



**ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR NATURAL RESOURCES**

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Leonard K. Peters
Secretary

Carl E. Campbell
Commissioner

Notice of RAM #146 and Form SME-101 June 9, 2010

Dear Sir or Madam:

On May 7, 2010, Commissioner Carl Campbell issued Reclamation Advisory Memorandum No. 146 entitled "Service of DMRE Documents." The RAM revises the Division's procedures as to the mailing and hand-distribution of enforcement documents, including Mine Inspection Reports, Notices of Non-Compliance, and Cessation Orders. A copy of this RAM, which is self explanatory, is attached for your convenience.

The RAM also discusses the fact that during its last session the 2010 General Assembly enacted legislation authorizing the transmittal of enforcement documents via electronic mail to the permittee, instead of sending a document by certified mail. This service will begin August 1, 2010, provided you sign up to receive you documents by email.

In order to receive DMRE documents, including enforcement documents, by email, the Permittee or an authorized agent must submit for each permit a SME-101 form. (Delivery of Documents by Email) to the Division of Mine Permits, Attention: Supervisor, Ownership and Control Section. A copy of this form is also attached and is available online at <http://www.minepermits.ky.gov/electronicforms/>. Once the form is reviewed and accepted, DMRE will begin sending you enforcement documents not hand delivered to company personnel at the mine site by email. **Email delivery confirmation will be provided through the web-based program R-Post, the electronic equivalent of a green card**

I strongly urge you to participate in this program. This legislation was passed in order to decrease the lag time in the delivery of enforcement documents directly to the person who needs to know that a noncompliance has been issued. By using this service, you will no longer have to rely on your agents in the field to forward a copy to you or to the person who is directly responsible for complying with remedial measures set out in the noncompliance or cessation order.

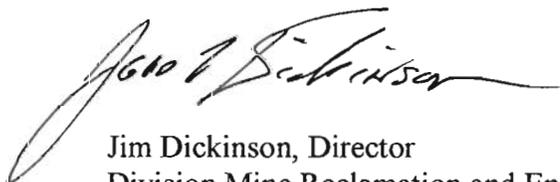


In addition, by signing onto this voluntary service you will be helping the environment and yourself as a taxpayer citizen of this Commonwealth. Aside from the fact that this service is paperless, it is considerably cheaper to send a document by email. A so called "green card" delivery costs \$5.40 per item as opposed to less than 50 cents for R-Post delivery.

I am firmly convinced that this new service will be of great benefit to you as well as the taxpayers of this Commonwealth. Because I believe in this service so much, I must advise those of you who are currently enrolled to receive your mine inspection reports by email that unless you re-enroll for this service, we will not be able to continue sending you those documents by email. Please fill out the attached form and return it to the Division of Mine Permits today.

Thank you in advance for your participation in this new program. If you have any questions, please contact David Jones, Environmental Control Supervisor, at the Division of Mine Reclamation and Enforcement at 502.564.2340 (email at David.Jones@ky.gov) or contact Supervisor, Ownership and Control at the Division of Mine Permits 502-564-2320.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Dickinson", with a large, sweeping flourish extending to the right.

Jim Dickinson, Director
Division Mine Reclamation and Enforcement
Department of Natural Resources
James.Dickinson@ky.gov

Enclosure:

Kentucky
Energy and Environment Cabinet
Department for Natural Resources



Reclamation Advisory Memorandum

From: Carl E. Campbell, Commissioner

C.E.C.

Date: May 7, 2010

Subject: Service of DMRE Documents

RAM # 146

Effective Date: June 1, 2010

Introduction

KRS 350.130 (1) presently provides for alternative methods by which Notices of Noncompliance and Orders for Cessation and Immediate Compliance may be served on the permittee, person, or operator. KRS 350.130(1) states in part that the notice or order:

[S]hall be handed to the person in charge of the operation, and the operator or person engaged in coal exploration operations or sent by certified mail, return receipt requested addressed to the permanent address shown on the application for a permit or if no address is shown on the application, then to the address known to the cabinet.

405 KAR 12:020, Section 5(2) provides that the notice or order, or inspection document, be served by hand delivery, certified mail, or registered mail, and hand-delivered at the mine site to the person in charge of the operation or if no one is in charge, to an employee or agent at the site. The Department has in the past served its notices, orders, modifications, inspections of noncompliance and mine inspection reports (collectively enforcement documents) by both hand-delivery at the mine site and by certified mail, return receipt requested. The Cabinet also sent a copy of its enforcement documents by regular mail to the company, surety, directors, and B6 Controller. In instances where the operator was cited and hand delivered the enforcement document, a copy was also mailed certified mail, return receipt requested to the operator.

After examining current procedures, the Department has determined that service solely by hand-delivery at the mine site, where possible, would substantially comply with KRS 350.130 (1) and 405 KAR 12:020, Section 5(2), and would eliminate redundant service of enforcement and inspection documents, thereby minimizing expenses for certified mail.

