

DIVISION OF MINED LAND RECLAMATION		PROCEDURE NO.	2.1.04
PROCEDURES MANUAL		ISSUE DATE	04/10/15
SUBJECT	Exemption for Extraction of Coal Incidental to Extraction of other Minerals	Section	Reclamation Services
		Last Revised	4-17-06

OBJECTIVE AND INTENT:

To ensure that incidental coal extraction on mineral mines is properly approved and monitored by the Division per Part 4 VAC 25-130-702 of the regulations.

PROCEDURES:

When mineral mine operators plan to extract coal incidental to the extraction of other minerals, Division of Mineral Mining (DMM) Inspectors shall contact the DMLR Reclamation Field Inspector. The DMLR Inspector will assist the DMM Inspector in explaining the coal regulatory requirements to mineral mine operators who may be subject to the coal regulatory program (may involve providing guidance to the operator as to the preparation of the exemption application required under 4 VAC 25-130-702.12 of the regulations). The DMLR Inspectors will provide application form **DMLR-211** (Exemption for Extraction of Coal Incidental to Extraction of other Minerals) to the mineral mine operator.

Coal extraction at the site is exempt from DMLR’s regulatory program (for the specific language and conditions, refer to 4 VAC 25-130-702.14(a) of the regulations):

- when the cumulative production of coal extracted from the mining area is no more than 16 2/3 percent of the total cumulative production of coal and other minerals extracted for commercial use or sale,
- the cumulative revenue derived from the coal extracted from the mining area is no more than 50 percent of the total cumulative revenue derived from the coal and other minerals removed, and
- the coal produced from a geologic stratum lying above or immediately below the deepest stratum from which other minerals are extracted.

An operator is required to submit the application for the exemption to DMLR. Should the DMLR Inspector come upon a mineral mining operation, which he believes may encounter coal; he should contact the DMM Inspector to determine if coal will be extracted. This coordination will ensure that the operator files any necessary exemption application. (If the DMLR Inspector is approached by a person proposing to seek a permit to commercially extract mineral(s), the Inspector should refer the person to the DMM office or Inspector.)

Once the application is received from the mineral mining operator, the Inspector will review the application material, and may request assistance from the Area Supervisor and/or the Technical Services staff. The Inspector’s recommendation to approve or disapprove the exemption application will be forwarded to the Reclamation Program Manager - Permitting, via the Area Supervisor and the Reclamation Services Manager.

The application must be reviewed and approved by DMLR prior to the extraction of any coal. The general review procedures under Procedure #2.2.01 shall be followed. The reviewers must ensure the requirements of 4 VAC 25-130-702.11 and 4 VAC 25-130-702.12 are met.

The Reclamation Program Manager - Permitting, after consulting with the Reclamation Program Manager - Chief Engineer and Reclamation Services Manager, shall:

- approve or deny the application in accordance with 4 VAC 25-130-702.11(e) and 4 VAC 25-130-702.14.

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- shall notify the applicant in writing of the decision, and send a copy of the letter to the DMLR Inspector and Reclamation Services Manager and to DMM.
- shall request that a Reclamation Office Service Specialist assign a DMLR Tracking Number and create a file located at [\\wap01512\DMLR\permit_supplements](#), if the application is approved
- shall place all exemption documents in the folder located at [\\wap01512\DMLR\permit_supplements](#)

In the event the exemption is denied, the Reclamation Program Manager – Permitting’s letter shall inform the applicant that coal extraction will not be allowed without a Chapter 19 coal surface mining permit. Should the exemption be approved, the letter shall inform the applicant that the exemption is valid for as long as the requirements under 4 VAC 25-130-702.14(a) are met, and the operation maintains a valid mineral mining permit.

The DMLR Inspector shall periodically check:

- tonnage records to ensure the operator does not exceed the 16 2/3 percent ratio of coal to total minerals extracted, and
- commercial use and sales information to ensure the operator does not exceed the 50 per cent revenue ratio.

This may be done in conjunction with a DMM regular inspection or upon the DMLR Inspector’s initiative. The review should take place at least once every calendar quarter. All site visits will be documented on a DMLR-ENF-044S Form and submitted to the Area Supervisor. The Area Supervisor will forward all reports to the Reclamation Services Manager who will ensure the reports are placed in the appropriate folder. The inspection of the mine site and applicable records, and any enforcement action, shall be in accordance with 4 VAC 25-130-702.15 through 4 VAC 25-130-702.18.

Final Inspection -

The Inspector will conduct a final inspection of the project once coal removal is completed. The inspection report (**DMLR-ENF-044S**) shall document that the commercial coal sales did not exceed 50 per cent of the project revenues and that the total tonnage of coal production did not exceed 16 2/3 percent of the total minerals extracted. The inspector will code the inspection report as the “Final Inspection” and “Not Inspectable” FI/NI. The completed file, including all documents and materials generated or collected relative to the exemption will be maintained in the folder located at [\\wap01512\DMLR\permit_supplements](#)