

to 405 KAR 16:020 (see discussion below), this amendment is intended to reduce the chances that a forfeited bond will be inadequate to reclaim the minesite. New Section 2(4) requires that if a permit revision adds a coal washer, a crush and load facility, a refuse pile, or a coal mine waste impoundment to the existing permit, or alters the boundary of a permit area or increment, the permittee must submit a rider to his performance bond, confirming coverage of the revision.

New Section 5 incorporates by reference the various forms in use pertaining to performance bonds and liability insurance.

405 KAR 16:020—Contemporaneous Reclamation

The amendments to this regulation also resulted from the recommendations in the July 1993, bonding report discussed above. The amendments to Section 2 and new Section 6 require a permittee to post *supplemental assurance* (certificate of deposit, letter of credit, surety guarantee, etc.) in addition to the normal performance bond whenever he obtains approval of alternate distance limits for backfilling and grading or if additional pits are approved. When the backfilling and grading has progressed to the point that the alternate distance limits are no longer needed, the supplemental assurance is then returned to the person that submitted it. This supplemental assurance is not subject to the normal bond release requirements of 405 KAR 10:040. Supplemental assurance is also required if the permittee wishes to open more than one pit on the permit area.

Section 2 permits an approved backfilling and grading plan to include more than one pit per permit area if certain demonstrations are made by the permittee. Sections 2(1) through 2(5) place limits on the number of mining operations per permit area. Section 2(6) requires that if a mountaintop removal operation begins by mining a contour cut around all or part of the mountaintop, the time and distance limits for contour mining shall apply to that cut unless alternate limits are approved.

New Section 6(7) makes the supplemental assurance requirements applicable to all permit applications submitted on or after December 12, 1994. *Existing operations must come into compliance with the supplemental assurance requirements 180 days after December 12, 1994.*

New Section 7 incorporates by reference two new forms used for supplemental assurance. These are the supplemental assurance form itself,

SME-42 (SA), and the escrow agreement form SME-64 (SA).

405 KAR 16:010—General Provisions. (Surface Mines)

405 KAR 18:010—General Provisions. (Underground Mines)

The amendments to these two administrative regulations are intended to reduce occurrences of a rapid release to the land surface of a large volume of water impounded in underground mine workings, often called a "blowout." Blowouts have caused considerable damage to property and the environment, and create a hazard to persons in the areas where they occur. Additionally, an underground mine can become a source of acid mine drainage after a blowout.

Blowouts usually result from underground workings that extend too close to the land surface, leaving an unmined barrier of coal that is too weak to withstand the buildup of water pressure against it. New Section 6 of 405 KAR 18:010 requires that adequate coal barriers be left in areas with blowout potential. Except where surface openings are approved in the permit, the underground mine must leave an unmined barrier of coal where the underground workings dip toward and approach the land surface. This requirement will be waived if accumulation of water in the underground workings cannot reasonably be expected to occur, or if adequate measures to prevent an unmined barrier of coal is required, it must be of sufficient width to prevent failure and sudden release of water. The cabinet may determine on a case-by-case basis the width of the barrier that is necessary. The width must not be less than the width given by the formula: $W=50+H$, where W is the minimum width in feet and H is the maximum hydrostatic head in feet that can build up on the outcrop barrier pillar; unless the cabinet approves a lesser width based upon the applicant's demonstration that a lesser width is adequate.

A blowout can also result from surface mining activities that remove coal from and thereby weaken, a coal barrier left by underground mining. New Section 8 of 405 KAR 16:010 requires that surface mining activities not remove coal from barriers left by underground mining where the underground workings dip toward and approach the land surface, except when approved by the cabinet. The cabinet will approve the removal if it meets all other applicable requirements and at least one of the following conditions:

(1) The removal will not adversely affect the stability of the barrier;

(2) The removal will completely eliminate or significantly reduce existing underground workings;

(3) The removal will eliminate or significantly reduce an existing or potential threat to the health or safety of the public resulting from the underground workings;

(4) The removal will eliminate or significantly reduce existing or potential adverse impacts of the underground working to the quantity or quality of ground water or surface water; or

(5) The barrier is not necessary to protect the health or safety of the public or to protect the quantity of ground water or surface water.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Kentucky program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kentucky program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commentator's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Lexington Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m. on March 6, 1995. If no one requests an opportunity to comment at a public hearing, the hearing will not be held. Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who