

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY
DIVISIONS OF MINED LAND RECLAMATION (DMLR) AND MINES (DM)**

and the

**UNITED STATES DEPARTMENT OF LABOR
MINE SAFETY AND HEALTH ADMINISTRATION
DISTRICT 5 NORTON, VIRGINIA**

I. Introduction

This Memorandum of Understanding (MOU) addresses federal and state review and approval of the design and construction of coal refuse impoundments at coal mining and processing operations in Virginia and outlines procedures for joint inspections of these facilities between the respective agencies.

The U.S. Mine Safety and Health Administration (MSHA) has jurisdiction over coal refuse impoundments under the federal Coal Mine Safety and Health Act of 1969 and federal regulations, 30 CFR, Part 77.214-217. The Division of Mined Land Reclamation (DMLR) of the Virginia Department of Mines, Minerals and Energy (DMME) has jurisdiction over coal refuse impoundments under 4 VAC 25-130-700.1 et seq. These jurisdictions overlap each other under the federal Surface Mining Control and Reclamation Act of 1977 and implementing regulations at 30 CFR, Parts 780.25, 784.16, 816.79-87 and 817.81-87. The Division of Mines of the DMME has jurisdiction over water and silt retaining dams impounding water under Title 45.1, Mines and Mining, Chapter 18 of the Coal Mine Safety Laws of Virginia.

II. Purposes

The purposes of this Memorandum of Understanding are:

- A. To improve communication and the coordination of the review and inspection process of coal refuse piles and impoundments by MSHA and DMME;
- B. To minimize duplication of review efforts;
- C. To reduce the potential for conflicting standards and procedures during plan reviews and site inspections and;
- D. To provide understandable and consistently enforced standards for those applicants being regulated by both agencies.

III. Procedures

Plan Reviews

MSHA shall provide the following:

- A. After a new plan or a modification to an existing plan for a coal refuse impoundment has been submitted to MSHA, the MSHA District Manager will provide copies of the plans, location acknowledgment letters, plan review letters, and plan approval letters, to the Deputy Director of DMME or his Authorized Representatives.

DMME shall require and provide the following:

- A. Once DMME receives the plans from MSHA, it will review the plan within 20 workdays and provide comments to the MSHA District Manager. MSHA will insure that any comments will be addressed prior to plan approval. MSHA will provide DMME with any answers to comments and any pertinent information prior to plan approval. DMME will scan and provide electronic access, in a mutually acceptable format, to pending and proposed impoundment files. Final approval from MSHA will constitute final plan approval in accordance with the federal Coal Mine Safety Act of 1969 and 30 CFR 77.214-217, and Chapter 18 of Title 45.2 of the Code of Virginia.

Coordination between DMME and MSHA

- A. An annual coordinated site evaluation will be conducted by the DMME and MSHA. The scheduling of site evaluation will be triggered by the DMLR anniversary date for the permit. This site evaluation will be scheduled within 45 days of this date. This site evaluation will include the MSHA Impoundment Specialist, the DM Impoundment Specialist or Designated Representative, the DMLR Inspector and the assigned DMLR Engineer.
- B. The DMLR inspector will coordinate the scheduling of the site evaluation with MSHA, DM and the DMLR Engineer.
- C. Participants will meet on the site to discuss plan requirements and ongoing construction.
- D. Reports will be filed separately by each agency and efforts will be made to resolve any conflicts.

IV. Understanding

The following is understood by both parties:

- A. MSHA will review only plans for coal refuse impoundments submitted for approval in compliance with 30 CFR, Part 77.214-217.

- B. The coal mine waste dams and embankments shall be designed to comply with the requirements of MSHA, 30 CFR, 77.216-1 and 77.216-2.
- C. If a citation issued by MSHA requires a plan change, MSHA will send DMME a copy of the citation.
- D. If a citation issued by DMME requires a plan change, DMME will send MSHA a copy of the citation.

V. Effective Date

This Memorandum of Understanding shall take effect on the date it is signed by both parties and shall remain in effect until modified or terminated.

VI. Deviations

This Memorandum of Understanding may be modified at any time by joint agreement of the parties hereto.

This Memorandum of Understanding may be terminated at any time by joint agreement of the parties hereto, or by any party upon giving the other parties thirty (30) days written notice.

This Memorandum of Understanding supersedes the Memorandum of Understanding between DMME and MSHA dated October 1, 1998.



MSHA District Manager



DMME Deputy Director

12/5/02

Date

11/25/02

Date