TITLE 460. DEPARTMENT OF MINES
CHAPTER 20. THE PERMANENT REGULATIONS GOVERNING THE COAL RECLAMATION ACT OF 1979

SUBCHAPTER 1. GENERAL PROVISIONS

SUBCHAPTER 15. REQUIREMENTS FOR PERMITS AND PERMIT PROCESSING

460:20-15-6.7. Unanticipated events or conditions at remining sites

(a) The applicant is eligible for a permit under OAC 460:20-15-6.6 if an unabated violation:

(1) Occurred after October 24, 1992; and

(2) Resulted from an unanticipated event or condition at a surface coal mining and reclamation operation on lands that are eligible for remining under a permit that was~~:~~ held by the applicant.

~~(A) Issued before September 30, 2004, including subsequent renewals; and~~

~~(B) Held by the applicant.~~

(b) For permits issued under OAC 460:20-33-12, an event or condition is presumed to be unanticipated for the purpose of this section if it:

(1) Arose after permit issuance;

(2) Was related to prior mining; and

(3) Was not identified in the permit application.

460:20-15-10.1. Suspension or rescission requirements for improvidently issued permits

(a) Except as provided in paragraph (b) of this Section, the Department must suspend or rescind the permit upon expiration of the time specified in Section 460:20-15-9.2(b) or (c) in this Subchapter unless permittee submits evidence and the Department finds that:

(1) The violation has been abated or corrected to the satisfaction of the agency with jurisdiction over the violation;

(2) The permittee or its operator no longer owns or controls the relevant operation;

(3) The Department's finding for suspension or rescission was in error;

(4) The violation is the subject of a good faith administrative or judicial appeal (unless there is an initial judicial decision affirming the violation, and that decision remains in force);

(5) The violation is the subject of an abatement plan or payment schedule that is being met to the satisfaction of the agency with jurisdiction over the violation; or

(6) The permittee is pursuing a good faith challenge or administrative or judicial appeal of the relevant ownership or control listing or finding (unless there is an initial judicial decision affirming the listing or finding, and that decision remains in force).

(b) If the permittee has requested administrative review of a notice of proposed suspension or rescission under Section 460:20-15-9.2(e) of this Subchapter, the Department will not suspend or rescind the permit unless and until the Department's Decision that the permit was improvidently issued is affirmed.

(c) When the Department suspends or rescinds the permit under this section, it must: ~~issue permittee a written notice requiring it to cease all surface coal mining operations under the permit;~~

(1) Issue the permittee a written notice requiring it to cease all surface coal mining operations under the permit and

(2) Post the notice at the office closest to the permit area.

(d) If the Department suspends or rescinds the permit under this section, the Applicant or Operator may request administrative review of the notice under the procedures of 460:2, the Rules of Practice and Procedure for the Coal Reclamation Act. ~~of 1979, if the proposed notice to suspend or rescind the permit issued under Section460:20-15-9.2 of this Subchapter has not been the subject of an administrative proceeding.~~

SUBCHAPTER 17. REVISION; RENEWAL; AND TRANSFER, ASSIGNMENT, OR SALE OF PERMIT RIGHTS

460:20-17-5. Transfer, assignment, or sale of permit rights

(a) **General.** No transfer, assignment, or sale of rights granted by a permit shall be made without the prior written approval of the Department. At its discretion, the Department may allow a prospective successor in interest to engage in surface coal mining and reclamation operations under the permit during the pendency of an application for approval of a transfer, assignment, or sale of permit rights submitted under paragraph (b) of this section, provided that the prospective successor in interest can demonstrate to the satisfaction of the Department that sufficient bond coverage will remain in place.

(b) **Application requirements**. An applicant for approval of the transfer, assignment, or sale of permit rights shall:

(1) Provide the Department with an application for approval of the proposed transfer, assignment, or sale including:

(A) The name and address of the existing permittee and permit number or other identifier;

(B) A brief description of the proposed action requiring approval; and

(C) The legal, financial, compliance, and related information required by Subchapter 23 of this Chapter for the applicant for approval of the transfer, assignment, or sale of permit rights.

(2) Advertise the filing of the application in a newspaper of general circulation in the locality of the operations involved, indicating the name and address of the applicant, the permittee, the permit number or other identifier, the geographic location of the permit, and the address to which written comments may be sent;

(3) Obtain appropriate performance bond coverage in an amount sufficient to cover the proposed operations.

(c) **Public participation**. Any person having an interest which is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any Federal, State, or local government agency, may submit written comments on the application to the Department within a time specified by the Department.

