



1 ENERGY AND ENVIRONMENT CABINET

2 Department for Natural Resources

3 Division of Mine Permits

4 (Amendment)

5 405 KAR 16:020. Contemporaneous reclamation.

6 RELATES TO: KRS 350.062, 350.093, 350.100, 350.110, 350.405, 350.410, 350.435,
7 350.450, 350.465, 30 C.F.R. Parts 730-733, 735, 816.100, 917, 30 U.S.C. 1253, 1255

8 STATUTORY AUTHORITY: KRS [~~Chapter 13A,~~] 350.028, 350.093, 350.100, 350.465,
9 30 C.F.R. Parts 730-733, 735, 816.100, 917, 30 U.S.C. 1253, 1255

10 NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 350 in pertinent part
11 requires the cabinet to promulgate rules and administrative regulations establishing performance
12 standards for protection of people and property, land, water and other natural resources, and
13 aesthetic values, during surface mining activities and for restoration and reclamation of surface
14 areas affected by mining activities. This administrative regulation sets forth requirements for
15 keeping reclamation operations, including backfilling, grading, soil preparation and revegetation,
16 contemporaneous with mining operations.

17 Section 1. Definition.

18 (1) "Completed reclamation" means completion of reclamation phase I as defined by 405
19 KAR 10:040, Section 2(4)(a).

20 Section 2. General. Reclamation operations, including but not limited to, backfilling,
21 grading, topsoil redistribution, liming, fertilizing, other soil preparation, seeding, planting,

1 mulching and revegetation of all land that is disturbed by surface mining activities, shall occur as
2 contemporaneously as practicable with mining operations and in accordance with this
3 administrative regulation.

4 Section 3 [~~Section 2~~]. Backfilling and Grading. Backfilling and grading operations shall
5 proceed as concurrently with mining operations as possible and in accordance with the
6 requirements of this section, except that specific time and distance criteria set forth in the approved
7 plan for backfilling and grading shall take precedence over corresponding criteria in this
8 administrative regulation. The approved backfilling and grading plan may specify time and
9 distance criteria less restrictive than those set forth in this administrative regulation, and may allow
10 more than one (1) pit per permit area, if the permittee has demonstrated through detailed written
11 analysis in the permit application that other criteria or additional pits are essential to the proposed
12 mining and reclamation operations, and the cabinet has determined that use of the requested
13 criteria or additional pits will not likely cause adverse environmental impacts. If alternative
14 distance limits are approved or additional pits allowed, then the applicant shall provide
15 supplemental assurance in accordance with Section 11 of 405 KAR 10:015 [~~6 of this~~
16 ~~administrative regulation~~].

17 (1) Area mining. Backfilling and grading to approximate original contour on a disturbed
18 area shall be completed within 180 calendar days following the removal of coal from that area, and
19 shall not be more than four (4) spoil ridges behind the pit being mined, with the spoil from the pit
20 being mined being considered the first spoil ridge. There shall be only one (1) pit allowed per
21 permit area.

22 (2) Auger mining. Coal removal in a given location shall be completed within sixty (60)
23 calendar days after the initial excavation for the purpose of removal of topsoil or overburden at that

1 location. Auger holes shall be sealed as required by 405 KAR 20:030. Backfilling and grading to
2 approximate original contour shall follow coal removal by not more than sixty (60) days and by
3 not more than 1500 linear feet. There shall be only one (1) auger mining operation allowed per
4 permit area.

5 (3) Contour mining. Coal removal in a given location shall be completed within sixty (60)
6 calendar days after the initial excavation for the purpose of removal of topsoil or overburden at that
7 location. Backfilling and grading to approximate original contour shall follow coal removal by not
8 more than sixty (60) calendar days and by not more than 1500 linear feet. There shall be only one
9 (1) pit allowed per permit area.

10 (4) Multiple-seam contour mining. If overlapping multiple cuts producing a benched
11 highwall are made to remove more than one (1) coal seam at a given location, backfilling and
12 grading at that location shall be completed within sixty (60) calendar days after removal of the last
13 coal seam at that location and shall follow the advancing cut of the last coal seam by not more than
14 1500 feet. Removal of all coal seams shall proceed as concurrently as possible and in a timely
15 manner, in order to minimize the time period in which disturbed areas are exposed prior to
16 reclamation. There shall be only one (1) multiple seam operation allowed per permit area.

