405 KAR 30:050. Bonding requirements for long-term facilities and structures.

RELATES TO: KRS 350.600
STATUTORY AUTHORITY: KRS 224.033, 350.028, 350.050, 350.151, 350.600
NECESSITY, FUNCTION, AND CONFORMITY: KRS 350.600 requires the Environmental and Public Protection Cabinet to develop administrative regulations for oil shale operations to minimize and prevent their adverse effects on the citizens and the environment of the Commonwealth. This administrative regulation sets forth procedures to determine bond amounts, periods of liability, types of bonds, and forfeiture for certain long-term facilities and structures. This administrative regulation is applicable to portions of oil shale operations which will disturb the surface for more than five (5) years and certain other structures and facilities.

Section 1. Applicability. (1) Operations subject to the provisions of this administrative regulation are:
(a) Portions of oil shale operations which will continuously disturb the surface for a period in excess of five (5) years and surface construction activities related to drainage treatment and subsidence control measures;
(b) Oil shale processing facilities to be operated for more than five (5) years from the date a permit is first issued;
(c) Oil shale refuse areas to be operated for more than five (5) years;
(d) Oil shale facilities to be operated for more than five (5) years from the date a permit is first issued; and
(e) Long-term oil shale related facilities to be permitted for operation longer than five (5) years in accordance with 405 KAR 30:130.
(2) Such operations conducted within a permit area for a mine including areas or facilities not subject to this administrative regulation may be bonded as a separate increment of the mine permit area. If bonded separately, provisions of this administrative regulation shall apply to that increment. If bonded as part of the permit area which included areas or facilities not subject to this administrative regulation, bond liability shall continue in accordance with 405 KAR 30:040.

Section 2. Amount of Bond Required. (1) The cabinet shall determine the bond amount necessary to complete reclamation of the area in accordance with 405 KAR 30:040.
(2) The area considered in the reclamation plan shall include the entire area disturbed.
(3) The amount of bond necessary to obtain a permit is the entire performance bond required during the term of the permit.

Section 3. Period of Liability. Liability under performance bonds shall be as set forth in 405 KAR 30:040, Section 5.

Section 4. Type of Bond. Performance bonding may be authorized by the cabinet in accordance with the methods listed in 405 KAR 30:060.

Section 5. Applicability of Other Administrative Regulations. Except to the extent that provisions of 405 KAR Chapter 30 conflict with this administrative regulation, all other provisions of 405 KAR Chapter 30, shall apply to bonding requirements for facilities subject to this administrative regulation.

Section 6. Bond Forfeiture. The cabinet may forfeit a bond pursuant to this administrative regulation if the cabinet determines that a permittee is subject to forfeiture under the criteria of 405 KAR 30:080. (8 Ky.R. 575; eff. 6-2-1982; TAm eff. 8-9-2007; Crt eff. 7-3-2018.)