

Bonding Topics: 12/4/2018 Stakeholder Meeting

Bond Amounts

In accordance with Section 82-4-433, Montana Code Annotated (MCA), before a permit or amendment may be issued a bond must be submitted to and approved by the Department. The Department must determine the reclamation costs for impacted lands, and set the bond amount accordingly. The workgroup advanced the following concepts, and after careful consideration DEQ has agreed to:

- Reduce soil and overburden replacement costs from \$1.80 per cubic yard to \$1.25 per cubic yard
- Remove the Mobilization cost from the Bond Calculation Spreadsheet
- Change the term on the bonding spreadsheet from “Administrative Costs” to “Indirect Reclamation Costs to DEQ” (Mob/DeMob, Contingency, Engineering, Overhead, and Project Management) = 25% up to \$1,000,000 bond and 20% for a bond over \$1,000,000.
- Add to Bond Calculation Spreadsheet: “Minimum Bonding Amount” is \$25,000.
- Please note that this change will likely have an impact on older sites requesting Phase I release because they may be required to increase their bond amount. As a result, some operators may want to wait until their site is fully reclaimed in accordance with the Plan of Operation and submit a Phase II release request, thus avoiding the potential need to increase their bond.

Bond Processing

In accordance with Section 82-4-432, MCA, an application for a permit must be made using forms furnished by the Department.

Having only electronic images of bonds is a risk to the Department. A recent evaluation and comparison of business processes with other state agencies (i.e. MDT and DNRC) has necessitated DEQ to require original bonds prior to permit issuance. The new process is outlined below:

- A scanned copy of the bond will be sufficient for the completeness determination, so the operator can submit either a scanned copy of the bond or the original as part of the initial application submittal.
- Once the application is determined complete, there are no bonding deficiencies, and the operator is not going to make changes to the plan of operations that would increase or decrease the bond, the operator must submit the original bonding instrument including any applicable rider(s).
- If an original bond or rider is the last deficiency, the 10-working day statutory timeframe will still apply; however, DEQ will work as quickly as available resources allow to issue the permit once the original is received.

DEQ is currently developing a surety rider form that has been standardized for all mining programs across DEQ. This form will need to be used for all future surety riders and will be sent out and available on the webpage at a later date and will not be part of this rollout.