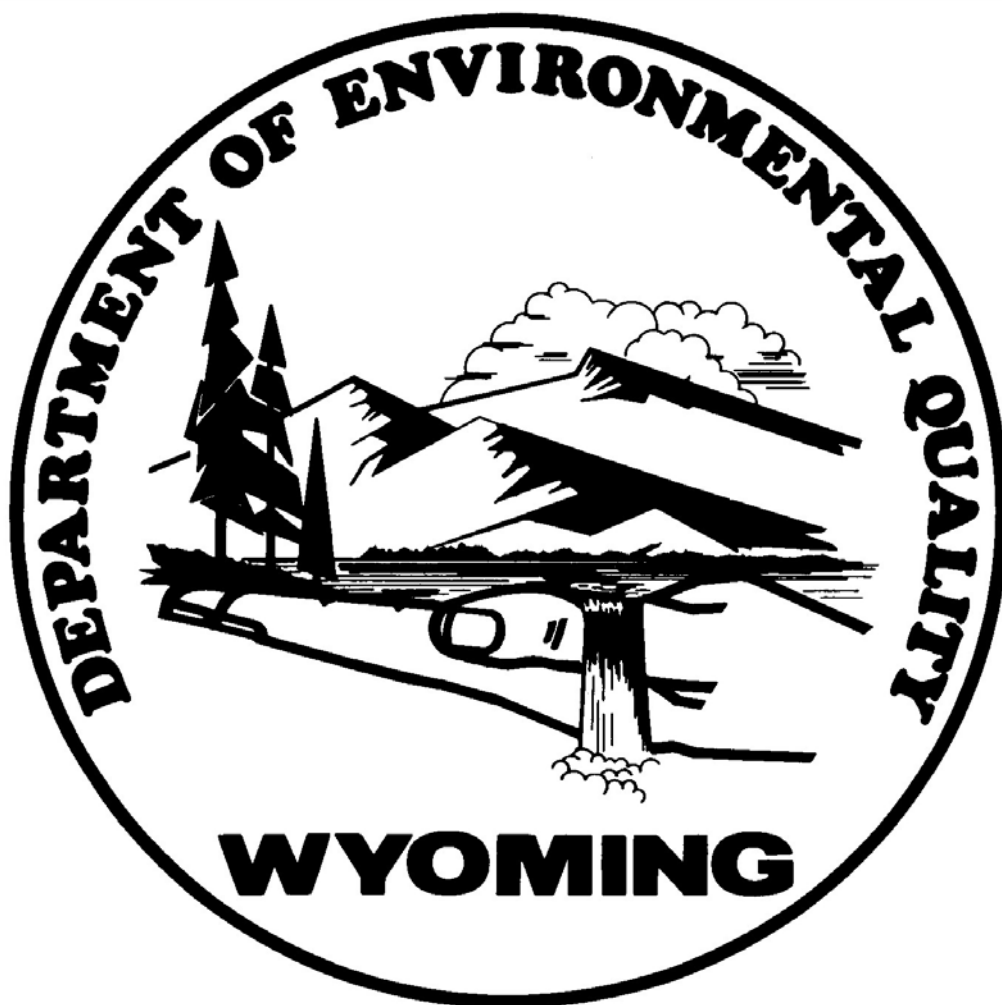


**DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION**



GUIDELINE NO. 20

**BOND RELEASE PROCEDURES FOR
COAL MINING OPERATIONS**

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	ii
I. BOND RELEASE CATEGORIES	1
II. AREA AND INCREMENTAL BONDS	3
III. OTHER DEFINITIONS	6

LIST OF FIGURES

FIGURE 1. Flowchart For Identifying Applicable Bond Release Category	9
--	---

LIST OF ATTACHMENTS

ATTACHMENT 1.	Category 1	A1-1
ATTACHMENT 2.	Category 2	A2-1
ATTACHMENT 3.	Category 3	A3-1
ATTACHMENT 4.	Category 4	A4-1
ATTACHMENT 5.	Category 5	A5-1
ATTACHMENT 5-1.	Phase 1 Partial Incremental Bond Release	A5-1-1
ATTACHMENT 5-2.	Phase 2 Partial Incremental Bond Release And Sediment Control Release	A5-2-1
ATTACHMENT 5-3.	Phase 3 Full Incremental Bond Release	A5-3-1
ATTACHMENT 6.	Outline Of The LQD Chapter 15 Review And Decision Process	A6-1

INTRODUCTION

This document is a guideline only. Its contents should not be interpreted by applicants, permittees, interested members of the public or organizations or 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 (Coal R&R) and it contains statements of LQD policy and statements of LQD preferred procedures. By agreement between the LQD Administrator and the Wyoming Mining Association (WMA), statements of LQD policy are shown in small caps text. If Coal Permittees or other interested parties do not understand the guideline content or disagree with the content, they should resolve those differences with the appropriate LQD staff before submitting a bond release request.

The LQD will process all Incremental Bond release requests under the procedures of Coal R&R Chapter 15. The Wyoming Coal Program allows some Area Bond release via the Annual Report. The LQD's *Format For Coal Annual Reports* outlines Area Bond release procedures when using the Annual Report option. Section III.A.1 of this guideline outlines Chapter 15 procedures for Area Bond release if the Annual Report option cannot be used.

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 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 using the methods in field studies and before submitting a formal bond release request.

I. BOND RELEASE CATEGORIES

Numerous revisions of the WEQA and LQD Coal R&R have created different combinations of permit requirements and performance standards, which apply to any one unit of affected land.

In consultation with coal Permittees and the WMA, the LQD outlined five distinct calendar periods when distinct combinations of requirements and performance standards applied. A more detailed explanation of these Categories is published in a document entitled "How to Handle Bond Release on Coal Mined Lands Affected During Various Regulatory Time Frames" which was sent "To All Interested Parties" under Richard A. Chancellor's letter of October 30, 1998.

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 Permittee should reach mutual agreement on the final reclamation plan and final bond release standards for those affected lands before their 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.

The Attachments to this guideline are intended as a summary of the performance standards for each Category and the components of a bond release request under each Category.

- 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 outlines further information on 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 the bond release procedures for Category 3.

- 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 Coal R&R frame this Category.

Figure 1 and other available information should be used to determine what lands fall within Category 3. Attachment 3 presents the bond release procedures for Category 3.

- 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 4 presents the bond release procedures for Category 4.

- 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 requirements and to demarcate those affected lands, which would be held to SMCRA and LQD performance standards.

Figure 1 and other available information should be used to determine what lands fall within Category 5. Attachment 5 presents bond release performance standards and the bond release procedures for Category 5.

II. THE 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 of 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 postmining 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".

It should be noted that the bond amount may be reduced without going through a bond release process. A bond adjustment is allowed where either the permit has been revised to require different reclamation or where the operator has changed the method of reclamation that results in a cost saving. A bond adjustment cannot be based on reclamation work completed.

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

"A permittee may request reduction of the amount of either the area or incremental bond upon submission of evidence to the Administrator proving that the permittee's method of operation or other circumstances will reduce the estimated cost to the State for reclamation. This reduction of bond shall be deemed a bond adjustment if the reduction is based on a change in method of operation or a decrease in the number of acres projected to be disturbed...

A. Area Bond Release

There are two processes available to secure Area Bond release. These processes are mutually exclusive. The Permittee should seek Area Bond release for a specific reclaimed unit using only one of the processes. Since the Area Bond is based on the completion of rough backfill, the volume of material required to complete rough backfill from one year to the next is the criteria used to determine if the Area Bond is released via the Annual Report or the formal Chapter 15 process. Whenever the volume of material required to achieve rough backfilling decreases from one Annual Report to the next, the formal Chapter 15 process must be used.

The exception to this is when the volume reduction is due to an approved change in the post mining topography. This reduction would be considered a bond adjustment.

1. Area Bond Release Via Annual Report

The Office of Surface Mining Reclamation and Enforcement (OSM) has approved an alternate bonding system as part of the Wyoming State Coal Program. This system allows an area that has been rough backfilled to be released from Area Bond liability as part of the Annual Report review process. This has been incorrectly called a de facto release or rolling bond.

