

405 KAR 20:010. Coal exploration.

RELATES TO: KRS 350.057, 350.465, 30 C.F.R. Parts 730-733, 735, 815, 917, 30 U.S.C. 1253, 1255, 1262

STATUTORY AUTHORITY: KRS Chapter 13A, 350.028, 350.057, 350.465, 30 C.F.R. Parts 730-733, 735, 815, 917, 30 U.S.C. 1253, 1255, 1262

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 350 in pertinent part requires the cabinet to regulate coal exploration operations which substantially disturb the natural land surface. This administrative regulation sets forth the performance standards applicable to coal exploration operations which substantially disturb the land surface.

Section 1. General Responsibility of Persons Conducting Coal Exploration. Each person who conducts coal exploration which substantially disturbs the natural land surface shall comply with the provisions of Section 3 of this administrative regulation.

Section 2. Required Documents. Each person who conducts coal exploration which removes more than twenty-five (25) tons of coal or which is located in an area designated unsuitable for mining pursuant to 405 KAR Chapter 24 shall, while in the exploration area, possess written approval of the cabinet for the activities granted under 405 KAR 8:020, Section 2. The written approval shall be available for review by the authorized representative of the cabinet or OSM upon request.

Section 3. Performance Standards for Coal Exploration. The performance standards in this section are applicable to coal exploration which substantially disturbs land surface. For any cross-references to the 405 KAR Chapter 8 permitting requirements made within those administrative regulations of 405 KAR Chapter 16 that are referenced in this section, the permitting requirements shall only apply to the extent set forth in 405 KAR 8:020 and this administrative regulation.

(1) Habitats of unique or unusually high value for fish, wildlife, and other related environmental values and critical habitats of threatened or endangered species identified pursuant to the Endangered Species Act of 1973 (16 USC 1531 et seq.) shall not be disturbed during coal exploration.

(2) The person who conducts coal exploration shall, to the extent practicable, measure important environmental characteristics of the exploration area during the operations, to minimize environmental damage to the area and to provide supportive information for any permit application that person may submit under 405 KAR Chapter 8.

(3)(a) Vehicular travel on other than established graded and surfaced roads shall be limited by the person who conducts coal exploration to that absolutely necessary to conduct the exploration. Travel shall be confined to graded and surfaced roads during periods when excessive damage to vegetation or rutting of the land surface could result.

(b) Any new road in the exploration area shall comply with the provisions of 405 KAR 16:220.

(c) Existing roads may be used for exploration in accordance with the following:

1. All applicable federal, state, and local requirements shall be met.

2. If the road is significantly altered for exploration, including, but not limited to, change of grade, widening, or change of route, or if use of the road for exploration contributes additional suspended solids to stream flow or run-off, then subsection (7) of this section shall apply to all areas of the road which are altered or which result in the additional contributions of suspended solids.

3. If the road is significantly altered for exploration activities and will remain as a permanent road after exploration activities are completed, the person conducting exploration shall ensure that the requirements of 405 KAR 16:220 are met for the design, construction, alteration, and maintenance of the road.

(d) Promptly after exploration activities are completed, existing roads used during exploration

shall be reclaimed either:

1. To a condition equal to or better than their preexploration condition; or
2. To the condition required for permanent roads under 405 KAR 16:220.

(4) If excavations, artificial flat areas, or embankments are created during exploration, these areas shall be returned to the approximate original contour promptly after these features are no longer needed for coal exploration.

(5) Topsoil shall be removed, stored, and redistributed on disturbed areas as necessary to assure successful revegetation or as required by the cabinet.

(6) All areas disturbed by coal exploration activities shall be revegetated in a manner that encourages prompt revegetation and recovery of a diverse, effective, and permanent vegetative cover. Revegetation shall be accomplished in accordance with the following:

(a) All areas disturbed by coal exploration activities shall be seeded or planted to the same seasonal variety native to the areas disturbed. If the preexploration land use was intensive agriculture, planting of the crops normally grown shall meet the requirements of this paragraph.

(b) The vegetative cover shall be capable of stabilizing the soil surface from erosion.

(7) Diversions of overland flows and ephemeral, perennial, or intermittent streams shall be made in accordance with 405 KAR 16:080.

(8) Each exploration hole, borehole, well, or other exposed underground opening created during exploration shall meet the requirements of 405 KAR 16:040.

(9) All facilities and equipment shall be removed from the exploration area promptly when they are no longer needed for exploration, except for those facilities and equipment that may remain to:

(a) Provide additional environmental quality data;

(b) Reduce or control the on- and off-site effects of the exploration activities; or

(c) Facilitate future surface mining and reclamation operations by the person conducting the exploration, under an approved permit.

(10) Coal exploration shall be conducted in a manner which minimizes disturbance of the prevailing hydrologic balance in accordance with 405 KAR 16:060 through 405 KAR 16:110. The cabinet may specify additional measures which shall be adopted by the person engaged in coal exploration.

(11) Toxic- or acid-forming materials shall be handled and disposed of in accordance with 405 KAR 16:060, Section 4 and 405 KAR 16:190, Section 3. If specified by the cabinet, additional measures shall be adopted by the person engaged in coal exploration.

Section 4. Requirements for a Permit. Except as provided in 405 KAR 8:020, Section 4(2), any person who extracts coal for commercial use or sale during coal exploration operations that are subject to 405 KAR 8:020, Section 2 shall first obtain a permit to conduct surface coal mining operations under 405 KAR 8:010. (8 Ky.R. 1587; eff. 1-6-1983; 15 Ky.R. 502; eff. 12-13-1988; 18 Ky.R. 452; eff. 12-17-1991; Crt eff. 7-3-2018.)