

Jackie Swigart
SECRETARY



John Y. Brown, Jr.
GOVERNOR

COMMONWEALTH OF KENTUCKY
DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
BUREAU OF SURFACE MINING RECLAMATION AND ENFORCEMENT
GENE BRANDENBURG
COMMISSIONER
FRANKFORT, KENTUCKY 40601

RECLAMATION ADVISORY MEMORANDUM NO. 18

TO: BSMRE Division Directors and Regional Engineers
Coal Operators and Company Engineers
Consulting Engineers

FROM: Gene Brandenburg *Gene Brandenburg*
Commissioner

DATE: March 6, 1980

SUBJECT: Incremental Bonding

This is to advise you that incremental bonding procedures are now in effect. A copy of these procedures is attached for your information and ready reference. These procedures will be incorporated into the Engineering Guidelines published by this Bureau.

It is well to point out to you some of the limitations which have been placed on incremental bonding. Incremental bonding is applicable only to original permit applications for which a permit application number was issued on or after December 7, 1979. Incremental bonding is not at this time applicable to permits for the Surface Effects of Underground Mines. Neither will incremental bonding be applicable to permits with an increment other than the last in the series of increments of less than five (5) acres, including the acreage for silt structures, haul and access roads, and spoil storage areas, which are associated with that increment. Under no condition will the initial increment bond posted be less than \$5,000 and at no time will the bond per acre be less than \$500.

March 6, 1980

It is considered extremely important that that part of the guidelines requiring permanent markers be established to identify extremities of each proposed increment be rigidly adhered to. Many arguments and misunderstandings will be eliminated if these requirements are followed. Any operator who mines an increment prior to a bond having been posted for that increment shall be considered to be mining without a permit.

The initial incremental bond shall be the total of the bond required for the first increment, plus the bond required for the haul or access road, plus the bond required for the silt structures in the first increment, plus the bond required for the spoil disposal area in the first increment. The total bond for each increment shall be computed in accordance with the Preliminary Review Worksheet Form DP-4, 6/78.

The contents of this memo are effective as of March 5, 1980. In the event that an operator desires to make incremental bonding effective on his permit application and that permit application number was issued subsequent to December 7, 1979, it will be necessary that the permit area be walked again to ensure that the requirements of this memo are complied with.

Attachment

cc: Secretary Swigart
Nancy Osborne

INCREMENTAL BONDING GUIDELINES

Incremental bonding is a method that provides for the posting of bonds on a permit in increments as the mining progresses. The Bureau of Surface Mining Reclamation and Enforcement is charged with the responsibility for developing and establishing administrative procedures to implement Regulation 405 KAR 1:051.

APPLICABILITY

Incremental bonding is applicable only to original permit applications for which a permit application number was issued on or after December 7, 1979. Incremental bonding will not be applicable to permits for Surface Effects of Underground Mines.

MINIMUM SIZE OF PERMITS TO WHICH INCREMENTAL BONDING IS APPLICABLE

Incremental bonding will not be applicable to permits with an increment, other than the last in the series of increments, of less than five (5) acres, including the acreage for silt structures, haul and access roads, and spoil storage areas, which are associated with that increment. Under no condition will the initial increment bond posted be less than \$5,000.

REQUIREMENT FOR INCREMENTAL BONDING

At the time that a request is made by the operator for a reconnaissance of the proposed permit area, the operator must indicate whether or not he proposes to request that incremental bonding be made applicable to his application. If he proposes to bond the permit incrementally, he must submit at the time of the walk a bonding plan designated as such on a U.S.G.S. Map of a scale of not less than 1"=400'. This map shall clearly indicate the increments into which the permit will be divided and will be supported by the information required as listed below. It will also be necessary to establish permanent markers to physically identify the extremities of each proposed increment. The markers should be of a durable material and clearly marked to identify the increment. The following shall be included in the bonding plan:

1. Number of Acres in each increment
2. Number and acres for each silt structure in each increment
3. Acreage for each spoil disposal area
4. Acreage of access or haul road

METHOD FOR BOND CALCULATION

The initial incremental bond shall be the total of the bond required for the first increment plus the bond required for the haul or access road plus the bond required for the silt structures in the first increment plus the bond required for the spoil disposal area in the first increment. The total bond for each increment shall be computed in accordance with the Preliminary Review Worksheet Form DP-4 6/78.

SUCCESSIVE INCREMENTS

At least fifteen (15) working days prior to the completion of the mining of each increment the operator shall request in writing of the regional engineer that the required bond be established for the successive increment.

An inspection of the permit area shall then be made by the inspector in company with the regional permits representative and the regional engineer. An agreement shall be reached by these as to the extent that the increment has been satisfactorily backfilled and graded. Credit may then be given for that portion of the increment satisfactorily backfilled and graded in the calculation of the bond for the successive increment. The above method of bond calculation shall be followed in the determination of the bond amount for each successive increment with credit being given for backfilling and grading satisfactorily accomplished on the previous increment. The bond amount for that part of the previous increments satisfactorily backfilled and graded can be recomputed to be a minimum of 40% of that amount calculated in the original determination.

The operator may elect to have the substantiating data for successive increments prepared by his engineer and presented to the regional engineer for his review and approval.

Under no condition will the bond at any time be less than \$500. per acre for that acreage actually disturbed.

INCREMENTAL BOND STATUS FORM

The attached incremental bond status form should be reproduced by the regional office and kept as a permanent record of the bond calculation history of the permit. The operator should be advised as soon as possible by letter after his request has been made of the bond needed for each successive increment. A copy of that letter should be sent to the Frankfort Office to be placed in the permanent files. As soon the bond for the increment has been received and approved by the regional office it should be forwarded to the Frankfort Office together with a copy of the incremental bond status form.

All operators and inspectors should thoroughly understand that any operator who mines an increment prior to a bond having been posted for that increment shall be charged with mining without a permit.

INCREMENTAL BOND STATUS FORM

SHEET ___ of ___

PERMIT NUMBER _____

ACREAGE THIS INCREMENT _____

OPERATOR _____

TOTAL BONDED ACREAGE TO DATE _____

TOTAL ACREAGE OF PREVIOUS INCREMENTS _____

SUCCESSIVE INCREMENT NO. _____

ITEM	ACREAGE	CALCULATIONS	BOND AMOUNT
Total Amount of Bond Required for Previous Increment/Increments			
Silt Structure No. _____			
Silt Structure No. _____			
Increment No. _____			
Spoil Storage Area _____			

Total Bond Required _____

**LESS CREDIT FOR RECLAMATION COMPLETED

Spoil Storage Area _____			
Spoil Storage Area _____			
Increment _____			
Increment _____			

BOND POSTED FOR THIS INCREMENT

LESS TOTAL BOND POSTED FOR PREVIOUS INCREMENT/INCREMENTS _____

Bond Type _____

*Additional Bond Required _____

Bond Amount _____

Total Bond Posted
Bond/Acre = $\frac{\text{Total Bond Posted}}{\text{Total Bonded Acreage}} =$ _____

Surety _____

THE TOTAL BOND POSTED SHALL NOT BE LESS THAN \$5,000.00
OR \$500.00 PER ACRE WHICHEVER IS GREATER.

Date Posted _____

Bond No. _____

Total Bond Posted to Date _____

2-18-80

*Round upwards to nearest \$10
**Attach worksheet documenting credit calculations