



Kentucky
Department for Surface Mining
Reclamation and Enforcement

Reclamation Advisory Memorandum

From: Elmore C. Grim, Commissioner

E.C.G.

Date: November 28, 1983

Subject: Emergency Regulations

RAM# 71

Several emergency regulations were filed with the Legislative Research Commission on October 31, 1983. These regulations are applicable to new permit applications filed on and after November 1, 1983, and revisions or amendments to such applications. A brief summary of the changes is provided below:

- (1) New regulations 400 KAR 1:030E (service, and initiating an action); 400 KAR 1:040E (discovery); and 400 KAR 1:050E (burden of proof) establish cabinet-wide rules for administrative hearings procedures.
- (2) 405 KAR 7:020, Section 1(4), definition of "affected area," is revised to be consistent with the current federal definition. The most significant change establishes criteria for defining public roads.
- (3) 405 KAR 7:030, Section 1 is revised to establish criteria for whether two operations are "related" for purposes of determining whether an operation affects more or less than two acres. 405 KAR 7:030, new Section 3 lists operations which are exempt from the permanent program, and establishes a procedure whereby a person may obtain an advance determination of whether he is exempt.
- (4) 405 KAR 7:090 is revised regarding the award of costs and expenses in administrative hearings, and several other changes.
- (5) 405 KAR 8:030 and 8:040, Sections 15(2)(b) are revised to remove the cabinet's general discretion to delete parameters from the required premining water quality information. Also, dissolved iron and dissolved manganese are deleted from the list of required parameters.
- (6) 405 KAR 16:060, Section 6 is revised to require restoration of the approximate premining recharge capacity of mined lands.
- (7) 405 KAR 16:090 and 18:090, Sections 5(5) are revised to allow single spillway ponds in certain circumstances.

(8) 405 KAR 16:140 and 18:140, Sections 3(2) are revised to require diversion of water during construction of coal waste sites.

(9) 405 KAR 16:190 and 18:190, new Sections 7 establish criteria for remaining operations, in which the highwall need not be completely eliminated if insufficient spoil is available and certain other conditions are met.

Copies of these regulations are available from Kathy Peters or Diana Garland, (502) 564-2340.

Most of these regulation changes were required by the U.S. Secretary of Interior as conditions to his approval of Kentucky's permanent program. Many more changes to Kentucky's regulations will be needed in the next several months as a result of OSM's recently-completed massive rewrite of the federal regulations.