As part of the Annual Report information, the operator is required to show what areas have been rough backfilled and provide information to support that those areas meet the approved permit. The Operator's Area Bond calculations do not include costs to backfill these areas. Upon receipt of the Annual Report, the LQD publishes a notice in a local newspaper that the Annual Report has been received and the bond will be reviewed. It also states the public may review the information and should notify the LQD of any comments or concerns. The LQD review of the Annual Report and inspection verifies that the area meets the rough backfilling requirements and if no additional backfilling is required, no Area Bond costs are retained for the backfilled unit.

The LQD's letter accepting the Annual Report and bond calculations should clearly note whether any Area Bond release was granted and the specific land units covered in the release.

SOME APPROVED COAL PERMITS CONTAIN PROCEDURES THAT SEEK LQD REVIEW AND APPROVAL OF DATA THAT DEMONSTRATE THAT RECLAMATION PROCEDURES COVERED UNDER THE AREA BOND DEFINITION HAVE BEEN COMPLETED BEFORE THE PERMITTEE REAPPLIES TOPSOIL TO THOSE SPECIFIC RECLAIMED LANDS. THESE PROCEDURES HAVE HISTORICALLY BEEN CALLED A REGRADED SPOILS PROGRAM. THIS PROGRAM IS OPTIONAL. IT IS NOT REQUIRED BY STATUTE, BUT IF UTILIZED, IT SHOULD BE WRITTEN INTO THE APPROVED PERMIT. THE LQD CANNOT GRANT AREA BOND RELEASE THROUGH THE REGRADED SPOILS PROGRAM AT THE TIME OF SUBMITTAL. HOWEVER, LQD CAN PROVIDE DOCUMENTATION THAT THE RECLAMATION PROCEDURES HAVE BEEN MET. ACTUAL APPROVAL OF AREA BOND RELEASE WOULD OCCUR WITH THE ANNUAL REPORT.

If Regraded Spoils Program data were submitted and accepted during the Annual Report period, the Annual Report closure letter should specifically grant Area Bond release for those reclaimed units.

2. Area Bond Release Via Independent Rough Backfilling Verification And Subsequent Chapter 15 Request

If a Permittee does not participate in an approved Regraded Spoils Program or if it does not seek Area Bond release via the Annual Report process, the Permittee must cumulatively carry complete Area Bond costs in the bond calculation of each Annual Report. The Permittee may submit verification that it has achieved rough backfill and

associated performance standards at any time. The Permittee should achieve mutual agreement with the LQD District Office on the content and timing of this verification and both parties must understand that this verification is not a Coal R&R Chapter 15 process.

The information in this independent verification should make the Permittee's case that:

- a. THE RECLAIMED ACREAGE HAS BEEN BACKFILLED AND ROUGH GRADED TO THE APPROVED POSTMINING TOPOGRAPHY. THE LQD PREFERRED DEMONSTRATION IS AN "AS-BUILT" TOPOGRAPHY MAP AT THE SAME SCALE AS THE APPROVED POSTMINING TOPOGRAPHY MAP.
- b. THE BACKFILLED AND ROUGH GRADED SLOPES (%) AND LENGTHS OF SLOPE RUNS MEET THE APPROVED PERMIT COMMITMENTS.
- c. THE LOCATION OF BACKFILL SAMPLE SITES ON THE BACKFILLED ACREAGE AND THE BACKFILL QUALITY SAMPLING DATA DEMONSTRATE ACHIEVEMENT OF THE PERMIT COMMITMENTS FOR BACKFILL QUALITY SAMPLING.
- d. CONSTRUCTION VERIFICATION DATA AND/OR DRAWINGS (E.G., CHANNEL PROFILES, CHANNEL GRADIENTS) FOR ALL CHANNELS WITHIN THE BACKFILLED ACREAGE DEMONSTRATE THEY WERE CONSTRUCTED ACCORDING TO ENGINEERING DESIGNS IN THE APPROVED PERMIT.
- e. CONSTRUCTION VERIFICATION DATA DEMONSTRATE THAT "SPECIAL COMMITMENTS" IN THE APPROVED PERMIT (SUCH AS RECONSTRUCTED SAND BODIES, ALLUVIAL VALLEY FLOOR UNITS) WERE PROPERLY CONSTRUCTED.
- f. THE UPLAND RECLAIMED ELEVATIONS ARE CONSISTENTLY WITHIN ± 20 FEET OF THE APPROVED ELEVATIONS AND THAT THE DISTRIBUTION OF ELEVATIONS IS NOT SKEWED.
- g. THE MATCH POINTS BETWEEN NATIVE CHANNELS AND RECONSTRUCTED PERENNIAL, INTERMITTENT AND EPHEMERAL CHANNELS AGREE WITH THE APPROVED DESIGN(S) WITHIN THE ACCURACY OF NORMAL FIELD CONSTRUCTION AND SURVEY PRACTICES.
- h. PERENNIAL, INTERMITTENT AND EPHEMERAL RECLAIMED CHANNEL GRADIENTS, CHANNEL LENGTHS AND CHANNEL SINUOSITY MATCH THE APPROVED DESIGN(S).
- i. PERENNIAL, INTERMITTENT AND EPHEMERAL CHANNEL PROFILES ARE CONCAVE AND HAVE NO HYDRAULIC JUMPS.
- j. PERENNIAL, INTERMITTENT AND EPHEMERAL STREAM FLOODPLAIN AND CHANNEL CROSS-SECTIONS ARE NOT NARROWER THAN THE APPROVED DESIGN(S).
- k. THE DRAINAGE DIVIDES MATCH THOSE OF THE APPROVED TOPOGRAPHY WITHIN NORMAL MAPPING TOLERANCES.
- l. ON-CHANNEL AND OFF-CHANNEL DEPRESSIONS ARE SMALLER THAN 0.5 ACRE-FOOT IN VOLUME.

The LQD will process and review this verification outside the Coal R&R Chapter 15 and will eventually accept or deny the verification in writing. The Permittee would subsequently list one or more accepted verifications in a formal Chapter 15 Area Bond release request. LQD approval of Area Bond release via Chapter 15 would authorize deleting costs from the Area Bond calculations.

B. Phases Of Incremental Bond Release

Coal R&R establish three possible phases of Incremental Bond release.

1. Phase 1 Partial Incremental Bond Release

According to the provisions of Coal R&R Chapter 15, Section 5.(a)(i), sixty percent of the Incremental Bond may be released "...when the operator completes the backfilling, regrading, topsoil replacement, recontouring and drainage control of a bonded area in accordance with his approved reclamation plan...for the applicable permit area".

The LQD will call this Phase 1 Partial Incremental Bond release so that the terminology is somewhat comparable to Federal Program terminology.

2. Phase 2 Partial Incremental Bond Release

The Coal R&R Chapter 15, Section 5.(a)(ii) allows for release of more than sixty percent of the Incremental Bond "...after vegetation whose species composition is commensurate with that of seed mix(es) of the approved reclamation plan and the species composition required by Coal R&R Chapter 4, Section 2.(d)(x)....".

The LQD will call this Phase 2 Partial Incremental Bond release so that the terminology is somewhat comparable to Federal Program terminology.

The requirements of the Coal R&R Chapter 15, Section 5.(a)(ii)(A) and (B) determine the percentage release greater than 60%.

3. Phase 3 Full Incremental Bond Release

Phase 3 Full Incremental Bond release occurs when there is no dollar amount for the Area Bond or Incremental Bond associated with a specific unit of reclaimed land.

III. OTHER DEFINITIONS

A. "Affected land" means the area of land from which overburden is removed, or upon which overburden, development waste rock or refuse is deposited, or both, including access roads, haul roads, mineral stockpiles, mill tailings excluding uranium mill tailings, and mill facilities, within the Nuclear Regulatory Commission license area, impoundment basins excluding uranium mill tailings impoundments, and all other lands whose natural state has been or will be disturbed as a result of the operations" (W.S. § 35-11-103(e)(xvi).

