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ENERGY AND ENVIRONMENT CABINET

Department for Natural Resources

Division of Oil and Gas

(Amended After Comments)

805 KAR 1:190. Gathering lines.

RELATES TO: KRS 353.160, 353.500(2), 353.590, 353.745, 353.991, 353.5901(1), 40 C.F.R. Part 112, 49 C.F.R. Parts 191, 192, 194, 195

STATUTORY AUTHORITY: KRS 353.500(2), 353.540

NECESSITY, FUNCTION, AND CONFORMITY: KRS 353.540 authorizes the department to promulgate administrative regulations to administer KRS 353.500 to 353.720. KRS 353.500(2) requires the department to promulgate administrative regulations pertaining to gathering lines, in order to minimize their potential effects on the citizens and the environment of the Commonwealth. KRS 349.115 authorizes the department to promulgate administrative regulations to implement the coalbed methane program. [~~EO 2009-538, effective June 12, 2009, abolishes the Environmental and Public Protection Cabinet and establishes the new Energy and Environmental Cabinet.~~] This administrative regulation establishes provisions for the installation of gathering lines, reclamation of disturbed areas, and safety requirements of gathering lines as they pertain to oil and gas production operations.

Section 1. [~~Definitions.~~

~~(1) "Division" means the Division of Oil and Gas.~~

~~(2) "Environmentally sensitive feature" means a stream, spring, sinkhole, wetland, state or national park, wilderness area, or wildlife refuge.~~

~~(3) "Existing gathering line" means any gathering line installed and not abandoned or taken out of service prior to March 18, 2004.~~

~~(4) "Gas production flow line" means:~~

~~(a) The segment of a gathering line running from a well to the point of interconnection with another gathering line or production compressor; or~~

~~(b) If a well produces both oil and gas, the line from a well.~~

~~(5) "Gathering line" means any pipeline that is installed or used for the purpose of transporting crude oil or natural gas from a well or production facility to the point of interconnection with another gathering line, an existing storage facility or a transmission or main line, including all lines between interconnections, except those lines or portions thereof subject to the exclusive jurisdiction of the United States Department of Transportation under 49 C.F.R. Parts 191, 192, 194 and 195.~~

~~(6) "GPS" means the collection method of acquiring location data using the Global Positioning System that is:~~

~~(a) 1. Reported as latitude and longitude in degrees and decimal degrees;~~

~~2. Captured in three (3) meter accuracy for stationary location data, such as line markers; and~~

~~3. Submitted as waypoints and track logs for the gathering line location;~~

~~(b) Recorded in the datum of WGS84; and~~

~~(c) Submitted as ArcView shape file or as an ASCII file is submitted electronically.~~

~~(7) "Oil production flow line" means:~~

~~(a) A gathering line running from a well or wells to a tank battery for production treatment and storage; or~~

~~(b) If an injection well, the line from the tank battery to the well.~~

~~(8) "Production compressor" means a compressor installed on a gathering line and used to increase produced gas pressure to enhance delivery.~~

~~(9) "Transmission line" means a pipeline that is subject to the exclusive jurisdiction of the United States Department of Transportation under 49 C.F.R. Parts 191, 192, 194 and 195.~~

~~Section 2.~~] Applicability. This administrative regulation shall apply to gathering lines installed under permits issued after March 18, 2004 and shall not apply to existing gathering lines unless these lines are identified as being subject to the requirements of Section 4 of this administrative regulation.

Section 2[~~3~~]. License. (1) The operator of any gathering line, including an existing gathering line, shall obtain a gathering line operator's license from the division to operate any and all oil or gas gathering lines operated by him, upon the effective date of this administrative regulation. The operator in physical control of any gathering line shall maintain a current license even if the gathering line is shut in or idle. All gathering lines operated by the same operator shall be subject to a single gathering line operator's license. An operator of an existing gathering line shall make application for license within ninety (90) days of the effective date of this administrative regulation.

