

**VIRGINIA DEPARTMENT OF ENERGY  
MINED LAND REPURPOSING**

**GUIDANCE MEMORANDUM<sup>1</sup> No. 19-07**

**Issue Date: November 16, 2007, Revised September 16, 2011**

**Subject: Acreage Amendments, Anniversary Reports, and Temporary Cessations**

The following concerns the permitting processes for acreage amendments, anniversary reports, and temporary cessations. Any forms referenced below are available at <https://energy.virginia.gov/coal/mined-land-repurposing/Downloads.shtml>

**ACREAGE AMENDMENTS**

Effective December 1, 2007, permittees applying for an acreage amendment<sup>2</sup> to a permit participating in the Coal Surface Mining Reclamation Fund under Part 4 VAC 25-130-801 of the Virginia Coal Surface Mining Reclamation Regulations shall be required to submit the applicable reclamation fund entrance fee required by 4 VAC 25-130-801.12(a). In addition, the permittee will be required to pay the applicable reclamation fund taxes as provided by 4 VAC 25-130-801.14 (a) and (e) for coal produced in the acreage amendment area.

The requirement to submit the entrance fees set by 4 VAC 25-130-801.12(a) will not be assessed for those acreage amendment applications that were filed with the Mined Land Reclamation (MLR) (and for which public notice was published) prior to December 1, 2007. However, the reclamation taxes required by 4 VAC 25-130-801.14 (a) and (e) will apply.

**ANNIVERSARY REPORTS**

Effective January 1, 2008, anniversary reports shall be submitted in an electronic application to the MLR at least 45 days, but not more than 60 days, before the permit's anniversary date. This will allow the MLR time to review the reports and request any necessary corrections prior to the anniversary date.

These sections of the electronic application shall be completed –

1. Section I

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<sup>1</sup> This Memorandum is to be considered a guideline issued under the authority of § 45.1-230.A1 of the Code of Virginia which reads:

"In addition to the adoption of regulations under this chapter, the Director may at his discretion issue or distribute to the public interpretative, advisory or procedural bulletins or guidelines pertaining to permit applications or to matters reasonably related thereto without following any of the procedures set forth in the Administrative Process Act (§ 2.2-4000 et seq.). The materials shall be clearly designated as to their nature, shall be solely for purposes of public information and education, and shall not have the force of regulations under this chapter or under any other provision of this Code."

<sup>2</sup> An Acreage Amendment is designated as "AA" in the electronic permit application.

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2. Section II
3. Section III
4. Section VII (make the necessary acreage changes if corrections are required)
5. Section IX (attach the electronic copy of the seeding report<sup>3</sup> in Item 9.4)
6. Section XVII (if the haulroad construction and design needs to be addressed per Guidance Memorandum 10-05<sup>4</sup>)
7. Section XIX (if changes in the bonding plan are required due to acreage corrections)
8. Section XXI
  - attach completed forms DMLR-PT-034D in Item #21.1
  - attach completed DMLR-PT-028 in Item #21.1
  - attach the annual impoundment/pond certifications in Item #21.1
  - attach a pdf version of the Anniversary Map in Item #21.2
  - attach a pdf version of the signed and certified Anniversary Map legend (DMLR-PT-017) in Item # 21.4
  - attach a dwg version of the Anniversary Map Item #21.5)<sup>5</sup>

### **Anniversary Maps**

Except for the exclusions noted below, an anniversary map shall be included with the anniversary report submitted to MLR. The map shall:

- 1) Be submitted at a scale of 1" = 400'
- 2) Include a completed map legend (DMLR-PT-017) with appropriate information that corresponds with the anniversary report (DMLR-PT-028) (including the "*Since Permit Issuance*" data).
- 3) Is color coded per the map legend (DMLR-PT-017) to reflect actual field conditions at the time the report is prepared.
- 4) Provide the "*Linear and Square Feet of Highwall Eliminated*" for remaining areas, if applicable and in the corresponding fields on the map legend (DMLR-PT-017).
- 5) Reflect any changes in the permit boundary since the last approved permitting action.
- 6) Acreages for ponds should be calculated as disturbed acres until the respective pond area has been reclaimed and vegetated.

### **Exclusions**

- 1) An annual extent of underground mine works map will not be required for MLR.