- B. "Open Cut Land Reclamation Act (OCLRA)" was a State of Wyoming law promulgated as Chapter 192, Sessions Laws of Wyoming, 1969. A set of Rules and Regulations for the OCLRA became effective on August 7, 1969. Chapter II, Section 8 of the OCLRA Rules and Regulations established May 23, 1969 as a retroactive effective date. Subsection a. stated, "new open cut mining is open cut mining which creates affected land". This same subsection continued that affected land is "an area of land from which overburden shall have been removed, or upon which overburden or refuse shall have been deposited, or both, after May 23, 1969."

The OCLRA and its Rules and Regulations were in effect until the July 1, 1973 effective date of the Wyoming Environmental Quality Act.

- C. "Operation" means all of the activities, equipment, premises, facilities, structures, roads, rights-of-way, waste and refuse areas excluding uranium mill tailings and mill facilities, within the Nuclear Regulatory Commission license area, storage and processing areas, and shipping areas used in the process of excavating or removing overburden and minerals from the affected land or for removing overburden for the purpose of determining the location, quality or quantity of a natural mineral deposit or for the reclamation of affected lands (W.S. § 35-11-103(e)(viii)).

- D. "SEDIMENT CONTROL RELEASE" MEANS A FORMAL, WRITTEN DECLARATION BY THE LQD THAT A UNIT OF PERMANENTLY RECLAIMED LAND EXHIBITS SUFFICIENT SURFICIAL STABILITY AND SUFFICIENT DEVELOPMENT OF ITS POSTMINING VEGETATION COMMUNITY THAT SURFACE WATER DRAINAGE FROM THAT RECLAIMED UNIT DOES NOT NEED TO PASS THROUGH A SEDIMENTATION POND OR APPROVED ALTERNATIVE SEDIMENT CONTROL MEASURE AS REQUIRED BY COAL R&R CHAPTER 4, SECTION 2.(f)(i).

RECLAIMED UNITS RECEIVING A SEDIMENT CONTROL RELEASE DESIGNATION SHALL ALSO HAVE ACHIEVED THE STANDARDS OF COAL R&R CHAPTER 15, SECTION 5.(a)(ii)(B)(I). THE LQD HAS A GUIDANCE DOCUMENT FOR PURSUIT OF SEDIMENT CONTROL RELEASE.

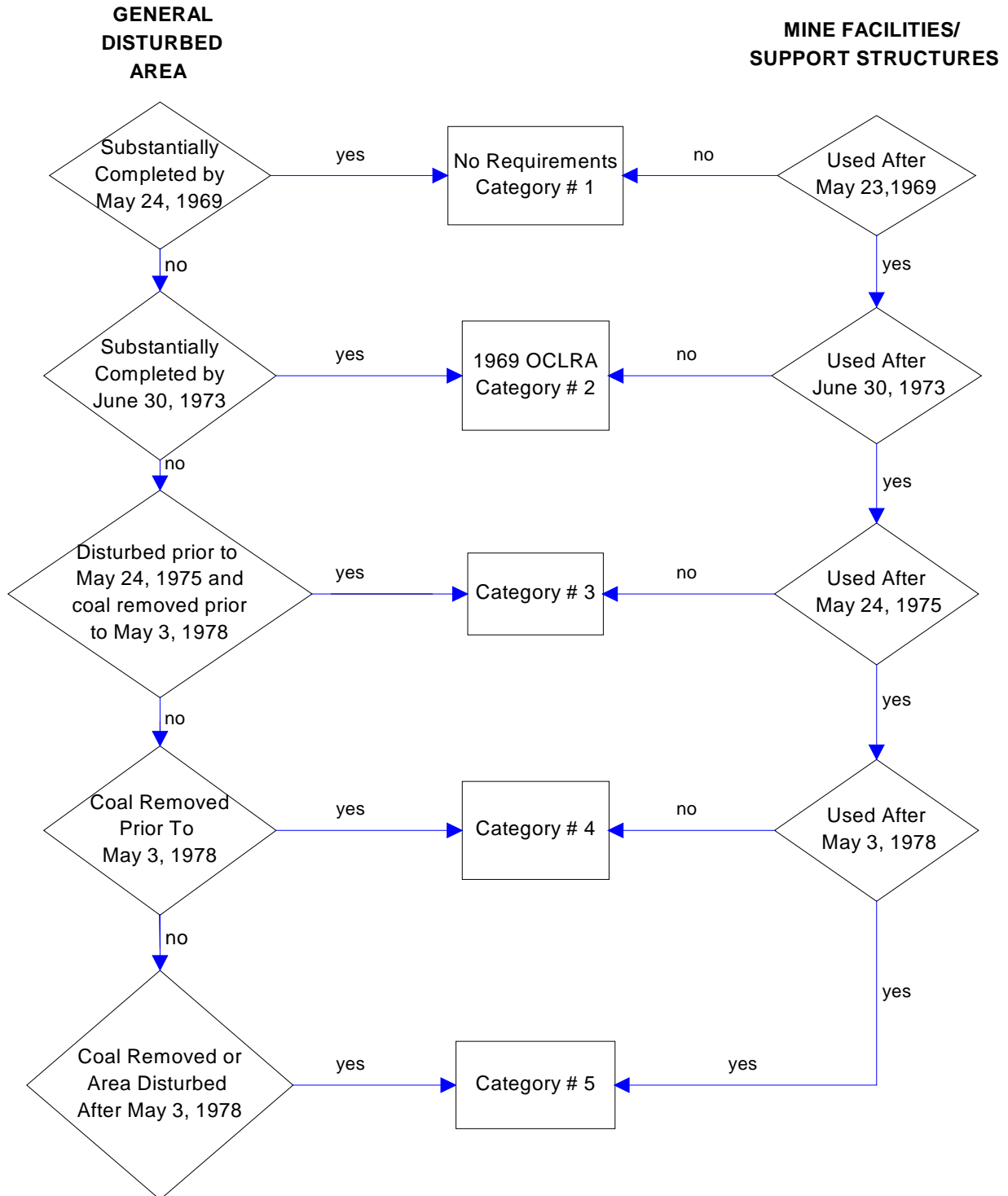
- E. "SHRUB GOAL" MEANS THAT THE PERMITTEE SEEKS TO RESTORE 10% OF THE AFFECTED LAND TO SHRUB PATCHES WHICH HAVE A SHRUB DENSITY OF AT LEAST ONE SHRUB PER SQUARE METER. PATCHES SHOULD BE ARRANGED IN A MOSAIC THAT WILL OPTIMIZE HABITAT INTERSPERSION AND EDGE EFFECT. THE SHRUB GOAL APPLIES TO ALL LANDS AFFECTED BETWEEN MAY 3, 1978 AND AUGUST 6, 1996. THE SHRUB GOAL APPLIES TO RECLAIMED LANDS, WHICH CLEARLY HAVE THE GRAZING LAND AND WILDLIFE HABITAT LAND USE DESIGNATIONS.

- F. "Shrub standard" is the requirement that "Except where a lesser density is justified from premining conditions in accordance with Appendix A, at least 20 percent of the eligible lands shall be restored to shrub patches supporting an average density of one shrub per square meter. Patches shall be no less than 0.05 acre each and shall be arranged in a mosaic that will optimize habitat interspersion and edge effect." [Coal R&R Chapter 4, Section 2.(d)(x)(E)(I)] Eligible land is defined in Coal R&R Chapter 1, Section 2.(ac). Appendix A to the Coal R&R houses criteria and procedures to quantify the shrub standard. The shrub standard applies to all lands affected after August 6, 1996.