17 (5) Combined contour mining and auger mining. Coal removal by contour mining at a
18 given location shall be completed within the time frame specified in subsection (3) or (4) of this
19 section as appropriate. Auger mining at a given location shall be completed within thirty (30)
20 calendar days after coal removal by contour mining at that location. Sealing of auger holes and
21 backfilling and grading shall then be completed as required in subsection (2) of this section. There
22 shall be only one (1) contour mining pit and one (1) auger mining operation allowed per permit
23 area.

1 (6) Mountaintop removal. Backfilling and grading on a disturbed area shall be completed
2 within 180 calendar days following the removal of coal from that area. If the mountaintop removal
3 operation begins by mining a contour cut around all or a part of the mountaintop, the time and
4 distance limits for contour mining shall apply to that cut unless alternative limits are approved
5 under Section 3 [~~Sections 2 and 6~~] of this administrative regulation and Section 11 of 405 KAR
6 10:015.

7 (7) All final backfilling and grading shall be completed before equipment necessary for
8 backfilling and grading is removed from the site.

9 Section 4 [~~Section 3~~]. Soil Preparation and Revegetation. (1) When backfilling and grading
10 have been completed on an area, the required topsoil redistribution, liming, fertilizing, other soil
11 preparation, seeding, planting, and mulching of that area shall be completed as soon as possible in
12 a manner consistent with the approved plans for topsoil handling and revegetation and in
13 accordance with 405 KAR 16:200, Section 3.

14 (2) The time allowed for soil preparation and revegetation pursuant to subsection (1) may
15 exceed thirty (30) calendar days only when specifically authorized in the approved plans for topsoil
16 handling and revegetation or when authorized pursuant to Section 5 or 6 [~~Sections 4 or 5~~] of this
17 administrative regulation.

18 Section 5 [~~Section 4~~]. Deferments. (1) The cabinet may allow a permittee to defer the time
19 criteria for coal removal and contemporaneous reclamation requirements on specified areas if the
20 permittee can demonstrate that the deferment is necessary to address at least one (1) of the
21 following:

22 (a) Adverse condition including weather, labor, and other conditions clearly beyond the
23 permittee's control.

1 (b) Combined surface and underground mining activities subject to the provisions of 405
2 KAR 8:050, Section 7 and 405 KAR 20:020.

3 (c) Coal marketing problems.

4 (2) Application for a deferment pursuant to this section shall be in the form prescribed by
5 the cabinet. Approval of the deferment request shall be made in writing. The approval shall state
6 that the deferment is justified and that no environmental damage will occur during the period of
7 deferment.

8 (a) Application for a deferment pursuant to subsection (1)(a) of this section for adverse
9 conditions shall be made in writing and shall include documentation of the adverse conditions
10 beyond the operator's control and demonstration of impossibility of conducting coal removal and
11 contemporaneous reclamation in a timely manner due to those conditions. The application shall be
12 filed at the appropriate regional office of the department. Upon a successful demonstration that the
13 adverse conditions exist, the regional administrator may grant a reclamation deferment for a
14 maximum of thirty (30) days, on a form provided by the department. At least seven (7) days prior
15 to the expiration of the deferment, the permittee may request, in writing, an additional extension,
16 again stating the reason for the request and providing any appropriate additional documentation.
17 The regional administrator may renew the original extension once upon request, however the
18 renewal shall not exceed thirty (30) days. Any need for additional time shall be demonstrated to the
19 Division of Mine Reclamation and Enforcement [~~Field Services~~] in Frankfort by written request.
20 The request shall initially be submitted to the regional office at least two (2) weeks prior to the
21 expiration of the renewed deferment. Upon recommendation of the regional administrator, the
22 director of the Division of Mine Reclamation and Enforcement [~~Field Services~~] shall issue his
23 decision on or before expiration of the deferment.

1 (b) Application for a deferment pursuant to subsection (1)(b) of this section for combined
2 surface and underground mining shall be made according to 405 KAR 8:050, Section 7.

3 (c) Application for a deferment pursuant to subsection (1)(a) of this section for coal
4 marketing problems shall be made according to Section 6 [~~5~~] of this administrative regulation.

5 (3) The applicant has the burden of establishing the need for a deferment. The applicant
6 shall demonstrate that reclamation on the site is contemporaneous as of the date of the request for
7 deferment and that distance requirements for contemporaneous reclamation will be met during the
8 period of deferment. The permittee shall continue to comply with the time limits of the coal
9 removal and contemporaneous reclamation requirements until the deferment is issued.