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<sup>3</sup> Seeding Report – DMLR-PT-011

<sup>4</sup> <https://energy.virginia.gov/coal/mined-land-repurposing/Downloads.shtml>

<sup>5</sup> Refer to the Electronic Permitting Application Guide for detailed instructions.

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### **Primary Road Requirements**

In reviewing the anniversary material, the Inspector will determine if there have been any changes in the primary roads since the last anniversary, renewal, or other permitting action (see Guidance Memorandum #10-05<sup>6</sup>). If the Inspector determines there has been a change in the primary road designations, an update will be required. The Inspector will instruct the permittee to submit the updated haulroad information (i.e., map, plans, and as-built certification) as attachments in the proper section of the anniversary report application. Upon submittal, the revision application *will be reviewed in accordance with MLR permit review procedures*.

### **Certifications**

- 1) Annual Impoundment/pond certification shall be submitted with the Anniversary Report a scanned copy of the signed and certified Annual Impoundment Certification should be attached in Item #21.1 unless the Certification is certified using the IdenTrust digital signature. If an IdenTrust digital signature is utilized, the digitally signed copy should be attached in Item #21.1. (See Guidance Memorandum #21-07) The completions of construction for impoundment / ponds are to be submitted thru the inspector to BSG when they are due.
- 2) Haulroads - See above regarding primary roads.

### **Seeding Reports**

If seeding has been conducted or trees planted since the last anniversary report or renewal, a seeding report (**DMLR-PT-011**) shall be completed and submitted with the anniversary map and report. The acreages noted on the seeding report should correspond with those listed on the anniversary report, map, and map legend. A scanned copy of the seeding report should be attached in Item #9.4, unless the seeding report is signed using the IdenTrust digital signature. If an IdenTrust digital signature is utilized, the digitally signed copy should be attached in Item #9.4. (See Guidance Memorandum #21-07)

### **MLR Review**

The field Inspector will review and initial the anniversary report and certifications prior to submittal to MLR's office.

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<sup>6</sup> Should you have any questions regarding road classifications, please contact MLR's Services Manager at (276) 523-8197.

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In the event the Inspector determines a discrepancy exists concerning the anniversary materials and the actual field conditions, the Inspector will require the permittee to correct the information prior to submitting the materials to the MLR's Big Stone Gap office.

Once received by the MLR office, the anniversary materials will be routed to the Permit Review Specialist and Engineering Technician for detailed review.

**Anniversary Fees**<sup>7</sup>

Upon approval of the anniversary report, the MLR will notify the permittee by certified mail of the required anniversary fees. The fees will be in the amount of \$13.00 per acre multiplied by the total number of acres disturbed since permit issuance, or portion thereof (e.g. 25.10 acres = 26 acres rounded up X \$13.00 = \$338.00). Payment shall be submitted to the MLR by cash, check, or money order. A check or money order should be made payable to the "Treasurer of Virginia."

**TEMPORARY CESSATIONS**

Effective immediately, the MLR will discontinue reviewing and approving temporary cessation requests and applications for areas that have been in temporary cessation status for an extensive period of time.

The maximum period that the MLR will grant for a temporary cessation request is 2 ½ years. This includes permits which have active mining operations and area(s) in temporary cessation. The permittee may submit a request to the MLR to extend the temporary cessation status for an additional period up to 2 ½ years, not to exceed the permit's expiration date. The request must include detailed justification as to why an extension is warranted and should be granted by the MLR. Upon completion of review by the MLR the permittee will be notified of approval or denial of the extension request.

If the MLR determines the permittee has provided adequate justification for an extension for a permit that has been in temporary cessation for a period of 10 years or more, the permittee shall be required to bring the entire permit into the electronic permitting format and update the permit to reflect any changes in Coal Surface Mining Reclamation Regulations or other standards required by the MLR.

If an extension of temporary cessation is not granted, the permittee shall activate coal surface mining operations at the temporary cessation area(s) or expeditiously initiate reclamation of the subject area(s) prior to the expiration date of the temporary cessation status. The required reclamation shall be performed in accordance with the permit's approved reclamation plan.

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<sup>7</sup> See Guidance Memorandum #6-03, Permit Fees, issued May 12, 2003.

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Should you have any questions regarding this guidance memorandum, please contact the MLR Program Manager at (276) 523-8100.