- G. "SUBSTANTIALLY COMPLETE", AS INTERPRETED BY THE LQD, MEANS THAT ALL OVERBURDEN AND CLEANINGS WERE REMOVED TO EXPOSE THE RECOVERABLE (SALEABLE) COAL AND THAT THE EXPOSED COAL WAS ACTUALLY REMOVED.
- H. "Surface coal mining operation" means:
- (A) Activities conducted on the surface of lands in connection with a surface coal mine or with the surface impacts incident to an underground coal mine as provided in Section 516 of P.L. 95-87 [30 U.S.C. § 1266]. These activities include excavation for the purpose of obtaining coal including common methods as contour, strip, auger, mountaintop removal, box cut, open pit and area mining, the use of explosives and blasting, and in-situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating or other processing or preparation, and the loading of coal; and
 - (B) The areas upon which these activities occur or where these activities disturb the land surface. These areas shall also include any adjacent land, the use of which is incidental to any of these activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of these activities and for haulage, excavations, workings, impoundments, dams, ventilation shafts, entry ways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities or other property or materials on the surface, resulting from or incidental to these activities (W.S. § 35-11-103(e)(xx)).
- I. "Surface mining" means the mining of minerals by removing the overburden lying above natural deposits thereof and mining directly from the natural deposits thereby exposed, including strip, open pit, dredging, quarrying, surface leaching, and related activities (W.S. § 35-11-103(e)(x)).
- J. "Surface Mining Control and Reclamation Act (SMCRA)" was promulgated by the U.S. Congress as Public Law 95-87 on August 3, 1977 in order "To provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations...". SMCRA established the Office of Surface Mining Reclamation and Enforcement (OSM) within the Department of the Interior to administer SMCRA.
- K. "Wyoming Environmental Quality Act (WEQA)" is a State of Wyoming law, which became effective on July 1, 1973. It has been amended by subsequent Wyoming Legislative Sessions.
- L. "Wyoming State Permanent Coal Program" establishes that the State of Wyoming has the primary jurisdiction to regulate coal mining operations within its borders. The OSM approved the State Coal Program with an effective date of November 6, 1980.

FIGURE 1
Flowchart for identifying applicable bond release category

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

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

If lands disturbed prior to May 24, 1969 occur within the coal permit area boundary, they should be identified and tracked. The LQD acknowledges that the historical information is often sketchy 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

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 postmining 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. SECTION 1.(d) REQUIRES SPECIFIC PARTIES RECEIVE NOTIFICATION OF THE RELEASE REQUEST. THE REQUEST SHOULD CONTAIN THE NAMES AND MAILING ADDRESSES FOR THE FOLLOWING:

- 1) OVERLYING AND ADJOINING SURFACE OWNERS OF RECORD

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) THE WYOMING BUSINESS COUNCIL (WHICH HAS STATUTORILY REPLACED THE ECONOMIC DEVELOPMENT AND STABILIZATION BOARD).
- 5) EACH SEWAGE TREATMENT AUTHORITY, WATER TREATMENT AUTHORITY AND WATER COMPANY IN THE LOCALITY OF THE PERMIT AREA.

THE LQD ADMINISTRATOR INTERPRETS LOCALITY TO MEAN WITHIN 0.5 MILE OF THE PERMIT AREA BOUNDARY.

b. 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:

- 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. 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.

D. LQD Processing, Completeness Review, Field Inspection And Final Decision

Attachment 6 outlines the Coal R&R Chapter 15 process for a Category 2 bond release request.

ATTACHMENT 3: PERFORMANCE STANDARDS AND BOND RELEASE PROCEDURES FOR CATEGORY 3

Category 3 applies to lands supporting operations that were not completed or substantially completed prior to July 1, 1973 and any lands or structures still in use prior to May 24, 1975, and which do not qualify for either Category 4 or Category 5.

A. Area And Incremental Bonds

The definitions of Area and Incremental Bonds apply to Category 3.

There is little likelihood that any residual dollar value exists for an Area Bond on Category 3 lands; however, the request must document and explain the presence or absence of an Area Bond as well as records allow. The documentation in the request should use the terminology of the types of Area Bond release noted under the definitions of Area Bond in Section III of this guideline.

Though the Incremental Bond terminology applies to Category 3 lands, the LQD's accommodations and bond release criteria listed below generate the fact that there is little practical distinction between or dollar value difference between the two defined categories of Incremental Bond. Thus, the LQD strongly suggests that if any component of an Area or Incremental Bond exists, the Permittee should seek release of all bond elements in a single, unified final bond release request.

THE LQD ADMINISTRATOR HAS DECLARED THAT THE CONCEPT OF SEDIMENT CONTROL RELEASE DOES NOT APPLY TO CATEGORY 3 LANDS. NEITHER THE WEQA NOR THE COAL R&R FORMALLY REQUIRED SEDIMENT CONTROL FOR RUNOFF FROM DISTURBED LANDS.

B. Bond Release Criteria

The basic performance standards of W.S. § 35-487.21 and § 35-487.32 (now numbered as § 35-11-402 and § 35-11-415) apply to Category 3. AS DOCUMENTED IN THE 10/98 VERSION OF THE LQD DOCUMENT ENTITLED "HOW TO HANDLE BOND RELEASE ON COAL MINED LANDS AFFECTED DURING VARIOUS REGULATORY TIME FRAMES" AS PUBLISHED UNDER RICHARD A. CHANCELLOR'S LETTER OF 10/30/98, THE LQD WILL MAKE THE FOLLOWING ACCOMMODATIONS:

1. RULES DETAILING TOPSOIL SALVAGE AND REPLACEMENT WERE NOT YET DEVELOPED. THEREFORE, TOPSOIL SALVAGE WAS SPORADIC DURING THE YEARS COVERED BY CATEGORY 3; AND
2. THE SCIENCE OF MINE SITE RECLAMATION WAS NOT WELL DEVELOPED AND SOME EARLY ATTEMPTS AT RECLAMATION DID NOT RESULT IN THE QUALITY RECLAMATION POSSIBLE TODAY.
3. THEREFORE, THE FOLLOWING BOND RELEASE CRITERIA APPLY TO CATEGORY 3 RECLAIMED LANDS:
 - a. THE LANDS MUST BE SURFICIALLY STABLE. THE LQD STAFF WILL FIRST EVALUATE THESE CRITERIA DURING THE PRELIMINARY FIELD INSPECTION WHEREIN THE LQD

WILL OFFER AN OVERALL OPINION ON WHETHER THE PERMITTEE SHOULD COMPILE A BOND RELEASE REQUEST.

THE LQD WILL CONFIRM THIS STANDARD DURING THE PRELIMINARY AND FINAL FIELD INSPECTIONS, WITH PARTICULAR EMPHASIS ON DRAINAGE CHANNELS AND THEIR TRANSITION ZONES TO ADJACENT LANDS.

- b. The postmining drainage systems must be functional. There may be no depressions, which accumulate water or other impoundments unless approved in the Reclamation Plan. The LQD will assess this performance standard during the preliminary and final field inspections.
- c. The postmining topography must conform to the approved Reclamation Plan, assuming the approved Plan addresses the Category 3 lands. The Permittee must provide some information, e.g., a contour map at the same scale as the approved Plan or spot elevations or surveyed cross sections, which verifies achievement of the approved Plan.
- d. THE LQD WILL NOT REQUIRE VERIFICATION OF TOPSOIL REDISTRIBUTION DEPTHS; HOWEVER, IF BARREN AREAS ARE HIGH IN NUMBER, TOTAL AREAL EXTENT OR IF THEY ARE OBVIOUSLY DUE TO TOXIC OR ACID-FORMING MATERIALS, THE PERMITTEE MUST PROVIDE INFORMATION TO EXPLAIN THE OBSERVATIONS. BARREN AREAS ARE RECLAIMED LANDS WHICH ARE SUBSTANTIALLY DEVOID OF VEGETATION TO AN EXTENT NOT OBSERVED ON PROPERLY MANAGED NATIVE LANDS.

THE 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 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.

THE LQD WILL OBSERVE THE BARREN AREAS AND THEIR SURFICIAL STABILITY DURING THE PRELIMINARY AND FINAL FIELD INSPECTIONS.

