



STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
CHARLESTON 25305

IRA S. LATIMER, Jr.
Director

November 3, 1976

The Honorable James R. McCartney
Secretary of State
Capitol Building
Charleston, West Virginia 25305

RE: Emergency Rules and Regulations
Reclamation Commission of
West Virginia
Department of Natural Resources
Department of Mines

Dear Secretary McCartney:

Pursuant to Chapter 29A, Article 3, Section 14, please file the enclosed Emergency Rules and Regulations in the appropriate state register.

Please be advised that these are Emergency Rules and Regulations which become effective upon the date of filing, pursuant to the above noted statute.

In prior appreciation for your cooperation in this matter, we thank you.

Very truly yours,

A handwritten signature in cursive script, reading "Ira S. Latimer, Jr.", is written over a horizontal line.

Ira S. Latimer, Jr., Chairman
Reclamation Commission

ISL/ph



STATE OF WEST VIRGINIA
OFFICE OF THE SECRETARY OF STATE
CHARLESTON 25305

JAMES R. MCCARTNEY
SECRETARY OF STATE

STATE REGISTER FILING

I, Ira S. Latimer, Jr., Chairman, W. Va. Reclamation Commission
Name Title or Position

Department of Natural Resources hereby submit to record
Department or Division

in the State Register on 8 1/2" x 11" paper two (2) copies of

- () proposed rules and regulations concerning topics or material not covered by existing rules and regulations;
- () proposed rules and regulations superseding rules and regulations already on file;
- () a notice of hearing;
- () findings and determinations;
- () rules and regulations; or
- (X) other - specify (Emergency Rules and Regulations) .

This filing pertains to

Chapter 22 and 20

Article 2 and 6

Series _____

Section _____

Page No. _____

November 4, 1976
Date Submitted

Ira S. Latimer Jr.
Signature of Person Authorizing this
Filing Chairman, West Virginia Reclamation
Commission

EMERGENCY RULES AND REGULATIONS

Pursuant to Section 14, Article 3, Chapter 29A, and in accordance with Article 6, Chapter 20 and Article 2, Chapter 22, of the Code of West Virginia, 1931, as amended, the Department of Mines, the Department of Natural Resources, and the Reclamation Commission of the State of West Virginia hereby make the following findings of fact:

1. Effective July 1, 1976, the Legislature of the State of West Virginia amended Chapter 22, Article 2, Section 63 by (a) adding subsection (e) which provides in part that:

"(e) On or after the first day of July, one thousand nine hundred seventy-six, no mine shall be opened or reopened unless a surface disturbed reclamation bond in the amount of five thousand dollars per acre is submitted to the department of mines for the removal of unused surface structures, the sealing of abandoned mine openings, and the reclamation of any land disturbed that does not result in an operational deep mine. * * * The above-mentioned bond shall go into a separate fund and must be submitted separate, when application is made for the issuance of a deep-mine permit."

and (b) by adding subsection (g) which provides in part that:

"All such restoration and reclamation of disturbed lands resulting from a deep-mine operation shall be under the jurisdiction and control, and subject to the provisions of the reclamation division of the department of natural resources in accordance with the requirements of article six of chapter twenty of the Code."

2. In order to prevent the cessation of the issuance of permits by the Department of Mines, it is necessary that emergency.

rules and regulations be promulgated pending promulgation of rules and regulations as required by Chapter 29A.

3. The cessation of the permit process for the opening or reopening of deep mines in this state would cause severe economic hardship, not only to the coal operators but also to the citizens of the State of West Virginia.

4. From the foregoing the above-noted agencies hereby declare that an emergency does exist with regard to the issuance of permits for the opening or reopening of deep mines pursuant to Chapter 22, Article 2, Section 63, of the Code of West Virginia.

THEREFORE, the following shall be considered emergency rules and regulations for the underground mining by the undersigned departments. Anyone desiring to open and/or reopen an underground mine after the first day of November, 1976, shall be in strict compliance with the following recommendations and limitations.

1. Approval shall be obtained from the Director, Department of Natural Resources for an underground opening reclamation plan prior to any surface disturbance, in accordance with instructions attached. Copies of the approval for an underground opening reclamation plan shall be furnished to the Director, Department of Mines.

2. Upon receipt of the approval for an underground opening reclamation plan, application may be submitted to the Director, Department of Mines for a Certificate of Underground Opening

Approval. Copies of the Certificate of Approval shall be furnished to the Director, Department of Natural Resources.

3. Bond shall be posted with the Director of Mines in the amount of \$5,000 per acre of surface disturbance or each fraction thereof, to include:

- a. Haulageway;
- b. Drainage system;
- c. Underground opening site excavation; and
- d. Any facility requiring surface disturbance.