(2) Each licensee shall annually submit a completed and notarized license renewal form using the "Application for [-] Gathering Line Operator's License", Form OG[~~ED~~]-2, on or before the expiration date of his current license. Annual renewal of the gathering line operator's license shall be made on January 1 and due no later than February 15. If there are no substantive changes to the operator information provided in the initial application for license, the license shall be renewed upon

1 receipt of the license fee. [~~A licensee may also submit the license renewal information and payment~~
2 ~~through the division's on-line application when the on-line application becomes available.~~] To
3 qualify for a license or license renewal, the applicant shall be in compliance with applicable laws
4 and shall submit the following items to the division:
5 (a) An application satisfying the requirements of subsection (3) of this section; and
6 (b)1. A $100 license fee; or
7 2. A fee of twenty-five (25) dollars for each dwelling, if the application is for a license to
8 operate a gathering line for a gas well used strictly for the purpose of heating a residential dwelling.
9 (3) Application. The application for a license or a license renewal shall be:
10 (a) Notarized or meet the requirements for electronic signature if electronically submitted
11 pursuant to KRS Chapter 369;
12 (b) Filed with the division; and
13 (c) Contain the following information:
14 1. The full name under which the operator transacts or intends to transact business under the
15 license and the operator's correct mailing address. The application shall include the name and
16 address of the principal officers of the partnership, limited liability company, or corporation,
17 including the agent for process;
18 2. All other information required by the "Gathering for Line Operator's License Application",
19 Form OG[~~ED~~]-2, [~~October 2003~~]; and
20 3. Each application for a license shall be signed or submitted with electronic signature as
21 previously described by the operator if the operator is a natural person, by a principal officer if the
22 operator is a partnership, limited liability company, or corporation.

Section 3[~~4~~]. Maps of Existing Gathering Lines. Within eighteen (18) months of the effective date of this administrative regulation, each operator of any existing gathering line shall file with the division a map, which outlines the approximate location of the existing gathering line. The gathering line may be noted over an enlarged section of a United States Geological Survey (USGS) 1:24000 topographic map, which may be enlarged to approximately 1"= 400' and be submitted on an 8 1/2 in. x 14 in. sheet. Additional maps may be provided if necessary to fully document the total length of the gathering line. This requirement for the filing of maps may also be satisfied by electronic submission of the maps subject to the division being able to import and view the map files.

Section 4[~~5~~]. Permit. Prior to the installation of a gathering line, the operator shall submit a permit application to the division for the installation and operation of the gathering line in the following manner:

(1) Permit by rule for an oil production flow line. An oil production flow line shall be deemed to have a permit by rule upon the issuance of the well drilling permit if the operator satisfies the following conditions:

(a) Notifies the division in the manner prescribed in Section 7 of this administrative regulation upon the successful completion of the well and prior to the installation or disturbance of any surface upon which the oil production flow line shall be installed;

(b) Complies with Sections 9, 10, 11(1), (2), (3), (4), 12 and 14 of this administrative regulation; and

(c) Pays a fee of $100, in addition to the well permit fee required by KRS 353.590(2) and an additional fifty (50) dollar fee required by KRS 353.745(4) and 805 KAR 1:010 [~~805 KAR 1:200~~].

(2) Permit by rule for a gas production flow line. A gas production flow line shall be deemed to have a permit by rule upon the issuance of the well drilling permit if the operator satisfies the following conditions:

(a) Notifies the division in the manner prescribed in Section 7 of this administrative regulation upon successful completion of the well and prior to the installation or disturbance of any surface upon which that gathering line shall be installed; and

(b) Pays a fee of $200, in addition to the well permit fee required by KRS 353.590(2) and an additional fifty (50) dollar fee required by KRS 353.745(4) and 805 KAR 1:010 [~~805 KAR 1:200~~].

(3) Permit for a gathering line other than an oil production or gas production flow line. The division may issue a permit for the installation and operation of a gathering line other than an oil production or gas production flow line if the operator satisfies the following conditions:

(a) Files an application with the division for a permit for the installation, reclamation, and operation of a gathering line in the manner prescribed by Section 7 of this administrative regulation prior to the installation or disturbance of any surface upon which the [~~that~~] gathering line shall be installed; and

(b) Pays a fee of $500.

Section 5[~~6~~]. Transfer of Ownership of a Gathering Line. A successor operator of a gathering line shall notify the division in advance of commencing use or operation of a gathering line. The successor shall assume the obligations of this administrative regulation and relieve the original permittee of responsibility under this administrative regulation with respect to the gathering line. It shall be the responsibility of the selling operator to require the successor operator to notify the division before use or operation is commenced by the successor and relief of responsibility under this administrative regulation is granted to the original permittee. If an oil production or gas

production flow line is involved, the successor shall be deemed to have provided notice to the division upon the successful completion of the well transfer, as required under KRS 353.590(23) [~~KRS 353.590(6)~~], for the oil production or gas production flow line applicable to the corresponding well.