- e. As outlined in W.S. § 35-11-406(b), the lands must have a vegetation cover, which clearly stabilizes the land. THE LQD WILL CONFIRM ACHIEVEMENT DURING THE PRELIMINARY AND FINAL BOND RELEASE FIELD INSPECTIONS. THE LQD WILL NOT REQUIRE THE PERMITTEE TO PRESENT QUANTITATIVE OR QUALITATIVE VEGETATION DATA DERIVED FROM AN INDEPENDENT SAMPLING REGIME. HOWEVER, IF VEGETATION MONITORING WAS CONDUCTED ON THE CATEGORY 3 LANDS, THE OPERATOR SHALL PRESENT OR REFERENCE THIS DATA.
- f. As outlined in W.S. § 35-11-406(b), the vegetative cover must be somewhat commensurate with the seed mix, assuming the seed mix is known. THE LQD WILL DETERMINE SUCCESS VIA AN OCULAR EVALUATION DURING THE PRELIMINARY AND FINAL BOND RELEASE FIELD INSPECTIONS. THE PERMITTEE SHOULD LIST THE SEED MIX(ES) APPLIED AND PROVIDE A SUBJECTIVE EVALUATION OF THE DEGREE TO WHICH THE SEEDED SPECIES APPEAR IN THE RECLAIMED COMMUNITY.
- g. The Operator must make its case that the postmining land use(s) are equal to or greater than the premining land use(s), as outlined in W.S. § 35-11-402(a)(ii) and (iv).

- h. THE LQD WILL NOT IMPOSE ANY SHRUB ESTABLISHMENT GOAL OR STANDARD FOR CATEGORY 3 LANDS.

C. Components Of A Bond Release Request

The LQD will use procedures of the Coal R&R Chapter 15 to process and approve all Category 3 requests.

Category 3 addresses land units that were affected before the passage of the Federal Surface Mine Control And Reclamation Act and before approval of the Wyoming Coal Program. The LQD has confirmed that the OSM is not involved in the release of bond for Category 3 lands. The LQD will notify the OSM of any Category 3 bond release request and explain why there is no Federal involvement.

A Category 3 bond release request should include:

1. An Organized Set Of Elements Which:

- a. document that the affected lands fit within Category 3.
- b. document that the reclaimed units have not been affected by or used by mining operations after May 25, 1975.
- 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 3 reclaimed units.
- g. include a map that shows the location of the reclaimed land. The LQD prefers that this map illustrate the postmining 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

2. CURRENT NAMES AND ADDRESSES FOR CHAPTER 15 NOTIFICATIONS:

- a. SECTION 1.(d) REQUIRES SPECIFIC PARTIES RECEIVE NOTIFICATION OF THE RELEASE REQUEST. THE REQUEST SHOULD CONTAIN THE NAMES AND MAILING ADDRESSES FOR THE FOLLOWING:

i. OVERLYING AND ADJOINING SURFACE OWNERS OF RECORD

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.

ii. ANY INCORPORATED MUNICIPALITY WITHIN 5 MILES OF THE PERMIT AREA.

iii. THE COUNTY COMMISSIONERS FOR THE COUNTY WHICH ENCOMPASSES THE PERMIT AREA.

iv. THE WYOMING BUSINESS COUNCIL (WHICH HAS STATUTORILY REPLACED THE ECONOMIC DEVELOPMENT AND STABILIZATION BOARD).

v. EACH SEWAGE TREATMENT AUTHORITY, WATER TREATMENT AUTHORITY AND WATER COMPANY IN THE LOCALITY OF THE PERMIT AREA.

THE LQD ADMINISTRATOR INTERPRETS LOCALITY TO MEAN WITHIN 0.5 MILE OF THE PERMIT AREA BOUNDARY.

b. 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:

i. THE AGENT OF RECORD FOR THE SURFACE OWNER OF RECORD FOR THE RECLAIMED LANDS IN THE RELEASE REQUEST.

ii. THE LESSEE OF RECORD FOR THE RECLAIMED LANDS IN THE RELEASE REQUEST.

3. 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.

D. LQD Processing, Completeness Review, Field Inspection And Final Decision

Attachment 6 outlines the Coal R&R Chapter 15 process for a Category 3 bond release request.

ATTACHMENT 4: BOND RELEASE CRITERIA AND PROCEDURES FOR CATEGORY 4

Category 4 addresses lands where coal was removed prior to May 3, 1978 and which do not qualify for either Categories 1, 2 or 3 and also includes lands and structures used to facilitate mining which were taken out of use between May 25, 1975 and May 3, 1978.

A. Area And Incremental Bonds

The definitions of Area and Incremental Bonds do apply to this Category.

B. Performance Standards

The standards codified by the adoption of the 1975 LQD R&R (May 25, 1975), in conjunction with the requirements within the WEQA, provide the basis for the requirements presented within this Category.

These are performance standards for Category 4 reclaimed lands:

1. As outlined in Coal R&R Chapter 4, Section 2.(e)(i)(E), the lands must be surficially stable. The LQD will confirm this standard during the preliminary and final field inspection, with particular emphasis on:
 - a) drainage channels and their transition zones to native lands and to reclaimed lands.
 - b) areas where the Category 4 lands tie into native land units and reclaimed lands.
2. The postmining drainage systems must be functional. THERE SHOULD BE NO DEPRESSIONS, WHICH ACCUMULATE WATER OR OTHER IMPOUNDMENTS UNLESS APPROVED IN THE RECLAMATION PLAN. THE LQD WILL ASSESS THIS PERFORMANCE STANDARD DURING THE PRELIMINARY AND FINAL FIELD INSPECTION.
3. The postmining topography must conform to the approved Reclamation Plan, assuming the approved plan specifically addressed the Category 4 lands. THE PERMITTEE MUST PROVIDE SOME INFORMATION, E.G., A CONTOUR MAP AT THE SAME SCALE AS THE APPROVED PLAN OR SPOT ELEVATIONS OR SURVEYED CROSS-SECTIONS, WHICH VERIFIES ACHIEVEMENT OF THE APPROVED PLAN.
4. The 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.

THE 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 4 LANDS AND COMPARABLE TO THE SURROUNDING NATIVE LANDS. IN ALL CASES, THE BARE AREAS MUST BE SURFICIALLY STABLE AND MUST NOT BE ACTIVELY ERODING INTO OR DEPOSITING SEDIMENT ON OTHER RECLAIMED LANDS.

THE LQD WILL OBSERVE THE BARREN AREAS AND THEIR SURFICIAL STABILITY DURING THE PRELIMINARY AND FINAL FIELD INSPECTION.

5. 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 CRITERIA 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.
 - 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.

The vegetation cover data and production data (if chosen), must be generated by a field sampling program approved by the LQD before its implementation. The sampling program will be executed during the last growing season (one sampling season only) prior to the request. The approved sampling program must sample at least one designated native land area in order to demonstrate that the cover and production (if chosen) values between reclaimed and native lands are at least equal. In order to eliminate conflicts, the grazing demonstration (if chosen) should be completed at least one field season prior to the vegetation sampling program.

6. Sampling for bond release on the reclaimed areas should be based on the presence of different communities (i.e., drainage bottomland, upland grassland, etc.) which may have developed since the time of initial seeding. These different reclaimed communities should be compared to native communities with similar characteristics. Prior to field sampling, the LQD and applicant should achieve mutual agreement on which native units will be sampled and compared to reclaimed communities.
7. Per 1975 R&R, Operators are required to restore wildlife habitat, whenever possible, on affected land in a manner commensurate with or superior to habitat conditions which existed before the land became affected, unless the land is used for a recreational or agricultural purpose which precludes its use as "wildlife habitat".
8. THE LQD WILL NOT IMPOSE ANY SHRUB ESTABLISHMENT GOAL OR STANDARD FOR CATEGORY 4 LANDS.

9. THE LQD ADMINISTRATOR HAS DECLARED THAT THE CONCEPT OF SEDIMENT CONTROL RELEASE DOES NOT APPLY TO CATEGORY 4 LANDS. NEITHER THE WYOMING ENVIRONMENTAL QUALITY ACT NOR THE LQD RULES AND REGULATIONS FORMALLY REQUIRED SEDIMENT CONTROL FOR RUNOFF FROM DISTURBED LANDS.
10. If postmining impoundments occur on Category 4 lands, the information required by the 1975 R&R Chapter III, Section 6.(a) and (b) shall be presented.

