

Jackie Swigart  
Secretary



John Y. Brown, Jr.  
Governor

COMMONWEALTH OF KENTUCKY  
DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION  
BUREAU OF SURFACE MINING RECLAMATION & ENFORCEMENT  
DIVISION OF PERMITS  
CAPITAL PLAZA TOWER  
FRANKFORT, KENTUCKY 40601

RECLAMATION ADVISORY MEMORANDUM NO. 81 - 03 #25

TO: Coal Operators and Company Engineers  
Coal Operator Associations  
Consulting Engineers  
Bureau of Surface Mining Reclamation and Enforcement Division  
Directors and Regional Administrators

FROM: Elmore C. Grim, Commissioner *E.C.G.*  
Bureau of Surface Mining Reclamation and Enforcement

DATE: March 30, 1981

SUBJECT: Interim Permit Applications for Existing Coal Preparation Plants

Among other permitting requirements, provisions in Section 506 (a) of the Surface Mine Control and Reclamation Act (SMCRA) and Kentucky Revised Statute 350:060 specify that all surface coal mining operations obtain a permit pursuant to the permanent program by eight months after the time that primacy with respect to PL 95-87 has been achieved (or the Federal Government has taken over the State program). If this has not been done, then both laws allow for any particular operation to continue beyond eight months only if an interim permit has been granted by the State.

Plans had been made to first permit existing processing plants after the state had achieved primacy. One reason was to eliminate the duplicity of effort to permit under both the interim and permanent programs. We did not anticipate, however, that a problem would exist at the end of eight months after primacy whereby coal processing plants could be determined to be illegally mining - even if an application is submitted pursuant to the provisions of the permanent program.

There may well be in excess of 3 - 4,000 applications submitted during the first two months of primacy, and we do not have the resources to receive, review, and issue that many permits in less than eight months time. As a result, it is very likely that many coal processing plants will not have a permit prior to the end of the eight month period. In addition, the State expected to receive primacy at a much earlier date.

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A simple application, therefore, has been designed to extract a minimal amount of information on existing coal processing plants according to the criteria described in Kentucky Administrative Regulations Chapter 405 (405 KAR 3:050 (4)).

Those plants which are subject to the permitting requirements are any facility which:

1. Handles run-of-the mine coal, where;
2. The coal is subjected to chemical or physical processing; and,
3. The coal is separated from its impurities (any cleaning or separation methods).

All coal processing plants described by this definition must file an application regardless of where they are located. Independent loading facilities, however, which are not located immediately adjacent to, or which are not immediately associated with, a surface or underground mine do not have to file if there is no waste separated from the coal during processing and loading activities. Industries and utilities which use coal, such as power plants, coking plants and synthetic fuel plants are also not required to obtain a permit.

New coal processing plants have been required to meet the full permitting requirements of 405 KAR Chapter 3 since May 3, 1978. Now, all those existing coal processing plants subject to the definition above must also file an Application for Surface Disturbance Mining Permit - Existing Coal Processing Plant by August 15, 1981. An existing coal processing plant is one that was operating or under construction on May 3, 1978. The Department will initiate the necessary enforcement action following August 15 to insure that all existing coal processing plants are properly permitted. To reiterate, the permit will bring existing coal processing plants in line with the interim program requirements and allow these facilities to continue operating beyond eight months after the Department has received primacy.

The newly designed Existing Coal Processing Plant forms and associated instruction manual may be obtained after April 15, 1981 at one of the Bureau of Surface Mining Reclamation and Enforcement regional offices located nearest you (consult attached list). If there are any questions concerning this memorandum or the interim application, contact Jim Baker or Alex Barber at 6th Floor, Capital Plaza Tower, (502) 564-2320.

ECCG/JAB/df

GRAYSON REGIONAL OFFICE

Bureau of Surface Mining Reclamation & Enforcement  
620 West Main  
Grayson, Kentucky 41143

606/474-6661

Corbett Osborne, Regional Administrator

JACKSON REGIONAL OFFICE

Bureau of Surface Mining Reclamation & Enforcement  
Howell Building  
Route 2  
Howell Heights  
Jackson, Kentucky 41339

606/666-4076

Joe Boggs, Regional Administrator

LONDON REGIONAL OFFICE

Bureau of Surface Mining Reclamation & Enforcement  
Reclamation Building  
London, Kentucky 40741

606/878-0610, ext. 341 or ext. 346

Carl Herd, Regional Administrator

MADISONVILLE REGIONAL OFFICE

Bureau of Surface Mining Reclamation & Enforcement  
Old TB Facility, Laffoon St.  
Madisonville, Kentucky 42431

502/821-4954

Don Hall, Regional Administrator

MIDDLESBORO REGIONAL OFFICE

Bureau of Surface Mining Reclamation & Enforcement  
P. O. Box 951  
Middlesboro, Kentucky 40965

606/248-6166

Hershel Moyers, Regional Administrator

PIKEVILLE REGIONAL OFFICE

Bureau of Surface Mining Reclamation & Enforcement  
Box 2289  
Pikeville, Kentucky 41501

606/432-8126

David Gooch, Regional Administrator

PRESTONSBURG REGIONAL OFFICE

Bureau of Surface Mining Reclamation & Enforcement  
431 South Lake Drive  
Prestonsburg, Kentucky 41653

606/886-8536

John Thacker, Regional Administrator