



Kentucky

Department for Surface Mining
Reclamation and Enforcement

Reclamation Advisory Memorandum

From: Elmore C. Grim, Commissioner

E. C. Grim

Date: October 7, 1983

Subject: Delegation of the NPDES
Permit Program to NREPC

RAM# 70

KPDES DELEGATED

On September 30, 1983 the U.S. EPA delegated the National Pollutant Discharge Elimination System (NPDES) permit program under Section 402 of the Clean Water Act to the Natural Resources and Environmental Protection Cabinet (NREPC). This program will now be known as the Kentucky Pollutant Discharge Elimination System (KPDES) permit program. Discharges of pollutants from any point source into waters of the Commonwealth of Kentucky are unlawful unless authorized by a KPDES permit. This RAM will address the KPDES permitting procedures that apply to coal mining operations currently discharging or proposing to discharge pollutants into Kentucky's waters and enforcement measures for noncompliance with the KPDES Permit program.

Inasmuch as NREPC has now obtained primacy for the Federal Surface Mining Control and Reclamation Act and delegation of NPDES under the Federal Clean Water Act, the Cabinet has developed procedures for regulating coal mining activities in Kentucky to eliminate unnecessary duplication of effort under the two federal Acts. In order to consolidate these programs, the Department for Surface Mining Reclamation and Enforcement (DSMRE) has been delegated primary responsibility within the Cabinet for coordination of KPDES permit applications and enforcement on surface coal mining and reclamation operations.

KPDES PERMIT INVENTORY

To efficiently merge these two permitting programs, an inventory is needed of all existing or pending NPDES (KPDES) permits for all surface coal mining operations which have been permitted or have applied for a permit under DSMRE's permanent program. All permanent program surface mining permittees and applicants must complete the attached DEP-DSMRE Form -01 entitled "KPDES Permit Inventory" for each DSMRE permanent program permit or application and return the form to: KPDES, Department for Surface Mining Reclamation and Enforcement, Division of Permits, 6th floor, Capital Plaza Tower, Frankfort, Ky. 40601, on or before November 15, 1983. Extra copies of the form may be obtained at the DSMRE Regional Offices and the central office at the Capital Plaza Tower in Frankfort.

KPDES PERMIT APPLICATION PROCEDURES

On September 30, 1983, U.S. EPA Region IV, suspended issuance of all NPDES permits in Kentucky and forwarded any pending applications to the Cabinet for action under the KPDES Program. Any operation which has filed an application with EPA or is currently operating under a valid NPDES permit will be considered to be in compliance with KPDES regulations (401 KAR 5:050 to 401 KAR 5:085) and need only to submit the inventory form.

Any surface coal mining operations having a pending or issued permanent program permit (including transitions) which have not obtained an NPDES permit for point source discharges or which is operating under an expired NPDES permit must immediately submit an application for a KPDES permit. The appropriate application form listed below should be submitted to: KPDES, Department for Surface Mining Reclamation and Enforcement, Division of Permits, 6th floor, Capital Plaza Tower, Frankfort, Ky. 40601, or to the appropriate DSMRE Regional Office.

Permittee's or applicants who fail to provide the above required information on or before November 15, 1983, will be assumed to be in non-compliance with the KPDES Regulations and appropriate enforcement action will begin.

- (a) KPDES APPLICATION FORM 1 - General Information required of all KPDES applicants.
- (b) KPDES APPLICATION FORM SHORT C - can be used in lieu of Form C for discharges resulting from point sources (i.e) sediment ponds on active mining areas and post-mining areas (reclamation areas), and coal preparation plant associated areas (included coal preparation plant yards, immediate access roads, coal refuse piles, and coal storage piles).
- (c) KPDES APPLICATION FORM C - all other discharges (includes preparation plant water circuit, sanitary and bathhouse).

From this date on, any individual who applies for a new DSMRE permit or modifies an existing operation to include a new point source discharge, must file with the Division of Permits the appropriate KPDES application forms listed above at the time the preliminary application is submitted. Application forms may be obtained at the DSMRE Regional Offices, or central office, or at the Division of Water, 18 Reilly Road, Frankfort, Kentucky 40601.

REPORT REQUIREMENTS:

With DSMRE being the primary enforcement agency relative to water quality compliance, it will only be necessary for permittees to submit the "Discharge Monitoring Reports" to the appropriate DSMRE Regional Offices. Reports must still be submitted on a quarterly basis on the forms provided by the department as required by KRS 350 and KRS 224.

KPDES PROGRAM ENFORCEMENT

The statutory authority to regulate point source discharges from coal mining activities is found in KRS Chapters 350 and 224. These chapters authorize the Cabinet to implement enforcement programs imposing the requirements of the federal Surface Mining Control and Reclamation Act and the federal Clean Water Act, respectively. The Division of Water and the Department for Surface Mining Reclamation and Enforcement will share responsibility for enforcement.

Violations of the effluent limitations for KPDES permits will be enforced by the DSMRE pursuant to 405 KAR 16:070 and 405 KAR 18:070. These regulations state in part that discharges of water shall at all times be in compliance with all applicable federal and state water quality standards including the effluent limitations guidelines for coal mining promulgated by the U.S. EPA. In addition, operations are responsible, as KPDES permittees, for complying with all applicable parts of 401 KAR 5:050 - 5:085. If any violations of the KPDES Permit are observed, the DSMRE will issue a Notice of Non-Compliance, and if necessary, a Cessation Order pursuant to 405 KAR 12:020.

The Cabinet will take enforcement action in instances where the permittee has failed to make application for the required KPDES permit. Operators should be aware that KPDES permittees are subject to penalties pursuant to KRS 224.994(1) and KRS 224.994(4).

Department for Surface Mining Reclamation and Enforcement and the Division of Water plan to work closely to ensure that all permittees obtain the necessary permits concerning point source discharges. Any questions concerning KPDES should be directed to: Valerie Wickstrom (DEP) at (502)564-2150, Doug Allgeier (DOW) at (502)564-3410, Jim Adamson (DSMRE) at (502)564-2377 or Lyle Shaw (DSMRE) at (502)564-2320.

KPDES PERMIT INVENTORY

SURFACE COAL MINING AND RECLAMATION OPERATIONS

DSMRE Permit Number _____

Company Name _____

Address _____

Phone No. _____

1. Are all discharges associated with this operation currently covered by a valid KPDES Permit? _____ Yes _____ No (On September 30, 1983, the date of KPDES program approval, all operations permitted or authorized under NPDES have been deemed to hold a valid KPDES permit, including those expired permits which EPA has continued in effect according to 40 CFR 122.6, continuation of expiring permits.)
2. If yes, list below the NPDES number associated with this DSMRE permitted operation received to date along with expiration date, number of discharge points covered under the permit, and type of discharge. For additional NPDES permit numbers, write requested information on the reverse side of this form.

NPDES # _____

Circle Types of Discharge:

Expiration Date _____

A from active mining areas

No. of Discharges _____

B from reclamation areas

C Sanitary or bathhouse

D Preparation plant water circuit

E Preparation plant associated areas

3. If no, has an application been filed to obtain such coverage?

_____ Yes _____ No

_____ NPDES # EPA REGION IV assigned

(All applications for KPDES permits can be made to DSMRE on the appropriate KPDES forms as described in RAM #70.)

This Inventory Form should be submitted to the Division of Permits, Department for Surface Mining Reclamation and Enforcement, Sixth Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, no later than November 15, 1983.