



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

BARBARA STARCHER
Deputy Secretary of State

RICHARD S. STEPHENSON
Deputy Secretary of State

Telephone: (304) 345-4000
Corporations: 345-8000

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1985 JUL 10 PM 4: 25

WILLIAM H. HARRINGTON
Chief of Staff

RICH O. HARTMAN
Director, Administrative Law

STATE OF WEST VIRGINIA
SECRETARY OF STATE
Charleston 25305

OFFICE OF THE SECRETARY OF STATE

DONALD R. WILKES
Director, Corporations

VIRGINIA SKEEN
Special Assistant

(Plus all the volunteer help we can get)

PROPOSED RULES

STATE REGISTER FILING

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AGENCY Department of Natural Resources

CONTACT PERSON William Chambers PHONE 348-3500

TYPE OF RULE Emergency

TITLE OF RULE Approved Person

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CHAPTER 20 ARTICLE 6 SERIES VII

AUTHORITY § 20-6-7

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CHECK APPLICABLE ITEMS BELOW TO SHOW KIND OF ACTION BEING TAKEN

- | | |
|---|--|
| <input type="checkbox"/> NEW RULE | <input type="checkbox"/> NOTICE OF HEARING |
| <input checked="" type="checkbox"/> AMENDMENTS TO EXISTING RULE | <input type="checkbox"/> NOTICE OF AGENCY APPROVAL
(legislative rules only) |
| <input type="checkbox"/> REPEAL OF EXISTING RULE | <input type="checkbox"/> NOTICE OF AGENCY ADOPTION
(interpretive & procedural rules only) |
| | <input type="checkbox"/> FINAL FILING |
| | <input checked="" type="checkbox"/> FIRST EMERGENCY FILING |
| | <input type="checkbox"/> SECOND EMERGENCY FILING |

NOTE: ALL FILINGS REQUIRE ONLY ONE COPY, EXCEPT FINAL FILING OF RULES WHICH REQUIRES AN ORIGINAL AND COPY.



STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
CHARLESTON 25306

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OFFICE OF THE SECRETARY OF STATE



ARCH A. MOORE, JR.
Governor

RONALD R. POTESTA
Director

MICHAEL A. FOTOS
Deputy Director

STATEMENT OF EMERGENCY

West Virginia Surface Mining Reclamation Regulations
Department of Natural Resources
Chapter 20-6, Series VII (1983), Section 3E.02(b)

The Department of Natural Resources is presently implementing Section 3E of its West Virginia Surface Mining Reclamation Regulations. This section of the regulations describes which individuals may be "approved" to "prepare, sign or certify all permit applications, maps, plans and design specifications or other similar materials necessary to complete an application and preplan." Section 3E.01. These individuals must be either registered professional engineers or licensed land surveyors for the purposes of Sections 10(a)(13) and 13(b)(10) of the West Virginia Surface Mining and Reclamation Act.

In order to become an "approved person," each person seeking an approval must pass an examination administered by the Director. Section 3E.02. This examination tests the person's knowledge of the West Virginia Surface Mining and Reclamation Act and other skills and qualifications that are necessary to complete a surface mining application and preplan. The Department currently administers examinations to both registered professional engineers and licensed land surveyors. This procedure has proven to be burdensome and unnecessary in the case of certain registered professional

engineers. Those registered professional engineers trained in civil or mining engineering have already demonstrated their engineering abilities when they were certified as professional engineers. Therefore, the Director can determine the person's knowledge of the laws and skills necessary to prepare surface mining applications and preplans by reviewing that person's past experience.

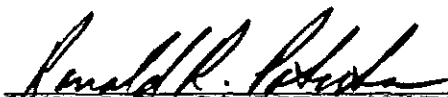
This emergency regulation allows the Director to waive the examination for registered professional engineers who are trained in civil or mining engineering. Without this regulation the Department will be forced to continue the unnecessary practice of administering examinations to these registered professional engineers. The examination requirement has already caused considerable problems and may be causing many qualified registered professional engineers to not participate in surface mining application preparation. As a result, the quality of engineering work performed on surface mining applications may decrease. This leaves a situation which must be remedied immediately.

