



STATE OF WEST VIRGINIA  
DEPARTMENT OF NATURAL RESOURCES  
CHARLESTON 25305

DAVID C. CALLAGHAN  
Director

June 22, 1977

**FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA**

**THIS DATE 6/22/77**

The Honorable A. James Manchin  
Secretary of State  
State Capitol  
Charleston, West Virginia 25305

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

Dear Secretary Manchin:

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 appreciate for your cooperation in this matter, we thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "D. C. Callaghan".

David C. Callaghan, Chairman  
Reclamation Commission

DCC:wrn



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

A. JAMES MANCHIN  
SECRETARY OF STATE

STATE REGISTER FILING

I, David C. Callaghan, Chairman, W.Va. Reclamation Comm. ar  
Director,  
Title or Position

Department of Natural Resources, hereby submit to record in  
Department or Division

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

- ( ) proposed rules and regulations concerning topics of material not covered by existing rules and regulations;
- ( ) proposed rules and regulations superseding rules and regulations already on file;
- ( ) 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. \_\_\_\_\_

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 6/22/77

- ( ) proposed rules and regulations are required to go to Legislative Rule Making Committee;
- (X) proposed rules and regulations are excluded from Legislative Rule Making Committee;

June 22, 1977  
Date Submitted

David C. Callaghan  
Signature of Person Authorizing  
this Filing Chairman West Virginia

THIS DATE 6/22/77

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 re-opened 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 twenty-second day of June, 1977, 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 (UO) 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 and Additional Opening Approval. Copies of the Certificate of Approval shall be furnished to the Director, Department of Natural Resources.

3. Pursuant to the decision of the West Virginia Supreme Court of Appeals which Order was made and entered on the 21st day of December, 1976, in the Big Valley Coal Company, Inc., et al Vs. John Ashcraft, Director, Department of Mines, et al, the following bonding requirements are established. Bond shall be posted with the Department of Natural Resources in the amount of \$1,000 per acre of surface disturbance or each fraction thereof, to include:

- a. Haulageway; and,
- b. Drainage system.

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

- a. Underground opening site excavation; and,
- b. Any facility requiring surface disturbance.

5. Prior to any underground or deep mining, all drainage and sediment control systems for the affected area, including haulageways, shall be installed in accordance with the underground opening reclamation plan and 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 plan prior to underground or deep coal mining.

6. 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 of the Department of Natural Resources shall notify the Director, Department of Mines, of the installation and certification of all haulageways and drainage systems, as well as approval of site preparation incidental to the underground opening operation.

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

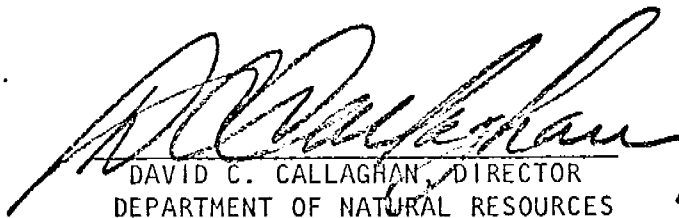
8. Upon completion of underground operations, the Director, Department of Mines, shall certify to the Director, Department of Natural Resources, completion of the operation. The Director, Department of Natural Resources, shall have jurisdiction and control of final restoration and reclamation

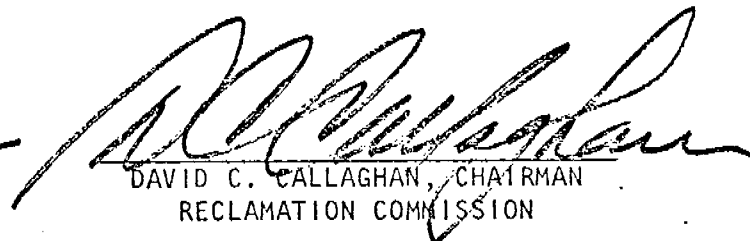
of the underground opening site.

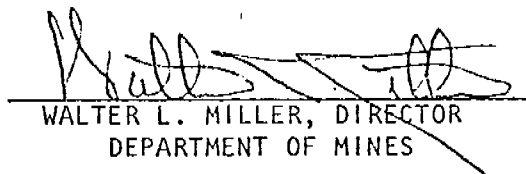
9. After completion of all restoration and reclamation resulting from the underground operation, the Director, Department of Natural Resources, shall notify the Director, Department of Mines for termination of the bond or securities posted therewith.

10. 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.

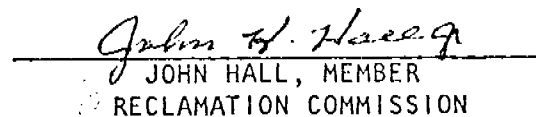
11. Attached hereto and made a part hereof as Exhibit I, "Emergency Procedure to Obtain Approval for Underground Opening Reclamation Plan" and Form DR-14 Exhibit II.

