

Reclamation Advisory Memorandum

RAM # 173

Kentucky Energy and Environment Cabinet Department for Natural Resources

From: James Cable, Commissioner

Date: April 9, 2026

Subject: Implementation of New Performance Bond Calculation Protocols (Supersedes)

This RAM supersedes RAM 155 issued May 4, 2012, to delete the Director Discretion regarding implementation provided within. Bonds calculated for all permits subject to review by the Division of Mine Permits will be calculated based on these protocols.

Introduction

On May 4, 2012, the Division of Mine Permits implemented the new performance bond calculation protocols found in 405 KAR 10:015E, an emergency regulation. KRS 350.060 (11) requires the cabinet to compute a performance bond amount sufficient to assure completion of reclamation if the work had to be completed by the cabinet in the event of forfeiture. This regulation was promulgated to resolve concerns relating to the adequacy of certain types of bond amounts previously calculated by the Department. Reclamation Advisory Memorandum (RAM) #155 described the changes to bond calculation methods designed to address those concerns and provide the schedule of implementation. The Director Discretion regarding implementation that RAM #155 provided is now being removed by RAM #173.

Summary of New Protocols

With the filing of 405 KAR 10:015E, the Department consolidated into one regulation all currently existing bonding criteria regarding types of bonds, bonding methods, terms and conditions of bonds, and new calculation protocols. This emergency regulation replaced 405 KAR 10:010 and 405 KAR 10:020 and has now been incorporated into 405 KAR 10:015.

This regulation also contained a protocol for bond calculation for demolition and disposal costs for materials used in mining operations at preparation plants. These disposal costs are also calculated for structures such as silos, hoists and buildings on surface disturbances at other mine sites.

Additionally, the regulation provided for the calculation of costs associated with those mine sites that have been identified as producers of substandard effluent discharges, requiring long term treatment.

The methods for both the above types of bonding situations have been utilized historically by the

Department but were formally promulgated through the emergency regulation and later adopted into the final regulation now in place.

To recap, these are the following are minimum bond amounts, revised rates-per-acre and the increase in supplemental assurance contained in the above-referenced regulation.

Minimum Bond Amounts

The revised minimum bond amounts for permits or increments are:

- \$75,000 for a permit bonded as a single area.
- \$75,000 per increment, for permits utilizing that bonding method.
- \$50,000 for a permit or increment that meets the criteria for re-mining.
- \$10,000 for a permit consisting only of underground operations, from which coal is removed through face-ups on other permits.

Revised Rates Per Acre

- \$2,500 per acre for coal haulage roads and mine maintenance areas.
- \$7,500 per acre for areas used for the disposal of coal refuse, be it coarse, fine or combined refuse.
- \$10,000 for off-bench (not included in any other permitted mining area), embankment sediment structures.
- \$2,000 per acre for areas involving re-mining operations.
- \$3,500 per acre for all other permitted areas, not otherwise discussed in this section of this RAM. Sediment structures located on pre-law mined benches will also be calculated at this rate per acre.

These rates per acre shall apply to the first acre permitted for each of the above features or facilities, and to each fraction thereof.

Supplemental Assurance

\$150,000 per 1500 feet of exposed highwall, or additional pit/work area.

Please note the regulatory information regarding supplemental assurance was previously found in 405 KAR 16:020, Section 6 but has been removed from that regulation and appears in 405 KAR 10:015 Section 11.

Finally, 405 KAR 10:015, Section 5(3) requires the cabinet to perform a programmatic review of bond calculation rates at a minimum of every two years to determine the adequacy of those amounts, in consideration of Inflation and other increases in reclamation costs. This review is separate from the midterm review described below but will incorporate any future adjustments as necessary.

Implementation

On May 4, 2012, the Division of Mine Permits began applying the above-referenced changes to bond calculations and continue to apply those changes under the current 405 KAR 10:015. All originals, amendments, and major and minor revisions that propose new surface disturbances **and have not been determined to be technically complete and acceptable (TRC/TAC)** have had their bonds calculated according to these protocols.

In addition, all pending and future renewals will have bonds evaluated, and recalculated as necessary, in the form of a midterm review in accordance with 405 KAR 8:010 Section 21(2).

Finally, all permits for which mining operations are on-going, or current permits which may be idle but still have reserves yet to be mined will have the bonds evaluated, and recalculated, if necessary, as part of the midterm review prescribed by 405 KAR 8:010, Section 19.

Additional Information

405 KAR 10:015 encompasses all regulatory information previously contained in 405 KAR 10:010, 405 KAR 10:020 and certain parts of 405 KAR 10:030 pertaining solely to performance bonds. 405 KAR 10:030 solely addresses the terms, conditions and related information for liability insurance. All other subchapters of 405 KAR Chapter 10 remain unchanged by the emergency regulation.

If you have any questions or comments about this RAM or need further information concerning bond calculations please contact the Director of the Division of Mine Permits, # 300 Sower Boulevard, Frankfort, KY 40601 or call (502) 782-6674.

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