The Energy and Environment Cabinet does not discriminate on the basis of race, color, national origin, sex, age, religion, or disability and provides, on request, reasonable accommodations including auxiliary aids and services necessary to afford an individual with a disability an equal opportunity to participate in all services, programs, and activities. To request this publication in an alternative format, contact: Office of the Commissioner, Department for Natural Resources, 2 Hudson Hollow, Frankfort, Kentucky 40601-4321.

(502) 564-6940 FAX (502) 564-5698 e-mail: Carl.Campbell@ky.gov
TTY (502) 564-0183 (text telephone for the deaf, hard of hearing, or speech-impaired)

Therefore, the Department is implementing the following procedures:

Procedures

- Upon the effective date of this RAM, the Division of Mine Reclamation and Enforcement (DMRE) will continue to hand-deliver its enforcement documents to the individual who, based upon reasonable inquiry by the Cabinet's authorized representative, appears to be in charge at the site of the surface coal mining and reclamation operations or coal exploration and reclamation operations referred to in the document. If no such individual can be located at the site, a copy of the document will be tendered to an individual at the site who appears to be an employee or agent of the person to whom it has been issued. Consistent with past policy, the Department will continue to send a copy of the enforcement documents to the company / permittee and surety by regular mail. However, the Department will no longer send a copy of the enforcement documents to the registered agent, directors / owners of the company or the B6 Controller.
- In cases where a copy of the enforcement document has been hand delivered to a representative of the operator, the Department will mail a copy of the enforcement document to the permittee, certified mail, return receipt requested.
- If, and only if, hand-delivery cannot be made as outlined above, the Department will send the document by certified mail, return receipt requested: (a) to the person to whom it has been issued and addressed to the permanent address shown on the application for a permit, or if no address is shown on the application, then to the address known to the Cabinet; or (b) to the person's designated agent for service.
- As provided in 405 KAR 12:020, Section 5 (2), service, by either hand or mail shall upon tender, be complete and service shall not be deemed incomplete because of refusal to accept.

This RAM will also serve to notify you that the General Assembly has recently enacted HB 215 which will allow the Cabinet to send enforcement documents by electronic mail to an email address, "voluntarily provided to the Cabinet by the permittee on a form prepared by the Cabinet." The amendment further provides that email service is only effective "upon delivery of the notice or the order to the recipient's inbox by electronic mail as electronically communicated to the Cabinet by an electronic registered receipt." This legislation will become effective on or about July 15, 2010.

This amendment was strongly supported by the coal industry because many of the industry representatives recognized that electronic transmission of documents would decrease

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transmission time, would allow for electronic storage of documents, and would benefit tax payers and the environment by reducing paper usage. We strongly encourage all coal companies to take advantage of the opportunity to receive all DMRE documents electronically.

If you wish to receive the DMRE's documents, including enforcement documents, by email, you must submit a SME-101 form (Delivery of Documents by Email) to the Division of Mine Permits, Attention: Supervisor, Ownership and Control Section. A copy of this form is attached to this RAM. The enrollment form is also available on the Division's website at <http://www.minepermits.ky.gov/electronicforms/>. The form must be signed by an authorized agent of the Permittee. As required by RAM 100, the Department must be notified in writing of any change in email address

This enrollment provision is applicable even to those companies or permittees who had previously submitted a request to receive the Mine Inspection Reports by email. If you fail to resubmit this form, the Cabinet will no longer send you any documents by email.

If you do not sign up for this email service, DMRE will continue to send documents to you via the U.S. Postal Service in conformity with this RAM.

If you have questions about the issues discussed in this RAM, please contact the Director of the Division of Mine Reclamation and Enforcement, #2 Hudson Hollow, Frankfort, Kentucky, 40601, or call (502) 564-2340.

For the permittees who elect to receive their documents by email, service of documents by email will begin on August 1, 2010.

Attachment: SME-101 Form

**Department for Natural Resources
Division of Mine Reclamation and Enforcement
Delivery of Documents by Email**

Submittal of this SME-101 form will allow inspection documents, enforcement documents and all other documents not herein named to be delivered to the permittee by email. Receipt of documents by DMRE will be verified by R-post (equivalent to a green card). **PLEASE PRINT LEGIBLY!**

_____ Date: _____

Permittee Name / Company Name

Permittee Address / Company Address and Zip Code

Permittee / Company Email Address

DSMRE ID (This is a number used in the Division of Permits for identification purposes.)

Printed Name and Title of Authorized Company Representative

SIGNATURE

Note: If the signer is other than the president or secretary of a corporation, attach a notarized copy of power of attorney or resolution of the board of directors which grants legal authority to represent the applicant in this notification. (This does not apply to a single proprietorship or partnership.)

THIS FORM CANNOT BE SUBMITTED TO THE DIVISION OF PERMITS FTP SITE.

***** Please return the completed form to: Supervisor, Ownership and Control Section, Division of Mine Permits, 2 Hudson Hollow, Frankfort, Kentucky 40601.**