

Surface Mining Reclamation and Enforcement, Interior

§ 917.21

(1)–(4) [Reserved]

(5) By January 30, 1991, Kentucky shall submit a proposed amendment to 405 KAR 20.060 section 3(3)(b) or otherwise propose to amend its program to clarify that the total volume of flow from the proposed permit area, during every season of the year, will not vary in a way that adversely affects the ecology of any surface water or any existing or planned use of surface or ground water; and to require the appropriate state environmental agency to approve the plan.

(e) By March 23, 1992, Kentucky shall amend its rules at 405 KAR 8:010 section 13(4)(c) to include violations of Federal regulatory programs and other State regulatory programs, not just violations of KRS chapter 350 and regulations adopted pursuant thereto.

(f)–(g) [Reserved]

(h) By June 14, 1993, Kentucky shall amend its rules at 405 KAR 8:010 section 20(6)(h) by including OSM as one of the parties to be notified of the cabinet's decision to approve or deny the application for an operator change and to require that the regulatory authority be notified when the approved change is consummated.

(i)–(m) [Reserved]

(n) By October 5, 1998, Kentucky shall amend the Kentucky program, or provide a written description of an amendment together with a timetable for enactment which is consistent with established administrative or legislative procedures in the State, to delete the term "haul roads" at sections 1(7)(b) of 405 KAR 16:200 and 18:200.

(o) [Reserved]

[50 FR 23687, June 5, 1985]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 917.16, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 917.17 State regulatory program amendments not approved.

(a) The amendment to Kentucky's regulations at 405 KAR 16:060 Section 8(4)(c); 18:060 Section 12(4)(c) and 18:210 Section 3(5)(c) which were originally submitted by Kentucky on July 30, 1997 and later amended are disapproved.

(b) The amendment at Kentucky Revised Statute 350.060(22) submitted by

Kentucky on May 26, 1982, and the legal opinion (insofar as it relates to this amendment) and Reclamation Advisory Memorandum No. 33 submitted by Kentucky on October 28, 1983, are hereby disapproved effective September 17, 1985.

(c) The amendment to Kentucky's program transferring \$3,840,000 from the Kentucky Bond Pool Fund to the Commonwealth's General Fund for the 2002–2003 fiscal year is not approved.

(d) The addition of the word "abated" to modify the term "violation" in paragraph (4)(a) of section 3 of Chapter 7:090 of Title 405 of the Kentucky Administrative Regulations, as submitted to OSMRE by letter dated April 27, 1988, is hereby disapproved. The effect of the disapproval is to continue the requirement that any person who chooses not to contest the fact of violation (whether abated or not) or the assessment shall pay the assessment in full within 30 days of the date the final assessment order was mailed.

[49 FR 50720, Dec. 31, 1984, as amended at 50 FR 37659, Sept. 17, 1985; 51 FR 29919, Aug. 21, 1986; 53 FR 39261, Oct. 6, 1988; 53 FR 39473, Oct. 7, 1988; 63 FR 40827, July 31, 1998; 69 FR 26503, May 13, 2004; 69 FR 48787, Aug. 11, 2004; 70 FR 11123, Mar. 8, 2005]

§ 917.20 Approval of the Kentucky abandoned mine reclamation plan.

The Kentucky Abandoned Mine Reclamation Plan as submitted on June 4, 1981, is approved. Copies of the approved program are available at the following locations:

(a) Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 2675 Regency Road, Lexington, Kentucky 40503–2922.

(b) Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet, Division of Abandoned Lands, 618 Teton Trail, Frankfort, Kentucky 40601.

[59 FR 17929, Apr. 15, 1994; 59 FR 27239, May 26, 1994]

§ 917.21 Approval of Kentucky abandoned mine land reclamation plan amendments.

(a) The Kentucky Amendment, submitted to OSM on December 8, 1982, is approved. You may receive a copy from:

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(1) Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet, Division of Abandoned Lands, 618 Teton Trail, Frankfort, Kentucky 40601; or

(2) Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 2675 Regency Road, Lexington, Kentucky 40503-2922.

(b) The Kentucky Abandoned Mine Reclamation Amendment, submitted to OSM on March 25, 1985, is approved. Copies may be obtained at the address-

es listed in paragraph (a) of this section.

(c) The following is a list of the dates amendments were submitted to OSM, the dates when the Director's decision approving all, or portions of these amendments, were published in the FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

Original amendment submission date	Date of final publication	Citation/description
June 24, 1992	December 17, 1992	Chapter 3—Goals and Obligations, Chapter 15—Maps of Eligible Lands and Waters.
May 5, 1994	July 29, 1994	Chapter 5—Coordination with Ramp, Indian, and Other Reclamation Programs.

(d) The Kentucky Abandoned Mine Land Reclamation Plan amendment, submitted to OSM on April 29, 2002, is approved with the following exceptions. The word “or,” which appears at the end of paragraph 1 of the section entitled “Lands for Permanent Facilities,” is not approved. We are approving the State of Kentucky’s incorporation by reference of the Federal AML Enhancement Rule into their regulations. This approval is subject to the restrictions placed upon the Federal regulation by the court in *Kentucky Resources Council v. Norton*, 2002 U.S. App. Lexis 11365, Slip. Op. at 5. (D.C. Cir. May 30, 2002) The “Reclamation Agreements” provision at the end of Chapter 12 only applies to AML reclamation projects authorized through the Federal AML grant process. Copies may be obtained at the address listed in (a)(2) of this section for OSM or the Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet, Division of Abandoned Mine Lands, 2521 Old Lawrenceburg Road, Frankfort, Kentucky 40601.

(e) The Kentucky AMLR Plan amendment submitted on April 23, 2007, and consisting of revisions to KRS Chapter 350 that correspond to changes to the Federal Surface Mining Control and Reclamation Act of 1977 resulting from the Relief and Health Care Act of 2006, is approved.

[62 FR 9943, Mar. 5, 1997, as amended at 68 FR 65843, Nov. 24, 2003; 72 FR 59479, Oct. 22, 2007]

§917.30 State-Federal cooperative agreement.

COOPERATIVE AGREEMENT

The Governor of the Commonwealth of Kentucky (the Governor) and the Secretary of the Department of the Interior (the Secretary) enter into a Cooperative Agreement (Agreement) to read as follows:

ARTICLE I: INTRODUCTION, PURPOSE, AND RESPONSIBLE AGENCIES

A. Authority

This Agreement is authorized by Section 523(c) of the Surface Mining Control and Reclamation Act (Act), 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program approved by the Secretary under 30 U.S.C. 1253, to elect to enter into an Agreement for the regulation and control of coal exploration operations not subject to 43 CFR Group 3400 and surface coal mining and reclamation operations on Federal lands. This Agreement provides for State regulation consistent with the Act, the Federal lands program (30 CFR Chapter VII, Subchapter D) and the approved Kentucky State Program (Program) for surface coal mining and reclamation operations on Federal lands.

B. Purposes

The purposes of this Agreement are to (a) foster Federal-State cooperation on the regulation of surface coal mining and reclamation operations and coal exploration operations not subject to 43 CFR Group 3400, (b) minimize intergovernmental duplication of effort, and (c) provide for uniform and effective application of the Program on all lands