(d) **Criteria for approval**. The Department may allow a permittee to transfer, assign, or sell permit rights to a successor, if it finds in writing that the successor:

(1) Is eligible to receive a permit in accordance with Section ~~460:20-15-6.9~~ 460:20-15-6.6 of this Chapter~~;~~.

(2) Has submitted a performance bond or other guarantee, or obtained the bond coverage of the original permittee.

(3) Meets any other requirements specified by the Department.

(e) **Notification**.

(1) The Department shall notify the permittee, the successor~~, commenters~~ commenters, and OSM of its findings.

(2) The successor shall immediately provide notice to the Department of the consummation of the transfer, assignment, or sale of permit rights.

(f) **Continued operation under existing permit**. The successor in interest shall assume the liability and reclamation responsibilities of the existing permit and shall conduct the surface coal mining and reclamation operations in full compliance with the Act, the regulatory program, and the terms and conditions of the existing permit, unless the applicant has obtained a new or revised permit.

SUBCHAPTER 29. UNDERGROUND MINING PERMIT APPLICATIONS: MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

460:20-29-10. Maps: general requirements

The permit application shall include maps showing:

(1) All boundaries of lands and names of present owners of record of those lands, both surface and subsurface, included in or contiguous to the permit area;

(2) The boundaries of land within the proposed permit area upon which the applicant has the legal right to enter and begin underground mining activities;

(3) The boundaries of all areas proposed to be affected over the estimated total life of the underground mining activities, with a description of size, sequence, and timing of the mining of subareas for which it is anticipated that additional permits will be sought;

(4) The location of all buildings in and within 1,000 feet of the proposed permit area, with identification of the current use of the buildings (include GPS coordinates for each building);

(5) The location of surface and subsurface manmade features within, passing through, or passing over the proposed permit area, including, but not limited to, major electric transmission lines, pipelines, and agricultural drainage tile fields;

(6) The location and boundaries of any proposed reference areas for determining the success of revegetation;

(7) The locations of water-supply intakes for current users of surface waters flowing into, out of, and within a hydrologic area defined by the Department, and those surface waters which will receive discharges from affected areas in the proposed permit area;

(8) Each public road located in or within 100 feet of the proposed permit area;

(9) The boundaries of any public park and locations of any cultural and historical resources listed or eligible for listing in the National Register of Historic Places and known archeological sites within the permit or adjacent areas;
(10) Each cemetery that is located in or within 100 feet of the proposed permit area.
(11) Any land within the proposed permit area which is within the boundaries of any units of the National System of Trails or the Wild and Scenic Rivers System, including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act; and
(12) Other relevant information required by the Department.

460:20-29-11. Cross sections, maps, and plans

(a) The application shall include cross sections, maps, and plans showing:
(1) Elevations and locations of test borings and core samplings;
(2) Elevations and locations of monitoring stations used to gather data for water quality and quantity, fish and wildlife, and air quality, if required, in preparation of the application;
(3) Nature, depth, and thickness of the coal seams to be mined, any coal or rider seams above the seam to be mined, each stratum of the over burden, and the stratum immediately below the lowest coal seam to be mined;
(4) All coal crop lines and the strike and dip of the coal to be mined within the proposed permit area;
(5) Location and extent of known workings of active, inactive, or abandoned underground mines, including mine openings to the surface and the depth to the mined coal if available within the proposed permit and adjacent areas;
(6) Location and extent of subsurface water, if encountered, within the proposed permit or adjacent areas;
(7) Location of surface water bodies such as streams, lakes, ponds, springs, constructed or natural drains, and irrigation ditches within the proposed permit and adjacent areas;
(8) Location and extent of existing or previously surface mined areas within the proposed permit area;
(9) Location and dimensions of existing areas of spoil, waste, and noncoal waste disposal, dams, embankments, other impoundments, and water treatment and air pollution control facilities within the proposed permit area;
(10) Location, and depth if available, of gas and oil wells within the proposed permit area and water wells in the permit area and adjacent area;

(b) Cross sections, maps, and plans included in a permit application as required by this Section shall be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer;~~,~~ a professional geologist;~~,~~ or a qualified registered, professional land surveyor, with assistance from ~~expects~~ experts in related fields such as landscape architecture, and shall be updated as required by the Department.

