

Reclamation Advisory Memorandum

RAM # 73

Kentucky Natural Resources and Environmental Protection Cabinet

Department for Surface Mining Reclamation and Enforcement

From: Charles Martin, Acting Commissioner

Date: February 6, 1984

Subject: Delayed Filing of Performance Bonds on Technically Acceptable Applications for Transitioning Permanent Program Permits

Need for Policy Action

Due to the slow recovery of the coal market, some operators need to delay mining on permit areas which are being transitioned into the permanent program. In order to begin mining quickly when market conditions become favorable, operators might prefer to complete the processing of transition comprehensive permits rather than withdraw them and resubmit them later. To obtain a permanent program permit the operator must file a reclamation performance bond. However, in some cases, the operator may not wish to file bond until near the time he expects to begin mining. The Department recognizes this problem, and this RAM establishes a policy to deal with this situation.

Policy

Subject to certain conditions and restrictions, the filing of the reclamation performance bond for a transition comprehensive application which is technically acceptable may be delayed for up to five years.

Procedures

The Department will advise the applicant of the delay option when the applicant is notified that the application is technically acceptable (TAC). Applicants who wish to delay filing of bond must request, in writing, within thirty days of notification from the Department establishing the required bond amount that the Department hold the application in a deferred status. The Department will notify the applicant, in writing, that deferred status has been granted to the application.

No mining may be conducted while the application is in deferred status. For transition comprehensive applications for which the entire proposed permit area is undisturbed, no mining related activities of any kind may commence unless and until the permanent program permit is issued. For transition comprehensive applications which include areas which have been disturbed under a valid interim permit, the applicant must cease coal removal activities on the thirtieth day after notification from the Department establishing the required bond amount. However, reclamation activities must continue until all disturbed areas are reclaimed

in accordance with the interim permit. Reclamation deferments will not be granted for such areas. Coal removal and related activities cannot be resumed unless and until a permanent program permit has been issued.

When the applicant wishes to have the application reconsidered, the Department must be notified in writing. The applicant should not file the performance bond at this time since the Department will need to:

- 1) conduct a final field walk of the permit area, if necessary;
- 2) again, review the application for compliance with laws and regulations then in effect and advise the applicant of any necessary additional information or corrections to be submitted; and
- 3) reevaluate the reclamation performance bond and notify the applicant of the bond amount required to be filed, which may be different from the amount initially calculated.

When all necessary additional information and the required bond amount have been submitted to the Department, a permanent program permit will then be issued.

The longer the applicant waits to submit the bond the more likely it is that changed conditions could delay, or even prevent, the final issuance of the permit.