C. Components Of A Bond Release Request

The presence of the following components and surficial review of their technical accuracy will allow the LQD to declare the request Complete as per Chapter 15, Section 1.(b).

1. An Organized Set Of Elements Which:

- a. document that the affected lands fit within Category 4.
- b. document that the reclaimed units have not been affected by or used by mining operations after May 3, 1978.
- 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 4 reclaimed units.
- g. include a map that shows the location of the reclaimed land. The LQD prefers that this map illustrate the postmining 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

2. CURRENT NAMES AND ADDRESSES FOR CHAPTER 15 NOTIFICATIONS:

- a. SECTION 1.(d) REQUIRES SPECIFIC PARTIES RECEIVE NOTIFICATION OF THE RELEASE REQUEST. THE REQUEST SHOULD CONTAIN THE NAMES AND MAILING ADDRESSES FOR THE FOLLOWING:
 - i. OVERLYING AND ADJOINING SURFACE OWNERS OF RECORD

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.

- ii. ANY INCORPORATED MUNICIPALITY WITHIN 5 MILES OF THE PERMIT AREA.
- iii. THE COUNTY COMMISSIONERS FOR THE COUNTY WHICH ENCOMPASSES THE PERMIT AREA.
- iv. THE WYOMING BUSINESS COUNCIL (WHICH HAS STATUTORILY REPLACED THE ECONOMIC DEVELOPMENT AND STABILIZATION BOARD).
- v. EACH SEWAGE TREATMENT AUTHORITY, WATER TREATMENT AUTHORITY AND WATER COMPANY IN THE LOCALITY OF THE PERMIT AREA.

THE LQD ADMINISTRATOR INTERPRETS LOCALITY TO MEAN WITHIN 0.5 MILE OF THE PERMIT AREA BOUNDARY.

- b. 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:
 - i. THE AGENT OF RECORD FOR THE SURFACE OWNER OF RECORD FOR THE RECLAIMED LANDS IN THE RELEASE REQUEST.
 - ii. THE LESSEE OF RECORD FOR THE RECLAIMED LANDS IN THE RELEASE REQUEST.

3. 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.

The OSM Casper Field Office is notified of the bond release application for pre-SMCRA lands. They are not invited to participate in or provide concurrence on Category 4 bond releases.

D. LQD Processing, Completeness Review, Field Inspection And Final Decision

Attachment 6 outlines the Coal R&R Chapter 15 process for a Category 4 bond release request.

ATTACHMENT 5: BOND RELEASE CRITERIA AND PROCEDURES FOR CATEGORY 5

Performance Standards and Bond Release Procedures for Category 5: Lands where coal was not removed prior to May 3, 1978 or any lands and structures that were in use on or after May 3, 1978.

Bond release involves two distinct review processes: 1) a verification of fulfillment of performance standards and 2) a Coal R&R Chapter 15 administrative process. A fundamental understanding with bond release is that the verification process does not start with receipt of a bond release request, that is what initiates the Coal R&R Chapter 15 administrative process. The verification process is ongoing and is routinely and continually evaluated during routine compliance inspections, Annual Report reviews, or reviews of separately submitted reports. Details of the verification process will be mutually agreed upon between LQD and the Operator. LQD shall provide written documentation of the verification.

A. Structural Bond Release Categories

The definitions of Area and Incremental Bonds (see Section III of this guideline) apply to Category 5. Each bond release request should specify what type of bond release or what combinations of bond release are sought.

B. Types Of Bond Release And Criteria

The LQD R&R have been revised many times since the May 3, 1978 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.

1. Area Bond Release

Section III.A details two, mutually exclusive processes to attain Area Bond release. These processes apply to Category 5 reclaimed lands.

2. Phase 1 Partial Incremental 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...".

The LQD will call this Category Phase 1 Partial Incremental Bond release so that LQD terminology is somewhat comparable to Federal Program terminology.

Attachment 5-1 outlines the criteria and procedures for Phase 1 Partial Incremental Bond release.

3. Phase 2 Partial Incremental Bond Release And Sediment Control Release

a. Phase 2 Partial Incremental 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".

The LQD will call this category Phase 2 Partial Incremental Bond release so that the LQD terminology is somewhat comparable to Federal Program terminology.

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 notwithstanding other provisions of W.S. § 35-11-417 and 35-11-423 to the contrary". The terms of Chapter 15 are the controlling provisions.

b. Sediment Control Release

Because Coal R&R Chapter 15, Section 5.(a)(ii)(B)(I) states that "No part of the remaining bond or deposit shall be released under this provision...so long as the lands to which the release would be applicable are contributing suspended solids to stream flow or runoff outside of the permit area in excess of premining concentrations of receiving waters", the LQD Administrator holds that Sediment Control Release (defined in Section IV of this guideline) should normally occur prior to the administrative process associated with Phase 2 Partial Incremental Bond release.

Attachment 5-2 outlines the criteria and procedures for sediment control release and Phase 2 Partial Incremental Bond release.

4. Phase 3 Full Incremental 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."

The LQD will call this category Phase 3 Full Incremental Bond release so the LQD terminology is somewhat comparable to Federal Program terminology.

Attachment 5-3 outlines the criteria and procedures for Phase 3 Full Incremental Bond release.

ATTACHMENT 5-1: BOND RELEASE CRITERIA AND PROCEDURES FOR PHASE 1 PARTIAL INCREMENTAL BOND RELEASE IN CATEGORY 5

A. Performance Standards And Criteria

Certain performance standards and/or practices (e.g., approved permit commitments) must be verified prior to the release of Phase 1 Partial Incremental Bond.

1. Chapter 15, Section 5.(a)(i)

This provision lists several performance standards but uses terms which are not always defined in the Coal R&R. This section outlines which performance standards must be verified.

- a. "...when the operator completes the backfilling, regrading,...[and] recontouring...in accordance with his approved reclamation plan..."

The LQD holds that the backfilling and regrading will be assessed during the evaluation of Area Bond release.

Section III.A. of this guideline provides detailed guidance on Area Bond release documentation.

- b. "...when the operator completes the...topsoil replacement...in accordance with his approved reclamation plan..."

The LQD holds that evaluation of this performance standard should also include concurrent evaluation of all of the following performance standards, which apply:

- 1) Coal R&R Chapter 4, Section 2.(c)(v) which states that "Topsoil, subsoil and/or an approved topsoil substitute shall be redistributed in a manner that: (A) Achieves an approximate uniform, stable thickness consistent with the approved permit and the approved postmining land uses, contours and surface water drainage system..."
- 2) Coal R&R Chapter 4, Section 2.(c)(i)(C) which states, "Where topsoil has been stockpiled for more than one year, the operator may be required to conduct nutrient analyses to determine if soil amendments are necessary."
- 3) Coal R&R Chapter 4, Section 2.(c)(ix) and (x) which allow approval for topsoil substitutes.

- c. "...when the operator completes the...drainage control of a bond area in accordance with his approved reclamation plan..."

The Coal R&R do not define "drainage control". Coal R&R Chapter 4, Section 2.(e) is entitled "Diversion systems and drainage control" and could be interpreted to require

consideration of techniques and practices which "...reduce erosion,...prevent deepening or enlargement of stream channels, and...minimize disturbance of the hydrologic balance". Coal R&R Chapter 1, Section 2.(aw) defines hydrologic balance, but does not offer much assistance for interpretation of this Phase 1 Partial Incremental Bond release performance standard.

THE LQD HOLDS THAT IF THE RECLAIMED LAND UNITS HAVE APPROVED AREA BOND RELEASE AND ARE STILL SERVICED BY AN APPROVED PRIMARY SEDIMENTATION POND OR AN APPROVED ALTERNATIVE SEDIMENT CONTROL MEASURE, THERE WILL BE NO FORMAL, INDEPENDENT EVALUATION OF THIS "DRAINAGE CONTROL" PERFORMANCE STANDARD.

