

6131.0310 PERFORMANCE BONDS.

Subpart 1. **Need for bond.** At any time during the pendency of a permit application, during the mining operation, or following the completion of mining but prior to the release of the permittee, the commissioner:

A. shall require the operator to furnish a performance bond if the commissioner determines that the operator has failed to:

(1) perform any part of a reclamation measure required by the permit to mine or any amendment or modification thereto;

(2) comply with a provision of parts 6131.0010 to 6131.0340; or

(3) perform any research required, pursuant to Minnesota Statutes, sections 93.44 to 93.51; or

B. may require the operator to furnish a performance bond if there is reasonable doubt that the operator will be financially able to comply with the requirements of the permit to mine or parts 6131.0010 to 6131.0340.

Subp. 2. **Amount of bond.** The amount of a performance bond shall be determined by the commissioner and shall be equal to the estimated cost, to the Department of Natural Resources, of satisfactorily accomplishing reclamation of all lands disturbed and unreclaimed up to the date of annual bond review.

Subp. 3. **Conditions of bond.** A performance bond required pursuant to this part shall be conditioned upon the performance by the operator within a time period established by the commissioner of all actions necessary to correct the deficiency or noncompliance for which reason the bond is required. For the purpose of the bond, "performance" shall mean the accomplishment as determined by the commissioner of all actions required under the bond. The bond shall also provide that the surety or a successor or assign is not released in any way from liability thereunder by any amendment of the terms or conditions of the permit to mine; provided that, regardless of amendment, the surety shall be liable for no more than the amount specified in the bond. The need for and amount of all bonds shall be reviewed annually.

Subp. 4. **Other security and assurance.** Whenever an operator is required to furnish a performance bond pursuant to this part, the operator may, in lieu thereof:

A. Submit as security to the commissioner for deposit with the commissioner of management and budget, assignable bonds or notes of the United States in a sum equal, at their par value, to the amount of the required performance bond.

B. Give a lien against a real or personal property as its wholesale value in lieu of a bond. The property must remain in the state for the duration of the agreement and be managed and repaired by the permittee as necessary to maintain its value. Failure to

maintain value shall allow the commissioner to modify or revoke the permit to mine, or to require bonds or notes to be deposited as a replacement bond. The commissioner shall accept such property as assurance if it is determined, by the commissioner, that no other liens exist on said property; the wholesale value is adequate to cover reclamation costs; and sufficient market exists, such that, the sale of said property can occur rapidly.

C. Submit other security or assurances as may be acceptable to the commissioner.

The permittee shall submit an agreement authorizing the commissioner to collect or sell the bonds, notes, property, or other security or assurance so submitted or deposited, upon the same conditions as would constitute a default under a performance bond. The acceptance of United States bonds, notes, a lien on property, or other security or assurance, in lieu of a performance bond, shall have the same force and effect as if a performance bond has been furnished.

Subp. 5. **Return of security or assurance to permittee.** When it is determined during the annual bond review that security is no longer necessary, any bonds, notes, lien, or other security or assurance deposited pursuant to part 6131.0310 shall be returned to the permittee.

Subp. 6. **Access to mining areas after forfeiture.** Upon forfeiture of a bond the permittee shall allow access to the commissioner and contractors designated by the commissioner into all mining areas for the purpose of reclaiming all lands disturbed and unreclaimed.

Statutory Authority: *MS s 93.461*

History: *10 SR 277; 17 SR 1279; L 2003 c 112 art 2 s 50; L 2009 c 101 art 2 s 109*

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