



Kentucky
Department for Surface Mining
Reclamation and Enforcement

Reclamation Advisory Memorandum

From: Carl H. Bradley, Acting Commissioner

Date: May 31, 1991

Subject: Revised Performance Bond Forms; and
Bonding for Transfer Applications

RAM # 104

In response to amendments to the Department's permanent program regulations, it was necessary to change and/or update most of our performance bond forms. The purpose of this RAM is to highlight the changes and improvements of the new bond forms.

The revised forms are self-explanatory and do not vary significantly from the old forms in content or in the way they are to be completed. Consistent with past procedures, no strikeouts, whiteouts or alterations to the forms in any manner will be accepted.

PERFORMANCE BOND FORM SME-42

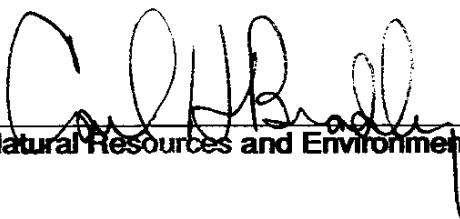
The Performance Bond form SME-42 REV. 2/91 (see attached copy) has been revised and updated to recognize the bond pool program and other changes in the regulations and procedures which have occurred since the form was originally adopted.

CERTIFICATE OF DEPOSIT FORM SME-64

A Certificate of Deposit (CD) cannot be accepted unless it is issued by an F.D.I.C. or F.S.L.I.C. insured financial institution, and we cannot accept a CD in excess of the maximum insurable amount as determined by the F.D.I.C. and/or F.S.L.I.C. The alterations in this form (see attached copy), other than the obvious cosmetic changes, were to ensure the language of the form is consistent with the applicable regulations.

These new forms, which supersede the current bond forms, are available in our seven regional offices and the DSMRE office located at #2 Hudson Hollow, Frankfort, Kentucky 40601. Please discard all the previous bond forms. Anyone submitting bonds to the Department after July 1, 1991, must utilize the appropriate new forms.

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Carl H. Bradley

LETTER OF CREDIT FORMS SME-72 & SME-72(a)

Also attached are the Letter of Credit (LOC) SME-72 and SME-72(a) forms, even though many of you are already familiar with these recently revised performance bond forms. Applicants using a letter of credit issued by a non-Kentucky lending institution must ensure that each LOC is confirmed by an approved Kentucky lending institution. The SME-72(a) document is the only totally new form. This form is used by Kentucky lending institutions for confirming a non-Kentucky institution. In the instance described above, the Division of Permits must be in receipt of both the SME-72 and SME-72(a) forms prior to processing a technically acceptable permit application for issuance. Applicants should also ensure that both forms are submitted to the appropriate regional office when posting bond on any successive increment(s).

If you have any questions regarding the bond forms, please contact Lyle Shaw, Judy Mason or Kathy Wilson at (502) 564-2320.

BONDING FOR TRANSFER APPLICATIONS

KRS 350.135(3) establishes requirements for transfer of surface coal mining permits. This statute states, in part, that the Cabinet shall not release the bond for the first permittee until the transferee has filed a bond with the Cabinet and received written approval for the transfer. Consequently, we cannot accept a transfer of an existing bond to another permit or permittee. The transferee must file a new bond with the transfer application and the first permittee's bond may be released after issuance of the transfer. (Please note that for a permit action other than a transfer, the permittee may continue to use a rider that increases or decreases the amount of a bond already in existence for the permittee. The rider must bear the signature of the surety's authorized agent.)