

1 AN ACT relating to coal mining.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 350.055 is amended to read as follows:

- 4 (1) An applicant for a permit required by KRS 350.060 shall publish public notice of
5 his filing of an application for that permit. The publication shall be made by
6 advertisement in a newspaper of largest bona fide circulation, according to the
7 definition in KRS 424.110 to 424.120, in the county wherein the proposed mining
8 site is located.
- 9 (2) The applicant shall publish the notice of intention to mine in the newspaper
10 identified in subsection (1) at least once a week for four (4) consecutive weeks
11 beginning at the time of submission of an application for a surface coal mining
12 operation permit, pursuant to regulations promulgated by the cabinet.
- 13 (3) The public notice of the filing of an application shall be entitled "Notice of Intention
14 to Mine" and shall be in a manner and form prescribed by the cabinet and shall
15 include, though not be limited to, the following:
- 16 (a) The name and address of the applicant;
- 17 (b) The location, ownership, and boundaries of the proposed permitted
18 area~~[mining site]~~.
- 19 (4) A copy of the newspaper advertisement of the applicant's "Notice of Intention to
20 Mine" shall be filed with the cabinet and made a part of the complete application
21 within a reasonable time after the last date of publication.
- 22 (5) The cabinet shall notify various local government bodies, planning agencies, and
23 sewage and water treatment authorities and water companies in the locality of the
24 proposed operation notifying them of the applicant's intention to mine the land area
25 as set forth in the notice of intention to mine, and identifying the permit application
26 number assigned by the cabinet and where a copy of the permit application may be
27 inspected. The secretary shall promulgate regulations specifying the manner in

1 which the agencies may comment on the application. Any comments put forward
2 pursuant to this section shall immediately be forwarded by the cabinet to the
3 applicant and shall be made available to the public at the same places as the permit
4 application is available.

5 ➔Section 2. KRS 350.060 is amended to read as follows:

6 (1) (a) No person shall engage in surface coal mining and reclamation operations
7 without having first obtained from the cabinet a permit designating the area of
8 land affected by the operation. Permits shall authorize the permittee to engage
9 in surface coal mining and reclamation operations upon the area of land
10 described in his application for a period not to exceed five (5) years. However,
11 if an applicant demonstrates that a specified longer term is reasonably needed
12 to obtain necessary financing for equipment and the opening of the operation
13 and if the application is full and complete for the specified longer term, the
14 cabinet may grant a permit for the longer term. No mining shall be permitted
15 beyond the time period obligations of the initial or extended bond coverage.

16 (b) Subject to the provisions of KRS 350.010(1) and (2), no person shall
17 knowingly and willfully receive, transport, sell, convey, transfer, trade,
18 exchange, donate, purchase, deliver, or in any way derive benefit from coal
19 removed from any surface mining operation which does not have a permit as
20 required under this section.

21 (2) No permit or revision application shall be approved unless the application
22 affirmatively demonstrates, and the cabinet finds in writing on the basis of the
23 information set forth in the application or from information otherwise available, that
24 the permit application is accurate and complete and that all the requirements of this
25 chapter have been complied with.

26 (3) A person desiring a permit to engage in surface coal mining operations shall file an
27 application which shall state:

- 1 (a) The location and area of land to be affected by the operation, with a
2 description of access to the area from the nearest public highways;
- 3 (b) The owner or owners of the surface of the area of land to be affected by the
4 permit and the owner or owners of all surface area adjacent to any part of the
5 affected area;
- 6 (c) The owner or owners of the coal to be mined;
- 7 (d) The source of the applicant's legal right to mine the coal on the land affected
8 by the permit;
- 9 (e) The permanent and temporary post office addresses of the applicant, which
10 shall be updated immediately if changed at any point prior to final bond
11 release;
- 12 (f) Whether the applicant or any person, partnership, or corporation associated
13 with the applicant holds or has held any other permits under this chapter, and
14 an identification of the permits;
- 15 (g) The names and addresses of every officer, partner, director, or person
16 performing a function similar to a director of the applicant, together with the
17 names and addresses of any individual owning of record ten percent (10%) or
18 more of any class of voting stock of the applicant, and whether the applicant
19 or any person is subject to any of the provisions of subsection (3) of KRS
20 350.130 and he shall so certify. The permittee shall submit updates of this
21 information as changes occur or as otherwise provided by administrative
22 regulation; however, failure to submit updated information shall constitute a
23 violation of this chapter only upon the permittee's refusal or failure to timely
24 submit the information to the cabinet upon request. Upon receipt of updated
25 information satisfactory to the cabinet, the cabinet shall promptly update its
26 computer system containing the information;
- 27 (h) A listing of any violations of this chapter, Public Law 95-87, and any law,