10 (4) Reclamation deferments may be approved for a period reasonably related to the
11 specified conditions justifying the deferment. The deferral shall not extend beyond the expiration
12 date of the permit and in no event shall the aggregate deferral period exceed thirty (30) months,
13 except where approved combined mining is being carried out under subsection (1)(b) of this
14 section.

15 (5) The cabinet shall periodically reexamine and update the amount of the bond on the
16 permit area so that the amount of the bond is sufficient to assure completion of reclamation if the
17 work had to be performed by the cabinet in the event of forfeiture.

18 Section 6 [~~Section—5~~]. Additional Requirements for Deferments for Coal Marketing
19 Problems. Upon written application conforming to the requirements of the statutes and
20 administrative regulations, the cabinet may grant a deferment of coal removal and
21 contemporaneous reclamation for a period not to exceed thirty (30) months pursuant to KRS
22 350.093.

23 (1) Application requirements.

1 (a) An applicant for a deferment of coal removal and contemporaneous reclamation shall
2 submit an application on a form specified by the cabinet. An application shall contain at least the
3 following:

4 1. A demonstration of the need for the deferment, including documentation of the coal
5 marketing problem.

6 2. A plan consisting of a detailed narrative description of the method by which the
7 applicant shall conform to each of the performance standards specified in subsection (2) of this
8 section.

9 3. A detailed schedule for implementation of each of the performance standards of
10 subsection (2) of this section, which may not extend beyond thirty (30) days from the issuance by
11 the cabinet of a deferment from coal removal and contemporaneous reclamation.

12 4. An itemized estimate of the total cost of reclamation of the area proposed for deferment.
13 The estimate shall, at a minimum, include calculations and supporting data demonstrating the
14 volume of spoil necessary for backfilling and grading all open pits and highwalls, the cost of
15 backfilling those pits and highwalls, the cost of final grading and revegetation of the entire
16 disturbed area, and the cost of moving necessary reclamation equipment to the job site.

17 5. Written consent of the surety for the deferment if the permit area or increment is covered
18 by a surety bond.

19 (b) The applicant shall place an advertisement in the newspaper of largest bona fide
20 circulation in each county in which the permit is located. The advertisement shall be published
21 within ten (10) days after the date the application is submitted to the cabinet and shall contain, at a
22 minimum, the location of the area for which coal removal and contemporaneous reclamation are
23 proposed to be deferred, the reason for which the deferment is sought, and the duration of the

1 requested deferment. The advertisement shall also indicate that the deferment shall not exceed six
2 (6) months initially, but may be renewed for additional six (6) months periods up to a maximum of
3 thirty (30) months. The applicant shall submit proof of the advertisement to the cabinet within
4 fifteen (15) days after application for the deferment. The application shall not be deemed complete
5 until the proof is submitted.

6 (c) The applicant shall also notify, in writing, the owners of the surface of the permit area
7 and adjacent areas as listed on the permit application. The applicant shall provide proof of this
8 notice to the cabinet. The application shall not be deemed complete until the proof is submitted.
9 Within five (5) days after receipt of a complete application, the cabinet shall notify those other
10 persons, if any, who it determines to have an interest which is or may be adversely affected by the
11 proposed deferment.

12 (d) Any person with an interest which is or may be adversely affected may file written
13 comments and objections to the application for a deferment within ten (10) days after receipt of the
14 written notice or publication of the newspaper notice, whichever is later.

15 (e) Upon receipt of the application, the cabinet shall examine the data and calculations
16 submitted pursuant to subsection (1)(a)4 of this section and shall cause an inspection of the area
17 subject to the proposed deferment to be made by an authorized agent of the cabinet. Based upon
18 the data supplied and the inspection, the Division of Permits of the cabinet shall determine whether
19 the existing bond for the entire permit or increment is sufficient for the cabinet to completely
20 reclaim the entire disturbed area of the permit or increment at the expiration of the deferment. If
21 the existing bond is insufficient, then the cabinet shall require, prior to approving the deferment,
22 that the applicant file such additional bond as is determined by the cabinet to be sufficient for the
23 cabinet to completely reclaim the disturbed area.

