

FILED

MAY 26 1983

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

Terri A. Lorenzon, Adm. Aide
Environmental Quality Council

IN THE MATTER OF THE)
PROPOSED ADOPTION OF RULES)
FOR AN ALTERNATIVE BONDING)
SYSTEM FOR COAL MINING)
OPERATIONS)

STATEMENT OF PRINCIPAL REASONS FOR ADOPTION

Pursuant to W.S. 35-11-402(a)(viii) and 30 USC 1259(c), these regulations establish a method to better estimate costs of reclamation for bonding purposes. This action is taken to ensure that, at any point in time, the State has sufficient funds to complete reclamation should the operation fail or the site be abandoned, without holding excessive bonds.

The regulations require the operator to submit one bond which includes two separate types of calculations: an area bond calculation and an incremental bond calculation. These calculations comprise all the reclamation work to be covered by the operator within the permit area for the period of bonding.

Under the area bond calculation, the regulations do not put in place a system where bonds are released automatically or "float" to the next area. Rather, the regulations are directed to establishing a maximum amount for rough backfilling over the life of the mine. This amount is obtained on a year-by-year incremental assessment in order to avoid speculation or under-estimation of the maximum bond for long-term western mining operations, and to remain consistent with Wyoming law. The area bond will be set or adjusted upward based on costs for rough backfilling work to be done during the upcoming year, up to a maximum cost. Reductions in this bond will only occur through the procedures required by Chapter XVI, Release of Bonds. Because the area bond amount can only remain constant or increase in future years (without a formal bond release request), the State can ensure that, for any year, sufficient funds will be available to perform the rough backfilling work should bond forfeiture occur. No bond release requirements have been circumvented under this approach, and additional public participation is provided each year beyond that required by the Federal law.

The incremental bond calculation covers the estimated cost of performing all reclamation requirements other than those covered by the area bond, during the annual bonding period in order to meet the standards of the Act, the regulations, and the provisions of the permit. The Release of Bonds, Chapter XVI applies to any reduction in the amount of the incremental bond, except those due to decreased costs based on a change in the method of operation or decrease in the number of acres projected to be disturbed.

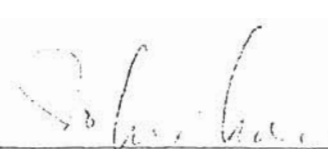
In conclusion, these regulations are authorized by State law as a method to estimate costs of reclamation, computed according to established engineering methods. W.S. 35-11-402(a)(viii). They also fulfill the purpose of the bond, which "shall be to assure that the operator shall faithfully perform all requirements of this act and comply with all rules and regulations...." W.S. 35-11-417(a). Finally, the regulations avoid the problematic, if not unlawful situation whereby the Division holds excessive bond amounts in relation to the amount which would be sufficient to assure the completion of the reclamation plan if the work had to be performed by the State in the event of forfeiture.

CONCLUSION

The Environmental Quality Council determines that the adoption of these regulations are necessary and appropriate to implement a reasonable and authorized bond calculation system under State and Federal law. Specifically, the Council finds that:

1. The rules and regulations provide for the regulation of surface coal mining and reclamation operations in accordance with the requirements of P.L. 95-87.
2. The rules and regulations are as effective as the regulations issued by the Secretary of Interior pursuant to P.L. 95-87.
3. These regulations are necessary and appropriate to preserve and exercise the primary responsibilities and rights of the State of Wyoming; to retain for the State the control over its air, land and water resources; and secure cooperation between agencies of the State and Federal Government in carrying out the policy and purposes of the Environmental Quality Act.
4. These regulations are reasonable and necessary to the effectuation of W.S. 35-11-101 through 1104.
5. These regulations are necessary and appropriate to protect the public health, safety, and welfare, and the environment of the State of Wyoming.

DATED THIS 15th day of May, 1983



Chairman
Environmental Quality Council