§ 74-54. Bonds.

(a) Each applicant for an operating permit, or for the modification of an existing permit shall, following the approval of the application, file and maintain in force a bond in favor of the State of North Carolina, executed by a surety approved by the Commissioner of Insurance, in the amount set forth below. The bond herein provided for must be continuous in nature and shall remain in force until cancelled by the surety. Cancellation by the surety shall be effectuated only upon 60 days written notice thereof to the Department and to the operator.

(b) The applicant shall have the option of filing a separate bond for each operating permit or of filing a blanket bond covering all mining operations within the State for which the applicant holds a permit. The amount of each bond shall be based upon the area of affected land to be reclaimed under the approved reclamation plan or plans to which the bond pertains, less any area where reclamation has been completed and released from coverage by the Department, pursuant to G.S. 74-56, or based on any other criteria established by the Commission, but shall not exceed one million dollars ($1,000,000). The Department shall set the amount of the required bond in all cases, based upon a schedule established by the Commission.

(c) The bond shall be conditioned upon the faithful performance of the requirements set forth in this Article and of the rules adopted under this Article. Upon filing the bond with the Department, the operator shall lose all right, title, and interest in the bond while the bond is held by the Department. Liability under the bond shall be maintained as long as reclamation is not completed in compliance with the approved reclamation plan unless released only upon written notification from the Department. Notification shall be given upon completion of compliance or acceptance by the Department of a substitute bond. In no event shall the liability of the surety exceed the amount of the surety bond required by this section.

(d) In lieu of the surety bond required by this section, the operator may file with the Department a cash deposit, an irrevocable letter of credit, a guaranty of payment from an acceptable bank, an assignment of a savings account in an acceptable bank on an assignment form prescribed by the Department, or other security acceptable to the Department. Security shall be subject to the release provisions of G.S. 74-56.

(e) If the license to do business in North Carolina of any surety upon a bond filed pursuant to this Article should be suspended or revoked, the operator shall, within 60 days after receiving notice thereof, substitute for the surety a good and sufficient corporate surety authorized to do business in this State. Upon failure of the operator to substitute sufficient surety within the time specified, the operator's permit shall be automatically revoked. (1971, c. 545, s. 9; 1981, c. 787, s. 4; 1987, c. 827, s. 85; 1993 (Reg. Sess., 1994), c. 568, s. 5; 2012-143, s. 1(d); 2013-410, s. 7(a); 2017-209, s. 13(d).)