Section 6[~~7~~]. Permit Requirements. (1) The notification or application for permit for the installation and operation of a gathering line shall be submitted to the division on a completed and notarized [~~using the~~] "Notification/Application for a Gathering Line Permit: Installation, Reclamation and Operation Plan", Form OG[~~ED~~]-11, along with an attached topographical map depicting the location of the proposed line which shall be in sufficient detail to allow ready identification of adjacent surface features. An operator may also submit the notification or application, map and payment through the division's on-line application subject to the provisions of KRS Chapter 369. The map shall have a legend with:

(a) The names of the gathering line owner and operator and any owners of surface tracts upon which the gathering line is to be installed not otherwise listed on the map;

(b) The scale of the map;

(c) The well name and number, if applicable; and

(d) The lease name, if applicable; and shall depict the following:

1. The approximate locations of property lines, dwellings, environmentally sensitive features and road and stream crossings along the path of the gathering line;

2. The names of the owners of surface tracts upon which the gathering line is to be installed, as identified as the party assessed for the purposes of property taxation in the records of the property valuation administrator of the county in which the land is located, unless listed in the legend; **[~~and~~]**

3. **The location of all tank batteries associated with the gathering lines to be permitted by this application; and**

4. The approximate acreage to be disturbed along the path of the proposed gathering line.

(e) Subparagraphs 1. through 3. of paragraph (d) shall be noted clearly and legibly on an enlarged section of a U.S. Geological Survey (USGS) 1:24000 topographic map, which may be enlarged to approximately one (1) inch equals 400 feet and be submitted on an eight (8) and one-half (1/2) by fourteen (14) inch sheet. This requirement for the filing of maps may also be satisfied by electronic submission of the maps subject to the division being able to import and view the map files.

(2) In filing the application for the installation and operation of a gathering line with the division, the operator shall state that he has the authority necessary to install and operate the gathering line upon the property which the gathering line will traverse and that he maintains general liability insurance coverage for the [~~his~~] gathering line operations. The operator shall include the division as a "certificate holder" on the [~~his~~] policy so that the division shall receive advance notice of any cancellation of the operator's general liability insurance.

(3) The operations and reclamation plan required by KRS 353.5901, filed in conjunction with the application for a permit for a well, [~~located on a tract on which there is a severance of the ownership of the surface and mineral estates,~~] shall satisfy this administrative regulation's requirements for an operations and reclamation plan applicable to the property upon which the well is drilled.

(4) If the operations and reclamation plan is not subject to KRS 353.5901, the operator shall file a plan which includes a short narrative indicating the following:

(a) Location of all areas to be disturbed in connection with the installation of the gathering line and the proposal to prevent erosion and sedimentation on those areas;

(b) A revegetation plan which includes a listing or description of fertilizers and soil amendments and seed or trees to be planted for each affected area requiring revegetation treatment and the types and amounts per acre of seed or trees to be planted; and

(c) A proposed plan for the timely reclamation of all disturbed areas.

Section 7[~~8~~]. Right-of-Way Agreements. (1) Prior to submitting an application for a permit or prior to any installation or operations on any surface on which a gathering line is proposed other than the property upon which the well is located, the operator shall have obtained the necessary authority, right-of-way or lease agreement from an owner of the property on which the gathering line is to be installed.

(2) Prior to the issuance of a permit for the installation and operation of a gathering line on which the operator has an existing right-of-way, lease or deed, or on land that requires a new right-of-way by the operator, the operator shall certify in the application for the permit that he has met and conferred with, or offered to meet and confer with, the surface owner as to any activity that may disturb the surface.

Section 8[~~9~~]. Meeting with Bonded Permittee. Prior to the issuance of a permit for the installation and operation of a gathering line on land which is permitted or bonded under the provisions of KRS Chapter 350, the operator of the gathering shall certify in the application for a permit that the operator has met and conferred with, or offered to meet and confer with, the bonded permittee as to any activity that may disturb the permitted area.