- 1 rule, or regulation in effect for the protection of air or water resources incurred
2 by the applicant in connection with any surface coal mining and reclamation
3 operation during the three (3) year period prior to the date of an application.
4 The list shall indicate the final resolution of the violations; and
- 5 (i) Whether the area of land to be affected by the operation has been previously
6 mined and is in compliance with current reclamation standards, and, if not,
7 identify the needed reclamation work.
- 8 (4) The application for a permit shall be accompanied by an official document, and an
9 affidavit attesting to the document's authenticity, which will evidence what
10 particular business entity the applicant is, whether a foreign or domestic
11 corporation, a partnership, an entity doing business as another, or, if sole
12 proprietorship, an affidavit so stating.
- 13 (5) The application for a permit shall be accompanied by copies, in numbers
14 satisfactory to the cabinet, of a United States Geological Survey topographic map or
15 other map acceptable to the cabinet on which the applicant has indicated the
16 location of the operation, the course which would be taken by drainage from the
17 operation to the stream or streams to which the drainage would normally flow, the
18 name of the applicant and date, and the name of the person who located the
19 operation on the map.
- 20 (6) The application for a permit shall be accompanied by copies, in numbers
21 satisfactory to the cabinet, of an enlarged United States Geological Survey
22 topographic map or other map acceptable to the cabinet meeting the requirements of
23 paragraphs (a) to (i) of this subsection. The map shall:
- 24 (a) Be prepared and certified by a professional engineer registered under the
25 provisions of KRS Chapter 322. The certification shall be in the form as
26 provided in subsection (8) of this section, except that the engineer shall not be
27 required to certify the true ownership of property under paragraph (d) of this

- 1 subsection;
- 2 (b) Identify the area to correspond with the application;
- 3 (c) Show adjacent deep mining;
- 4 (d) Show the boundaries of surface properties and names of owners of the
5 affected area and adjacent to any part of the affected area;
- 6 (e) Be of a scale of 1:24,000 or larger;
- 7 (f) Show the names and locations of all streams, creeks, or other bodies of public
8 water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the
9 area of land affected within three hundred (300) feet of an as-drilled oil or gas
10 well, but as-drilled locations of oil and gas wells shall be certified only by a
11 licensed surveyor and the well locations shall be entered in coordinates in feet
12 units, using NAD 83, with Single Zone Projection, as those terms are defined
13 in KRS 350.010;
- 14 (g) Show by appropriate markings the boundaries of the area of land affected, the
15 cropline of the seam or deposit of coal to be mined, and the total number of
16 acres involved in the area of land affected;
- 17 (h) Show the date on which the map was prepared, the north point, and the
18 quadrangle name; and
- 19 (i) Show the drainage plan on and away from the area of land affected. The plan
20 shall indicate the directional flow of water, constructed drainways, natural
21 waterways used for drainage, and the streams or tributaries receiving the
22 discharge.
- 23 (7) Each application shall include a determination of the probable hydrologic
24 consequences of the mining and reclamation operations, both on and off the mine
25 site, with respect to the hydrologic regime, quantity and quality of water in surface
26 and groundwater systems, including the dissolved and suspended solids under
27 seasonal flow conditions, and the collection of sufficient data for the mine site and

1 surrounding areas so that an assessment can be made by the cabinet of the probable
2 cumulative impacts of all anticipated mining in the area upon the hydrology of the
3 area and particularly upon water availability. This determination shall not be
4 required until the time hydrologic information on the general area prior to mining is
5 made available from an appropriate federal or state agency. The permit shall not be
6 approved until the information is available and is incorporated into the application.

