

## **405 KAR 16:070. Water quality standards and effluent limitations.**

RELATES TO: KRS 350.020, 350.090, 350.100, 350.405, 350.420, 350.465

STATUTORY AUTHORITY: KRS Chapter 13A, 350.028, 350.100, 350.420, 350.465

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 350 in pertinent part 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 identifies water quality standards and effluent limitations which must be met, identifies the waters to which they apply and the periods of time in which they apply, requires water treatment for sediment control, and provides certain exemptions.

Section 1. Water Quality Standards and Effluent Limitations. (1)(a) All surface drainage from disturbed areas shall be passed through a sedimentation pond or a series of sedimentation ponds before leaving the permit area.

(b) Sedimentation ponds and other treatment facilities shall be properly maintained and shall not be removed until all disturbed areas in the drainage area above the facility have been backfilled, graded and revegetated in accordance with this chapter and:

1. The vegetation has successfully survived two (2) years after the last augmented seeding;
2. The vegetation meets the ground cover standards of 405 KAR 16:200; and
3. The permittee has demonstrated to the satisfaction of the cabinet that retention of the pond or other treatment facility is not necessary in order to meet the requirements of paragraph (g) of this subsection.

(c) The cabinet may grant exemptions from these requirements only when:

1. The disturbed drainage area is small; and
2. The permittee demonstrates that sedimentation ponds and treatment facilities are not necessary for drainage from the disturbed drainage areas to meet the requirements of paragraph (g) of this subsection.

(d) For the purposes of this administrative regulation, disturbed area shall not include those areas in which only diversion ditches, sedimentation ponds, or roads are installed in accordance with 405 KAR and the upstream area is not otherwise disturbed by the person who conducts the surface mining activities.

(e) Sedimentation ponds required by this section shall be constructed in accordance with 405 KAR 16:090 and 405 KAR 16:100, in appropriate locations before beginning any surface mining activities in the drainage area to be affected.

(f) Where sedimentation ponds are located so as to receive drainage both from disturbed areas and from other areas not disturbed by current surface coal mining and reclamation operations, the mixed drainage shall meet the requirements of paragraph (g) of this subsection, when the mixed drainage leaves the permit area.

(g) Discharges of water from areas disturbed by surface mining activities shall at all times be in compliance with all applicable federal and state water quality standards and either:

1. If the operation does not have a KPDES permit, the effluent limitations guidelines for coal mining promulgated by the U.S. EPA in 40 CFR 434; or
2. The effluent limitations established by the KPDES permit for the operation.

(2) Adequate facilities, in addition to sedimentation ponds, shall be installed, operated, and maintained to treat any water discharged from disturbed areas when necessary to ensure that the discharge complies with all federal and state laws and regulations and the limitations of this administrative regulation. Except where a lower pH is authorized by the KPDES permit for the operation, if the pH of water to be discharged from the disturbed area is less than six (6.0), a neutralization process

approved by the cabinet shall be installed, operated, and maintained. (8 Ky.R. 1533; eff. 1-6-1983; 15 Ky.R. 455; eff. 12-13-1988; Crt eff. 7-3-2018.)