4. The installation of the haulageway and drainage system shall be in accordance with the approved underground opening reclamation plan and shall be under the supervision of the engineer or person approved for designing and submitting the same. A certificate of installation shall be filed with the Reclamation Division, Department of Natural Resources, by said party as to the construction of the haulageway and drainage system in accordance with the approved underground opening reclamation prior to underground opening site excavation.

5. All haulageway construction, drainage system control, and underground opening site preparation shall be under the jurisdiction and control of the Reclamation Division, Department of Natural Resources. The Director Department of Natural Resources shall certify to the Director, Department of Mines, of the installation of all haulageways, drainage system, and site preparation incidental to the underground opening operation.

6. All underground operations shall be under the jurisdiction and control of the Department of Mines.

7. Upon completion of underground operations, the Director, Department of Mines shall certify to the Director, Department of Natural Resources, completion of the operation. The Director, Department of Natural Resources, shall have jurisdiction and control of final restoration and reclamation of the underground opening site.

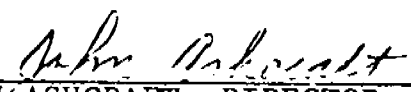
8. After completion of all restoration and reclamation resulting from the underground operation, the Director, Department of Natural Resources shall notify the Director, Department of Mines for termination of the bond or securities posted therewith.

9. Failure to conform to the provisions of Article 6, Chapter 20 and Article 2, Chapter 22, Code of West Virginia, 1931, as amended, and all rules and regulations promulgated thereto, shall result in forfeiture of the performance bond or securities posted in lieu thereof, as provided in Section 25, Article 6, Chapter 20, Code of West Virginia, 1931, as amended.

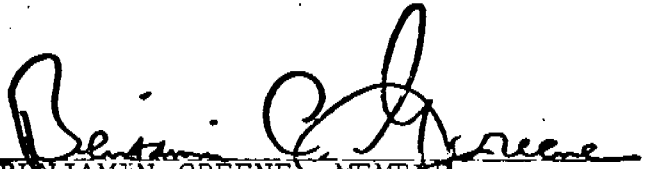
10. Attached hereto and made a part hereof as Exhibit I, "Emergency Procedure to Obtain Approval for Underground Opening Reclamation Plan." and Form DR-14 Exhibit II.

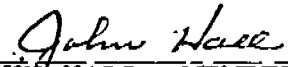

IRA S. LATIMER, JR., DIRECTOR
DEPARTMENT OF NATURAL RESOURCES


IRA S. LATIMER, CHAIRMAN
RECLAMATION COMMISSION


JOHN ASHCRAFT, DIRECTOR
DEPARTMENT OF MINES


JOHN ASHCRAFT, MEMBER
RECLAMATION COMMISSION


BENJAMIN GREENE, MEMBER
RECLAMATION COMMISSION


JOHN HALL, MEMBER
RECLAMATION COMMISSION

**EMERGENCY PROCEDURE TO OBTAIN APPROVAL
UNDERGROUND OPENING RECLAMATION PLAN**

November 1, 1976

1. Complete form DR-14 (3 pages, 6 copies)
2. Submit Topographic Maps showing the following information (submit six):
 - (a) All information should be clearly labeled and color coded. Preferred scale 1" - 500'.
 - (b) Portion of land to be disturbed by the mining operations, including haulageways, drainage sediment structures, underground opening site excavation, and all other facilities requiring surface disturbance.
 - (c) All information as required by Section 9, Article 6, Chapter 20 of the Code of West Virginia shall be provided on all Topographic Maps.
 - (d) Clearly indicate the extent and location of all adjacent surface mines, underground mines, underground mines within 300', haulroads, stockpiles, landfills, or any other operations which are currently under bond with the Department of Natural Resources.
 - (e) Maps and plans shall not exceed 24" x 36". If supplementary maps or plans are attached, match lines shall be used.
3. Submit a detailed reclamation plan to include a method of back-filling cross section which will approximate as closely as possible actual site conditions.
4. Submit a complete drainage control plan to include a Topographic Map of the same scale as the proposal map showing the location of all drainage control structures, direction of flow, water test sites, etc., in accordance with the Department of Natural Resources' Drainage Handbook for Surface Mining.
5. Where the total area of surface disturbance at the outcrop of the coal seam is greater than 400 linear feet and where coal is removed or to be removed commercially or for commercial purposes from the area, a surface mine reclamation bond as required by Article 6 and 6A, Chapter 20 of the Code of West Virginia, 1931, as amended, shall be first obtained covering the area being disturbed. The application will be filed in accordance with the

the established procedures for obtaining a Certificate of Underground Opening Approval in excess of 400 linear feet in addition to obtaining an approval for an underground opening reclamation plan. Although this constitutes dual bonding, the requirement is statutory in nature and shall be complied with.