SUBCHAPTER 31. UNDERGROUND MINING PERMIT APPLICATIONS: MINIMUM REQUIREMENTS FOR RECLAMATION

460:20-31-9. Reclamation plan: siltation structures, impoundments, banks, dams, and embankments

(a) **General.** Each application shall include a general plan for each proposed siltation structure, water impoundment, and coal processing waste bank, dam, or embankment within the proposed permit area.

(1) Each general plan shall:

(A) Be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, with assistance from experts in related fields such as landscape architecture;

(B) Contain a description, map, and cross section of the structure and its location;

(C) Contain preliminary hydrologic and geologic information required to assess the hydrologic impact of the structure;

(D) Contain a survey describing the potential effect on the structure from subsidence of the subsurface strata resulting from past underground mining operations if underground mining has occurred; and

(E) Contain a certification statement which includes a schedule setting forth the dates when any detailed design plans for structures that are not submitted with the general plan will be submitted to the Department. The Department shall have approved, in writing, the detailed design plan for a structure before construction of the structure begins.

(2) Impoundments meeting the class B or C criteria for dams in the U.S. Department of Agriculture, Soil Conservation Service Technical Release No. 60 (210-VT-TR60, Oct. 1985), "Earth Dams and Reservoirs," Technical Release No. 60 (TR-60) shall comply with the requirements of this section for structures that meet or exceed the size or other criteria of the Mine Safety and Health Administration (MSHA). The technical release is hereby incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, order No. PB 87-157509/AS. Copies can be inspected at the ~~Oklahoma Department of Mines 4040 N. Lincoln Blvd., Suite 107, Oklahoma City, OK.~~ Oklahoma Department of Mines, 2915 N. Classen Blvd., Suite 213, Oklahoma City, OK 73106. Each detailed design plan for a structure that meets or exceeds the size or other criteria of the Mine Safety and Health Administration, 30 CFR 77.216(a) shall:

(A) Be prepared by, or under the direction of, and certified by a qualified registered professional engineer with assistance from experts in related fields such as geology, land surveying, and landscape architecture;

(B) Include any geotechnical investigation, design, and construction requirements for the structure;

(C) Describe the operation and maintenance requirements for each structure; and

(D) Describe the timetable and plans to remove each structure, if appropriate.

(3) Each detailed design plan for a structure that does not meet the size or other criteria of 30 CFR 77.216(a) or the Class B or C criteria for dams in the U.S. Department of Agriculture, Soil Conservation Service Technical Release No. 60 (210-VI-TR60, Oct. 1985), "Earth Dams and Reservoirs" Technical Release No. 60 (TR-60) shall:

(A) Be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer;

(B) Include any design and construction requirements for the structure, including any required geotechnical information;

(C) Describe the operation and maintenance requirements for each structure; and

(D) Describe the timetable and plans to remove each structure, if appropriate.

(b) **Siltation structures.**

(1) Siltation structures, whether temporary or permanent, shall be designed in compliance with the requirements of Section 460:20-45-12 of this Chapter. Any impoundment or earthen structure which will remain on the proposed permit area as a permanent water impoundment shall also be designed to comply with the requirements of Section 460:20-45-24 of this Chapter.

(2) Each plan shall, at a minimum, comply with the requirements of the Mine Safety and Health Administration, 30 CFR 77.216-1 and 77.216-2.

(c) **Permanent and temporary impoundments.** Permanent and temporary impoundments shall be designed to comply with the requirements of Section 460:20-45-14 of this Chapter. Each plan shall comply with the requirements of the Mine Safety and Health Administration, 30 CFR 77.216-1 and 77.216-2.

(1) Each plan for an impoundment meeting the size or other criteria of the Mine Safety and Health Administration shall comply with the requirements of 30 CFR 77.216-1 and 77.216-2. The plan required to be submitted to the District Manager of MSHA under 30 CFR 77.216 shall be submitted to the Department as part of the permit application in accordance with Subsection (a) of this section.

(2) For an impoundment not meeting the size or other criteria of 30 CFR 77.216(a) or the Class B or C criteria for dams in TR-60 (210-VI-TR60, Oct. 1985), "Earth Dams and Reservoirs,"~~,~~ or located where failure would not be expected to cause loss of life or serious property damage, the Department may establish through the State program approval process engineering design standards that ensure stability comparable to a 1.3 minimum static safety factor in lieu of engineering tests to establish compliance with the minimum static safety factor of 1.3 specified in 460:20-45-14(a)(3)B) of this Chapter.

(d) **Coal processing waste banks.** Coal processing waste banks shall be designed to comply with the requirements of Sections 460:20-45-29 through 460:20-45-31 of this Chapter.

