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Emily B Caudill
REGULATIONS COMPILER

1 ENERGY AND ENVIRONMENT CABINET

2 Department for Natural Resources

3 Division of Mine Permits

4 (Repealer)

5 405 KAR 1:011. Repeal of 405 KAR Chapter 1.

6 RELATES TO: KRS 350.060, 350.070, 350.085, 350.090, 350.093, 350.100, 350.130,
7 350.135, 350.200, 350.210, 350.220, 350.405-350.455, 350.465

8 STATUTORY AUTHORITY: KRS 350.020, 350.028, 350.050, 350.060, 350.465

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 350.028(1) provides the Energy and
10 Environment Cabinet the authority to promulgate administrative regulations. This administrative
11 regulation repeals 405 KAR Chapter 1. The regulations in 405 KAR Chapter 1 were established
12 as interim program regulations related to the strip mining of coal and are no longer needed once
13 the Commonwealth's permanent program administrative regulations were approved by the Office
14 of Surface Mining, Reclamation, and Enforcement. 405 KAR Chapters 7 to 24 now contain the
15 regulations pertaining to coal mining in the Commonwealth.

16 Section 1. The following administrative regulations are hereby repealed:

17 (1) 405 KAR 1:005, Applicability of chapter;

18 (2) 405 KAR 1:007, Termination and reassertion of jurisdiction;

19 (3) 405 KAR 1:010, Definitions;

20 (4) 405 KAR 1:015, Documents incorporated by reference;

21 (5) 405 KAR 1:020, General provisions;

1 (6) 405 KAR 1:030, Small operator exemption;

2 (7) 405 KAR 1:040, Operations affecting two (2) acres or less;

3 (8) 405 KAR 1:050, Permit requirements;

4 (9) 405 KAR 1:051, Incremental bonding;

5 (10) 405KAR 1:060, Inspection and enforcement procedures;

6 (11) 405 KAR 1:070, Postmining land use;

7 (12) 405 KAR 1:080, Signs and markers;

8 (13) 405 KAR 1:090, Use of explosives,

9 (14) 405 KAR 1:100, Topsoil handling;

10 (15) 405 KAR 1:110, Revegetation;

11 (16) 405 KAR 1:120, Access roads, haul roads, and other transport facilities;

12 (17) 405 KAR 1:130, Backfilling and grading;

13 (18) 405 KAR 1:141, Disposal of excess spoil;

14 (19) 405 KAR 1:150, Acid and toxic materials and waste materials;

15 (20) 405 KAR 1:160, Protection of the hydrologic system;

16 (21) 405 KAR 1:170, Water quality standards and surface water monitoring;

17 (22) 405 KAR 1:180, Groundwater;

18 (23) 405 KAR 1:190, Diversions of surface and underground flows;

19 (24) 405 KAR 1:200, Sediment control measures;

20 (25) 405 KAR 1:210, Coal waste dams;

21 (26) 405 KAR 1:220, Permanent impoundments;

22 (27) 405 KAR 1:230, Steep slope mining;

23 (28) 405 KAR 1:240, Mountaintop removal;

1 (29) 405 KAR 1:250, Prime farmland; and

2 (30) 405 KAR 1:260, Contemporaneous reclamation.

405 KAR 1:011 approved for filing.

4/27/2018

Date

Charles G. Snavely, Secretary
Energy and Environment Cabinet

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 26, 2018 at 5:00 P.M. (Eastern Time) in Training Room C of the Energy and Environment Cabinet at 300 Sower Blvd, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2018. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Michael Mullins, Regulation Coordinator, 300 Sower Blvd, Frankfort, Kentucky 40601, phone: (502) 782-6720, fax: (502) 564-4245, email: michael.mullins@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation No.: 405 KAR 1:011
Contact Person: Michael Mullins

Contact number: (502) 782-6720
Email: michael.mullins@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals 405 KAR Chapter 1.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to repeal 405 KAR Chapter 1. This information is no longer necessary. This chapter was part of the commonwealth's interim program and with the approval of the state's permanent program, is no longer needed.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 350.028(1) authorizes the cabinet to promulgate administrative regulations pertaining to surface coal mining operations including strip mining and the surface effects of underground mining. This administrative regulation repeals the interim program regulations in 405 KAR Chapter 1 related to strip mining.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation repeals the administrative regulations in 405 KAR Chapter 1. The administrative regulations in 405 KAR Chapters 7 – 24 are the permanent program regulations and replaced these interim program administrative regulations.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment repeals the regulation pertaining to the Commonwealth's interim program related to strip mining.

(b) The necessity of the amendment to this administrative regulation: The repeal is necessary because the information in 405 KAR Chapter 1 is no longer relevant.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the statute by repealing the regulations pertaining to the Commonwealth's interim program administrative regulations related to strip mining.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will repeal the requirements pertaining to the Commonwealth's interim program administrative regulations pertaining to strip mining.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The repeal of this regulation will have no impact, as these are interim program regulations and are no longer needed. All permits issued under these administrative regulations are either no longer active or were moved under the permanent program administrative regulations in 405 KAR Chapters 7 - 24.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action will need to be taken to comply with this repealer.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no costs associated with this repealer.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There are no benefits associated with complying with this repealer.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There are no costs associated with the repeal of this administrative regulation.

(b) On a continuing basis: There are no costs associated with the repeal of this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding source is required to repeal these administrative regulations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fees are necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This repealer does not involve any fees.

(9) TIERING: Is tiering applied? No, this is a repeal of an administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation No.: 405 KAR 1:011
Contact Person: Michael Mullins

Contact number: (502) 782-6720
Email: michael.mullins@ky.gov

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?
The Division of Mine Permits and the Division of Mine Reclamation and Enforcement.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.
KRS 350.028, 350.465, 30 C.F.R. Part 710 - 725.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?
This repeal will not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?
This repeal will not generate revenue.

(c) How much will it cost to administer this program for the first year?
This repeal will not cost the agency additional funding.

(d) How much will it cost to administer this program for subsequent years?
This repeal will not cost the agency additional funding.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):	There is no known effect on current revenues.
Expenditures (+/-):	There is no known effect on current expenditures.
Other Explanation:	There is no further explanation.

FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation No.: 405 KAR 1:011
Contact Person: Michael Mullins, Reg. Coordinator

Contact number: (502) 782-6720
Email: Michael.mullins@ky.gov

1. Federal statute or regulation constituting the federal mandate. 30 C.F. R. Part 710 to 725

2. State Compliance Standards. KRS Chapter 350.

3. Minimum or uniform standards contained in the federal mandate. The C.F.R. citations listed above set the minimum information related to the initial program administrative regulations.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. This repealer is deleting the cabinet's interim program administrative regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. NA