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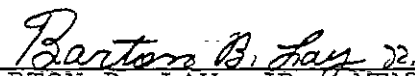
The following members of the Reclamation Commission hereby
authorize and approve the attached emergency regulation:

OFFICE OF THE SECRETARY OF STATE


RONALD R. POTEESTA, MEMBER
RECLAMATION COMMISSION


JAMES E. PITSENBARGER, MEMBER
RECLAMATION COMMISSION

DAVID W. ROBINSON, MEMBER
RECLAMATION COMMISSION


BARTON B. LAY, JR., MEMBER
RECLAMATION COMMISSION

WEST VIRGINIA SURFACE MINING RECLAMATION REGULATIONS

Department of Natural Resources

Chapter 20-6
Series VII
(1982)

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OFFICE OF THE SECRETARY OF STATE

Subject: Rules and regulations pertaining to definitions, general permit requirements, transportation facilities, drainage systems, blasting, post mining land use, fish and wildlife considerations, revegetation, prime farmlands, bonding, prospecting, additional permit requirements and performance standards for surface effects of underground mining operations, subsidence control, additional permit requirements and performance standards for facilities incidental to coal mining, additional permit requirements and performance standards for coal removal incidental to development, exemptions, additional permit requirements and small operators assistance program, notice of citizens' suits, citizens' inspections, designation of areas unsuitable for coal mining, inspections, enforcement, open meetings and Reclamation Board of Review appeals.

SECTION 1. GENERAL

1.01 These regulations establish general and specific rules for general permit requirements, transportation facilities, drainage systems, blasting, post mining land use, fish and wildlife considerations, revegetation, prime farmlands, bonding, prospecting, additional permit requirements and performance standards for surface mining operations, additional permit requirements and performance standards for surface effects of underground mining operations, subsidence control, additional permit requirements and performance standards for facilities incidental to coal mining, additional permit requirements and performance standards for coal removal incidental to development, exemptions, additional permit requirements and small operators assistance program, notice of citizen's suits, citizens' inspections, designation of areas unsuitable for coal mining, inspections, enforcement, open meetings and Reclamation Board of Review appeals.

1.02 Applicability - These rules and regulations shall apply to all surface coal mining and reclamation operations in this state as specified in accordance with Chapter 20, Article 6.

- (a) For all existing operations which have submitted permanent program modifications and/or addenda for existing permits or applications for permanent program permits, these regulations shall apply upon notification from the director of their applicability. Such notification shall occur within forty-five (45) 45 days of the effective date of these regulations. Within thirty (30) days of the receipt of that notification, the permittee shall acknowledge, in writing, to the director the applicability of these regulations to his operation. Such acknowledgement shall be deemed sufficient to make the permit or application complete for any new permit requirements contained in these regulations and shall become a part of the permit.
- (b) These regulations apply immediately to all existing operations not covered in (a).
- (c) For applications for new operations which have received an SMA number within thirty (30) days of the effective date of these regulations, the applicant shall acknowledge the applicability of these regulations to his proposed operation, in writing, to the director prior to issuance of the permit. Such acknowledgement shall be deemed sufficient to make the application complete for any new permit requirements contained in these regulations and shall become a part of the permit.
- (d) Permits issued after the effective date of these regulations for existing or new operations not covered in (a) or (c) shall incorporate all of the requirements of these regulations. These requirements shall be addressed in the application.

(e) All existing and new operations shall comply with the notice requirements of 4C.07 and 7C.01 within seventy-five (75) days of the applicability of these regulations as specified in (a), or (b) of this subsection. Such notice shall be deemed sufficient to allow continued operation during the period specified in these regulations for pre-notification (thirty (30) days for right to a pre-blast survey and six (6) months for the extension of underground workings). Operations continuing beyond those time periods must be in full compliance with these regulations.

1.03 Authority - These regulations are issued under the authority of Article 6, Chapter 20, Code of West Virginia, as amended.

1.04 Effective Date - These regulations become effective sixty (60) days after approval by the legislature.

1.05 Filing Date - These regulations are being filed in the Office of the Secretary of State on the 27th day of August, 1984, as proposed regulations.

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3E.02(b)

OFFICE OF THE REGISTERED PROFESSIONAL ENGINEERS
STATE

Any person seeking an approval must demonstrate that he possesses adequate knowledge of the Act and rules and regulations promulgated thereunder and possesses such other skills and qualifications as may be necessary to complete an application and preplan by successfully passing an examination administered by the director. Those persons who have been approved to date need not make said demonstration. Such examinations will be given upon request by the person seeking approval.

Provided, however, that registered professional engineers in the fields of civil engineering or mining engineering may seek a waiver of the examination requirements from the Director. The Director may grant such a waiver based upon the submission by the registered professional engineer of a resume which indicates experience with engineering techniques common to the surface mining industry.



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(Plus all the volunteer
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STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

Jan. 8, 1986

NOTICE OF EXPIRATION OF EMERGENCY RULE

THE FOLLOWING EMERGENCY RULE FILED BY THE DEPARTMENT OF NATURAL RESOURCES AND TRANSFERRED TO THE DEPARTMENT OF ENERGY HAS EXPIRED. THIS EMERGENCY RULE WAS NOT FILED WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE WITHIN THE TIME PERIOD REQUIRED BY WV CODE 29A-3-15(a)(2).

Amendment to Surface Mining Reclamation rules Series 7 (approved person) filed as an emergency rule on July 10, 1985. This emergency rule expired on January 7, 1986.

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