(e) **Coal processing waste dams and embankments.** Coal processing waste banks shall be designed to comply with the requirements of Sections 460:20-45-29 through 460:20-45-31 of this Chapter. Each plan shall comply with the requirements of the Mine Safety and Health Administration, 30 CFR 77.216-1 and 77.216-2, and shall contain the results of a geotechnical investigation of the proposed dam or embankment foundation area, to determine the structural competence of the foundation which will support the proposed dam or embankment structure and the impounded material. The geotechnical investigation shall be planned and supervised by an engineer or engineering geologist, according to the following:

(1) The number, location and depth of the borings and test pits shall be determined using current prudent engineering practice for the size of the dam or embankment, quantity of material to be impounded, and subsurface conditions.

(2) The character of the overburden and bedrock, the proposed abutment sites, and any adverse geotechnical conditions which may affect the particular dam, embankment, or reservoir site shall be considered.

(3) All springs, seepage, and ground-water flow observed or anticipated during wet periods in the area of the proposed dam or embankment shall be identified on each plan.

(4) Consideration shall be given to the possibility of mudflows, rock-debris falls, or other landslides into the dam, embankment, or impounded material.

(f) **Stability analysis**. If the structure~~,~~ meets Class B or C criteria for dams in TR-60 or the size or other criteria of 30 CFR 77.216(a) then each plan under Subsections (b), (c), and (e) of this Section shall include a stability analysis of each structure. The stability analysis shall include, but not be limited to, strength parameters, pore pressures, and long-term seepage conditions. The plan shall also contain a description of each engineering design assumption and calculation with a discussion of each alternative considered in selecting the specific design parameters and construction methods.

SUBCHAPTER 43. PERMANENT PROGRAM PERFORMANCE STANDARDS: SURFACE MINING STANDARDS

460:20-43-7. Topsoil and subsoil

(a) **Removal.**

(1) All topsoil must be removed a minimum of 60 feet or one pit width (whichever is less) in advance of the active pit unless a different distance is determined by the Department.

(A) All topsoil shall be removed as a separate layer from the area to be disturbed, and segregated.

(B) Where the topsoil is of insufficient quantity or poor quality for sustaining vegetation, the materials approved by the Department in accordance with (b) of this Section shall be removed as a separate layer from the area to be disturbed, and segregated.

(2) If topsoil is less than 6 inches thick, the operator may remove the topsoil and the unconsolidated materials immediately below the topsoil and treat the mixture as topsoil.

(3) The Department may choose not to require the removal of topsoil for minor disturbances which:

(A) Occur at the site of small structures, such as power poles, signs, or fence lines; or

(B) Will not destroy the existing vegetation and will not cause erosion.

(4) **Timing.** All material to be removed under this Chapter shall be removed after the vegetative cover that would interfere with its salvage is cleared from the area to be disturbed, but before any drilling, blasting, mining, or other surface disturbance takes place.

(b) **Substitutes and supplements.** Selected overburden materials may be substituted for, or used as a supplement to topsoil if the operator demonstrates to the Department that the resulting soil medium is equal to, or more suitable for, sustaining vegetation than~~,~~ the existing topsoil, and the resulting soil medium is the best available in the permit area to support revegetation.

(c) **Storage.**

(1) Materials removed under Subsection (a) of this Section shall be segregated and stockpiled when it is impractical to redistribute such materials promptly on regarded areas.

(2) Stockpiled materials shall:

(A) Be selectively placed on a stable site within the permit area;

(B) Be protected from contaminants and unnecessary compaction that would interfere with revegetation;

(C) Be protected from wind and water erosion through prompt establishment and maintenance of an effective, quick growing vegetative cover or through other measures approved by the Department; and

(D) Not be moved until required for redistribution unless approved by the Department.

(3) Where long-term surface disturbances will result from facilities such as support facilities and preparation plants and where stockpiling of materials removed under (a) (1) of this Section would be detrimental to the quality or quantity of those materials, the Department may approve the temporary distribution of the soil materials so removed to an approved site within the permit area to enhance the current use of that site until needed for later reclamation, provided that:

(A) Such action will not permanently diminish the capability of the topsoil of the host site; and

(B) The material will be retained in a condition more suitable for redistribution than if stockpiled.

(d) **Redistribution.**

(1) Topsoil materials removed under Subsection (a) of this Section shall be redistributed in a manner that:

(A) Achieves an approximately uniform, stable thickness consistent with the approved postmining land use, contours, and surface-water drainage systems;

(B) Prevents excess compaction of the materials; and

(C) Protects the materials from wind and water erosion before and after seeding and planting.

