



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,
Title or Position

Reclamation Commission, 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;
- (X) proposed rules and regulations superseding rules and regulations already on file;
- () notice of hearing;
- () findings and determinations;
- (X) rules and regulations; or
- (X) other - specify (Declaration of Emergency

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 10/28/82
Administrative Law Division

This filing pertains to

Chapter 20
Article 6
Series VII
Sections 6, 7 and 12 (Subseries B)

Page No. 2, 8 & 20, Section 6; Page No. 2, Section 7; and Page No. 5, Section 12 of
Subseries B

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

10-28-82
Date Submitted

[Signature]
Signature of Person Authorizing
this Filing



STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
CHARLESTON 25305

JOHN D. ROCKEFELLER IV
Governor

October 21, 1982

DAVID C. CALLAGHAN
Director
WILLIS H. HERTIG, JR.
Deputy Director
BRENT T. WAHLQUIST
Deputy Director

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

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A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 10/28/82
Administrative Law Division


Dear Secretary Manchin:

The following is submitted to you pursuant to the requirements of Chapter 29A, Article 3, Section 15 of the Code of West Virginia, as amended.


Declaration of Emergency


The Reclamation Commission hereby makes the following statement of facts and circumstances constituting the emergency which requires the promulgation of these regulations pursuant to West Virginia Code 29A-3-15(a). The Commission affirmatively states that an emergency exists because, in accordance with Code 29A-3-15(a), these rules are (1) necessary for the immediate preservation of the public peace, health, safety or welfare; (2) necessary to comply with federal law and regulations; and (3) necessary to prevent substantial harm to the public interest.

The Federal Surface Mining Control and Reclamation Act of 1977, P.L. 95-87, and specifically Section 503, 30 U.S.C. § 1253, require that a state have laws and regulations in effect which are consistent with their counterparts before a state can be delegated primacy over regulating its mining industry. Regulations were initially put into effect as emergency regulations on January 19, 1981 and again on June 16, 1982. The state received primacy on January 21, 1981 on the condition that certain elements of its program be modified. The deadline for the modifications hereby submitted is November 1, 1982. If these modifications are not put into effect, the Secretary of the Department of the Interior is required to revoke West Virginia's primacy and substitute a federal program. See, 33 U.S.C. § 1254. To allow federal takeover simultaneously prohibits the state from issuing new permits (33 U.S.C. § 1256) which in turn will substantially harm the public interest.



David C. Callaghan, Director
Department of Natural Resources


David C. Callaghan, Chairman
Reclamation Commission


Walter N. Miller, Director
Department of Mines


Walter N. Miller, Member
Reclamation Commission


David Robinson, Member
Reclamation Commission


James E. Pitsenbarger, Member
Reclamation Commission

Section 6A.02

1. Water Quality - Laboratory analysis of samples shall be taken at regular monthly intervals for a period not less than 6 consecutive months prior to application submission for pH, iron, manganese, suspended solids, dissolved solids, hot total acidity, total alkalinity, specific conductance and temperature. On-site field analysis of pH, iron, specific conductance and temperature shall also be recorded. Permanent monitoring sites will be established for the collection of this data at locations upstream and downstream from the proposed permitted area on all intermittent or perennial streams receiving drainage from the proposed permit area and on all receiving streams above and below the confluence of tributaries receiving the drainage from the proposed permit area.

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6B.02 Casing and Sealing of Holes - All boreholes, shafts, wells, and auger holes shall be cased, sealed or otherwise managed to prevent pollution of surface or ground water and to prevent mixing of ground waters of significantly different quality in accordance with the approved pre-plan. All boreholes within the permit area which extend beneath the coal seam to be mined and into water bearing strata shall be permanently plugged unless the boreholes have been approved for use in Section 6A.02 (a) (6) for monitoring. Prior to sealing, such holes shall be managed to ensure the safety of people, livestock and wildlife.

6B.07

c. Mountaintop Removal

2. The Final Graded Slopes - The final graded top plateau slopes on the mined area shall be less than 5 horizontal to 1 vertical so as to create a level plateau or gently rolling configuration and the outslopes of the plateau shall not exceed 2 horizontal to 1 vertical except where engineering data demonstrates and the director finds that the minimum static safety factor be more than 1.5.

6B.07

- f. Any time a slide occurs which may adversely affect public property, health or safety, or the environment, the operator shall immediately notify the director and comply with remedial measures specified by the director.

7A.02

1. Water Quality - Laboratory analysis of samples shall be taken at regular monthly intervals for a period not less than 6 consecutive months prior to application submission for pH, iron, manganese, suspended solids, dissolved solids, hot total acidity, total alkalinity, specific conductance and temperature. On-site field analysis of pH, iron, specific conductance, and temperature shall also be recorded. Permanent monitoring sites will be established for the collection of this data at locations upstream and downstream from the proposed permitted area on all intermittent or perennial streams receiving drainage from the proposed permit area and on all receiving streams above and below the confluence of tributaries receiving the drainage from the proposed permit area.

7B.08

- d. Any time a slide occurs which may adversely affect public property, health or safety, or the environment, the operator shall immediately notify the director and comply with remedial measures specified by the director.

12B.07

- b. Results of test borings, core samplings, or soil samples shall be available to the public as a part of the application. However, information pertaining to the analysis of the chemical and physical properties of the coal, except information regarding mineral or element content which is potentially toxic to the environment, may be kept confidential and excluded from public review.