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DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION  
BUREAU OF SURFACE MINING RECLAMATION AND ENFORCEMENT  
GENE BRANDENBURG  
COMMISSIONER  
FRANKFORT, KENTUCKY 40601

RECLAMATION ADVISORY MEMORANDUM NO. 12

TO: BSMRE Division Directors and Regional Engineers  
Coal Operators and Company Engineers  
Consulting Engineers

FROM: Gene Brandenburg, Commissioner *Gene Brandenburg*  
Bureau of Surface Mining Reclamation  
and Enforcement

DATE: July 10, 1979

SUBJECT: Emergency Regulations for the Interim Regulatory Program  
405 KAR 1:141E, Disposal of excess spoil  
(strip mining)  
405 KAR 3:111E, Disposal of excess rock and earth  
(underground mining)  
405 KAR 1:260E, Contemporaneous reclamation

On June 26, 1979, the above listed emergency regulations were made effective by Executive Order of the Governor. Those emergency regulations will remain in effect for 120 days.

Also, on June 26, 1979, this department filed identical proposed regulations (numbered 405 KAR 1:141, 3:111, and 1:260) with the Legislative Research Commission. A public hearing on these proposed regulations will be held at 10:00 a.m., August 14, 1979, in the auditorium of the Capital Plaza Tower, Frankfort, Kentucky. Written and oral comments are invited.

The emergency regulations regarding disposal of excess spoil in strip mining operations and excess earth and rock from underground mining operations were necessitated by new interim federal regulations (30 CFR 715.15) on this subject, which were published in the Federal Register on May 25, 1979, and became effective on June 25, 1979. These final federal regulations for the interim program are virtually identical to the corresponding final federal regulations for the permanent regulatory program as

published in the Federal Register on March 13, 1979. The principal changes brought about by these new interim regulations are (a) re-definition of the terms "head-of-hollow fill" and "valley fill," (b) inclusion of the "West Virginia chimney drain" as an acceptable internal drainage method for fills, and (c) inclusion of provisions for special disposal methods for excess spoil which is classified as "hard rock spoil" according to slake durability tests. The bureau is now developing standards for determining what constitutes "hard rock spoil" and evaluating special disposal methods for such spoil.

The emergency regulation on contemporaneous reclamation is necessary to provide a clear basis for determining when reclamation operations are reasonably current with mining operations, as required by KRS 350.093(2) and 350.100(1). A copy of the emergency regulation on contemporaneous reclamation is attached for your information.

Copies of the emergency regulations regarding spoil disposal are available upon request from this office.

DEPARTMENT FOR NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION  
BUREAU OF SURFACE MINING RECLAMATION  
AND ENFORCEMENT

405 KAR 1:260E. Contemporaneous reclamation.

RELATES TO: KRS 350.093, 350.100

PURSUANT TO: KRS 13.082, 350.028, 350.093, 350.100

NECESSITY AND FUNCTION: KRS 350.028 requires the Department for Natural Resources and Environmental Protection to adopt rules and regulations for the strip mining of coal. This regulation sets forth requirements for keeping reclamation operations current with mining operations.

Section 1. Applicability. This regulation shall apply to all strip mining operations conducted on or after May 3, 1978.

Section 2. Backfilling and grading. Backfilling and grading operations shall proceed as concurrently with mining operations as possible, in accordance with the approved plan for backfilling and grading, and in accordance with the requirements of this section.

(1) Area mining. Backfilling and grading to approximate original contour on a disturbed area shall be completed within 180 calendar days following the removal of coal from that area, and shall not be more than four (4) spoil ridges behind the pit being mined, with the spoil from the pit being mined being considered the first spoil ridge.

(2) Auger mining. Coal removal in a given location shall be completed within thirty (30) calendar days after the initial surface disturbance by removal of topsoil or overburden at that location. Except when specifically authorized in writing by the department, each auger hole which discharges water shall be sealed within seventy-two (72) hours of completion of the auger hole by backfilling and compacting noncombustible and impervious material into the auger hole to form a watertight seal. Backfilling and grading to approximate original contour shall follow coal removal by not more than sixty (60) calendar days and by not more than 1500 linear feet.

(3) Contour mining. Coal removal in a given location shall be completed within thirty (30) calendar days after the initial surface disturbance at that location. Completed backfilling and grading to approximate original contour shall follow coal removal by not more than sixty (60) calendar days and by not more than 1500 linear feet.

(4) Combined contour mining and auger mining. Coal removal by contour mining at a given location shall be completed within thirty (30) calendar days after the initial surface disturbance at

that location. Auger mining at a given location shall be completed within thirty (30) calendar days after coal removal by contour mining at that location. ~~Sealing of auger holes and backfilling and grading shall then be completed as described in subsection (2) of this section.~~

(5) Mountaintop removal. Backfilling and grading on a disturbed area shall be completed within 180 calendar days following the removal of coal from that area.

(6) All final backfilling and grading shall be completed before equipment necessary for backfilling and grading is removed from the site.

Section 3. Soil preparation and revegetation. (1) When backfilling and grading have been completed on an area, the required topsoil redistribution, liming, fertilizing, other soil preparation, seeding, planting, and mulching of that area shall be completed within thirty (30) calendar days in a manner consistent with the approved plans for topsoil handling and revegetation.

(2) The time allowed for soil preparation and revegetation pursuant to subsection (1) may exceed thirty (30) calendar days when specifically authorized in the approved plans for topsoil handling and revegetation.

Section 4. Time extensions due to adverse natural conditions. In individual cases the department may grant additional time for backfilling and grading, topsoil redistribution, liming, fertilizing, other soil preparation, seeding, planting, and mulching, when adverse weather conditions or other natural conditions beyond the operator's control make it impossible to conduct such reclamation operations in a timely manner, and such conditions are appropriately documented and are successfully demonstrated to the department. However, no claim for lost time in reclamation operations will be accepted if operations related to mining were conducted at the time in question.

Section 5. Exceptions and variances. The department may authorize in writing such exceptions and variances to the requirements of this regulation as the department may deem necessary to reasonably and properly address site-specific conditions.