(2) Before redistribution of the material removed under Subsection(a) of this Section, the regraded land shall be treated, if necessary, to reduce potential slippage of the redistributed material and to promote root penetration. If no harm will be caused to the redistributed material and reestablished vegetation, such treatment may be conducted after such material is replaced.

(3) The Department may choose not to require the redistribution of topsoil or topsoil substitutes on the approved postmining embankments of permanent impoundments or of roads if it determines that:

(A) Placement of topsoil or topsoil substitutes on such embankments is inconsistent with the requirement to use the best technology currently available to prevent sedimentation, and

(B) Such embankments will be otherwise stabilized.

(4) **Nutrients and soil amendments.** Nutrients and soil amendments shall be applied to the initially redistributed material when necessary to establish the vegetative cover.

(e) **Subsoil segregation.** The Department may require that the B horizon, C horizon, or other underlying strata, or portions thereof, be removed and segregated, stockpiled, and redistributed as subsoil in accordance with the requirements of Subsection(c) and (d) of this Section if it finds that such subsoil layers are necessary to comply with the revegetation requirements of Sections 460:20-43-43, 460:20-43-44, 460:20-43-45 and 460:20-43-46.

460:20-43-23. Use of explosives: records of blasting operations

The operator shall retain a record of all blasts for at least 3 years. Upon request, copies of these records shall be made available to the Department and to the public for inspection. Such records shall contain the following data:

(1) Name of the operator conducting the blast.
(2) Location, date, and time of the blast.
(3) Name, signature, and certification number of the blaster conducting the blast.
(4) Identification, direction, and distance, in feet, from the nearest blast hole to the nearest dwelling, public building, school, church, community or institutional building outside the permit area, except those described in Section 460:20-43-22(e).
(5) Weather conditions, including those which may cause possible adverse lasting effects.
(6) Type of material blasted.
(7) Sketches of the blast pattern including number of holes, burden, spacing, decks, and delay pattern.
(8) Diameter and depth of holes.
(9) Types of explosives used.
(10) Total weight of explosives used per hole.
(11) The maximum weight of explosives detonated in an 8-millisecond period.
(12) Initiation system.
(13) Type and length of stemming.
(14) Mats or other protections used.
(15) Seismographic and airblast records, if required, which shall include:
    (A) Type of instrument, sensitivity, and calibration signal or certification of annual calibration;
    (B) Exact location of instrument and the date, time, and distance from the blast;
    (C) Name of the person and firm taking the reading;
    (D) Name of the person and firm analyzing the seismographic record and
    (E) The vibration and/or airblast level recorded.
(16) Reasons and conditions for each unscheduled blast.
(17) Names of blasting crew.
(18) Expiration date of blaster's certification.
(19) A digital video of each blast with information about the location of the camera and bearing to blast.
(20) Drill logs.

460:20-43-37. Contemporaneous reclamation

Reclamation efforts, including but not limited to backfilling, grading, topsoil replacement, and revegetation, on all land that is disturbed by surface mining activities shall occur as contemporaneously as practicable with mining operations, except when such mining operations are conducted in accordance with a variance for concurrent surface and underground mining activities issued under Section 460:20-33-8 of this Chapter.

(1) **Timing of backfilling and grading.**

(A) **Contour mining.** Rough backfilling and grading shall follow coal removal by not more than 60 days or 1,500 linear feet. The Department may grant additional time for rough backfilling and grading if the permittee can demonstrate, through a detailed written analysis under Section 460:20-27-10(b)(3), that additional time is necessary~~;~~.

(B) **Open pit mining with thin overburden.** Rough backfilling and grading shall occur in accordance with the time schedule approved by the Department, on the basis of the materials submitted under Section 460:20-27-10(b)(3), which shall specifically establish in stated increments the period between removal of coal and completion of backfilling and grading.

(C) **Area strip mining.** Rough backfilling and grading shall be completed within180 days following coal removal and shall not be more than four spoil ridges behind the pit being worked, the spoil from the active pit being considered the first ridge. The Department may grant additional time for rough backfilling and grading, if the permittee can demonstrate, through a detailed written analysis under Section 460:20-27-10(b)(3), that additional time is necessary.

