



Kentucky  
Department for Surface Mining  
Reclamation and Enforcement

# Reclamation Advisory Memorandum

From: Elmore C. Grim, Commissioner *E.C.G.*

Date: October 26, 1982

Subject: Non-transitioning interim permits  
will expire January 18, 1983

## RAM# 51

### Interim Permits Expire

Interim permittees who did not submit transition applications by July 19, 1982 are being notified by certified mail that their interim permits will expire on January 18, 1983. Coal extraction and processing operations on those permits must cease on that date. The department will begin enforcement actions January 19, 1983 against any operations which illegally continue coal extraction and processing operations. (These transition requirements do not apply to surface coal mining operations that affect two acres or less. See, however, "Underground Operations" below.)

These actions are necessary because of explicit requirements in the federal and Kentucky laws and regulations. Section 502(d) of the federal Act and KRS 350.060(2) of the Kentucky statutes expressly require that operators who have valid interim program permits and expect to continue such operations beyond eight months after the state receives primacy under the federal law, must submit applications for permanent program permits within two months after the state receives primacy. Since Kentucky received primacy on May 18, 1982, interim permittees were required to file the transition application by July 19, 1982. If a permittee met this filing date, and has submitted a comprehensive permanent program application by January 18, 1983, he can continue to extract or process coal under his interim permit until the department takes action on his permanent program application. However, if he did not submit a transition application by July 19, 1982, he has lost the right to operate on his interim permit after January 18, 1983 and must cease operations unless and until he obtains a permit under the permanent program.

The department has made these statutory requirements widely known through seminars, Reclamation Advisory Memoranda, articles in the Kentucky Coal Journal, and other communications. Of about 7000 interim permits, about 3200 transition applications were filed by July 19, 1982. Of those who did not file, many are inactive permits where mining has been completed, and many more are operations which will be mined out by January 18, 1983. At this time we do not know how many operations should have filed transition applications but failed to do so.

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Any person who has a question about the status of his interim permit should contact the appropriate Regional Office immediately.

### Underground Operations

Although these transition requirements do not apply to strip mines which affect less than two acres, they do apply to many small underground mines which were considered to be two acres or less under the interim program. As previously stated in Reclamation Advisory Memorandum No. 36, the permanent program requires that areas overlying underground workings be counted in the affected area to determine whether the operation affects more or less than two acres. All operations which are larger than two acres when areas overlying underground workings are counted, must cease operations by January 18, 1983 unless a transition application was submitted for them by July 19, 1982. If a permittee failed to meet the transition deadline, but wishes to conduct further mining, he must submit a comprehensive permit application and obtain a permit through the permanent program process of 405 KAR Chapter 8. Only after the permit has been issued may he begin mining again.

### Reclamation Requirements

If an interim permittee failed to file a transition application by July 19, 1982, or fails to file a comprehensive application by January 18, 1983, he must cease mining operations after January 18, 1983. Unless he obtains an interim reclamation variance as set forth below, he must also complete final reclamation as soon as practicable.

The department realizes that some interim permittees unintentionally missed the permit application deadlines and desire to recommence mining operations on interim permit areas as soon as they can obtain the required permanent program permit. In these cases, requiring immediate complete reclamation may not be consistent with the purposes of KRS Chapter 350. 405 KAR 16:020 provides that the department may approve time limits less restrictive than those set forth in the regulations when such different time limits are essential. To avoid making an interim permittee fully reclaim an area, only to redisturb it when a permanent program permit is later obtained, the department will grant an interim reclamation variance if the permittee:

- (1) files a preliminary permanent program application by December 15, 1982;

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- (2) submits an interim reclamation variance request (form is attached to this Reclamation Advisory Memorandum) to the satisfaction of the department by December 15, 1982; and
- (3) files a comprehensive permanent program application by April 1, 1983.

On or soon after January 18, 1983, an inspector from the regional office will inspect the minesite and indicate on the map submitted with the variance request the area to be reclaimed and the area to be covered by the interim reclamation variance. Subsequent to this inspection, the regional office will grant or deny the request.

If the variance is granted, the company need not comply with the time criteria for grading included in the contemporaneous reclamation requirements of 405 KAR 1:260 for surface mining activities. The distance criteria for grading and the revegetation criteria for KAR 1:260 do apply. For both strip and underground mines, water monitoring must continue during the variance period as well as any water treatment necessary to meet the water quality standards. Further, the department may require additional interim measures to prevent harm to the public safety or the environment consistent with KRS Chapter 350.

Any interim reclamation variance granted will expire automatically if a comprehensive application is not filed by April 1, 1983, and the permittee will be required to complete final reclamation as soon as practicable after that date. The interim reclamation variance will otherwise expire when the department approves or denies the permanent program permit.

INTERIM RECLAMATION VARIANCE REQUEST

Company Name: \_\_\_\_\_ Telephone No: \_\_\_\_\_

Address: \_\_\_\_\_  
(Box, Street or Route) (City) (State) (Zip Code)

Interim Permit No: \_\_\_\_\_

Number of Unreclaimed Disturbed Acres (anticipated) as of January 18, 1983: \_\_\_\_\_

Preliminary Application No: \_\_\_\_\_

On January 19, 1983, Interim Permit Number \_\_\_\_\_ will expire and surface coal mining operations will be suspended. The company, however, desires to recommence mining on the interim permit area as soon as a permanent program permit can be obtained. On \_\_\_\_\_, 1982, the company filed Preliminary Application Number \_\_\_\_\_. The company intends to file a comprehensive application on or before April 1, 1983. The company therefore requests an interim reclamation variance so that the company will not have to complete final reclamation on those portions of the interim permit area which are to be reaffected under the permanent program permit.

The company understands that, if it is granted a variance, it need not comply with the time criteria for grading included in the contemporaneous reclamation requirements of 405 KAR 1:260 for surface mining activities. The distance criteria for grading and the revegetation criteria for 405 KAR 1:260 do apply. For both strip and underground mines, water monitoring must continue during the variance period as well as any water treatment necessary to meet water quality standards. Further, the department may require additional interim measures to prevent harm to the public safety or the environment consistent with KRS Chapter 350.

The company understands that the interim reclamation variance will expire automatically if a comprehensive application is not filed by April 1, 1983, and that the company will be required to complete final reclamation as soon as practicable after that date. The company further understands that the interim reclamation variance will otherwise expire when the department approves or denies the permanent program permit.

Attached is an enlarged U.S.G.S. map, showing the extent and kind of reclamation completed or to be accomplished by January 18, 1983, and indicating the area to be covered by the interim reclamation variance.

APPLIED FOR:

APPROVED:

\_\_\_\_\_  
Applicant/Authorized Agent Name (print or type)

\_\_\_\_\_  
Inspector Date

\_\_\_\_\_  
Applicant/Authorized Agent Signature

\_\_\_\_\_  
Regional Administrator Date

\_\_\_\_\_  
Title

Special conditions attached:  
( ) yes ( ) no

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Date