1 (f) The cabinet shall consider the application, any other submittals from the applicant and
2 any comments received from the public, and shall render a final decision on the application within
3 thirty (30) days of receipt of the complete application. If the cabinet determines that the applicant
4 has satisfied the requirements for a deferment from coal removal and contemporaneous
5 reclamation contained in KRS 350.093(2) and in this administrative regulation, then the cabinet
6 shall grant a deferment to the applicant for a period not to exceed six (6) months. Upon approval
7 by the cabinet, the plan and schedule proposed by the applicant and any conditions imposed on the
8 approval by the cabinet shall become conditions of the permit.

9 (2) Performance standards. Each permittee subject to a deferment shall, at a minimum:

10 (a) Complete final reclamation including backfilling, grading, topsoiling and revegetation
11 on all disturbed areas; except that those areas of the pit, work area, excess spoil disposal areas,
12 topsoil storage areas, and access road necessary to allow resumption of coal extraction without
13 redisturbance of finally reclaimed areas may be exempted from this requirement for the duration of
14 the deferment. In order to meet this requirement, the permittee may be required to reclaim closer to
15 the pit than the distance limits specified in the contemporaneous reclamation administrative
16 regulation.

17 (b) Mulch or establish quick growing temporary vegetation, or both, on all areas exempted
18 under paragraph (a) of this subsection (except for haul road surfaces) such as excess spoil disposal
19 areas, work areas, topsoil storage areas, and all other areas which have been cleared of vegetation,
20 to the extent technically practicable to achieve erosion control or stability as determined by the
21 cabinet. The permittee shall maintain the cover on all these areas to minimize erosion throughout
22 the deferment period.

1 (c) Acid- or toxic-producing spoil shall not be left exposed but shall be covered or treated
2 in accordance with Section 3 of 405 KAR 16:190 and 405 KAR 18:190.

3 (d) Supplemental sediment control measures such as straw dikes and fabric filter fences
4 may be required by the cabinet on a case-by-case basis to minimize additional contributions of
5 sediment to the stream flow or run-off.

6 (e) Where accumulation of water in the pit may adversely impact the hydrologic balance,
7 public health and safety or the environment, the cabinet shall require such measures as are
8 necessary to minimize adverse impacts. These may include but are not limited to such measures as:

- 9 1. Providing drainage from the pit to prevent breaching of the undisturbed berm.
- 10 2. Pumping the water to a treatment facility when accumulation of acid or toxic water in the
11 pit may result in contamination of the ground water.

12 (3) Deferment implementation.

13 (a) The permittee shall implement the terms of the approved plan within the time schedule
14 approved by the cabinet and consistent with this administrative regulation.

15 (b) Except as expressly modified by the approved plan, schedule, and conditions in the
16 deferment approval, the permittee shall comply with all of the requirements of the administrative
17 regulations and the permit conditions which would apply to the operation had the deferment not
18 been granted. These requirements include but are not limited to the following:

19 1. All discharges of water from the permitted area shall be continually treated to meet the
20 applicable effluent limitations.

21 2. All water quality monitoring and reporting otherwise required shall continue.

22 3. All diversion ditches, sedimentation ponds, haul road drainage ditches and culverts, etc.,
23 shall be rehabilitated as necessary and continually maintained to comply with the applicable

1 performance standards and with the designs approved in the permit. Sediment shall be removed
2 from the sedimentation ponds when the design sediment storage volume has filled with sediment.

3 4. Haul road maintenance, such as grading, replacement of durable surface material, and
4 cleaning out of ditches and culverts, shall be continually performed as necessary to comply with
5 the performance standards and the approved permit and to minimize erosion.

6 (4) Expiration and renewal.

7 (a) A deferment from coal removal and contemporaneous reclamation shall expire six (6)
8 months after the date of issuance of the deferment by the cabinet. A deferment from coal removal
9 and contemporaneous reclamation may be renewed upon written application for a period of no
10 more than six (6) months upon a showing of need for additional time, and upon a showing that the
11 area subject to deferment is in compliance with the requirements of the administrative regulations,
12 the permit, and the terms of the deferment. The cabinet shall inspect the area subject to deferment
13 prior to approval of any renewal.

14 (b) Regardless of the reasons for the deferment, no deferments or subsequent renewals shall
15 be granted beyond the maximum aggregate period of thirty (30) months for any permit area,
16 including any deferment periods issued for adverse conditions. At the expiration of the thirty (30)
17 month aggregate period, a permittee shall not be granted any additional deferments or renewals
18 unless the permittee can demonstrate that it has conducted twelve (12) months of continuous active
19 coal removal from the permit area after the expiration of the thirty (30) month aggregate period, it
20 has completed reclamation of all previously deferred areas in the permit area, and it otherwise
21 meets all requirements for a deferment. [~~For the purpose of this paragraph, "completed~~
22 ~~reclamation" means completion of reclamation phase I as defined by 405 KAR 10:040, Section~~
23 ~~2(4)(a).]~~

1 (c) The deferment shall terminate upon resumption of coal extraction activities on the
2 permit area subject to deferment.

