



**COALEX STATE INQUIRY REPORT - 65**  
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Mr. Benny Wampler  
Assistant Director for Mines  
Dept. of Mines, Minerals & Energy  
P.O. Drawer 900  
Big Stone Gap, Virginia 24219

**TOPIC: SUBSIDENCE REGULATION--EXTRACTION PERCENTAGES**

**INQUIRY:** Do any states require that a certain percentage of the available coal be left under land capable of supporting renewable resources or land on which there are structures?

**SEARCH RESULTS:** A COALEX search revealed that many states' regulatory language is similar to that found in the federal regulations. 30 CFR Sec. 817.121(d) prohibits underground mining activities beneath or adjacent to certain features or facilities unless the operator's subsidence control plan demonstrates that subsidence will not cause material damage to, or reduce the reasonably foreseeable use of, such features or facilities. The federal regulations further provide that the regulatory authority may limit the percentage of coal extracted if necessary to minimize the potential for material damage to these features or facilities.

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Pennsylvania's regulations require that underground mining activities be planned and conducted in a manner which prevents subsidence damage to public buildings, dwellings, municipal utilities and service operations, cemeteries, and certain perennial streams, impoundments, and aquifers. For each structure or feature to be protected, the operator is required to provide a support area in which the amount of extraction is limited to fifty percent. No mining is permitted beneath a structure where the depth of overburden is less than 100 feet. Alternative measures may be adopted if it is demonstrated that they will prevent subsidence damage. (12 Pa. Admin. Bull. No. 31, Sec. 89.143 (1982))

West Virginia's regulations place no specific limitations on the percentage of coal which may be extracted; however, the regulatory authority may limit the percent of extraction underneath or adjacent to certain features or facilities if necessary to minimize the potential for damage. Operators are also required to purchase noncancelable premium prepaid insurance, or make other provisions to assure that every person with an interest in the surface will be indemnified for any subsidence damage. (W. Va. Surface Mining Regs., Sec. 7C (1984))

Kentucky's regulations prohibit underground mining activities beneath or adjacent to any perennial stream or impoundment having a storage volume of twenty acre-feet or more, or beneath or adjacent to any public buildings, unless the regulatory authority determines that subsidence will not cause material damage. If mining is to be conducted beneath or adjacent to any structures or renewable resource lands, measures must be taken to prevent material damage



or lessening of the value or reasonable foreseeable use of the surface. (405 KAR 8:040(26), 18:210 (1983)). While no specific limit is placed on extraction by the regulations, Mr. Bob Nickel, Director, Division of Permits, Kentucky Natural Resources and Environmental Protection Cabinet, noted that fifty percent extraction is the normal amount used by the Cabinet to protect the surface. Factors which Mr. Nickel cited as being important to the determination include geology and the history of past subsidence in the area. Exceptions may be granted, depending on these factors. However, absent a specific agreement from the landowner, fifty percent is the normal amount to be left in place.

Other information concerning subsidence can be found in COALEX STATE INQUIRY REPORT - 25.

### **ATTACHMENTS**

- A. 12 Pa. Admin. Bull. No. 31, Sec. 89.143 (1982).
- B. W. Va. Surface Mining Regs., Sec. 7C (1984).
- C. 405 Ky. Admin. Regs., Secs. 8:040(62), 18:210 (1983).
- D. COALEX STATE INQUIRY REPORT - 25, "Planned Subsidence".