



U.S. DEPARTMENT OF THE INTERIOR
OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT
DIRECTIVES SYSTEM

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Subject:

Bond Forfeiture

Approval:

June N. Shields

Title: Acting Director

In order to expedite and maximize the likelihood of securing reclamation in bond forfeiture cases, paragraph 3.a.(4) is revised to read as underlined below:

3.a.(4)

Reclamation performed by the permittee, surety or other party in lieu of bond collection shall be in accordance with the approved reclamation plan except for bond forfeiture cases that are in litigation. A case is considered in litigation when it is referred to our attorneys for legal action. The Solicitor or Field Solicitor may settle such cases for less than full compliance with the approved reclamation plan or SMCRA performance standards if they meet the guidelines in the Departmental Manual and the Solicitor's Manual concerning collection and compromise of claims of the United States Government for money or property. Under these conditions, the permittee is liable for any remaining reclamation.

In response to a comment, the responsibilities of the Office of the Solicitor have been added to Paragraph 3.b. Responsibilities as follows:

3.b.(5)

Office of the Solicitor. The Office of the Solicitor ensures that a compromise of the bond for less than full compliance with the approved reclamation plan is consistent with the guidelines set forth in the Departmental Manual and the Solicitor's Manual. The Office of the Solicitor also keeps the appropriate OSM Field Office informed of its activities and decisions relating to the compromise.

CHANGE NOTICE

In order to make the timeframe for an informal appeal the same as the formal appeal; to initiate bond forfeiture at the earliest possible date from the receipt of the forfeiture order; and to ensure that the collection letter is sent at the earliest possible date, paragraphs 3.c.(3)(c) and 3.c.(4) are revised to read as underlined below:

3.c.(3)(c)

The notice of bond forfeiture allows the permittee 20 calendar days to request an informal conference to discuss actions to avoid forfeiture. The letter also provides an opportunity for an appeal to be filed within 20 days from the date of receipt of the decision to forfeit. These letters must be sent by certified mail to ensure timely notification.

3.c.(4)

Informal Conference. Forfeiture actions will temporarily cease if the permittee requests an informal conference in writing, within 20 calendar days. The surety should be invited to attend the informal conference. Whenever such a conference is held, the ADFO or FOD will ensure that a complete field survey of the mine site is made.