3 (5) Enforcement and revocation.

4 (a) The cabinet shall inspect the area subject to deferment at least once each month on the
5 average, during the routine partial and complete inspections made of the permit area. Upon each
6 inspection, the inspector shall note under the "comments" section of the Mine Inspection Report
7 form whether the area subject to deferment meets the conditions of the deferment approval,
8 including the plan and schedule.

9 (b) If the inspection shows that a violation of the conditions of the deferment or of the
10 administrative regulations or of the conditions of the permit is occurring on the area subject to
11 deferment, or is causally related to the area subject to deferment, then the cabinet shall issue a
12 notice of noncompliance and order for remedial measures or order for cessation and immediate
13 compliance in accordance with 405 KAR Chapter 12. If the permittee fails to abate the violation
14 within the time for abatement, or any extension thereof, established by the cabinet, then the cabinet
15 shall revoke the deferment in addition to other enforcement actions required by 405 KAR Chapters
16 7 through 24.

17 ~~[Section 6. Supplemental Assurance. (1) If alternative distance limits or additional pits are~~
18 ~~approved under Section 2 of this administrative regulation, the applicant shall submit to the cabinet~~
19 ~~supplemental assurance in the amount set forth in this section. This supplemental assurance shall~~
20 ~~be for the purpose of assuring the reclamation of the additional unreclaimed disturbed area and~~
21 ~~shall be in addition to the performance bond required under 405 KAR Chapter 10.~~

22 ~~(a) The supplemental assurance shall not be subject to the bond release requirements of 405~~
23 ~~KAR 10:040, but shall be returned in accordance with the requirements of this section.~~

1 ~~(b) However, the requirements of 405 KAR 10:030, 405 KAR 10:035, and 405 KAR~~
2 ~~10:050 shall apply to supplemental assurance.~~

3 ~~(2) Contour mining (single seam). The amount required shall be \$50,000 per 1500 feet, or~~
4 ~~any portion thereof, of additional distance approved for the first pit under Section 2 of this~~
5 ~~administrative regulation. If an additional pit or pits are approved, the amount shall be \$50,000 per~~
6 ~~1500 feet, or any portion thereof, including the first 1500 feet of each additional pit.~~

7 ~~(3) Contour mining (multiple seam). For multiple seam contour mining operations subject~~
8 ~~to Section 2(4) of this administrative regulation, the amount required shall be \$50,000 per 1500~~
9 ~~feet, or any portion thereof, of additional distance approved for the first multiple seam operation~~
10 ~~under Section 2 of this administrative regulation. If any additional multiple seam operations are~~
11 ~~approved, the amount shall be \$50,000 per 1500 feet, or any portion thereof, including the first~~
12 ~~1500 feet of each additional multiple seam operation.~~

13 ~~(4) Mountaintop removal. If a mountaintop removal operation begins by mining a contour~~
14 ~~cut around all or a portion of the mountaintop, that contour portion shall require the same~~
15 ~~supplemental assurance set forth in subsection (2) of this section.~~

16 ~~(5) Area mining. The amount required shall be \$50,000 for any four (4) spoil ridges, or any~~
17 ~~portion thereof, of additional distance approved for the first pit under Section 2 of this~~
18 ~~administrative regulation. If an additional pit or pits are approved, the amount shall be \$50,000 for~~
19 ~~any four (4) spoil ridges, or any portion thereof, including the first four (4) spoil ridges of each~~
20 ~~additional pit.~~

21 ~~(6) Return of supplemental assurance. Supplemental assurance shall be returned to the~~
22 ~~person that submitted it upon:~~

23 ~~(a) Application to the cabinet for the return; and~~

1 ~~(b) Inspection and written documentation (including photographs) by the cabinet verifying~~
2 ~~that the area for which the supplemental assurance was submitted has been backfilled and graded~~
3 ~~(or in the case of mountaintop removal, the associated highwall has been eliminated by mining~~
4 ~~operations).~~

