

DIVISION OF MINED LAND RECLAMATION		PROCEDURE NO.	2.3.13
PROCEDURES MANUAL		ISSUE DATE	August 16, 2007
SUBJECT	Performance Bond Review and Approval	Section	Permitting
		Last Revised	

OBJECTIVE AND INTENT:

To ensure the review and approval of performance bonds for permitted sites in Virginia are in accordance with the applicable regulatory requirements.

PROCEDURES:

Performance Bond Forms

The performance bond may be in the format of cash, certificate of deposit, surety, letter of credit, or an indemnity agreement for a self-bond. The appropriate bond forms that must be used are:

DMLR Form #	Bond Type
DMLR-PT-026 ¹	Certificate of Deposit
DMLR-PT-026A	Certificate of Deposit Federal Lands
DMLR-PT-093	Statement for 3 rd Party Certificate of Deposit
DMLR-PT-013	Surety Bond
DMLR-PT-013A	Surety Bond Federal Lands
DMLR-PT-013B	Surety Bond Rider
DMLR-PT-255	Irrevocable Standby Letter of Credit ²
DMLR-PT-221	Indemnity Agreement – self bond

Calculating The Amount of Performance Bond

A. **Coal Surface Mining Reclamation Fund³ (Pool Bond)** – The Permit Review Specialist will ensure the applicant’s bond calculation is determined at the rate of \$3,000.00 per acre with a minimum bond amount of \$100,000.00 for surface mines and \$40,000.00 for underground mines. All acreages should be rounded up to the next whole acre (e.g. 142.35 = 143.00). When calculating an incrementally bonded permit, the acreage to be bonded must be added as a total and then rounded to the next whole acre. The bond calculation should be accomplished by utilizing the electronic bond calculation sheet. An area being permitted that will not have coal production will not be eligible to be permitted under the Pool Bond and would have to post actual cost bond for that site.

¹ This is in addition to the Certificate of Deposit issued by the banking institution.

² The contents of this form may be placed on the issuing bank’s letterhead, but must match the wording in the DMLR-PT-255 exactly.

³ See §4VAC25-130-801.12 of the regulations.

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B. **Cost Estimate**⁴ - The Permit Review Specialist will ensure that the detailed proposal of the actual cost to reclaim the site is reviewed and approved by a DMLR reviewing engineer. The DMLR reviewing engineer shall notify the Permit Review Specialist of any additional or clarifying information that the applicant needs to submit regarding the bonding estimate. Once the DMLR engineer determines the proposal is approvable, the Permit Review Specialist will add a cost factor to the bond proposal. The cost factor will be determined by the proposed permit term as listed in Item 2.1 of the permit application (e.g. if the term is 5 years, utilize the 5 year factor for all calculations; if the term is 4 years, utilize the 4 year factor, etc.). The Permit Review Specialist will then request the total bond amount that must be submitted.

Requesting Performance Bond

After the application has been technically approved, the Permit Review Specialist will notify the applicant in writing of the required performance bond amount. The letter will include this statement –

“Please fax a copy of the completed performance bond document for DMLR review to (276) 523-8141 prior to submittal of the original document.”

Upon receipt of the facsimile, the Permit Review Specialist shall review the bonding document/form to determine if it is correct and complete the electronic bond approval checklist. If there are any problems with the document, the Review Specialist should immediately notify the applicant’s representative so corrective action may be taken. If this is communicated orally, the Review Specialist should also make a written notation to be placed in the application file for future reference.

For incremental bonding areas, the permittee may submit the required performance bond at any time prior to disturbance of the respective areas. The applicable bond document should be faxed to the Permit Review Specialist as previously described.

Bond determined acceptable

Once the Permit Review Specialist determines the bond is acceptable, the bond document will be taken to a Reclamation Program Manager or other authorized person for his/her signature. This signature is required prior to obtaining a DMME receipt or further processing of the application. The electronically completed bond approval checklist should accompany the bond form, which will be filed in the approved permit’s file. The applicable bond form and DMME receipt will be attached to the approved application.

- For a new permit, the bond should accompany the approved permit application for processing and receipting.
- For an existing permit revision, the bond should be receipted and the receipt should accompany the revision for processing.

⁴ See §4VAC25-130-800.14 of the regulations

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- To bond additional area on the existing permit (not a revision), the bond should be receipted and an approval note for adding additional bond must accompany the receipt.

Self-Bond

Self-bonds should be reviewed utilizing the bond approval checklist for self-bonds. In addition to the requirements for bond review previously stated, self-bonds shall meet the requirements of 4 VAC 25-130-801.13. When reviewing a self-bond proposing to cumulatively exceed fifty percent of the applicant's reported net worth, the reviewer must consult with his/her supervisor, who must consult with the Director prior to determining whether the agency may accept the proposed self-bond.