

**350.062 Data included in permit application -- Contemporaneous reclamation -- Subsoil augmentation -- Cabinet to compile hydrologic data -- Abandoned land projects classified as government financed construction.**

- (1) Applicants for permits may submit such hydrologic information on the general area prior to mining as may be made available by the cabinet pursuant to subsection (7) of this section and employ the information in any reasonable mathematical water modeling formulation, logical extrapolation from existing data on the same or similar watershed, or other reasonable predictive techniques which regionalize and synthesize historical, geologic, and hydrologic parameters on the general area to determine surface ground water conditions, together with site specific data in determining the probable hydrologic consequences of the proposed mining.
- (2) Climatological data, average seasonable precipitation, average direction and velocity of prevailing winds, or seasonable temperature ranges shall be submitted by the applicant only when requested by the cabinet on a site-by-site basis.
- (3) A statement of the result of test borings or core samplings from the permit area, including logs of the drill holes; the thickness of the coal seam found; an analysis of the chemical properties of the coal; the sulfur content of any coal seam to be disturbed; chemical analysis of potentially acid or toxic forming sections of the overburden; or chemical analysis of the stratum lying immediately underneath the coal seam to be mined, may be waived by the cabinet with respect to the specific application by a written determination that the requirements are unnecessary.
- (4) Applicants may submit fish and wildlife information within the proposed mine plan area and adjacent areas in the form of published data or data otherwise available from state and federal fish and wildlife management, conservation, or regulatory agencies and site-specific information unless the cabinet requires the information based on reasonable grounds to believe that the available data are inaccurate.
- (5) The cabinet shall provide in its regulations that notwithstanding a permittee's detailed estimated timetable for the reclamation plan in the application, as long as the permittee or operator is in compliance with the contemporaneous reclamation requirements of its regulations, a failure to adhere to the timetable shall not be an independent basis for a violation.
- (6) The cabinet shall provide in its regulations establishing environmental protection performance standards that a permittee may augment subsoil strata with chemical or organic soil supplement materials produced on site or elsewhere for the purpose of complying with the topsoiling requirements of this chapter if topsoil is of insufficient quality or of poor quality for sustaining vegetation.
- (7) The cabinet shall compile by September 1, 1980, available background hydrologic information concerning the general areas in which surface coal mining has or may be conducted in the Commonwealth as may be available in standard published form, research reports, studies or data compiled by other state or federal agencies including state-supported colleges and universities, the cabinet's own files, including, at a minimum, quality and quantity of water in surface and ground water systems; minimum, maximum, and average discharge quantities at peak and critical low flow and seasonal variations; dissolved and suspended solids, acidity, pH, iron,

and manganese under seasonal flow conditions; and any other background hydrologic information required by the cabinet concerning the hydrologic regime of a general area prior to mining for purposes of making a determination of the probable consequences of the mining; and shall make available to an operator the data and information concerning general areas within ten (10) days of a request in writing.

- (8) The cabinet shall classify all abandoned mine land program reclamation projects as government financed construction and not surface coal mining operations and the extraction of coal as an incidental part of the projects shall be exempt from the requirements of this chapter and regulations promulgated pursuant thereto.
- (9) The cabinet shall not arbitrarily deny or unreasonably delay any permit application based upon the information required in this section if the registered professional engineer or geologist or other qualified person has utilized or developed a procedure or analytical method that differs from departmental technical guidelines; provided, that the registered professional engineer or geologist or other qualified person shall design a sampling and testing program based on all available information and on a site-specific basis. The reasons for denial shall be given in writing and shall be reasonably specific. The requirements contained in subsection (3) of this section may be waived for locations where the cabinet determines that adequate information is already available to the cabinet.

**Effective:** July 14, 1992

**History:** Amended 1992 Ky. Acts ch. 429, sec. 6, effective July 14, 1992. -- Amended 1982 Ky. Acts ch. 283, sec. 4, effective April 2, 1992. -- Created 1980 Ky. Acts ch. 209, sec. 2.