

**VIRGINIA DEPARTMENT OF ENERGY
MINED LAND REPURPOSING**

GUIDANCE MEMORANDUM¹ No. 31-10

Issue Date: August 23, 2010

Subject: Abandoned Mined Land Refuse/Gob Piles – Exploration and Recovery

Prior to August 3, 1977, past mining operations had created abandoned mine land (AML) coal refuse or gob piles throughout the Virginia coalfields. These disposal sites have caused or pose significant environmental and/or public health and safety hazards.

With evolving technology, coal can now be recovered and processed from these areas, eliminating the adverse environmental impacts. If the refuse/gob piles are unlikely to be reclaimed through a coal surface mining permit, some operators or contractors have entered into AML enhancement contracts with the Mined Land Repurposing (MLR) program to recover coal as the amount of coal present is not economically recoverable under a coal surface mining reclamation operation permit.

As the commercial market for coal expands, the MLR has seen more on the ground prospecting activity at some refuse/gob pile sites. In order to ensure the exploration/prospecting operations are conducted in an environmentally sound manner and appropriate measures are taken to protect the public health and safety, the MLR has developed this guidance memorandum to assist the person who may wish to pursue the commercial coal recovery from such areas.

Depending on the location, size of the refuse/gob pile, and quality and quantity of recoverable coal, operators must determine the commercial viability of recovering coal through an AML enhancement contract or a coal surface mining permit. Questions concerning the applicability of an AML enhancement contract may be directed to the AML Projects Coordinator at 276.523.8100 or the local MLR Field Inspector. Should the site not be eligible for an AML enhancement contract, the inspector can advise the operator of the permitting process.

Should an operator/contractor desire to conduct coal exploration activities, a coal exploration notice or permit must be obtained from the MLR prior to any land disturbing activity under [Part 4VAC25-130-772²](#) of the Virginia Coal Surface Mining Reclamation Regulations. The performance standards under [§ 4VAC25-130-815.15](#) would apply to any exploration operation activities that substantially disturb the natural land surface.

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."

² The requirements for a coal exploration notice as set out under §§[4VAC25-130-772.11](#), [4VAC25-130-772.13](#), and [4VAC25-130-772.14](#) of the regulations. Those for the coal exploration permit are addressed in §§[4VAC25-130-772.12](#), [4VAC25-130-772.13](#), and [4VAC25-130-772.14](#) of the regulations.

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Commercial Use or Sale

Any person who intends to commercially use or sell coal³ extracted during coal exploration operations must first obtain a coal surface mining permit under Parts 773 through 785 of the regulations. However, except as provided under 4VAC25-130-772.14(b), and with the prior written approval of the MLR, a coal surface mining permit would not be required if the commercial sale or use of the coal is for **coal testing purposes only**.

Under a coal exploration notice or permit, the person seeking to use or sell the coal for testing purposes would have to submit an application for MLR approval. The application must demonstrate the coal testing is necessary for the development of a coal surface mining permit application that will be submitted in the near future or for consideration as an AML enhancement project, and that the coal extracted is solely for testing purposes. The application⁴ must contain –

1. The name of the testing firm and locations where the coal will be tested.
2. Statement from the intended end user or the agent/broker that provides the –
 - a. Specific reason for the test, including why the coal may be so different from the intended user's other coal supplies as to require testing.
 - b. Amount of coal necessary for the test and why a lesser amount is not sufficient.
 - c. Description of the specific tests that will be conducted.
3. Evidence the coal to be removed is not the total reserve, but is a sampling of a larger reserve.
4. An explanation as to why other means of exploration, such as core drilling, are not adequate to determine the coal quality and/or feasibility of developing a surface coal mining operation.

AML Enhancement Projects

AML Enhancement projects are government financed construction projects wherein proceeds from the sale of incidental coal⁵ is used to offset the cost of reclamation. As these are accomplished as government financed abandoned mine land projects, coal removal from the project does not require a coal surface mining permit. The level of government financing is less than 50% of the project cost, and typically only pays for planting trees on the reclaimed site. If coal is being removed under an AML enhancement contract, the terms and conditions of that contract shall apply. For AML enhancement projects at which Virginia Energy has not previously accomplished reclamation, the contractor typically has the option to remove 5,000 tons of marketable material. Should the operator/contractor decide to continue after the 5,000 marketable tons threshold, the company assumes liability for complete reclamation of the project. Should the operator/contractor decide not to continue the project after the 5,000 marketable tons threshold, the company is only responsible to reclaim the area that has been disturbed.

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.

³ Also refer to the applicability requirements under [§4VAC25-130-700.11](#) VCSMRR

⁴ See [§4VAC25-130-772.14\(b\)](#) VCSMRR.

⁵ Incidental coal is that coal which is an engineering necessity to recover during the progress of reclaiming the abandoned mine land feature.