

**VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING**

GUIDANCE MEMORANDUM¹ No. 29-09

Issue Date: 11/01/09

Subject: Roads - Maintenance and Fugitive Dust Control

Since January 2005, the Mined Land Repurposing (MLR) program has investigated approximately 250 complaints from citizens concerning tracking of material or fugitive dust from permitted haulroads and coal surface mining operations. In the majority of the complaints, the MLR's inspectors determined the haulroads were properly maintained per the permit's approved plans. Where the roads were not properly maintained, enforcement action was taken.

The MLR is looking at additional measures that may be taken to better address concerns regarding the tracking or depositing of material onto public roadways and generation of fugitive dust from coal surface mining and reclamation operations.

The MLR has been working with coal companies, the Virginia Department of Environmental Quality (DEQ), Virginia Department of Transportation (VDOT), the Virginia State Police (VSP), and citizens to better address fugitive dust problems. Several coal companies have or are in the process of taking voluntary measures to address the dust and tracking problems that occur in some coalfield communities. These companies have employed such preventative measures as voluntary paving of haulroads within the permit, utilizing sweeper/vacuum trucks on both the paved haulroad and public roads, and installation of truck washer facilities to spray dirt, mud, and debris from coal trucks prior to their exit from the permit area.

§§ 4 VAC 25-130-816.150(c) and (e) and 4 VAC 25-130-817.150 (c) and (e) of the **Virginia Coal Surface Mining Reclamation Regulations**, provides the MLR the authority to require a permittee to implement additional measures to ensure proper design and maintenance of its haulroad(s) to prevent/minimize fugitive dust problems -

*“(c) Design and construction limits and establishment of design criteria. To ensure environmental protection appropriate for their planned duration and use, including consideration of the type and size of equipment used, the design and construction or reconstruction of roads shall incorporate appropriate limits for grade, width, surface materials, surface drainage control, culvert placement, and culvert size, in accordance with current, prudent engineering practices, **and any necessary design criteria established by the division.**” (Emphasis added)*

¹ This Memorandum is to be considered guidance 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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In instances where tracking of material and/or fugitive dust from a permitted operation is a concern, the MLR may require the company to develop and implement a road maintenance plan. The plan should include the measures the company will take to better control and minimize tracking of material onto public roads and fugitive dust that may be generated as a result of traffic from its operations. The plan may include such measures as (but not be limited to) -

1. Reducing speed on traveled roads and ensuring truck beds are covered.
2. Watering roads regularly with water trucks, sprinklers, etc. or applying dust binders.
3. Ensuring adequate road surfacing is applied and maintained or paving the road.
4. On paved roads, using devices (e.g., rumble strips) or cattle crossings on gravel roads, to cause material to drop from trucks prior to exiting the permit to the public road and regularly cleaning and removing the mud or debris from the paved road, so it is not tracked from the permit.
5. Utilizing truck washers to remove mud and debris from the coal trucks/trailers.

The road design, maintenance, and fugitive dust control measures to be utilized would be dependent on the circumstances at a particular area. In populated communities, a variety of measures could and should be used if needed to address the tracking and dust problems. In remote areas, maintaining a suitable gravel surface and watering may be sufficient and adequate.

In looking at road maintenance, the MLR has noted that a haulroad may be in excellent paved condition. However, as most trucks go to the pit area, they will pick up mud and material in the loading process. As a coal truck exits the pit area and begins to pick up speed on the paved road, material begins to drop off. Depending on the length of the paved road, this may occur on the permitted road or later on the public roads.

Should the MLR observe a situation where mud or material from the coal truck falls off onto the public road (such as when the truck crosses a railroad crossing) and becomes a hazard to the public safety and health, the Inspector may issue the permittee enforcement action to revise its road maintenance operation plan to address or prevent this type of problem from reoccurring.

In reviewing a revision, new permit, or renewal application, the MLR will look at the current or potential situation to determine whether fugitive dust may be a concern. The MLR may request a more comprehensive road maintenance plan under §§4 VAC25-130-816/817.150(c) to address potential or actual fugitive dust control problems. This may also occur at mid-term review.

Should you have any questions regarding this guidance document or the topics of this memorandum, please contact your area Inspector, or the Technical Services Manager at (276) 523-8100.