



Kentucky
Department for Surface Mining
Reclamation and Enforcement

Reclamation Advisory Memorandum

From: Elmore C. Grim, Commissioner *E.C.G.*
Subject: Procedures and Priorities for Review of Transition
Comprehensive Applications

Date: November 17, 1982

RAM # 53

This RAM applies to all existing interim permits for which transition applications were filed on or before July 19, 1982 and for which comprehensive applications will be filed on or before January 18, 1983. The procedures discussed below reemphasize and in some cases modify the procedures presented at the recent permit seminars conducted in Lexington and Madisonville. This RAM formalizes departmental policy on the procedures which will be followed for review of comprehensive applications that are being transitioned from interim permits.

RAM #51 describes the procedure to be followed for interim permit holders who have not filed a transition application. These interim permits will expire on January 18, 1983, except in those cases where a two-acre-or-less interim operation qualifies as a two-acre-or-less operation under the comprehensive program. Please review RAM #51 if you have questions.

Transition Application Requirements

Those holders of interim permits who filed a transition application on or before July 19, 1982 have met the first condition which is necessary to continue mining on their interim permit after January 18, 1983.

The second condition which must be met is the filing of a comprehensive permit application on or before January 18, 1983. This comprehensive permit application must meet transition initial completeness requirements as described in RAM #55 which will be issued shortly.

All interim permits which are being transitioned must have an initially complete comprehensive permit application filed on or before January 18, 1983. If this is not done by those who have already filed transition applications, their interim permits will expire on that date and mining operations must be halted until a comprehensive permit is granted. Failure to meet the initial completeness requirements can be the basis for denial of the comprehensive applications that are filed by January 18, 1983.

Procedures for Departmental Review of Transition Comprehensive Applications

The Department expects between 2000 and 3000 transition comprehensive permit applications to be filed on or before January 18, 1983. Both the Frankfort Office and the Regional Offices will be conducting initial completeness reviews on these applications. The Frankfort Office will conduct

the initial completeness reviews for those permit applications classified as priority one applications. The Regional Offices will conduct the initial completeness reviews for priority groups two, three, and four. The Department expects to complete its initial completeness review on all applications no later than March 15, 1983.

Requirements for initial completeness of transition comprehensive applications are described in RAM #55. The Department expects that the applications submitted on or before January 18, 1983 will meet the initial completeness requirements that are described in that RAM. If an application is determined to have minor deficiencies, the Department will notify the applicant of the deficiencies by certified mail, return receipt requested. Upon notice, the applicant will have 10 departmental working days to correct the identified deficiencies and resubmit the application. If this schedule is not met, the Department will deem that the applicant has submitted an incomplete application and his application will be denied. This procedure is very similar to the normal initial completeness determination procedure which is described in 405 KAR 8:010E, Section 13 (1).

If major deficiencies exist in the application which is submitted by January 18, 1983, the application will be determined incomplete, and this will constitute a denial of the application. The basis for denial actions is discussed in 405 KAR 8:010E, Section 3 (3) and Section 2 (2)(f)2.

If an application is determined to have met the transition initial completeness requirements of RAM #55, either by the original submission or by subsequent correction of minor deficiencies, the Department will issue a notice to that effect. The notice will give a deadline for submission of any remaining technical information necessary before the Department can begin its technical review.

RAM #55 describes how the Department will accept later submission of technical information beyond what is specifically required for initial completeness. This action is being taken solely because of the volume of applications that we expect to be submitted on or before January 18, 1983. Because of the extensive amount of work required of applicants and their consultants, the Department will allow certain portions of the application to be submitted later to meet technical completeness requirements. The schedule for meeting the technical completeness requirements is tied to the priority schedule for review which is discussed below. It is important that operators and engineers recognize that this procedure is being followed only for transition comprehensive applications and only because of the especially large volume of work that exists in preparing comprehensive applications as a part of the transition process.