5 ~~(7) The provisions of this section and the requirements of Section 2 of this administrative~~
6 ~~regulation requiring approval for more than one (1) pit per permit area shall apply:~~

7 ~~(a) Upon the effective date of this administrative regulation for all permit applications~~
8 ~~submitted on or after that date; and~~

9 ~~(b) 180 days after the effective date of this administrative regulation for all other surface~~
10 ~~coal mining and reclamation operations.~~

11 ~~Section 7. Documents Incorporated by Reference. (1) The following forms are hereby~~
12 ~~incorporated by reference:~~

13 ~~(a) Supplemental Assurance, SME 42 (SA), July, 1994.~~

14 ~~(b) Eserow Agreement (for use with Supplemental Assurance form only), SME 64 (SA),~~
15 ~~July, 1994.~~

16 ~~(c) These forms may be reviewed or obtained at the Department for Natural Resources, #2~~
17 ~~Hudson Hollow, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

405 KAR 16:020 approved for filing.
Pages (1-14)

5/4/12
Date


Leonard K. Peters, Secretary
Energy and Environment Cabinet

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2012 at 10:00 A.M. (Eastern Time) at Conference Room D-16 of the Department for Natural Resources at #2 Hudson Hollow, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing June 14, 2012, 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 until July 2, 2012. 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
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REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

Administrative Regulation No.: 405 KAR 16:020

Contact Person: Michael Mullins, Regulation Coordinator

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth requirements for keeping reclamation operations, including backfilling, grading, soil preparation and revegetation, contemporaneous with mining operations.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide information regarding reclamation standards and operations on mine sites.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS Chapter 350 requires the cabinet to promulgate rules and administrative regulations establishing performance standards for protection of people and property, land, water and other natural resources, and aesthetic values, during surface mining activities and for restoration and reclamation of surface areas affected by mining activities. This administrative regulation provides the information required for permit holders to accomplish required reclamation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the administration of the statutes by providing necessary information for the permit holder to accomplish the required reclamation of mine sites.

(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: This amendment removes the information related to supplemental assurance and places it in a new administrative regulation related to bonding. The new administrative regulation is 405 KAR 10:015.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to place all the information related to bonding and supplemental assurance in one administrative regulation. This will make this information easier to find for regulated entities.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment removes the information related to supplemental assurance. Supplemental

assurance is more closely related to bonding and more appropriately belongs in 405 KAR Chapter 10.

(d) How the amendment will assist in the effective administration of the statutes: Removal of the supplemental assurance information does not related directly to reclamation. Therefore, removal of this information will leave only information related directly to requirements and standards related to reclamation.

(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 all surface coal mine permit holders. There are approximately 870 currently bonded.

(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: This amendment will not place new requirements on regulated entities. The information is simply being relocated into a different administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will not be a cost to the regulated entity associated with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All the information related to bonding and supplemental assurance will be located in one place as opposed to two separate locations. Therefore the information will be easier to locate for regulated entities.

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

(a) Initially: This amendment will not cost the agency additional funds to implement.

(b) On a continuing basis: This amendment will not cost the agency additional funds to implement.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General fund and federal fund dollars will be used to fund this program.

(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:

There will not be a need to increase fees or funding to administer the amendments to this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation will not increase nor does it establish any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) No. All entities that hold a permit with the agency will be held to the same reclamation standards.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Admin. Regulation No. 405 KAR 16:020

Contact Person: Michael Mullins, Regulation Coordinator

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 and Division of Mine Reclamation and Enforcement.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 350.028, 350.093, 350.100, and 350.465

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 amendment will not generate funds for use by the cabinet.

(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 new administrative regulation will not generate funds for use by the cabinet on a continuing basis.

(c) How much will it cost to administer this program for the first year? There are no additional costs associated with this amendment.

(d) How much will it cost to administer this program for subsequent years? There are no additional costs associated with this amendment.

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

FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation # 405 KAR 16:020

Agency Contact: Michael Mullins, Regulation Coordinator

- 1. Federal statute or regulation constituting the federal mandate. 30 C.F. R. Part 730**
- 2. State Compliance Standards. KRS 350.062 and 405 KAR 16:020.**
- 3. Minimum or uniform standards contained in the federal mandate. 30 C.F.R. 800.11 – 800.60, and 816.100**
- 4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate. Yes, the original language did impose additional responsibilities. The federal regulations do not contain information on supplemental assurance.**
- 5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The additional/different requirements are necessary to adequately address surface mining site disturbances.**