B. Components of A Phase 1 Incremental 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 which will allow 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).

- a. documentation that the reclaimed lands fit within Category 5.
- b. 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.
- c. tabulation of the number of acres.
- d. statement of the permit number and date of approval for the original permit and date of the current term approval.
- e. the type and amount of bond, and type and portion sought to be released.
- f. a map that shows the location of the reclaimed land. The LQD prefers that this map illustrate the postmining 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)

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 Phase 1 Partial Incremental Bond release request.

a. Current Names And Addresses For Coal R&R Chapter 15 Notifications

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

a) 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.

b) any incorporated municipality within 5 miles of the permit area.

c) the County Commissioners for the County which encompasses the reclaimed lands.

d) the Wyoming Business Council (which has statutorily replaced the Economic Development and Stabilization Board).

e) 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.

2) 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:

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.

b. Other Steps That Should Be Approved In Writing Prior To A Phase 1 Partial Incremental Bond Release Request

The LQD Administrator declares that the Coal R&R Chapter 15 process is primarily administrative in nature. In most cases, a Coal R&R Chapter 15 bond release request should contain no technical data. The Permittee and the LQD must resolve all verifications of applicable performance standards and applicable permit commitments prior to a Coal R&R Chapter 15 bond release request.

Unless the Permittee has a written previous agreement with the LQD, the Coal R&R Chapter 15 Phase 1 Partial Incremental Bond release request should include a clear record that these performance standards or steps have been achieved for all lands within the release request.

1. Verification of Area Bond release.
2. Verification that the approved topsoil/subsoil respread depth commitments were achieved.
3. When applicable, verification that the topsoil/subsoil fertility tests of Coal R&R Chapter 4, Section 2.(c)(i)(C) and 2.(c)(vii) were conducted.
4. When applicable, verification that topsoil and/or subsoil substitutes approved under Coal R&R Chapter 4, Section 2.(c)(ix) were properly spread.

C. LQD Processing, Completeness Review, Field Inspection And Final Decision

Attachment 6 outlines the Coal R&R Chapter 15 process for a Phase 1 Partial Incremental Bond release request.

ATTACHMENT 5-2: BOND RELEASE CRITERIA AND PROCEDURES FOR PHASE 2 PARTIAL INCREMENTAL BOND RELEASE IN CATEGORY 5

A. Performance Standards And Criteria

Certain performance standards and/or practices (e.g., approved permit commitments) must be documented in release of Phase 2 Partial Incremental Bond release.

1. Phase 2 Partial Incremental Bond Release

Coal R&R Chapter 15, Section 5.(a)(ii) establishes a number of criteria but uses terms which are not always defined in the Coal R&R. The performance standards that apply to this step of bond release include:

- a. "...After vegetation whose species composition is commensurate with that of the seed mix(es) of the approved reclamation plan and the species composition required by Chapter 4, Section 2.(d)(x)..."

The LQD Administrator wants this evaluation approved prior to a Coal R&R Chapter 15 request.

- b. "...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 Act and all rules and regulations promulgated thereunder".

The LQD Administrator wants this determination made in association with the evaluation made in 2.a. above.

- c. "...No part of the remaining bond or deposit shall be released under this provision...so long as the lands to which the release would be applicable are contributing suspended solids to stream flow or runoff outside the permit area in excess of premining concentrations of receiving waters."

This provision is the basis for the LQD Administrator's policy to secure Sediment Control Release prior to Phase 2 Partial Incremental Bond release.

- d. "...No part of the remaining bond or deposit shall be released under this provision...until soil productivity for prime farmlands has returned to equivalent levels of yield as non-mined land of the same soil type in the surrounding area under equivalent management practices in accordance with Coal R&R Chapter 15, Section 2.(b)."

There is no prime farmland declared on any LQD coal permit. Thus, there is no information submitted under this provision.

- e. "...No part of the remaining bond or deposit shall be released under this provision...where a permanent impoundment is involved this portion (B) of the bond may be released only after any renovation which may be required to meet the regulations and the permit has

been completed and the State Engineer has approved the impoundment for its intended use."

The LQD Administrator wants this evaluation completed prior to a Coal R&R Chapter 15 request.

B. Components Of The Phase 2 Partial Incremental 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 which will allow 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):

- a. documentation that the reclaimed lands fit within Category 5.
- b. 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 reclaimed lands.
- c. tabulation of the number of acres.
- d. statement of the current permit number and term designation and the date of original permit approval and date of the current term approval.
- e. the type and amount of bond, and type and portion sought to be released.
- f. a map that shows the location of the reclaimed land. The LQD prefers that this map illustrate the postmining 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

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 Phase 2 Partial Incremental Bond release request.

- a. Current Names And Addresses For Coal R&R Chapter 15 Notifications

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

a) 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.

b) any incorporated municipality within 5 miles of the permit area.

c) the County Commissioners for the County, which encompasses the reclaimed lands.

d) the Wyoming Business Council (which has statutorily replaced the Economic Development and Stabilization Board).

e) 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.

2) 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:

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.

b. Other Steps That Should Be Approved In Writing Prior To A Phase 2 Partial Incremental Bond Release Request

The LQD Administrator declares that the Coal R&R Chapter 15 process is primarily administrative in nature. In most cases, a Coal R&R Chapter 15 bond release request should contain no technical data. The Permittee and the LQD must resolve all verifications of applicable performance standards and applicable permit commitments prior to a Coal R&R Chapter 15 bond release request.

Unless the Permittee has a written previous agreement with the LQD, the Coal R&R Chapter 15 Phase 2 Partial Incremental Bond release request should include a clear record that these performance standards or steps have been achieved for all lands within the release request.

- 1) THE AREA MUST EXPERIENCE AT LEAST TWO COMPLETE GROWING SEASONS BEFORE THE PERMITTEE INCLUDES THAT UNIT IN A PHASE 2 PARTIAL INCREMENTAL BOND RELEASE REQUEST.
- 2) Area Bond release verification and Phase 1 Incremental Bond release if done separately.
- 3) VERIFICATION OF SEDIMENT CONTROL RELEASE
- 4) Verification that species composition is commensurate with the approved seed mix(es) and supports the postmining land use(s). Quantitative vegetation data will not be required. LQD personnel in conjunction with mine personnel may conduct ocular surveys to determine whether the provisions in Coal R&R Chapter 15 Section 5.(a)(ii) have been met. Interim vegetation monitoring data that is available may be helpful.

C. LQD Processing, Completeness Review, Field Inspection And Final Decision

Attachment 6 outlines the Coal R&R Chapter 15 process for a Phase 2 Partial Incremental Bond release request.

ATTACHMENT 5-3: BOND RELEASE CRITERIA AND PROCEDURES FOR PHASE 3 FULL INCREMENTAL BOND RELEASE IN CATEGORY 5

A. Performance Standards And Criteria

Certain performance standards and/or practices (e.g., approved permit commitments) must be documented in Phase 3 Full Incremental Bond release. THE LQD ADMINISTRATOR HAS DECLARED THAT THE FOLLOWING TOPICS MUST BE ADDRESSED FOR ALL RECLAIMED UNITS CONTAINED IN A PHASE 3 FULL INCREMENTAL BOND RELEASE REQUEST. THE LQD ADMINISTRATOR STRONGLY SUGGESTS THAT THESE VERIFICATIONS BE MADE SEPARATE FROM AND SOME TIME IN ADVANCE OF ANY PHASE 3 FULL INCREMENTAL BOND RELEASE REQUEST. THE PERMITTEE AND THE LQD MUST ACHIEVE AGREEMENT ON THE FORMAT CONTENT AND EVALUATIONS THAT WILL CONSTITUTE THE VERIFICATION. THE VERIFICATION WOULD BE REFERENCED AS A COMPONENT OF THE PHASE 3 FULL INCREMENTAL BOND RELEASE REQUEST.