After the necessary technical information is submitted, the Department will send a notice that the application is ready for technical review. Upon the applicant's receipt of this notice, the applicant will have the responsibility to begin the advertising process described in 405 KAR 8:010, Section 8. Each applicant must meet public notice requirements described in RAM #50, but the applicant should not begin advertising until he has received notice from the Department that the application is ready for technical review and that advertising should begin.

In addition, the applicant is advised to request specific comment from the Regional Office on the form of the proposed advertisement that is submitted with the application. The Department will review proposed advertisements, and provide any corrections that are necessary prior to the applicant beginning his advertising.

Definition of Priority Codes

The attached Figure 1 defines the transition priority codes that were established August 6, 1982. All transition applications which have been reviewed should have a three-letter priority code. The first letter defines the operational information characteristics as shown in the operational information column on the attached figure. The second letter defines the projected mine-out date. The third letter defines environmental problems. The projected mine-out date and environmental problems were both based on information provided from the inspector's field sheet that was submitted with the transition application by the regional offices.

The transition priority code is the key to determining the timing for review of your applications. The review schedule is discussed in the next section. Any applicant who believes that his priority code is incorrect should submit a letter to the Director of the Division of Permits by December 15, 1982, presenting the reasons why he thinks his code is incorrect and identifying which coding he believes should be adopted. The Division of Permits will review this request as quickly as possible (within two weeks) and provide a written determination to the applicant as to whether the code will be changed.

Priority for Technical Review

Figure 2 defines the priority for technical review which will be applied by the Division of Permits. This priority schedule supersedes and is somewhat different from that presented at the permitting seminars held in Lexington on October 26, 1982 and in Madisonville on October 28, 1982.

The priority codes determine the schedule for initiating technical review of the comprehensive applications. The first-priority applications will have their review started on January 18, 1983. The second-priority applications

will have their technical review started on April 16. The third-priority applications will have their technical review scheduled to begin on July 15, and the fourth-priority will have the technical review period scheduled to begin on October 15, 1983. This scheduling divides the applications into four groups to better manage their review.

Some discussion is necessary on the procedures which have been changed from the presentations made in the recent permit seminars. The major changes are as follows:

- (1) Interim permits which were undisturbed at the time of the transition application field walk have been moved to first-priority projects. These permit applications are coded with an Exx priority. Because of an agreement with the Office of Surface Mining which was reached in June 1982, the undisturbed permits must be included in the first-priority group.
- (2) Because of the addition of the undisturbed permits to the priority one classification, the long term facilities (Cxx), surface mining operations with less than 200 acres of mineable area (Hxx through Mxx) and haul roads (Dxx) have all had their priorities shifted to a later review category.
- (3) Applications having SOAP agreements are no longer specifically referenced in the priority codes. Those interim permits which have SOAP studies which are underway will be handled on a case-by-case basis. The Division of Permits will schedule a review of the application for the next priority period following notice by SOAP staff that the SOAP study has been completed.

All of the changes which have been made since the presentation at the permit seminars are consistent with agreements reached earlier with the Office of Surface Mining. Deviations from these agreements would require filing of a formal amendment to Kentucky's primacy program, which would then have to be approved by the Office of Surface Mining in Washington. For this reason, the attached schedule has been adopted as the final policy on reviews.

As mentioned in the previous section, applicants who wish to appeal their priority codes because they believe they have been improperly classified should submit a letter by December 15, 1982, to the Director of the Division of Permits indicating the classification that they believe is most appropriate and the reasons for their reclassification request.

Schedule for Taking Action on the Technical Reviews

Action Dates have been assigned for each of the priority classifications to indicate when the Department expects to either approve or deny the application. These Action Dates have been assigned to allow five months from

the beginning of the technical review period for each priority group for the Department to complete its technical review and the engineer to complete submission of any necessary corrections. The status of each application relative to its Action Date will be referenced in any technical withdrawal letter that is sent to the applicant. The Action Dates are deadlines for the issuance or denial of a comprehensive permit and will require that all conditions relative to that permit be met by that date.