(2) **Annual reporting.** Every twelve months after permit issuance and until final bond release, the permittee must submit to the Department a map or maps, signed and dated by a licensed professional engineer or licensed land surveyor, showing:

(A) The current permit boundaries;

(B) The cumulative disturbed acres;

(C) The cumulative acres that have been backfilled and graded to the approved postmining contours;

(D) The cumulative acres retopsoiled; and

(E) The cumulative acres where permanent vegetation has been established.

(F) A map legend detailing the data used to create the map or maps.

460:20-43-49. Cessation of operations: temporary

(a) Each person who conducts surface mining activities shall effectively secure surface facilities in areas in which there are no current operations, but in which operations are to be resumed under an approved permit. To qualify for temporary cessation, additional minable coal must be available under a valid lease and the area of additional coal must be located within the boundaries of the existing permit or immediately adjacent to the permit and the subject of a pending revision application. Temporary abandonment shall not relieve a person of their obligation to comply with any provisions of the approved permit.

(b) Before temporary cessation of mining and reclamation operations for a period of thirty days or more, or as soon as it is known that a temporary cessation will extend beyond 30 days, persons who conduct surface mining activities shall submit to the Department a notice of intention to cease or abandon mining and reclamation operations. This notice shall include a statement of the exact number of acres which will have been affected in the permit area, prior to such temporary cessation, the extent and kind of reclamation of those areas which will have been accomplished, and identification of the backfilling, regrading, revegetation, environmental monitoring, and water treatment activities that will continue during the temporary cessation.

(c) If temporary cessation exceeds twelve months in duration, a notice of intention to continue the temporary cessation must be submitted to the Department annually along with a current bond

recalculation, proof of notice to landowners, and updated information on the items included in the original notice as described in 460:20-43-49(b).

SUBCHAPTER 45 PERMANENT PROGRAM PERFORMANCE STANDARDS: UNDERGROUND MINING ACTIVITIES

460:20-45-5. Casing and sealing of underground openings: temporary

(a) Each mine entry which is temporarily inactive, but has a further projected useful service under the approved permit application, shall be protected by barricades or other covering devices, fenced, and posted with signs, to prevent access into the entry and to identify the hazardous nature of the opening. These devices shall be periodically inspected and maintained in good operating condition by the person who conducts the underground mining activities.

(b) Each exploration hole, other drill hole or borehole, shaft, well, and other exposed underground opening which has been identified in the approved permit application for use to return underground development waste, coal processing waste or water to underground workings, or to be used to monitor ground water conditions, shall be temporarily sealed until actual use.

(c) When no longer needed for monitoring or other use approved by the Department upon a finding of no adverse environmental or health and safety effects, or unless approved for transfer as a water well under Section 460:20-45-8, each shaft, drift, adit, tunnel, exploratory hole, entry way or other opening to the surface from underground shall be capped, sealed, backfilled, or otherwise properly managed, as required by the Department in accordance with Section 460:20-45-4 of this Subchapter and consistent with Section 30 CFR 75.1711. Permanent closure measures shall be designed to prevent access to the mine workings by people, livestock, fish and wildlife, and machinery and to keep acid or other toxic drainage from entering ground or surface waters.

SUBCHAPTER 47. SPECIAL ~~PERMANET~~ PERMANENT PROGRAM PERFORMANCE STANDARDS: AUGER MINING

460:20-47-4. Auger mining: hydrologic balance

(a) Auger mining shall be planned and conducted to minimize disturbances of the prevailing hydrologic balance in accordance with the requirements of Sections 460:20-43-8 and 460:20-43-9 of these Regulations.

(b) All auger holes, except as provided in (c) of this Section, shall be:

(1) Sealed within 72 hours after completion with an impervious and noncombustible material, if the holes are discharging water containing acid- or toxic-forming material. If sealing is not possible within 72 hours, the discharge shall be treated commencing within 72 hours after completion to meet applicable effluent limitations and water-quality standards until the holes are sealed; and

(2) Sealed with an impervious noncombustible material, as contemporaneously as practicable with the augering operation, as approved by the Department, if the holes are not discharging water containing acid- or toxic-forming material.

(c) Auger holes need not be sealed with an impervious material so as to prevent drainage if the Department determines that:

(1) The resulting impoundment of water may create a hazard to the environment or public health or safety, and

(2) The drainage from the auger holes will:

(A) Not pose a threat of pollution to surface water, and

(B) Comply with the requirements of Sections 460:20-43-8 and 460:20-43-9 of these Regulations.

(d) Surface drainage must be directed away from the highwall during augering operations in order to maintain the stability of the highwall and protect persons conducting the augering.