Section 9[~~10~~]. Reclamation Plans. Reclamation of all disturbed areas shall be conducted in accordance with the operations and reclamation plan on file with the division. Any amendments to

1 the operations and reclamation plan shall be submitted to and approved by the division prior to
2 commencement of installation or as soon as practical after discovery that reclamation shall be
3 conducted in a manner other than that described in the operations and reclamation plan on file with
4 the division. If the surface is disturbed incidental to the repair of a gathering line after reclamation
5 has occurred under the operations and reclamation plan, the reclamation of the area so disturbed shall
6 be commenced within thirty (30) days of completion of the repair operation, if practical. The operator
7 shall satisfy the following standards for excavation, backfilling and reclamation:

8 (1) If a gathering line crosses agricultural lands, the operator shall segregate topsoil while
9 trenching, and trenches shall be backfilled so that the soils are returned to their original relative
10 positions and contour, unless waived by the surface owner. This requirement to segregate and
11 backfill topsoil shall not apply to trenches that are twelve (12) inches or less in width.

12 (2) On agricultural lands and nonagricultural lands, gathering line trenches shall be
13 maintained in order to correct trench subsidence and reasonably minimize erosion. Interim and final
14 reclamation, including revegetation, shall be performed in accordance with the reclamation plan.

15 Section 10[~~11~~]. General Requirements. (1) Burial of a gathering line. The operator shall bury
16 a gathering line or portion thereof that crosses agricultural land or that would otherwise interfere
17 with the use of a preexisting private roadway, if requested to do so by the owner of the surface of the
18 agricultural land or of other land to which access would be affected, prior to the installation of the
19 gathering line to protect it from damage. The gathering line shall be buried to a minimum depth of
20 twenty-four (24) inches, except where solid rock is encountered, in which case the minimum depth
21 of burial shall be twelve (12) inches, if practical. If an underground structure or other geologic or
22 economic condition prevents a gathering line from being buried in accordance with the standards set
23 out above, or if there is an agreement between the surface owner and the operator whereby the

minimum standard is waived, the line may be installed at less than the minimum depth or above ground.

(2) A gathering line constructed of plastic pipe shall be installed below ground level, unless otherwise permitted by subsection (3) of this section, and in accordance with the following:

(a) The operator shall undertake efforts to minimize shear and tensile stresses; and

(b) A tracer line, location device, or suitable conductive wire shall be placed in the trench to facilitate the detection of the gathering line.

(3) A gathering line constructed of plastic pipe may be temporarily installed above ground if:

(a) The operator demonstrates that the cumulative per period of above-ground exposure of the pipe does not exceed the manufacturer's recommended maximum period of exposure or two (2) years, whichever is less;

(b) The pipe either is located so as to minimize the possibility of damage by external forces or is otherwise protected against damage;

(c) The pipe adequately resists exposure to ultraviolet light and high and low temperature; and

(d) The pipe is being used during a production test period not to exceed ninety (90) days.

(4) Line burial at road crossing. Notwithstanding any other provision of this administrative regulation, a gathering line crossing a road shall be buried in accordance with the requirements of the agency having jurisdiction over the road.

(5) Line markers. The operator shall install and maintain line markers over an active buried gathering line in accordance with the [~~following~~] standards <u>in paragraphs (a) through (e).</u>[:]

(a) At intervals of no greater than 500 feet, corresponding to the 500 foot GPS data requirements described in subsection (8) of this section, except that this requirement shall not apply to lines crossing agricultural lands;

(b) With respect to lines installed after June 25, 2009, on slopes greater than twenty (20) degrees, markers shall be placed at intervals not to exceed 250 feet;

(c) At points where the line changes direction, so that the line location is accurately known;

(d) At both sides of each public or private road crossing and at each railroad crossing; and

(e) Each marker shall contain the word "Warning", "Caution", or "Danger", followed by the words "Petroleum Pipeline" or "Gas Pipeline", whichever is appropriate, in letters at least one (1) inch high with one-quarter (1/4) inch stroke and the name of the operator with a twenty-four (24) hour emergency response telephone number.

(6) Testing of a gathering line. Before placing a gathering line in operation, it shall be tested to ensure that it is capable of maintaining 110 percent of the maximum anticipated operating pressure. The test pressure shall be held a minimum of thirty (30) minutes and a permanent record of the test shall be kept on file by the operator. In conducting the test, the operator shall ensure that reasonable precautions are taken to protect the [~~his~~] employees of the operator and the general public. The testing may be conducted using natural gas, compressed air, inert gas or water. Production flow lines operating at less than fifteen (15) psig are exempt from pressure testing requirements.