The Department's current schedule of Action Dates on the priority groups is as follows:

First Priority Group: June 15, 1983
Second Priority Group: September 15, 1983
Third Priority Group: December 15, 1983
Fourth Priority Group: March 15, 1984

The Department will exercise its authority to extend these Action Dates if it is unable to meet its review deadlines or if delayed review by the Department places an operator or his engineering firm in an unreasonable position relative to corrections to their application. However, the Department will not tolerate unreasonable delays in the correction process. Additionally, resubmissions which do not address specific correction requests that are included in the original technical withdrawal letter will be considered a basis for denial of the application.

Questions or comments on this Reclamation Advisory Memorandum should be directed to Rich Shogren, Division of Permits, Sixth Floor Capital Plaza Tower, Frankfort, Kentucky 40601, telephone number (502) 564-2320.

FIGURE 1

TRANSITION PRIORITY CODES 8/6/82

OPERATIONAL INFORMATION	PROJECTED MINE-OUT DATE (ACTIVE SURFACE OPERATIONS ONLY)	ENVIRONMENTAL PROBLEMS (AS NOTED BY INSPECTOR)
<p>A. INTERIM PERMITS WITH ADDITIONAL NEW AREA.</p> <p>B. UNDERGROUND OPERATION</p> <p>C. LONGTERM FACILITY</p> <p>D. HAUL ROAD ONLY</p> <p>E. TOTALLY UNDISTURBED</p> <p>F. COMBINATION PERMIT</p>	<p>A. NO MINING IN PAST YEAR</p> <p>B. JANUARY 1983</p> <p>C. FEBRUARY 1983</p> <p>D. MARCH 1983</p> <p>E. APRIL 1983</p> <p>F. MAY 1983</p> <p>G. JUNE 1983</p> <p>H. JULY 1983</p> <p>I. AUGUST 1983</p>	<p>Y. YES, DEFINITE ENVIRONMENTAL PROBLEMS EXIST</p> <p>P. POTENTIAL PROBLEMS ARE POSSIBLE</p> <p>N. NO ENVIRONMENTAL PROBLEMS EXPECTED</p> <p>X. NO INDICATION</p>
<p>ACTIVE SURFACE OPERATIONS</p>	<p>J. SEPTEMBER 1983</p>	
<p>G. GREATER THAN 200 ACRES</p>	<p>K. OCTOBER 1983</p>	
<p>H. 200 - 101 AC</p>	<p>L. NOVEMBER 1983</p>	
<p>I. 100 - 76 AC</p>	<p>M. DECEMBER 1983</p>	
<p>J. 75 - 51 AC</p>	<p>N. JANUARY 1984</p>	
<p>K. 50 - 41 AC</p>	<p>O. AFTER JANUARY, 1984</p>	
<p>L. 40 - 31 AC</p>	<p>X. NOT APPLICABLE</p>	
<p>M. 30 - 26 AC</p>		
<p>N. 25 AC OR LESS</p>		

FIGURE 2

PRIORITY FOR TECHNICAL REVIEW

FIRST PRIORITY:

- ENVIRONMENTAL PROBLEM PERMITS (xxY PRIORITY CODE)
- INTERIM PERMITS WITH ADDITIONAL NEW AREA (Axx PRIORITY CODE)
- SURFACE MINES WITH 200 ACRES MINING AREA (Gxx)
- UNDISTURBED INTERIM PERMITS (Exx)

SECOND PRIORITY:

- UNDERGROUND OPERATIONS (Bxx)

THIRD PRIORITY:

- LONGTERM FACILITIES (Cxx)
- COMBINATION PERMIT (Fxx)
- SURFACE OPERATIONS WITH 41 TO 200 ACRES MINING AREA
(Hxx TO Kxx)

FOURTH PRIORITY:

- SURFACE OPERATIONS WITH 2 TO 40 ACRES MINING AREA
(Lxx, Mxx, Nxx)
- HAUL ROAD (Dxx)

NOTES:

1. PRIORITIES ONLY APPLY TO COMPREHENSIVE APPLICATIONS BEING TRANSITIONED.
2. ACREAGE AND MINING STATUS ARE AS OF AUGUST 1, 1982.