1. THE APPROVED POSTMINING LAND USES HAVE BEEN RESTORED AS PER COAL R&R CHAPTER 4, SECTION 2.(a)(i).
2. SUCCESSFUL RESTORATION OF WILDLIFE HABITAT AS PER COAL R&R CHAPTER 4, SECTION 2.(a)(ii) AND PROTECTION AS PER COAL R&R CHAPTER 4, SECTION 2.(r).
3. ACHIEVEMENT OF THE REVEGETATION PERFORMANCE STANDARDS OF COAL R&R CHAPTER 4, SECTION 2.(d)(x).
4. ACHIEVEMENT OF THE SHRUB ESTABLISHMENT GOAL AND/OR STANDARD AS PER COAL R&R CHAPTER 4, SECTION 2.(d)(x)(E) AND APPENDIX A.
5. ACHIEVEMENT OF THE TREE REPLACEMENT STANDARD OF COAL R&R CHAPTER 4, SECTION 2.(d)(x)(E)(II), (F) AND (G).
6. POSTMINING GROUNDWATER SUPPORTS THE LAND USE AS PER COAL R&R CHAPTER 4, SECTION 2.(h)(i) AND CHAPTER 4, SECTION 2.(i)(i).
7. POSTMINING SURFACE WATER QUALITY AND QUANTITY SUPPORT THE APPROVED POSTMINING LAND USES AS PER COAL R&R CHAPTER 4, SECTION 2.(g)(i)(A) AND MINIMIZE IMPACTS TO THE HYDROLOGIC BALANCE AS PER COAL R&R CHAPTER 4, SECTION 2.(i)(ii).
8. ALL APPROVED POSTMINING ROAD TYPES AND CORRIDORS ARE IN PLACE AND FUNCTIONAL IN SUPPORT OF APPROVED POSTMINING LAND USES AS PER COAL R&R CHAPTER 4, SECTION 2.(j)(i)(H).
9. REMOVAL OF ALL TEMPORARY STRUCTURES AS PER COAL R&R CHAPTER 4, SECTION 2.(g)(vii).

B. Components Of The Phase 3 Partial Incremental 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 which will allow 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):

- a. documentation that the reclaimed lands fit within Category 5.
- b. 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 reclaimed lands.
- c. tabulation of the number of acres.
- d. statement of the current permit number and term designation and the date of original permit approval and date of the current term approval.
- e. the type and amount of bond, and type and portion sought to be released.
- f. a map that shows the location of the reclaimed land. The LQD prefers that this map illustrate the postmining 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

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 Phase 3 Full Incremental Bond release request.

a. Current Names And Addresses For Coal R&R Chapter 15 Notifications

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

- b) any incorporated municipality within 5 miles of the permit area.

- c) the County Commissioners for the County which encompasses the reclaimed lands.
- d) the Wyoming Business Council (which has statutorily replaced the Economic Development and Stabilization Board).
- e) 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.

- 2) 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:
 - 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.
- b. Other Steps That Should Be Approved In Writing Prior To A Phase 3 Partial Incremental Bond Release Request

The LQD Administrator declares that the Coal R&R Chapter 15 process is primarily administrative in nature. In most cases, a Coal R&R Chapter 15 bond release request should contain no technical data. The Permittee and the LQD must resolve all verifications of applicable performance standards and applicable permit commitments prior to a Coal R&R Chapter 15 bond release request.

Unless the Permittee has a written previous agreement with the LQD, the Coal R&R Chapter 15 Phase 2 Partial Incremental Bond release request should include a clear record that these performance standards or steps have been achieved for all lands within the release request.

- 1) reference all prior LQD bond release approval statements.
- 2) reference the specific LQD statements of adequate postmining land use restoration as per Coal R&R Chapter 4, Section 2.(a)(i).
- 3) reference the specific LQD statements of adequate postmining wildlife habitat restoration as per Coal R&R Chapter 4, Sections 2.(a)(ii) and 2.(r).
- 4) reference the specific LQD statements that the revegetation performance standards of Coal R&R Chapter 4, Section 2.(d)(x)(A)-(D) and Section VIII of Appendix A and applicable permit commitments have been achieved.

- 5) when and where the shrub goal is applicable, reference the specific LQD statements that the goal was achieved.
- 6) when and where the shrub standard [Coal R&R Chapter 4, Section 2.(d)(x)(E)(I)] is applicable, reference the specific LQD statements that the standard was achieved.
- 7) reference the specific LQD statements that the postmining tree replacement standards of Coal R&R Chapter 4, Section 2.(d)(x)(F) and (G) have been achieved.
- 8) reference specific LQD statements that the postmining surface water regime achieves the performance standards of Coal R&R Chapter 4, Section 2.(i)(ii).
- 9) reference the specific LQD statements that the postmining groundwater performance standards of Coal R&R Chapter 4, Sections 2.(h)(i) and 2.(i)(i) have been achieved.
- 10) reference the specific LQD statements that the postmining permanent impoundment performance standards have been achieved as per Coal R&R Chapter 4, Section 2.(g)(i)(A)-(C) and (ii).
- 11) reference the specific LQD statements that all mining-related structures that occupy release units and which are no longer necessary for and approved for support of the mining operations have been removed in fulfillment of Coal R&R Chapter 4, Section 2.(m).

C. LQD Processing, Completeness Review, Field Inspection And Final Decision

Attachment 6 outlines the Coal R&R Chapter 15 process for a Phase 3 Full Incremental Bond release request.

**ATTACHMENT 6: 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 6 outlines the LQD's internal and external steps and applicable statutory schedules when processing a Coal R&R Chapter 15 bond release request. As noted elsewhere in this Guideline, any Area Bond release request, which is not submitted as an Annual Report component, 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 unified 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 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.

C. Initial LQD Processing

1. Temporary File Number (TFN) Assignment

The District Office/Bond Release Coordinator has the option of securing a TFN for preliminary tracking of the bond release request. If a tracking TFN was established, that TFN will be retained for the actual bond release request.

The District Office/Bond Release Coordinator secures a TFN from the Cheyenne LQD for each individual of Categories 2, 3, 4 or 5 bond release requests or each combination of Categories.

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 And Other Review Team Members

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 to execute office and/or field procedures.

Prior to a Coal R&R Chapter 15 release request, the District will likely receive a series of verification requests for the actions outlined in the discussion of rough backfilling in Section III.A.2. and the "Performance Standards" section of Attachments 4, 5-1, 5-2 and 5-3. These verification requests will include various combinations of technical information which will be reviewed outside the Chapter 15 process. The District Supervisor will appoint the Coordinator and review team members at the appropriate time.

F. Composition Of LQD Bond Release Review Team

1. Categories 2 And 3 Bond Release Requests

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. The team will not usually include personnel from other District staffs.

2. Category 4 Area Bond Or Incremental Bond Release Requests

The District Supervisor appoints the Coordinator and review team. The Supervisor retains the option to include team members from other District staffs and/or the Support Group staff depending upon the areal extent, technical complexity and other characteristics of each specific Area or Incremental Bond release request.

3. Category 5 Area Bond And Phase 1 Partial Incremental And Phase 2 Partial Incremental Bond Release Requests

The District Supervisor appoints the Coordinator and, if desired, other team members from the District staff. The Supervisor retains the option to include team members from other District staffs and/or the Support Group staff depending upon the areal extent, technical complexity and other characteristics of each specific release request.

4. Category 5 Phase 3 Full Incremental Bond Release Request

The District Supervisor appoints the Coordinator and other team members based upon the complexity of the request.

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 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, 3, 4 or 5.
- 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 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-CFO 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-CFO participation in the field inspection and does not request OSM-CFO concurrence.

2. Category 5

The LQD sends the OSM-CFO 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 a 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-CFO to secure concurrence from that Federal agency. This letter should ask that OSM-CFO'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 Coordinator should ask the applicant to 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 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.a.-d. above and the fact that the OSM-CFO is invited to attend the LQD field inspection. In general, all the LQD team members will attend the field inspection.

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 Coordinator should execute the specified mailing(s) by certified letter.

L. 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 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 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.

The LQD tracks bond release with Change Numbers, so appropriate notation should occur in the letter.

M. 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 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 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.