

**VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING**

GUIDANCE MEMORANDUM¹ No. 28-09

Issue Date: October 1, 2009

Subject: Application Processing Time Limits

This Guidance Memorandum supersedes Memorandum to Operators # 13-86. This new memorandum reflects the ever increasing complexity of permit applications and the time needed for the review coordination with other state and federal agencies.

The Mined Land Repurposing (MLR) program will not set a deadline for a decision to issue or deny an application for a new permit or acreage amendment for which the applicant has been diligently pursuing the application.

The MLR may administratively deny applications for new permits or acreage amendments that have been submitted in excess of 24 months from the initial receipt of the application by MLR (with no recent action on the permittee's part, generally this will be one year). This denial does not prevent the permittee from obtaining a new data download and submitting it as a new permit application. Note, all requirements for a new permit, acreage amendment or significant revision must be met (i.e. publication, comment period, agency notifications, etc.)

§4 VAC 25-130-774.13(b)(1) of the Virginia Coal Surface Mining Reclamation Regulations requires the DMLR to establish a time period for its review and approval/disapproval of a revision application. The time period set under Memorandum # 13-86 was set as 12 months from the date of initial submittal. The MLR is revising this timeframe to 24 months. The MLR may issue a shorter deadline for revisions that are the result of enforcement action or a revision order notice.

The MLR will administratively deny revision applications that have been submitted in excess of 24 months from the initial receipt of the application by MLR (with no recent action on the permittee's part, generally this will be one year). This denial does not prevent the permittee from obtaining a new data download and submitting it as a new revision application.

¹ 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."

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Should you have any questions regarding the application review process please contact the MLR Manager at (276) 523-8100.