(7) Patrolling, maintenance and repair. All gathering lines shall be maintained in good operating condition at all times and the operator shall take reasonable precautions to prevent failures, leakage and corrosion by performing the [~~following~~] procedures in paragraphs (a) through (c)[~~:~~]

(a) Perform on-site inspections of a permitted gathering line at least once each calendar year, at intervals not to exceed eighteen (18) months. If an operator discovers any condition that could

adversely affect the safe and proper operation of a gathering line, the operator shall correct it within a reasonable time and in accordance with KRS 353.160. However, if the condition presents an immediate hazard to persons or property, the operator shall not operate the affected part of the system until the unsafe condition has been corrected.[~~;~~]

(b) In repairing the gathering line, the operator shall take appropriate action to conduct the repair in a safe manner so as to prevent injury to persons and damage to property.[~~; and~~]

(c) Maintain records of gathering line tests, inspections and leak repair for division inspection, if requested, for at least three (3) years.

(8) As-built requirement. The as-built location of the gathering line shall be depicted with GPS data points spaced every 500 feet, if practical, at points where the gathering line changes direction and at the beginning and termination points of the gathering line. All information regarding the as-built location **of gathering lines and tanks** shall be submitted to the division within twelve months of completion of the gathering line.

(9) Compressor station requirements. All wellhead and field compressors shall be installed and maintained according to the following requirements:

(a) The operator shall maintain a positive suction pressure at all times;

(b) The operator shall install safety devices to ensure the downstream pressure does not exceed the test pressure of the gathering line; and

(c) The operator shall record a GPS location of all compressor station sites and submit that location data to the division.

Section 11[~~12~~]. Reporting of Incidents. (1) An operator shall give notice by telephone to the division inspector responsible for the county or area in which a gathering line is installed when a discovery is made that an incident has occurred regarding the installation, reclamation or operation

of a gathering line. Reportable incidents shall include: [~~As soon as reasonably practicable following discovery of an incident regarding the installation, reclamation or operation of a gathering line, the operator shall give notice by telephone to the division inspector responsible for the county in which the line is installed or to the division inspector supervisor for the area, of any the following:~~]

(a) Personal injury requiring hospitalization or a fatality;

(b) Either fire or explosion not intentionally set by the operator for purposes of routine maintenance or construction;

(c) The release of a significant volume of gas that would require a protective action being taken by the general public; or

(d) The pollution of any stream, river, lake or reservoir, or other similar body of water, in violation of applicable water quality standards.

(2) The [~~This~~] requirement for the reporting of incidents shall not release the operator from making any notice required by any other state or federal agency.

(3) Notice made under this section shall include [~~the following information~~]:

(a) Name and address of the operator;

(b) Name and telephone number of the person making the report;

(c) Location of the incident;

(d) Date and time of the incident;

(e) A brief description of the incident;

(f) Number of, and information regarding, personal injuries or fatalities, if any; and

(g) Any other significant facts known by the operator that are relevant to the cause of the incident or extent of the damages

Section 12[~~13~~]. Emergency Response Plans. The operator shall prepare a manual of written procedures for [~~the making of~~] an emergency response, available to the division upon request, and shall keep the [~~that~~] manual in a location accessible to employees whose responsibilities include implementation of an emergency response. The operator shall provide training to [~~those~~] employees and, in the event of an emergency, review their performance following the [~~an~~] emergency to determine whether applicable procedures were effectively followed [~~in that emergency~~]. The manual shall be reviewed at least once each calendar year and [~~appropriate~~] changes made as necessary to ensure that the manual is an effective emergency response tool. The manual shall address the items in subsections (1) through (7) of this section [~~include procedures for the following~~] in order to facilitate safety if an emergency condition occurs.[~~:~~]

(1) Receiving, identifying, and classifying notices of events which require immediate response by the operator or notice to fire, police, or other appropriate emergency response entities and communicating this information to appropriate operational personnel for corrective action.

(2) Providing prompt and effective response to each type of emergency, including oil or brine spill, gas release, fire, explosion or natural disaster near or involving a building or adjacent facility.

