

17.24.144 BONDING: SURETY BONDS

(1) In addition to the requirements of [82-4-338](#) , MCA, surety bonds are subject to the following requirements:

(a) The department may not accept a surety bond in excess of 10% of the surety company's capital surplus account as shown on a balance sheet certified by a certified public accountant.

(b) The department may not accept a surety bond from a surety company for any person, on all permits held by that person, in excess of three times the company's maximum single obligation as provided in (a) above.

(c) The department may not accept a surety bond from a surety company for any person, on all permits held by that person, unless that surety is registered with the state auditor and is listed in the United States Department of the Treasury Circular 570 as revised.

(d) A power of attorney must be attached to the surety bond.

(e) The surety bond must provide a mechanism for the surety company to give prompt notice to the department and the operator of:

(i) any action alleging bankruptcy or insolvency of the surety or violation that would result in suspension or revocation of the license of the surety;

(ii) cancellation by the operator; and

(iii) cancellation or pending cancellation by the surety.

(f) Upon incapacity of a surety by reason of bankruptcy, insolvency or suspension or revocation of its license, the operator shall be deemed to be without bond coverage and shall promptly notify the department in the manner described in the bond. The department, upon notification, shall, in writing, notify the operator of a reasonable period, not to exceed 90 days, to replace bond coverage. If an adequate bond is not posted by the end of the period allowed, the operator shall cease mineral extraction, comply with the provisions of [82-4-336](#) (1) , MCA, and immediately commence reclamation in accordance with the Act, this subchapter and the reclamation plan. Mining operations must not resume until the department has determined that an acceptable bond has been posted.

(g) Whenever operations are abandoned concurrent with cancellation of the bond, the department must reclaim the site and forfeit the bond within two years, consistent with [82-4-341](#) , MCA, for any reclamation obligation incurred in the reclamation of the site.

History: [82-4-321](#), MCA; IMP, [82-4-338](#), [82-4-341](#), [82-4-360](#), MCA; NEW, 1994 MAR p. 2952, Eff. 11/11/94; TRANS, from DSL, 1996 MAR p. 2852; AMD, 1999 MAR p. 640, Eff. 4/9/99; AMD; 2000 MAR p. 473, Eff. 2/11/00.