7 (8) All certifications required by this chapter to be made by professional engineers shall
8 be done in the form prescribed by the cabinet and shall be reasonably specific as to
9 the work being certified. The cabinet may reject any document or map as
10 incomplete if it is not properly certified.

11 (9) In addition to the information and maps required above, each application for a
12 permit shall be accompanied by detailed plans or proposals showing the method of
13 operation; the manner, time, and distance for backfilling; grading work; and a
14 reclamation plan for the affected area, which proposals shall meet the requirements
15 of this chapter and administrative regulations adopted pursuant thereto.

16 (10) The application for a permit shall be accompanied by proof that the applicant has
17 public liability insurance coverage satisfactory to the cabinet for the surface mining
18 and reclamation operations for which the permit is sought, or proof that the
19 applicant has satisfied self-insurance requirements as provided by administrative
20 regulations of the cabinet. The coverage shall be maintained in full force and effect
21 during the terms of the permit and any permit renewal, and until reclamation
22 operations are completed.

23 (11) A basic fee set by administrative regulation, and bearing a reasonable relationship to
24 the cost of processing the permit application but not to exceed two thousand five
25 hundred dollars (\$2,500), plus a fee set by administrative regulation but not to
26 exceed seventy-five dollars (\$75), for each acre or fraction thereof of the area of
27 land to be affected by the operation, shall be paid before the permit required in this

1 section shall be issued; provided that if the cabinet approves an incremental bonding
2 plan submitted by the applicant, the acreage fees may be paid in increments and at
3 times corresponding to the approved plan. The applicant shall file with the cabinet a
4 bond payable to the Commonwealth of Kentucky with surety satisfactory to the
5 cabinet in the sum to be determined by the cabinet for each acre or fraction thereof
6 of the area of land affected, with a minimum bond of ten thousand dollars
7 (\$10,000), conditioned upon the faithful performance of the requirements set forth
8 in this chapter and of the administrative regulations of the cabinet. The cabinet shall
9 forfeit the entire amount of the bond for the permit area or increment in the event of
10 forfeiture. In determining the amount of the bond, the cabinet shall take into
11 consideration the character and nature of the overburden; the future suitable use of
12 the land involved; the cost of backfilling, grading, and reclamation to be required;
13 and the probable difficulty of reclamation, giving consideration to such factors as
14 topography, geology, hydrology, and revegetation potential. The bond amount shall
15 initially be computed to be sufficient to assure completion of reclamation if the
16 work had to be performed by the cabinet in the event of forfeiture. Within thirty
17 (30) days of a cabinet determination of a need to change a bond protocol currently
18 in use, the cabinet shall immediately promulgate administrative regulations setting
19 forth bonding requirements including, but not limited to, requirements for the
20 amount, duration, release, and forfeiture of bonds. Bond protocols shall not be
21 exempt from KRS 13A.100 and shall be established by promulgating administrative
22 regulations under KRS Chapter 13A. Failure to include the formula for establishing
23 the amount of the bond in any administrative regulation on bonding requirements
24 shall be deemed a failure to comply with the prescriptions of this section and the
25 administrative regulation shall automatically be declared deficient in accordance
26 with KRS Chapter 13A.