6. The Surface Mining Reclamation Inspector shall be contacted for a review of the completed application for the area proposed for other mining prior to the submission of the complete application. Proposal maps and drainage plan maps shall be signed by the Surface Mining Reclamation Inspector.
7. Submit all six (6) copies of the complete application without bond or filing fee to: West Virginia Department of Natural Resources, 1800 Washington Street, East, Room 322, Charleston, West Virginia 25305.
8. The complete application must be submitted as six (6) separate entities in 9" x 12" clasp type binders for each application according to the following color code.

The WHITE being original to be filed in Charleston Office.

The BLUE being the Applicants copy.

The GREEN being the Surface Mining Reclamation Inspector's copy.

The PINK being the Reclamation field office's copy.

The YELLOW being the Department of Mines' copy.

The GOLDENROD being the Division of Water Resources' copy.

PRIOR TO ANY UNDERGROUND OPENING SITE EXCAVATION, ALL DRAINAGE AND SEDIMENT CONTROL SYSTEMS FOR THE AFFECTED DRAINAGE AREA, INCLUDING HAULAGEWAYS, SHALL BE INSTALLED AND CERTIFIED IN ACCORDANCE WITH THE APPROVED UNDERGROUND OPENING RECLAMATION PLAN.



STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF RECLAMATION
CHARLESTON, WEST VIRGINIA 25305

APPLICATION FOR UNDERGROUND OPENING RECLAMATION PLAN

Date _____

1. Name of Applicant or Company _____
Corporation () Partnership () Individual ()
2. Address _____
Permanent _____ Temporary _____
3. Name and Title of person representing company _____
4. Address _____ Office Phone _____
5. Location of Operation _____
County _____ Magisterial District _____ Nearest P.O. _____
Longitude _____ Latitude _____
6. Name of Tract _____
7. Common name of mineral _____
8. Geological title _____
Seam _____
9. If underground mining will be conducted on an active surface mine, list company and permit number.
Permit Number _____ Issued to _____
10. Owner (or owners) of the surface land to be disturbed:

Address _____

Address _____

Address _____
11. Owner (or owners) of minerals to be mined:

Address _____

Address _____

Address _____

STATE OF WEST VIRGINIA
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CHARLESTON, WEST VIRGINIA 25305

12. Source of operator's legal right to enter and conduct operations on lands to be covered by the permit _____
13. Are existing oil and/or gas wells, deep mines, cemeteries or utilities on the area where operations are to be conducted? Yes () No ()
14. Has applicant, any subsidiary or affiliate or any person, partnership, association, trust or corporation controlled by or under common control with the applicant, or any person required to be identified, ever had a surface, strip, or underground mining permit issued under the laws of this state revoked or has ever had a surface, strip, or underground mining bond, or security deposited in lieu of bond, forfeited?

Yes () No () If yes, explain:

15. Give the name and post office addresses of every officer, partner, director (or person performing a similar function) of applicant, together with all persons, if any, owing of record or beneficially (alone or with associates), if known, ten per cent or more of any class of stock of the stock of the applicant.

	Name	Title	Address
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____

16. Acreage to be disturbed:

Mining Operation Area + Access Road or Haulageway + Drainage System = Total Area
_____ Acres + _____ Acres + _____ Acres = _____ Acres

17. Reclamation Bond - Total Acres _____ X _____ per acre = \$ _____

Type: Surety Company _____ Bond No. _____

Cashier's Check No. _____

Other _____

STATE OF WEST VIRGINIA
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DIVISION OF RECLAMATION
CHARLESTON, WEST VIRGINIA 25305

RECLAMATION PLAN

1. Attach a detailed explanation of:

- a. Drainage control measures;
- b. Method of controlling placement of overburden;
- c. Method of regrading, topsoiling, and time schedule for the same;
- d. Method of final mechanical stabilization;
- e. Seed bed preparation;
- f. Soil preparation and treatment (lime, fertilizer, etc.);
- g. Revegetation species mixture and rate/acre;
- h. Mulch - specify type and rate; and
- i. Person or agency performing revegetation and specify method of application.

State of _____

County of _____

I, _____, having been duly sworn and depost
and attest that all of the representations contained in the foregoing application are true
to the best of my knowledge; that I am the principal executive officer of the applicant
and that this application has been executed by the persons required by law.

Signed _____

Taken, subscribed and sworn to before me the undersigned authority in my said
county, this _____ day of _____, 19____.

Notary Public _____

My Commission Expires _____