(3) Dispatching personnel, equipment, and instruments, as needed, to the scene of the emergency.

(4) Taking necessary action, such as emergency shutdown or pressure reduction, to minimize the amount of release from the gathering line in the event of a failure.

(5) Minimizing public exposure to injury and probability of accidental ignition by assisting with evacuation of residents and assisting with the control of traffic on roads and railroads in the affected area, or by taking other appropriate action necessary to protect public safety.

(6) Notifying fire, police, and other appropriate emergency response entities of a gathering line incident or emergency and coordinating with them in devising responses to be made during an emergency. Methods to accomplish this shall include the following:

(a) Including in the emergency response manual a listing of appropriate fire, police, and other health and safety entities, along with their officials' names and emergency telephone numbers;

(b) Establishing and maintaining liaison with fire, police, and other appropriate emergency response entities to determine the responsibility and resources of each government organization that may respond to a gathering line emergency;

(c) Apprising fire, police and other appropriate emergency response entities of the operator's ability to respond to a gathering line emergency;

(d) Identifying the types of gathering line emergencies about which the operator notifies fire, police and other appropriate emergency response entities; [~~and~~]

(e) Determining the manner in which the operator and fire, police and other appropriate emergency response entities can engage in mutual assistance to minimize hazards to life or property; and[~~.~~]

(f) Providing a copy of the emergency response manual to fire, police and other appropriate emergency response entities.

(7) An operator may incorporate the applicable spill prevention, control, and countermeasures [~~(SPCC)~~] plan into the emergency response manual.

Section 13[~~14~~]. Abandonment. (1) Each gathering line abandoned in place, unless otherwise agreed to be removed under a right-of-way or lease agreement, shall be:

(a) Disconnected from all sources and supplies of natural gas and petroleum;[~~,~~]

(b) Purged of liquid hydrocarbons;[~~,~~]

1 (c) Depleted to atmospheric pressure;[~~,~~] and

2 (d) Cut off three (3) feet below ground surface, or at the depth of the gathering line,
3 whichever is less, and sealed at the ends.

4 (2) Prior to abandonment, the operator shall contact the division inspector and request a site
5 scanning for naturally occurring radioactive materials to be conducted by the division inspector.

6 Section 14[~~15~~]. Inspections. [~~The commissioner of the department may, by written order or~~
7 ~~by other means appropriate under the circumstances, designate and authorize representatives to~~
8 ~~perform duties pursuant to the administrative regulations contained in 805 KAR Chapter 1. Unless~~
9 ~~the commissioner has made a written order contrary to the terms of this section, personnel authorized~~
10 ~~by the director shall be the authorized representatives of the department for the purposes of this~~
11 ~~administrative regulation as follows:~~]

12 (1) General. In accordance with the provisions of this administrative regulation, the division
13 shall conduct inspections, studies, investigations or make other determinations as it deems
14 reasonable and necessary to obtain information and evidence which shall ensure that the installation,
15 reclamation and operation of gathering lines are conducted in accordance with the provisions of all
16 applicable statutes and administration regulations, and all terms and conditions of the gathering line
17 permit.

18 (2) Right of entry and access. Authorized employees of the division shall have unrestricted
19 right of entry to all portions of the gathering line for any purpose associated with their duties pursuant
20 to this administrative regulation, including but not limited to making inspections and delivering
21 documents or information of any kind to persons responsible for or otherwise associated with the
22 gathering line.

23 (3) Timing and frequency of inspections.

1 (a) The division shall determine the frequency of its inspections of gathering lines.

2 (b) Inspections shall ordinarily be conducted at irregular and unscheduled times during
3 normal workdays, but may be conducted at night, on weekends or on holidays if the division deems
4 these inspections necessary to properly monitor compliance with all applicable statutes and
5 administrative regulations and the terms and conditions of the gathering line permit.

6 (c) The division shall have no obligation to give prior notice that an inspection shall be
7 conducted or to obtain a warrant to do so.

8 (4) Citizen's request for inspection of a gathering line.

9 (a) Any citizen may request that the division conduct an inspection of a gathering line by
10 furnishing to the division a signed statement or an oral report followed by a signed statement in
11 which circumstances are set out which give the division reason to believe that a violation, condition
12 or practice in violation of this administrative regulation or a permit condition exists, and setting forth
13 a telephone number and address at which the person making the request can be contacted.

