

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

324.63529 Performance bond; form, coverage, and amount; liability; execution by applicant and corporate surety; election to deposit cash or assets as security; acceptance of bond without separate surety; adjustment of bond or deposit amount and terms of acceptance; rules.

Sec. 63529.

(1) After a surface coal mining and reclamation permit application has been approved, but before the permit is issued, the applicant shall file with the department, on a form prescribed and furnished by the department, a bond for performance payable to the state and conditioned on faithful performance of all requirements of this part and the permit. The bond shall cover that area of land within the permit area on which the applicant will initiate and conduct surface coal mining and reclamation operations within the initial term of the permit. Before succeeding increments of surface coal mining and reclamation operations are initiated and conducted within the permit area, the permittee shall provide an additional bond or bonds to cover those increments. The amount of the bond required for each bonded area shall be determined by the department and shall reflect the reclamation requirements of the approved permit and the probable difficulty of the reclamation, giving consideration to such factors as topography, geology of the site, hydrology, and revegetation potential. The amount of the bond shall be sufficient to assure the completion of the reclamation plan if the reclamation had to be performed by the department in the event of forfeiture, and the bond for the entire area under 1 permit shall not be less than \$10,000.00.

(2) Liability under the bond is for the duration of the surface coal mining and reclamation operation and for a period coincident with applicant's responsibility for revegetation. Except as provided in subsection (3), the bond shall be executed by the applicant and a corporate surety licensed to do business in this state.

(3) The applicant may elect to deposit cash or the following types of assets as security for the performance of the applicant's obligation under the bond:

(a) Obligations or securities of, or fully guaranteed as to principal and interest by, the United States or any of the agencies of the United States, or for which the full faith and credit of the United States is pledged to provide for the payment of principal and interest.

(b) Obligations of a state of the United States, or an agency or authority of a state for which the full faith and credit of the state is pledged to provide payment of principal and interest.

(c) Obligations of this state or an agency or authority of this state for which specific revenues are pledged to provide payment of principal and interest.

(d) Negotiable certificates of deposit of a state or national bank.

(4) The cash deposit or market value of the assets shall be equal to or greater than the amount of the bond required for the bonded area.

(5) The department may accept the bond of the applicant without separate surety if the applicant demonstrates to the satisfaction of the department the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation sufficient for authorization to bond the amount.

(6) The amount of the bond or deposit required and the terms of each acceptance of the applicant's bond shall be adjusted by the department from time to time as affected land acreages are increased or decreased or where the cost of future reclamation changes.

(7) The department shall promulgate rules establishing standards for adequate bond coverage consistent with this section.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995

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