

Reclamation Advisory Memorandum

RAM # 109

Kentucky Natural Resources and Environmental Protection Cabinet

Department for Surface Mining Reclamation and Enforcement

From: Dave Rosenbaum, Commissioner

Date: December 8, 1992

Subject: Operator Change Revisions for Augering

DSMRE receives many applications for operator change revisions. We are providing the following information to help eliminate some unnecessary applications.

To maximize coal recovery, many permittees of contour mines and area mines also conduct augering on portions of their permit areas. In some circumstances the person conducting the augering may not be an "operator" as defined in KRS 350.010 and therefore may not be subject to certain requirements under KRS Chapter 350 and 405 KAR Chapters 7-24. In particular, a permittee may not always need to obtain an operator change revision under 405 KAR 8:010 Section 20(6) to bring certain augering equipment and personnel onto the permit area.

A person conducting augering will not be considered an operator if all four of the following circumstances are present:

1. Augering is a relatively small, incidental part of the planned coal extraction and is confined to a relatively small part of the permit area;
2. The person removes coal only by augering, and will remain on the mine site a relatively short period of time;
3. The person has no responsibilities on the permit other than those directly related to the augering; and
4. For purposes of ownership and control (pursuant to 405 KAR 8:001 Section 1(70)) the person's augering activities are under the daily, direct, effective supervision and control of the permittee or his authorized representative, or under the daily, direct, effective supervision and control of an operator approved in the permit or his authorized representative.

It will not be necessary to obtain an operator change revision when all these circumstances are present. However, for the permittee's own protection, ***we strongly advise that the permittee notify the appropriate Regional Office by letter if these circumstances exist.*** This will minimize the likelihood that we will mistakenly issue the permittee a notice of noncompliance for having an unapproved operator on the permit area. If you have questions about this issue, please contact Fred Kirchhoff, Director, Division of Permits, at (502) 564-2320.