

405 KAR 30:090. General provisions for inspection and enforcement.

RELATES TO: KRS 350.600, 350.990

STATUTORY AUTHORITY: KRS 151.125, 224.033, 350.028, 350.050, 350.600, 350.990

NECESSITY, FUNCTION, AND CONFORMITY: KRS 350.600 requires the Environmental and Public Protection Cabinet to develop administrative regulations for oil shale operations to minimize and prevent their adverse effects on the citizens and the environment of the Commonwealth. This administrative regulation sets forth an enforcement and inspection policy for the cabinet. This administrative regulation directs that inspections be made periodically and without need of a warrant or prior notice to the operator.

Section 1. Applicability. The provisions of this administrative regulation shall apply to all oil shale operations.

Section 2. Inspection and Enforcement. In accordance with the provisions of this administrative regulation, the cabinet shall conduct or cause to be conducted such inspections, studies, investigations or other determinations as it deems reasonable and necessary to obtain information and evidence which will ensure that oil shale operations are conducted in accordance with the provisions of all applicable statutes and administrative regulations, and all terms and conditions of the permit.

Section 3. Timing and Conduct of Inspections. (1) Right of entry and access. Authorized employees of the cabinet shall have unrestricted right of entry and access to all parts of the oil shale operation for any purpose associated with their proper duties pursuant to 405 KAR, including but not limited to, making inspections and delivering documents or information of any kind to persons associated with the operation or receiving documents or information from persons associated with the operation.

(2) Prior notice. The cabinet shall have no obligation to give prior notice that an inspection will be conducted.

(3) Timing. Inspections shall ordinarily be conducted at irregular and unscheduled times during normal workdays, but may be conducted at night or on weekends or holidays when the cabinet deems such inspections necessary to properly monitor compliance with all applicable laws and administrative regulations.

(4) Frequency of inspections. The cabinet shall conduct periodic inspections of all oil shale operations.

Section 4. Penalties and Sanctions. Any person who violates any provision of KRS 350.600, any provision of 405 KAR, any other applicable statutes or administrative regulations, or any permit condition, or who fails to perform the duties imposed by such provisions, or who fails to comply with a determination or order of the cabinet pursuant to such provisions, shall be subject to civil penalties as set forth in KRS 350.990(6) or any other applicable provision of law. Violations by any person conducting oil shale operations on behalf of the permittee shall be attributed to the permittee.

Section 5. Public Participation. Any person having an interest which is or may be adversely affected by an oil shale operation shall have the opportunity to cause an inspection and to participate in enforcement actions of the cabinet as provided in 405 KAR 30:110.

Section 6. Formal Review. Any person having an interest which is or may be adversely affected

by the issuance, modification, vacation, or termination of a notice or order, may request review of that action by filing a request for hearing, within thirty (30) days after receiving notice of the action. The filing of a request for a hearing shall not operate as a stay of any notice or order or any modification, termination or vacation thereof. (8 Ky.R. 96; 470; eff. 3-1-1982; TAm eff. 8-9-2007; Crt eff. 7-3-2018.)