27 (12) The cabinet shall promulgate administrative regulations for the permitting of

1 operations with surface effects of underground mining and other surface coal
2 mining and reclamation operations consistent with this section. The cabinet shall
3 recognize the distinct differences between the surface effects of underground
4 mining and strip mining, as also provided in KRS 350.151, in promulgating
5 permitting requirements for these operations~~]; provided, that the cabinet shall~~
6 ~~require that all the areas overlying underground workings be permitted but that the~~
7 ~~areas overlying underground workings not affected by operations and facilities~~
8 ~~occurring on the surface shall not be subject to the payment of acreage fees or bond~~
9 ~~requirements of subsection (11) of this section, KRS 350.070, or KRS 350.151].~~

10 (13) Any valid permit issued pursuant to this chapter shall carry with it the right of
11 successive renewal upon expiration with respect to areas within the boundaries of
12 the existing permit. An applicant for renewal of a permit shall pay a basic fee set by
13 regulation, not to exceed seven hundred fifty dollars (\$750). The holders of the
14 permit may apply for renewal and the renewal shall be issued, provided that on
15 application for renewal the burden shall be on the opponents of renewal, subsequent
16 to the fulfillment of the public notice requirements of this chapter, unless it is
17 established and written findings by the cabinet are made that:

- 18 (a) The terms and conditions of the existing permit are not being satisfactorily
19 met;
- 20 (b) The present surface coal mining and reclamation operation is not in
21 compliance with the environmental protection standards of this chapter;
- 22 (c) The renewal requested substantially jeopardizes the applicant's continuing
23 responsibility on existing permit areas;
- 24 (d) The applicant has not provided evidence that the performance bond in effect
25 for the operation will continue in full force and effect for any renewal
26 requested in the application as well as any additional bond the cabinet might
27 require; or

1 (e) Any additional revised or updated information required by the cabinet has not
2 been provided.

3 Prior to the approval of any renewal of permit, the cabinet shall provide notice to
4 the appropriate public authorities.

5 (14) If an application for renewal of a valid permit includes a proposal to extend the
6 mining operation beyond the boundaries authorized in the existing permit, the
7 portion of the application for renewal of a valid permit which addresses any new
8 areas of surface disturbance shall be subject to the full standards applicable to new
9 applications under this chapter.

10 (15) Any permit renewal shall be for a term not to exceed the period of the original
11 permit. Application for permit renewal shall be made at least one hundred twenty
12 (120) days prior to the expiration of the valid permit.

13 (16) Notwithstanding any of the provisions of this section, a permit shall terminate if the
14 permittee has not commenced the surface coal mining operations covered by the
15 permit within three (3) years of the issuance of the permit. However, the cabinet
16 may grant reasonable extensions of time upon a showing that the extensions are
17 necessary by reason of litigation precluding commencement of operations, or
18 threatening substantial economic loss to the permittee, or by reason of conditions
19 beyond the control and without the fault or negligence of the permittee. With
20 respect to coal to be mined for use in a synthetic fuel facility or specific major
21 electric generating facility, the permittee shall be deemed to have commenced
22 surface mining operations at the time the construction of the synthetic fuel or
23 generating facility is initiated.

24 (17) Each application for a permit or revision for auger mining on a previously mined
25 area shall contain information to describe the area to be affected, to show that the
26 proposed method of operation will result in stable post-mining conditions, and
27 reduce or eliminate adverse environmental conditions created by previous mining

1 activities. If the cabinet determines that the affected area cannot be stabilized and
2 reclaimed subsequent to augering or that the operation will result in an adverse
3 impact to the proposed or adjacent area, the permit or revision shall not be issued.
4 The cabinet shall, consistent with all applicable requirements of this chapter, issue a
5 permit or revision if the applicant demonstrates that the proposed coal mining
6 operations will provide for reduction or elimination of the highwall, or reduction or
7 abatement of adverse impacts resulting from past mining activities, or stabilization
8 or enhancement of a previously mined area. The cabinet shall insure that all
9 reasonably available spoil material will be used to backfill the highwall to the extent
10 practical and feasible; provided, however, that in all cases the holes be properly
11 sealed and backfilled to a minimum of four (4) feet above the coal seam being
12 mined.

13 (18) All operations involving the loading of coal which do not separate the coal from its
14 impurities, and which are not located at or near the mine site, shall be exempt from
15 the requirements of this chapter.