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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. 35

TO: Companies Holding Interim Program Permits

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

DATE: May 14, 1982

SUBJECT: Permanent Program Transition Application

Under the final agreement that the Department of Natural Resources and Environmental Protection has reached with the Federal Office of Surface Mining, it is anticipated that May 18, 1982, will be designated as primacy date. Under the transition process which has been previously announced by Secretary Swigart, the first action that operating companies with valid interim permits must consider under the new permanent program regulations is filing of a transition application.

A transition application must be filed for all existing mining areas which have a valid interim permit where mining is expected to continue eight months after the official date of primacy. The purpose of the transition application is two-fold. First, the transition application will define for the Department the limits of the mineable area that is to be covered under current interim permit regulations and the portion of the mining area that will be covered under permanent regulations. Second, the transition application will allow the Department to review an applicant's preliminary monitoring program to verify that it will satisfy the needs of the permanent program. Important aspects of the second objective are the new requirements for documenting the geology of an area and a more extensive surface water and ground water sampling program.

Transition applications should be filed with the regional office by 4:30 p.m., sixty days after the date of primacy. Applications are available at each regional office along with an instruction manual as to how to complete the application. Early filing of the transition application will benefit the applicant in terms of determining whether his monitoring program is acceptable to the Department. The Department will review all transition applications to determine the acceptability of the monitoring program and identify those cases where the program is not acceptable. In the latter case, suggestions will be provided to the applicant to allow him to improve his monitoring program to meet the Department's standards for acceptance.

MEMORANDUM  
Page 2  
May 14, 1982

#### AREA TO INCLUDE IN TRANSITION APPLICATION

A number of questions have come up concerning the flexibility which the Department will allow applicants in combining interim permit areas. The Department will accept a single transition application which combines existing interim permit areas where they are located close to each other and can reasonably be consolidated into a single permit application, for example, using a haul road to connect the areas. Only a single transition application needs to be submitted for such consolidations but the boundaries of the proposed permanent program area must be clearly delineated and must clearly identify the interim permit areas that are included, either partially or wholly, within the proposed permanent program area.

The Department has also been requested to clarify whether additional mineable area outside current permit boundaries will be allowed on a transition permit. Applicants may show as much additional mining area as they deem to be appropriate for mining over a five year period. The purpose of the transition application is to show the area proposed as a permanent program mining area. If a large area is to be proposed, a substantial monitoring program will be required.

In no case will mining rights for the currently unpermitted mining area exist prior to issuance of a permanent program permit; operations must be confined to the area of the interim permit. Also, if the applicant includes new areas in his transition permit, the Department will be exempted from the 65 working day review deadline [405 KAR 8:010, Section 16 (1) (d)].

#### CHANGES TO TRANSITION INSTRUCTIONS

The Department has recognized the need for some minor revisions and additions to the Instruction Manual for Filing Permanent Program Transition Applications since the publication of the Hydrology and Geology Guidelines for the Permanent Regulatory Program. Attached is an Addendum to the Instruction Manual detailing the pertinent revisions. This Addendum replaces certain directions in the instructions for the Transition Application.

It should be stressed that the Instruction Manual for Filing a Transition Application must be followed closely in order to properly complete a transition application. The applicant should include as much detail as necessary to adequately describe the reasoning behind the proposed monitoring plans. The Department will not attempt to review and comment on proposals which are incomplete. Therefore, to facilitate a swift review of the proposed monitoring plan, the application must be clear, concise, and complete.

#### JUNE 2ND MEETING ON "TRANSITION PROCESS"

To explain the Transition Process, the Bureau will sponsor a one day meeting to be held on June 2nd, at the Holiday Inn North in Lexington. There will be no charge and limited space is available. The Department will explain the deadlines, the Transition Application and answer any questions you may have.

ADDENDUM

Instruction Manual For Filing A Permanent Program  
Transition Application

The following supersedes and replaces Sections II-A, 1.; III 2 (g):

II-A 1 Each watershed that will be receiving discharge from that portion of the permit to be mined after eight months following the date of primacy (May 18, 1982) should be identified and briefly discussed. The discussion should include:

- (a) the order and acreage of the affected basin(s) \*(i) first order, (ii) second order or higher;
- (b) describe the type of disturbance as\* (i) a significant new surface disturbance, (ii) an insignificant or no new surface disturbance.
- (c) indicate general water quality (If more than one watershed is being affected, indicate general water quality of each.)

\*Note: As defined in Hydrology and Geology Guidelines for the Permanent Regulatory Program, December 1981.

III 2(g) Map Requirements:

Be of a scale of not less than four hundred (400) feet to the inch and not to exceed six hundred (600) feet to the inch.

The following is an addition to Section III 2 Map Requirements:

III 2(m) Indicate the geographic location, and distinguish the type of geologic sampling point. (i.e.) core hole, road cut, existing highwall, rotary drill, outcrop, etc.