

DIVISION OF MINED LAND RECLAMATION		PROCEDURE NO.	3.3.12
PROCEDURES MANUAL		ISSUE DATE	February 27, 2002
SUBJECT	Coal Surface Mining Reclamation Fund (Pool Bond Fund) Tax Reporting/Payment	Section	Enforcement
		Last Revised	3/12/97

OBJECTIVE AND INTENT :

To ensure the Enforcement section takes the appropriate action when the permittee fails to submit an accurate and timely “Coal Surface Mining Reclamation Fund Tax Reporting Form” (**DMLR-PT-178**), or fails to pay the applicable Fund taxes or special assessments in a timely manner.

PROCEDURES :

Reporting of Permits “Not in Compliance” with Tax Return Submission Requirements - Within 45 days after the close of each calendar quarter, OFS will review the Pool Bond Activity Log. The activity log will show any permits that have failed to submit the required “Coal Surface Mining Reclamation Fund Tax Reporting Form” (**DMLR-PT-178**). These permits will be deemed “**Not in Compliance**” by OFS. OFS will contact appropriate representatives of the non-compliant permits via telephone notifying them they have 10 working days to submit the **DMLR-PT-178** and any taxes due on the non-compliant permit. The OFS Fiscal Technician will record the date, time, and name of the representative contacted into the activity log for future reference.

If a permit remains non-compliant and no **DMLR-PT-178** is filed within the 10 working days following notification, OFS will contact the Reclamation Services Manager or his designee. The OFS Fiscal Technician will provide copies of the original notice, Pool Bond Cap Report, and Pool Bond Activity Log. The Reclamation Services Manager or designee will discuss the situation with, and provide this information to, the appropriate Supervisor.

The Supervisor shall contact the appropriate Inspector, and instruct him or her to investigate or verify the status of the permit(s) he or she inspects. The Inspector shall determine the status of coal production for the applicable quarter.

If the Inspector determines that coal was mined, processed, or loaded at the permit during the applicable quarter, and an accurate “Coal Surface Mining Reclamation Fund Tax Reporting Form” (**DMLR-PT-178**) was not filed with OFS, the Inspector shall issue a 2 part NOV requiring the permittee to:

1. submit the **DMLR-PT-178** form, and
2. pay the applicable taxes.

4 VAC 25-130-801.15 (a) and (b) shall be referenced in the NOV, using performance standard code **RT**. The Inspector shall allow no more than 15 days for the permittee to comply with both parts.

If the Inspector determines that coal was not mined, processed, or loaded at the permit during the applicable quarter, or completion materials were approved during that quarter and **DMLR-PT-178** indicating “**0 tonnage**” production was not filed, the Inspector shall issue a NOV requiring the permittee to submit the reporting form.

- 4 VAC 25-130-801.15 (a) shall be cited under performance standard code **RT**, and no more than 15 days shall be given for abatement.

NOTE: A “Coal Surface Mining Reclamation Fund Tax Reporting Form” is required for the same quarter in which completion materials are approved; however, the form is not required thereafter.

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Request for Verification of Questionable Coal Surface Mining Reclamation Fund Tax Reporting Form - Upon receipt of a questionable reporting form from the Permit Section, the Reclamation Services Manager shall notify the Field Inspector or Supervisor.

The Inspector will conduct the necessary investigation to determine if the report form was accurate. If the Inspector's investigation reveals the reported status as accurate, no action is necessary. However, the Inspector shall check the appropriate block on the Inspection Report (**DMLR-ENF-044**) and discuss his findings in the narrative.

Should the form contain a **minor discrepancy** (i.e. incorrect listing of the reason for "0" production, wrong permit number, etc.), the Inspector shall:

- instruct the permittee to submit a corrected reporting form to the DMLR within 15 days.
- prepare a memo to the Supervisor explaining the problem and documenting that the situation was discussed with the permittee.
- forward the memo, along with the questionable reporting form, to the Supervisor as soon as possible, but not later than two weeks from receipt of the form.

Upon receipt of the material, the Supervisor will forward it on, along with the weekly reports, to the Reclamation Services Manager.

If the Inspector determines that **coal was mined, processed, or loaded** at any time during the applicable quarter, and the **DMLR-PT-178 did not accurately indicate this**, he or she shall issue a 2 part NOV requiring the permittee to:

1. submit the corrected **DMLR-PT-178**, and
2. pay the applicable taxes.

4 VAC 25-130-801.15 (a) and (b) shall be referenced in the NOV, using performance standard code "RT". The Inspector shall allow no more than 15 days for the permittee to comply with both parts.

The Enforcement Secretary shall prepare a quarterly report for forwarding to OFS summarizing enforcement action on the forms, attaching the forms with the discrepancies highlighted.

Coal Surface Mining Reclamation Fund Assessments - Should the permittee fail to submit payment of any "special assessment" required under 45.1-270.4:1 of the Act, the Inspector shall issue a NOV to the permittee. The notice shall allow the permittee no more than 15 days to submit payment of the "special assessment".

Historical Trend of Tonnage Reported by the Operator - This data is provided by OFS. The Reclamation Services Manager will forward a copy of the information to the appropriate Supervisor and Inspector.

The Inspector shall review the historical tonnage trend at the particular permit. If false or inaccurate reporting is suspected, the Inspector shall prepare a memo setting forth the basis of the suspicion. The memo must also document that the Inspector notified the permittee of his or her concern. (This notice would allow the permittee an opportunity to submit a written response to the DMLR to rebut the Inspector's preliminary determination.)

The memo shall be forwarded to the Supervisor with the Inspector's recommendation for enforcement action. The Supervisor will forward the information to the Reclamation Services Manager.

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The Reclamation Services Manager shall review the Inspector's findings and any rebutting information submitted by the permittee. If the Reclamation Services Manager concludes that grounds exist to suspect false or inaccurate reporting on the permittee's part, a letter to the permittee shall be prepared. The letter shall be sent by certified mail (return receipt requested) and shall inform the permittee of the Division's right and intent to audit the relevant books and records upon which the taxes paid were based.

(Note: The Division may audit the relevant books and records at any time and for any reason per Section 45.1-270.5C of the Act.)