14 (b) The identity of any person supplying information to the division relating to a possible
15 violation, condition or practice in violation of this administrative regulation or permit condition shall
16 remain confidential with the division if requested by that person, unless disclosure is required by
17 law.

18 (c) Within a reasonable time, the division shall advise the person making the request for
19 inspection or providing information to the division of the items in subparagraphs 1. and 2. of this
20 paragraph. [~~following:~~]

21 1. If no inspection was conducted, an explanation of the reasons for which no inspection was
22 conducted.

2. If an inspection was conducted, a description of the enforcement action taken, if any, or an explanation of why no enforcement action was taken.

(5) Notice of noncompliance. Any authorized representative of the division may issue to the operator a notice of noncompliance and order for remedial measures if, on the basis of an inspection, he finds a violation of this administrative regulation, any permit condition, or any other applicable requirement. The notice of noncompliance shall contain [~~the following~~]:

(a) The nature of the violation; and

(b) The provision of a period of forty-five (45) days from the date of issuance of the notice for the taking of corrective action or making of an agreement with the division, which may include a schedule for the accomplishment of interim corrective procedures, if appropriate. The director or his authorized representative may extend the time established for the taking of corrective action or for accomplishment of an interim remedial requirement for good cause shown.

Section 15[~~16~~]. Order of Cessation and Immediate Compliance. (1) Issuance.

(a) If the operator to whom a notice of noncompliance is issued fails to comply with the terms of the notice within the time for the taking of corrective action established in the notice of noncompliance or agreement made regarding corrective measures as subsequently extended, the director may issue to the operator an order for cessation and immediate compliance.

(b) The director may issue an order for cessation and immediate compliance if the director [~~he~~] finds, on the basis of an inspection performed by any authorized representative, any condition or practice, any violation of this administrative regulation or any violation of a term or condition of the applicable permit that [~~which~~]:

1. Is creating or can reasonably be expected to create an imminent danger to the health or safety of the public; or

2. Is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.

(c) The director may issue an order for the cessation of installation and immediate compliance if he finds, on the basis of an inspection performed by any authorized representative, that gathering line installation is being conducted without a valid gathering line permit in accordance with this administrative regulation.

(2) Effect.

(a) The order for cessation and immediate compliance shall require the cessation of the operation of the gathering line or portion thereof that is the subject of the notice of noncompliance. The order shall also require the operator to whom it is issued to undertake any procedure reasonably deemed necessary to abate the violation, condition, or practice in the most expeditious manner possible, including but not limited to the use of existing or additional personnel and equipment.

(b) The order shall remain in effect until the violation, condition, or practice has been abated and until the order is vacated, modified, or terminated in writing by the director.

(c) The operator shall continue to perform reclamation operations and other activities intended to protect public health, safety and the environment during the period of any cessation order unless the order requires that the reclamation operations and other activities cease.

(3) Modification, extension, and termination.

(a) The director may, by written notice, modify or terminate an order for cessation and immediate compliance issued under this section for good cause and may extend the time for abatement if the failure to abate within the period initially established was not caused by lack of diligence on the part of the operator to whom it was issued.

(b) The director may terminate an order for cessation and immediate compliance, by written notice to the operator to whom the order was issued, if the director determines that all violations, conditions, and practices noted in the notice of noncompliance have been abated. Termination of the order of cessation and immediate compliance shall not affect the right of the division to impose any other applicable sanction authorized by law.

Section 16[~~17~~]. Penalties. An operator in noncompliance with the requirements of this administrative regulation is subject to the penalties established in KRS 353.991.

Section 17[~~18~~]. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for [—]Gathering Line Operator's License", Form OG-2, June 2019[~~ED 2, December 2003~~]; and

(b) "Notification/Application for Gathering Line Permit: Installation, Reclamation and Operation Plan", Form OG-11, **October [~~June~~]** 2019[~~ED-11, December 2003~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Oil and Gas, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.**, Eastern Prevailing Time.**

805 KAR 1:190 approved for filing.
Pages (1-21)

10/14/2018

Date

Charles G. Snavely, Secretary
Energy and Environment Cabinet

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation No.: 805 KAR 1:190
Contact Person: Michael Mullins

