



STATEMENT OF EMERGENCY

405 KAR 8:015E

KRS 224.10-100(6) requires the cabinet to provide a program for the control and regulation of surface mining in a manner to accomplish the goals of KRS Chapter 350. A well-funded and adequately-staffed permitting program is essential to the goal of preventing the injurious effects of surface mining on the people and natural resources of the Commonwealth set out in KRS 350.020. KRS 224.10-100(20) provides the cabinet with the authority to establish fees for the cost of processing applications for permits. The permitting process is the step by which the cabinet can ensure that adequate and proper controls are placed on these operations. Currently, the amount received from the permitting process does not cover the cost of staff and resources for the surface mining permitting program. The cabinet is unable to provide timely and thorough review of the permit applications or to provide timely action on permits to mining entities. The time required to promulgate an ordinary regulation will not allow the cabinet to address the loss of these abilities. Thus, Kentucky's role in the safe and environmentally sound production of energy resources to meet national needs is jeopardized and therefore creates a necessity to pursue an emergency regulation. This emergency regulation will allow the cabinet to provide staffing and resources necessary to meet the goals of KRS 224.10-100(6) and 350.020. The emergency regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

STEVEN L. BRESHEAR, Governor

LEONARD K. PETERS, Secretary  
Energy and Environment Cabinet

11/3/09  
Date

10/27/09  
Date

1 ENERGY AND ENVIRONMENT CABINET

2 Department for Natural Resources

3 Division of Mine Permits

4 (New Emergency Administrative Regulation)

5 405 KAR 8:015E. Processing Assessments

6 RELATES TO: KRS 224.10-100(6) and (20), 350.060, 350.070, 350.135

7 STATUTORY AUTHORITY: KRS 224.10-100(6) and (20)

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(20) provides the  
9 cabinet the authority to promulgate administrative regulations to establish a fee or schedule of  
10 fees for the cost of processing applications for permits. This administrative regulation  
11 establishes a schedule of assessments related to the processing of various types of permit  
12 applications corresponding to KRS Chapter 350.

13 Section 1. Processing Assessments. (1) An applicant shall remit a processing assessment on  
14 each of the following applications submitted to the cabinet. The assessments shall be applied in  
15 the following manner:

16 (a) \$2,125 for an original application;

17 (b) \$1,375 for an amendment or major revision;

18 (c) \$375 for a minor revision, renewal or transfer.

19 (2) The processing assessment shall accompany the application in the form of a cashier's  
20 check or money order payable to the Kentucky State Treasurer. An application shall not be  
21 processed unless the appropriate assessment accompanies the application.

405 KAR 8:015E approved for filing.  
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10/27/09

Date

L. K. Peters

Leonard K. Peters, Secretary  
Energy and Environment Cabinet

**REGULATORY IMPACT ANALYSIS  
AND TIERING STATEMENT**

**Administrative Regulation No.:** 405 KAR 8:015E

**Contact Person:** Ronald P. Mills, Director

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:** This administrative regulation establishes a schedule of assessments related to the processing of various types of permit applications corresponding to KRS Chapter 350.

**(b) The necessity of this administrative regulation:** This administrative regulation is necessary to provide the assessment schedule to a permit applicant who submits an original application, renewal, major or minor revision, amendment, or a transfer.

**(c) How this administrative regulation conforms to the content of the authorizing statutes:** KRS 224.10-100(6) gives the cabinet the authority to provide for the control and regulation of surface coal mining and reclamation in a manner to accomplish the purposes of KRS Chapter 350. KRS 224.10-100(20) authorizes the cabinet to recover costs associated with the processing of applications for permits authorized by KRS 224.10-100. This administrative regulation establishes a processing assessment for original application, renewal, major or minor revision, amendment, or a transfer.

**(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:** This administrative regulation establishes assessments that will enable the cabinet to perform the duties required by KRS Chapter 350.

**(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:** N/A

**(b) The necessity of the amendment to this administrative regulation:** N/A

**(c) How the amendment conforms to the content of the authorizing statutes:** N/A

**(d) How the amendment will assist in the effective administration of the statutes:** N/A

**(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:** This administrative regulation will impact surface mines throughout the Commonwealth of Kentucky. There are 415 coal companies in the Commonwealth with inspectable permits. In Fiscal Year 2009 there were 1,187 permitting actions to which these assessments would have been applicable. The ten year average is 1,012.

**(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:** The regulated entities will be responsible for submitting the appropriate assessment with their permit applications.

**(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):** The type of permit application the regulated entity submits will determine the cost to the entity. The associated costs are:

\$2,125 for an original application;

\$1,375 for an amendment or major revision;

\$375 for a minor revision, renewal or transfer.

**(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):** The proposed assessments will enable the Division of Mine Permits to hire additional permit review staff which will decrease the permit review time.

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

**(a) Initially:** Implementation of these changes will be absorbed by current staff.

**(b) On a continuing basis:** Implementation of these changes will be absorbed by current staff on a continuing basis.

**(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:** The funding source associated with this program amendment will be the assessments listed above. However, these assessments will be deposited into a Restricted Fund for the sole use of the department.

**(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:** This administrative regulation does establish an assessment that will fund the program change.

**(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:** This administrative regulation establishes an assessment that follows the schedule listed in Section 1 of this administrative regulation.

**(9) TIERING: Is tiering applied? (Explain why or why not)**

Yes. Tiering was applied to the cost of the permit applications. Depending on the type of application a different assessment amount was established.

**FISCAL NOTE ON STATE OR LOCAL GOVERNMENT**

**Admin. Regulation No. 405 KAR 8:015E    Contact Person: Ronald P. Mills, Director**

**1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)?**

**Yes   X      No**

**If yes, complete questions 2-4.**

**2. 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 will be impacted because the established assessment will be used to hire additional staff in order to reduce permit review time.**

**3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100(6) provides for the control and regulation of surface coal mining and reclamation in a manner to accomplish the purposes of KRS Chapter 350. KRS 224.10-100(20) authorizes the cabinet to recover costs associated with the processing of applications for permits authorized by KRS 224.10-100.**

**4. 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 regulation will increase the revenues of the state by approximately \$794,500.**

**(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 regulation will increase the revenues of the state by approximately \$794,500 in subsequent years.**

**(c) How much will it cost to administer this program for the first year? This administrative regulation will generate revenue. However, existing resources will be used to process assessments.**

**(d) How much will it cost to administer this program for subsequent years? This administrative regulation will generate revenue. However, existing resources will be used to process assessments.**

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

**Revenues (+/-): NA**

**Expenditures (+/-): NA**

**Other Explanation: NA**