

15A NCAC 05H .1402 BONDING REQUIREMENTS

(a) After an application for a permit, modification, or transfer of an Oil or Gas Well Permit is considered complete by the Department, the applicant or permittee shall provide an approved financial assurance instrument listed in Paragraph (b) of this Rule to the Department or each surface owner, as applicable in accordance with Rules .1403, .1404, and .1405 of this Section. The applicant or permittee shall not commence operations to drill, recomplete, restimulate, deepen, reenter, sidetrack, plug and abandon, plug back, or revise the location of any oil or gas well prior to providing one of the approved financial assurance instruments listed in Paragraph (b) of this Rule to the Department or surface owner(s).

(b) The permittee shall submit financial assurance to the Department using one of the following forms:

- (1) Form 7 – Irrevocable Letter of Standby Credit, which shall include the following information:
 - (A) the applicant's or permittee's name, address, telephone number, fax number, and email address;
 - (B) the letter of credit number, effective date, and amount;
 - (C) the name and address for the issuing institution;
 - (D) the date of expiration and date and frequency of renewals; and
 - (E) the issuing institution's representative's dated and notarized signature.
- (2) Form 8 – Surety Bond, which shall include the following information:
 - (A) the applicant's or permittee's name, address, telephone number, fax number, and email address;
 - (B) the name and the principal and local address of the issuing surety company;
 - (C) the bond number as assigned by the surety company;
 - (D) the amount of bond to be held by the State of North Carolina;
 - (E) the seal of the surety company;
 - (F) the signatures by the secretary or assistant secretary; principal; president, vice president, partner, or owner of the surety company;
 - (G) the signature of the resident agent of North Carolina and the agent or attorney in fact.
- (3) Form 9 – Assignment of Savings Account, which shall include the following information:
 - (A) the applicant's or permittee's name, address, telephone number, fax number, and email address;
 - (B) the name, address, and county of the bank;
 - (C) the dollar amount to be held to be payable to the Department on demand of the Department;
 - (D) the method and a copy of the instrument of assignment such as a passbook or deposit book;
 - (E) the notarized signature and date for the applicant or permittee; and
 - (F) an acknowledgement of the bank on the assignment that includes the date of assignment, signature of authorized agent of the bank, date of signature, and notarization.
- (4) Form 10 – Cash Deposit, which shall include the following information:
 - (A) the applicant's or permittee's name, address, telephone number, fax number, and email address;
 - (B) the county and nearest city or town where oil or gas well is located;
 - (C) the lease name and the oil or gas well name and number;
 - (D) the Commission issued drilling unit number; and
 - (E) a cashier's or certified check made payable to the North Carolina Department of Environmental Quality.

(c) The amount of the bond shall be determined by the Department or the Commission consistent with Rules .1403, .1404, and .1405 of this Section.

- (1) If the Oil or Gas Well Permit is modified to increase the total depth of the oil or gas well or the total disturbed land acreage increases, the bond shall be increased in accordance with Rules .1403 and .1404 of this Section, respectively; and
- (2) As areas at a well site are reclaimed in accordance with the Reclamation Plan required by Section .2100 of this Subchapter and approved and released by the Department, the permittee may substitute a new bond for the bond previously filed in an amount covering the remaining oil or gas wells and disturbed land acreage at the site.

(d) The bond herein provided shall be continuous in nature and shall remain in force until cancelled by the surety. Cancellation by the surety shall be effectuated only after 60 days written notice thereof to the Department or surface owner and to the permittee.

(e) The bond shall be conditioned on the faithful performance of the requirements set forth in the rules of this Subchapter. After filing the bond with the Department, the permittee 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 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.

(f) In lieu of the surety bond required by this Section, the permittee may file with the Department a cash deposit, an irrevocable letter of credit, a guaranty of payment to the Department and held by a financial institution consistent with the Uniform Commercial Code of North Carolina (NC UCC). Alternatively, a permittee may file with the Department an assignment of a savings account in a financial institution consistent with the NC UCC. Cash deposits, irrevocable letters of credit, guaranties of payment, and assignments of savings accounts shall be filed using forms in accordance with Paragraph (b) of this Rule. Security shall be subject to the release provisions of Rule .1406 of this Section.

(g) If the Commissioner of Insurance suspends or revokes the license to do business in North Carolina of any surety on a bond filed pursuant to this Subchapter, the permittee shall, within 60 calendar days after receiving notice thereof, substitute for the surety a corporate surety authorized to do business in this State. On failure of the permittee to substitute sufficient surety within this time, the permit shall be revoked.

History Note: Authority G.S. 113-391(a)(5)l; 113-421(a2); 113-421(a3);
Eff. March 17, 2015;
Amended Eff. September 1, 2022.