Contact number: (502) 782-6720
Email: michael.mullins@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes provisions for the installation of gathering lines, reclamation of disturbed areas, and safety requirements of gathering lines as they pertain to oil and gas production operations.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish requirements related to gathering lines.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 353.500(2) requires the department to promulgate administrative regulations pertaining to gathering lines, in order to minimize their potential effects on the citizens and the environment of the Commonwealth. This administrative regulation establishes provisions for the installation of gathering lines, reclamation of disturbed areas, and safety requirements of gathering lines as they pertain to oil and gas production operations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by providing requirements for the installation, reclamation, and safety requirements for gathering lines.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment deletes the definition section and corrects citations in the administrative regulation. The amendment also restructures some of the sections in the administrative regulation. The amendment made in response to comments inserts a requirement to include the location of a tank battery associated with a gathering line on the map required as part of the permit application. The amendment in response to comment also clarifies that the material incorporated by reference is to be viewed and copied by observing eastern prevailing time.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to correct information and restructure other sections. The amendment also amends two forms that are incorporated by reference. The amendments made in response to comments were necessary to require the location of tank batteries associated with gathering lines as part of the permit application and to clarify the Division's office hours for viewing and copying material incorporated by reference is eastern time.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 353.540 authorizes the department to promulgate administrative regulations to administer KRS

353.500 to 353.720. The amendment conforms to the authorizing statutes by correcting citations and moving the definitions to the definition administrative regulation. The amendments made in response to comment conforms to the authorizing statutes by including the location of tank batteries on the map that is required in the application for a gathering line permit.

(d) How the amendment will assist in the effective administration of statutes: These amendments will assist in the effective administration of the statutes by correcting citations and moving the definitions from this administrative regulation into the newly created definition administrative regulation, 805 KAR 1:001. The amendments made in response to comments assist in the effective administration of the statutes by requiring the location of tank batteries on the map that is required as part of a gathering line permit application.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation. There are approximately 1,060 active oil and gas operators in the commonwealth

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The regulated entities identified in question (3) will meet the same requirements related to gathering lines. The amendments made in response to comments require the entities listed in question (3) to provide the location of any tank batteries associated gathering lines in the gathering line permit application. This location is included on the map that is a required part of the permit application.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional costs related to these amendments. The amendment made in response to comment should not result in a significant cost increase to the operator applying for a gathering line permit.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance, entities will be able to have all of the definitions in one location and will also have correct regulatory and statutory citations. The entities will benefit by having a correct location for tank batteries associated with their gathering lines on file with the Division.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: The division will not incur any additional costs for the implementation of this administrative regulation.

(b) On a continuing basis: The division will not incur any additional costs for the

implementation of this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: A combination of general and restricted funds will be used for the implementation of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. No increase in fees or funding is necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees. This administrative regulation does not establish any fees, nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? (Explain why tiering was or was not used.)
No, tiering was not used. The provisions in this administrative regulation will apply equally to all oil and gas operators.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENT

Administrative Regulation No.: 805 KAR 1:190 Contact number: (502) 782-6720
Contact Person: Michael Mullins Email: michael.mullins@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?
This administrative regulation applies almost entirely to the Division of Oil and Gas.

2. Identify each state or federal statute or federal regulation that requires or authorizes action taken by the administrative regulation. KRS 353.500(2) and 353.540.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The proposed administrative regulation will not generate revenue in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The proposed administrative regulation will not generate revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? The cabinet's current operating budget will be used to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? The cabinet's operating budget will be used to administer this program for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impacts of the administrative regulation.

Revenues (+/-):	There is no known effect on current revenues.
Expenditures (+/-):	There is no known effect on current expenditures.
Other Explanation:	There is no further explanation.

SUMMARY OF MATERIAL INCORPORATED BY REFERENCE
805 KAR 1:190

This administrative regulation incorporates the following documents:

I. Application – Gathering Line Operator's License, OG-2 (June 2019) This form is used by oil and gas operators to obtain a gathering line operator's license. This consists of 1 page.

II. Notification/Application for Gathering Line Permit: Instillation, Reclamation, and Operation Plan, OG-11 (October 2019) This form is submitted by an operator that requests to request a gathering line permit and provides the division information related to operations and reclamation. This form was amended in response to comments related to capture the location of new tank batteries on a map that will be submitted with this gathering line permit application. This consists of 2 pages.