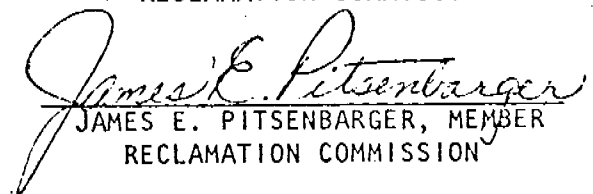
  
DAVID C. CALLAGHAN, DIRECTOR  
DEPARTMENT OF NATURAL RESOURCES

  
DAVID C. CALLAGHAN, CHAIRMAN  
RECLAMATION COMMISSION

  
WALTER L. MILLER, DIRECTOR  
DEPARTMENT OF MINES

  
WALTER L. MILLER, MEMBER  
RECLAMATION COMMISSION

  
JOHN HALL, MEMBER  
RECLAMATION COMMISSION

  
JAMES E. PITSENBARGER, MEMBER  
RECLAMATION COMMISSION

EMERGENCY PROCEDURE TO OBTAIN APPROVAL FOR UNDERGROUND OR DEEP COAL MINING RECLAMATION PLAN

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

The following is to be completed for both initial and additional opening approval applications. THIS DATE 4/22/77

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 or deep coal mine opening site excavation, overburden storage, and all other facilities requiring surface disturbance. If additional opening application, identify location of original underground opening site.
  - 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 or deep coal mines within 300', haulroads, stockpiles, landfills, or any other operations which are currently under bond with the Department of Natural Resources or the Department of Mines. Indicate permit numbers on map or in legend.
  - e. Indicate in the legend a breakdown of disturbed acreage for haulroads, sediment control structures, and mining operation areas (to include overburden stockpiling).
  - f. 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 cross-sectional drawings indicating site conditions prior to, during, and after mining and depicting as closely as possible actual site conditions. Cross-sections shall be taken at 100' intervals along a base line which parallels the cropline.
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, plans, designs, and specifications of all drainage structures, 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 shall be filed in accordance with established procedures for obtaining an Approval for Other Operations for Underground Mining in excess of 400 linear feet in addition to obtaining an approval for an underground or deep coal mine opening reclamation plan. Although this constitutes dual bonding, the requirement is statutory in nature and shall be complied with.

6. Complete surety bond in accordance with instructions, or in lieu thereof, a U. S. Treasury Bond with coupons attached, or Certificate of Deposit, or Cashier's Check, made payable to the Director, Department of Natural Resources. Such bond shall be posted with the Director, Department of Natural Resources in the amount of \$1,000 per acre of surface disturbance or each fraction thereof to include:

A. Access road or haulageway; and    B. Drainage system

In addition, \$5,000 per acre bond shall be posted with the Department of Mines for all other proposed disturbed area.

7. The Surface Mining Reclamation Inspector shall be contacted for a review of the completed application and the area proposed for deep mining prior to the submission of the complete application. Proposal maps and drainage plan maps shall be signed by the Surface Mining Reclamation Inspector.
8. Submit all six (6) copies of the complete application to: West Virginia Department of Natural Resources, 1800 Washington Street, East, Room 322, Charleston, West Virginia 25305.
9. 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 code: .

The WHITE bind original - to be filed in Charleston Office;  
The BLUE being the applicant's 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; and  
The GOLDENROD being the Division of Water Resources' copy.

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





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

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 4/22/72

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  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF RECLAMATION  
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 coproation controlled by or under common control with the applicant, or any person required to be identified, ever had a prospecting, surface mining permit, or underground opening approval issued under the laws of this state revoked or has ever had a prospecting, surface mining, or underground opening 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. | _____ | _____ |

ACREAGE TO BE DISTURBED

16. Mining Operation Area   Access Road or Haulageway   Drainage System   Total Area  
\_\_\_\_\_ Acres   +   \_\_\_\_\_ Acres   +   \_\_\_\_\_ Acres   =   \_\_\_\_\_ Acres

DEPARTMENT OF NATURAL RESOURCES

17. Reclamation Bond - Access Road or Haulageway and Drainage System:

Acres \_\_\_\_\_ X \$1,000.00 per acre = \$ \_\_\_\_\_  
Type: Surety Company \_\_\_\_\_ Bond No. \_\_\_\_\_  
Cashier's Check No. \_\_\_\_\_ Other \_\_\_\_\_

DEPARTMENT OF MINES

- 17A. Reclamation Bond - Mining Operation Area:

Acres \_\_\_\_\_ X \$5,000.00 per acre = \$ \_\_\_\_\_  
Type: Surety Company \_\_\_\_\_ Bond No. \_\_\_\_\_  
Cashier's Check No. \_\_\_\_\_ Other \_\_\_\_\_

STATE OF WEST VIRGINIA  
DEPARTMENT OF NATURAL RESOURCES  
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 \_\_\_\_\_