

JACKIE SWIGART
SECRETARY



JOHN Y. BROWN, JR.
GOVERNOR

COMMONWEALTH OF KENTUCKY

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

BUREAU OF SURFACE MINING RECLAMATION AND ENFORCEMENT

ELMORE C. GRIM

COMMISSIONER

FRANKFORT, KENTUCKY 40601

Reclamation Advisory Memorandum No. 81-02 #26

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

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

DATE: April 10, 1981

SUBJECT: Non-issuance of New Permits to Operators in Violation
of KRS 350.100

This Memorandum is issued to define Bureau policy concerning non-issuance of new permits to operators who are non-current in their backfilling, grading, and water management practices on prior permits.

KRS 350.100 (1) provides as follows:

[G]rading, backfilling and water management practices that are approved in the plans shall be kept current with the operation as defined by regulations of the department and no permit or supplement to a permit shall be issued, if in the discretion of the division, these practices are not current; (emphasis added)

Beginning on May 15, 1981, the Bureau intends, pursuant to KRS 350.100, to refuse to accept permit applications from operators who hold other permits which are non-current as to backfilling, grading, and water management practices. Beginning May 15, 1981, in addition to the information now required for a preliminary walk, applicants for permits will be required to submit the administrative sections (pages one, two, and the signature page) of the permit application along with the preliminary map to the regional offices prior to the preliminary

Reclamation Advisory Memorandum No. 81-02

Page 2

April 10, 1981

walk. The Frankfort office of the Bureau will provide the regional offices with a continuously-updated list of permittees found to be in violation of KRS 350.100(1) by the issuance of applicable notices of noncompliance. The regional offices will refuse to accept any application for a permit, supplement, renewal, or revision, from any applicant on that list, unless or until the applicant can demonstrate that his grading, backfilling, and water management practices on other permits are in fact current. The Department will not refuse to accept a permit solely because the applicant has failed or refused to pay a penalty assessed for a violation on any permit.

Any permit applications received before May 15, 1981, will be temporarily withdrawn pending completion of remedial work necessary to make pre-existing permits held by the applicant current in backfilling, grading, and water management practices.

Current grading and backfilling shall be required as set forth in 405 KAR 1:260.

Water management practices required to be current are those practices relating to construction and maintenance of water management structures and facilities, including but not limited to sediment ponds, diversion ditches, rock drains, and culverts. Violations of effluent standards, as distinguished from violations associated with construction or maintenance of structures and facilities for water management, shall not be considered within the term "non-current water management practices" for the purposes of KRS 350.100. However, if repeated violations of effluent standards occur, the Department may refuse to issue permits on the basis of KRS 350.130(3).