

15A NCAC 05B .0103 BONDING REQUIREMENTS

(a) After an application for a new mining permit or permit renewal, modification, or transfer is considered approvable by the Department, an applicant or permittee must file a bond with the Department in an amount to be determined by the Director.

(b) If the applicant or permittee disagrees with the bond amount determined by the Director, the applicant or permittee may submit to the Director for his consideration, an estimate of reclamation costs from a third party contractor to be used as the bond amount. The estimate shall be provided to the Director within 30 days following the receipt of the Director's initial bond determination. After considering the estimate and recommendations provided by his staff, the Director shall notify the applicant or permittee of his bond determination and the process and conditions used to set the bond amount.

(c) The Director may invite the applicant or permittee to submit to the Department an estimate of reclamation costs from a third party contractor for the Director's use in determining the required bond amount. After considering the estimate and the recommendations provided by his staff, the Director shall notify the applicant or permittee of his bond determination and the process and conditions used to set the bond amount.

(d) The amount of the bond shall be based on the costs to reclaim the affected land as determined by the reclamation plan approved pursuant to G.S. 74-53 and 15A NCAC 5B .0004(b). The bond amount shall be based on a range of five hundred dollars (\$500.00) to five thousand dollars (\$5,000) per acre of land approved by the Department to be affected. If the mining permit is modified to increase the total affected land, the bond shall be increased accordingly. The Director shall consider the method and extent of the required reclamation for a particular site in determining the bond amount. As areas at a site are reclaimed and formally released by the Department, the permittee may substitute a bond in an amount covering the remaining affected land at the site for the bond previously filed with the Department; otherwise, without such bond substitution, the Department shall retain the previously filed bond until all reclamation has been completed and approved by the Department.

(e) If an applicant or permittee has multiple sites, the applicant or permittee may file a separate bond with the Department for each site or the applicant or permittee may submit one blanket bond covering all sites in the aggregate amount of all bond totals. Once the total amount of all bonds for separate sites or the total of blanket bond(s) for all sites reaches five hundred thousand dollars (\$500,000):

- (1) the applicant or permittee with separate bonds may substitute a five hundred thousand dollar (\$500,000) blanket bond to be used for all future sites, or
- (2) the applicant or permittee with the five hundred thousand dollar (\$500,000) blanket bond covering all sites may use that blanket bond for all future sites,

if the Director finds that the applicant or permittee, in either case, has a good operating record, that the five hundred thousand dollars (\$500,000) is sufficient to reclaim all sites and that no additional reclamation bond money is needed. If the Director finds that the applicant or permittee does not have a good operating record, that the five hundred thousand dollars (\$500,000) is not sufficient to reclaim all sites, or that additional reclamation money is needed, the Director shall require per acreage bonding for future sites as provided in Paragraph (d) of this Rule.

(f) For the purposes of this Rule, a good operating record is defined as two consecutive years of operation within the State of North Carolina without final assessment of a civil penalty or other enforcement action pursuant to G.S. 74-64, or having a permit suspended or revoked under G.S. 74-58, or having a bond or other surety forfeited under G.S. 74-59. For the purposes of this Rule, a bond shall include any and all types of security allowed under G.S. 74-54.

History Note: Authority G.S. 74-51; 74-54; 143B-290;

Eff. February 1, 1976;

Amended Eff. January 1, 1994; April 1, 1990; November 1, 1985; November 1, 1984.