

405 KAR 20:070. Off-site coal processing plants.

RELATES TO: KRS 350.010, 350.151, 350.465

STATUTORY AUTHORITY: KRS Chapter 13A, 350.028, 350.151, 350.465

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 350 in pertinent part requires the cabinet to promulgate environmental protection performance standards for all surface coal mining and reclamation operations. This administrative regulation sets forth certain performance standards for off-site coal processing plants.

Section 1. Applicability. This administrative regulation establishes performance standards for coal processing plants that are not located within the permit area for a specific mine. This administrative regulation shall not apply to coal processing plants which are located at the site of ultimate coal use.

Section 2. Performance Standards. Construction, operation, maintenance, modification, reclamation, and removal activities at coal processing plants shall comply with the provisions of 405 KAR Chapter 16 and 405 KAR 20:040, except as provided in this section and Section 5 of this administrative regulation.

- (1) Those provisions of 405 KAR 16:060 related to stream buffer zones shall not apply except that the findings required for approval of a stream buffer zone variance shall apply to any proposal to divert an intermittent or perennial stream.
- (2) 405 KAR 16:010, Section 2, coal recovery, shall not apply.
- (3) 405 KAR 16:010, Section 4, slide and erosion barriers, and Section 5, slides, shall not apply.
- (4) 405 KAR 18:020 shall apply in lieu of 405 KAR 16:020.
- (5) 405 KAR 16:040, casing and sealing of drilled holes, shall not apply.
- (6) 405 KAR 16:120, use of explosives, shall not apply.
- (7) 405 KAR 16:190, Section 5, thick overburden, shall not apply.
- (8) 405 KAR 16:250, Section 2(2), minimize damage, destruction or disruption of utility services, shall not apply.
- (9) 405 KAR 20:060, steep slopes, shall not apply.

Section 3. Nearby Underground Mining Activities. Adverse effects upon, or resulting from, nearby underground mining activities shall be minimized by appropriate measures, including but not limited to, compliance with 405 KAR 16:010, Section 3.

Section 4. Water Supply Replacement. Any permittee shall replace the water supply of an owner of interest in real property who obtains all or part of his or her supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source, when the water supply has been adversely impacted by contamination, diminution, or interruption proximately resulting from the coal processing plant activities.

Section 5. Previously Exempted Operations. Those coal processing plants in existence on December 1, 1985 which had been previously exempted from the requirements of 405 KAR Chapters 7 through 24 by the provisions of KRS 350.060(22) and which became subject to the provisions of this administrative regulation on December 1, 1985 shall comply with all provisions of Sections 1 through 4 of this administrative regulation, except as provided in this section.

- (1) 405 KAR 16:010, Section 3, shall not apply to areas disturbed prior to December 1, 1985.
- (2) For surface areas that are without suitable topsoil, 405 KAR 16:050, Section 1(3) shall apply.

(3) The requirements of 405 KAR 16:070, Section 1(1)(a) shall not apply until final action on the permit application by the cabinet and the sedimentation pond or other treatment facility design has been approved by the cabinet or the exemption provided by 405 KAR 16:070, Section 1(1)(c) has been granted. The cabinet, as a condition of the permit, may approve a reasonable time to construct or modify water treatment facilities.

(4) Any coal processing plant in existence on May 3, 1978, may comply with the backfilling and grading requirements of 405 KAR 16:190, Section 7.

(5) 405 KAR 20:040, prime farmland, shall not apply to any prime farmland disturbed prior to December 1, 1985.

(6) The groundwater monitoring requirements of 405 KAR 16:110 shall not apply until final action on the permit application by the cabinet and the groundwater monitoring plan is approved.

(405 KAR 020:070. 8 Ky.R. 1592; eff. 1-6-1983; 12 Ky.R. 959; 1339; eff. 2-4-1986; Crt eff. 7-3-2018; Crt eff. 6-30-2025.)