid under all applicable Federal and State laws. In addition, the guarantor shall provide a copy of the corporate authorization demonstrating that the corporation may guarantee the self-bond and execute the indemnity agreement.

(3) If the applicant is a partnership, joint venture or syndicate, the agreement shall bind each partner or party who has a beneficial interest, directly or indirectly, in the applicant.

(4) Pursuant to §800.50, the applicant, parent or non-parent corporate guarantor shall be required to complete the approved reclamation plan for the lands in default or to pay to the regulatory authority an amount necessary to complete the approved reclamation plan, not to exceed the bond amount. If permitted under State law, the indemnity agreement when under forfeiture shall operate as a judgment against those parties liable under the indemnity agreement.

(f) A regulatory authority may require self-bonded applicants, parent and non-parent corporate guarantors to submit an update of the information required under paragraphs (b)(3) and (b)(4) of this section within 90 days after the close of each fiscal year following the issuance of the self-bond or corporate guarantee.

(g) If at any time during the period when a self-bond is posted, the financial conditions of the applicant, parent or non-parent corporate guarantor change so that the criteria of paragraphs (b)(3) and (d) of this section are not satisfied, the permittee shall notify the regulatory authority immediately and shall within 90 days post an alternate form of bond in the same amount as the self-bond. Should the permittee fail to post an adequate substitute bond, the provisions of §800.16(e) shall apply.

[48 FR 36429, Aug. 10, 1983, as amended at 53 FR 997, Jan. 14, 1988]

§ 800.30 Replacement of bonds.

(a) The regulatory authority may allow a permittee to replace existing bonds with other bonds that provide equivalent coverage.

(b) The regulatory authority shall not release existing performance bonds until the permittee has submitted, and the regulatory authority has approved, acceptable replacement performance bonds. Replacement of a performance bond pursuant to this section shall not constitute a release of bond under § 800.40.

§ 800.40 Requirement to release performance bonds.

(a) *Bond release application.* (1) The permittee may file an application with the regulatory authority for the release of all or part of a performance bond. Applications may be filed only at times or during seasons authorized by the regulatory authority in order to properly evaluate the completed reclamation operations. The times or seasons appropriate for the evaluation of certain types of reclamation shall be established in the regulatory program or identified in the mining and reclamation plan required in subchapter G of this chapter and approved by the regulatory authority.

(2) Within 30 days after an application for bond release has been filed with the regulatory authority, the permittee shall submit a copy of an advertisement placed at least once a week for four successive weeks in a newspaper of general circulation in the locality of the surface coal mining operation. The advertisement shall be considered part of any bond release application and shall contain the permittee's name, permit number and approval date, notification of the precise location of the land affected, the number of acres, the type and amount of the bond filed and the portion sought to be released, the type and appropriate dates of reclamation work performed, a description of the results achieved as they relate to the permittee's approved reclamation plan, and the name and address of the regulatory authority to which written comments, objections, or requests for public hearings and informal conferences on the specific bond release may be submitted pursuant to § 800.40 (f) and (h). In addition, as part of any bond release application, the permittee shall submit copies of letters which he or she has sent to adjoining property owners, local

governmental bodies, planning agencies, sewage and water treatment authorities, and water companies in the locality in which the surface coal mining and reclamation operation took place, notifying them of the intention to seek release from the bond.

(3) The permittee shall include in the application for bond release a notarized statement which certifies that all applicable reclamation activities have been accomplished in accordance with the requirements of the Act, the regulatory program, and the approved reclamation plan. Such certification shall be submitted for each application or phase of bond release.

(b) *Inspection by regulatory authority.* (1) Upon receipt of the bond release application, the regulatory authority shall, within 30 days, or as soon thereafter as weather conditions permit, conduct an inspection and evaluation of the reclamation work involved. The evaluation shall consider, among other factors, the degree of difficulty to complete any remaining reclamation, whether pollution of surface and subsurface water is occurring, the probability of future occurrence of such pollution, and the estimated cost of abating such pollution. The surface owner, agent, or lessee shall be given notice of such inspection and may participate with the regulatory authority in making the bond release inspection. The regulatory authority may arrange with the permittee to allow access to the permit area, upon request by any person with an interest in bond release, for the purpose of gathering information relevant to the proceeding.

(2) Within 60 days from the filing of the bond release application, if no public hearing is held pursuant to paragraph (f) of this section, or, within 30 days after a public hearing has been held pursuant to paragraph (f) of this section, the regulatory authority shall notify in writing the permittee, the surety or other persons with an interest in bond collateral who have requested notification under § 800.21(f), and the persons who either filed objections in writing or objectors who were a party to the hearing proceedings, if any, of its decision to release or not to release all or part of the performance bond.