



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

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In Reply Refer To:
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July 10, 2009

EMS Transmission – 07/20/2009
Instruction Memorandum No. NM-2009-020
Expires: 09/30/2010

To: DMs and FMs (except FMs, Oklahoma and Amarillo)

From: DSD, Mineral Resources

Subject: New Bonding Procedures for Notices and Plans under 43 CFR 3809

Program Area: Surface Management under the Mining Law

Purpose: To update bonding procedures for notices and plans as a result of recent changes in New Mexico State Mining Act Rules.

Time Frame: Implement immediately.

Budget Impact: No effect.

Background: The State of New Mexico Mining Act Rules (Rules) pertain to all lands in New Mexico, except Indian lands. As a result of a recent revision of the Rules, all State exploration permits will be bonded by the State; they will continue to bond mining permits of 2 or more acres. A joint State-Bureau of Land Management (BLM) bond will be required when the BLM land is involved in operations under these permits. State mining permits of less than 2 acres and State “general permits” do not require bonding under the Rules but would be subject to the 3809 bonding requirements if the BLM land is involved.

Policy/Action: N/A

General

No activity under a notice or a plan of operations can commence without an approved financial guarantee instrument (bond) on file in the New Mexico State Office, Solid Minerals Adjudication (LLNM922000).

Effective April 30, 2009, all State permits require a bond except for a “general permit” and mining operations of less than 2 acres. Therefore, an approved joint State-BLM bond will be required for all notices and plans, except for operations involving the BLM land under a “general permit” that exceeds casual use and mining operations of less than 2 acres.

Joint State-BLM Bond

It is the responsibility of each Field Office (FO) to assure that an operator is adequately bonded before commencing operations under 43 CFR 3809. No activity will take place until LLNM922000 has acknowledged the joint bond.

FO Procedures

During initial discussions, inform the operator that the State Mining and Minerals Division (MMD) may require a permit and that bonding may have to be obtained from MMD.

If MMD is to permit the proposed operation, determine if their calculated bond amount for the proposed operation (reclamation cost determination) is adequate as to activities on the BLM land. Advise MMD that their bond must be a joint State-BLM bond and to obtain a BLM signature on the bond from LLNM922000.

Issue correspondence to the operator, with a copy to LLNM922000, stating that the amount of the State-BLM bond has been determined to be acceptable for reclamation of operations on the BLM land and that operations on the BLM land cannot commence until the bond is acknowledged by LLNM922000.

LLNM922000 Procedures

Determine if the joint bond instrument is acceptable.

Enter the bond information into the Automated Bond and Surety System.

Establish a serialized bond case file and safeguard a copy of the instrument.

Issue correspondence to the operator acknowledging the joint bond, with a copy to the FO.

The BLM Bond

FO Procedures

Establish with MMD that they do not need to bond the operation.

Determine the bond amount (reclamation cost determination) that is adequate for operations on the BLM land.

Issue correspondence to the operator, with a copy to LLNM922000, stating that the bond amount is acceptable for reclamation of operations on the BLM land and to contact LLNM922000 as to types of acceptable financial guarantee instruments and that operations cannot commence until the bond is accepted by LLNM922000.

LLNM922000 Procedures

Assure that the financial guarantee instrument is acceptable.

Enter the bond into the Automated Bond and Surety System.

Establish a serialized bond case file and safeguard the instrument.

Issue a **written decision** to the operator accepting the financial guarantee with a copy of the decision to the FO.

The BLM Statewide and Nationwide Bonds

Statewide or nationwide Federal bonding is available to operators under 43 CFR 3809. If the operator has a statewide or nationwide bond and if a State bond is required for the operation, contact MMD as to the best way to bond the operation (jointly or separately).

Follow the steps above for either a joint bond or the BLM bond.

The acceptable bond amount for a statewide or nationwide bond is the portion of the bond amount necessary to cover the reclamation of the BLM land.

Action Codes for Bonding Entered into 3809 Serial Register Page

<u>Action Code</u>	<u>Definition</u>	<u>Action Office</u>
022	Reclamation Cost Determination *	FO
300	Bond Required	FO
376	Bond Filed	SO
909	Bond Accepted	SO
460	Bond Amount Obligated	SO
915	Operations Authorized	SO
399	Bond No Longer Required	FO
378	Bond Terminated	SO
970	Case Closed	SO

*RCD date is starting date of 2 year term/bond review for a notice and 3 year bond review for a plan.

Coordination: These procedures have been coordinated with MMD. FOs will need to closely coordinate with MMD and LLNM922000.

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Distribution
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922:WDalness:de:x7405:07/07/09:IM Bonding