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RECLAMATION ADVISORY MEMORANDUM NO. 21

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

FROM: Gene Brandenburg, Commissioner *Gene Brandenburg*

DATE: May 8, 1980

SUBJECT: New Regulation on Contemporaneous Reclamation

The Administrative Regulation Review Subcommittee approved 405 KAR 1:260, Contemporaneous Reclamation, on May 7, 1980. This regulation is now in effect. An informational copy of the regulation is attached.

The major difference between the new regulation and the earlier emergency regulation is that the new regulation provides more flexibility for site-specific conditions. While the time and distance limits specified in the regulation should be appropriate for the great majority of operations, they may not be appropriate for some operations due to circumstances unique to those operations. Therefore, the backfilling and grading plan and the topsoil handling and revegetation plans in the approved permit application may specify alternative time and distance criteria where the applicant demonstrates that such alternative criteria are essential to his particular operation.

A new subsection has been added for multiple-seam contour mining in order to accommodate the differences between multiple-seam and single-seam operations, particularly with regard to the timing of coal removal. However, this regulation does require that removal of all coal seams proceed as concurrently as possible and in a timely manner.

Several other changes were made in order to provide additional flexibility.

DEPARTMENT FOR NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION
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AND ENFORCEMENT

405 KAR 1:260. 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 and in accordance with the requirements of this section, except that specific time and distance criteria set forth in the approved plan for backfilling and grading shall take precedence over corresponding criteria in this regulation. The approved backfilling and grading plan may specify time and distance criteria less restrictive than those set forth in this regulation when the permittee has demonstrated through detailed written analysis in the permit application that such other criteria are essential to the proposed mining and reclamation operations, and the department has determined that use of such criteria will not likely cause adverse environmental impacts. As used in this section, "initial surface disturbance" means the initial excavation for the purpose of removal of topsoil or overburden.

(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 sixty (60) calendar days after the initial surface disturbance at that location. Pursuant to 405 KAR 1:160, Section 2, each auger hole which discharges water which would violate the effluent limitations of 405 KAR 1:170 if untreated, 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, or appropriate treatment shall be started within seventy-two (72) hours to prevent violation of effluent limitations. Backfilling and grading to approximate original contour shall follow coal removal by not more than sixty (60) days and by not more than 1500 linear feet.

(3) Contour mining. Coal removal in a given location shall be completed within sixty (60) calendar days after the initial surface disturbance at that location. 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) Multiple-seam contour mining. When overlapping multiple cuts producing a benched highwall are made to remove more than one coal seam at a given location, backfilling and grading at that location shall be completed within sixty (60) calendar days after removal of the last coal seam at that location and shall follow the advancing cut of the last coal seam by not more than 1500 feet. Removal of all coal seams shall proceed as concurrently as possible and in a timely manner, in order to minimize the time period in which disturbed areas are exposed prior to reclamation.

(5) Combined contour mining and auger mining. Coal removal by contour mining at a given location shall be completed within the time frame specified in subsection (3) or (4) as appropriate. 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 required in subsection (2) of this section.

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

(7) 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 as soon as possible 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 only when specifically authorized in the approved plans for topsoil

handling and revegetation or when authorized pursuant to Sections 4 or 5.

Section 4. Time extensions due to adverse conditions. In individual cases the department may grant additional time for coal removal, backfilling and grading, topsoil redistribution, liming, fertilizing, other soil preparation, seeding, planting, and mulching, when adverse weather conditions or other conditions beyond the operator's control make it impossible to conduct such 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 such operations will be accepted if the operations could reasonably have been 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.