



RAILROAD COMMISSION OF TEXAS
SURFACE MINING AND RECLAMATION DIVISION
ADVISORY NOTICE

ADVISORY ID:
AD-AD-072

REVISION NO.:

EFFECTIVE DATE:
February 14, 1996

SUBJECT: Designation of Responsible Agencies for Road Closures and Relocation - Public Notice Requirements

APPROVAL

Arthur B. Hodgkins

TITLE: Director

I. PURPOSE

To state the Commission's decision regarding designation of responsible agencies for road closure and relocation and identify the public notice documentation required for submission as stated in Commission Delegation Memorandum dated December 19, 1995. This Advisory Notice applies only when a permittee uses a designated agency to meet the Commissions' public notice requirements as required under Section 761.072(d) of the Coal Mining Regulations.

II. REGULATION REFERENCE

Coal Mining Regulations 761.071(d)(2), **761.072(d)**, 780.152 and 784.192.

III. RELATED INFORMATION

Commission Memorandum dated December 19, 1995

Subject: Designation of Responsible Agencies for Road Closures and Relocations

Advisory Notice AD-AD-071

Subject: Surface Mining Activities Within 100 Feet of the Outside Right-of-Way Line of a Public Road

IV. DESIGNATED RESPONSIBLE AGENCIES

The Commission has designated the Texas Department of Transportation, with respect to state highways, and the County Commissioners Courts, with respect to county roads outside the jurisdiction of cities and towns, as the responsible agencies in fulfilling the public notice requirements for mining related impacts that result in road closures and road relocations.

V. PERMITTEE'S RESPONSIBILITIES

A permittee that chooses to use a designated responsible agency to meet the Commission's public notice requirements under Section 761.072 (d) of the Coal Mining Regulations must:

- A. assure that any notice of intended closure or relocation required by the responsible agency is posted and that notice of any meeting at which the requested closure or relocation will be considered by the responsible agency is given, at a time or times and in a form consistent with the requirements of the Coal Mining Regulations; and
- B. obtain approval of the action sought from the responsible agency with a specific finding that the interests of the public and affected landowners have been protected.

VI. COMMISSION REQUIRED INFORMATION

A permittee that has chosen to use a designated responsible agency to facilitate Commission public notice requirements for a road closure or relocation must submit the following information to the Commission:

- A. a statement that notice was given as required by the responsible agency and that no hearing was requested, or a copy of the publisher's affidavit which contains the notice published; and
- B. a copy of the order or other approval by the responsible agency for the road closure or relocation.

This information must be submitted to the Commission and approved as meeting the public notice requirements prior to the road being affected by a surface mining operation.

VII. RIGHT-OF-WAY CONSIDERATIONS

The Commission's December 19, 1995 Memorandum regarding designation of responsible agencies for road closure and relocation does not address the Commission's public notice requirements when conducting mining activities within the right-of-way of a public road when such activities do not involve closing or relocating the road. The Texas Department of Transportation and the County Commissioners Courts do not have jurisdiction over activities that take place outside the right-of-way of state highways and county roads. Therefore, a permittee proposing to conduct activities within 100 feet, measured horizontally, of the outside right-of-way line of a public road must follow the notice procedures outlined in Section 072(d) of the Regulations.