

DIVISION OF MINED LAND RECLAMATION		PROCEDURE NO.	3.3.11
PROCEDURES MANUAL		ISSUE DATE	April 17, 2006
SUBJECT	Operations on Federal Lands (USFS - Federal Land Management Agency)	Section	Reclamation Services
		Last Revised	3/12/97

OBJECTIVE AND INTENT :

To ensure the DMLR reviews applications, issues permits, and monitors surface coal mining and reclamation operations on Federal Lands (United States Forest Service's lands) in Virginia in accordance with Subchapter VD of the regulations and the Federal Lands Cooperative Agreement (published April 7, 1987 Federal Register).

PROCEDURES :

In addition to the standard procedures for reviewing permit, revision, and renewal applications, and regulating a permitted site, Division personnel shall comply with the following:

Review of Permit, Revision, and Renewal Applications - Coordination with the Federal Lands Management Agency - United States Forest Service (USFS) -

The Field Inspector shall initially obtain an electronic version of the permit, revision, or renewal application from the applicant, and shall forward an electronic copy to the USFS office located in Wise, Virginia. In the event that a paper application is submitted, the field Inspector shall obtain an original and 1 copy of the permit, revision, or renewal application from the applicant, and shall forward the copy to the USFS for review and comment.

Immediately after forwarding a copy of a permit application to the USFS office, the Inspector shall:

- contact the USFS's representative to schedule a joint inspection of the proposed permit site within 10 ten days.
- notify the Office of Surface Mining (OSM) field office of the date and time of the joint DMLR/USFS inspection.

The Inspector shall immediately notify the OSM field office when the permit application involves lands with leased Federal coal or Federal surface over unleased Federal coal.

The Inspector shall review the permit, revision, or renewal application and compile a list of comments or concerns which the applicant or his consultant must address or correct prior to submitting the complete application to the DMLR office. (Note: Before the complete application can be submitted to the DMLR office for technical review, it must include the applicant's responses to the comments or concerns raised during the Inspector's initial review and the USFS's review.)

After the Inspector has reviewed and initialed the complete application, he or she shall direct the applicant to submit the corrected copy to the DMLR office. The applicant shall also be directed to place a complete copy of the application at the site listed in the public notice (for public review and copying).

Since the USFS will have a copy of the original application, the Inspector shall also require the applicant to provide an electronic or paper copy of any modifications or updates of the original application package.

The Inspector shall forward a copy of this and any future modifications and updates of the application submitted by the applicant to the USFS's Wise office.

The USFS will have 30 days to review and submit comments or concerns about the complete application to

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the DMLR.

If requested by OSM, the Review Inspector shall provide an electronic or paper copy of the complete permit, revision, or renewal application from the applicant to OSM for review.

Determination of Lands Unsuitable for Mining -

The Field Inspector shall make the initial determination as to whether the proposed permit area would be deemed unsuitable for mining. The Inspector’s written determination shall be submitted to the Review Inspector.

After consultation with the Reclamation Services Manager and Reclamation Program Manager, the Review Inspector shall forward the unsuitable for mining information to OSM and request its final determination.

Technical Analysis and Written Findings -

The Review Inspector shall send a copy of all internal and external correspondence concerning the complete application (including comment letters) to the Resource Forester at the USFS’s Wise office.

The Field Inspector shall review and initial all comments or responses received by and within the DMLR. If the Forest Service submits comments, a joint review of all comments and responses shall be conducted by the Inspector and the USFS representative.

Final Conclusions -

The Review Inspector shall mail a draft copy of the DMLR’s final conclusions and written findings to the Wise USFS office. The USFS will be requested to submit any additional written comments or concerns to the DMLR within 15 days from its receipt of the DMLR’s findings. If the USFS does not submit a written objection to approving the application during this time period, the Review Inspector shall prepare the DMLR’s final conclusions and findings.

A copy of the written final conclusions and findings shall be sent by the Review Inspector to the applicant, OSM and the USFS.

Performance Bonds -

The performance bond shall be determined in accordance with Part 4 VAC 25-130-800. Permits on USFS lands are ineligible to participate in the Virginia Coal Surface Mining Reclamation Fund (Part 4 VAC 25-130-801).

The performance bond must be made payable to “DMLR and the United States”. The Review Inspector shall forward a copy of any future bond adjustments to OSM.

Inspections -

The Field Inspector shall:

- inspect the permit per 4 VAC 25-130-840.11 of the regulations.
- provide the OSM and USFS with a copy of each inspection report within 30 days of the permit inspection. The Inspector shall label the top of the report with “c: USFS”. The Enforcement

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Section Secretary shall mail a copy to the OSM and USFS.

- notify the USFS prior to making an onsite inspection. (This will give the USFS representative an opportunity to participate in the permit inspection.)

The Inspector shall accommodate an OSM request for a joint DMLR/OSM inspection of the permit site.

If the Inspector issues a NOV or CO to the permittee, a copy of the action shall be forwarded by the Enforcement Secretary to the USFS within 5 days.

OSM may inspect and take enforcement action against a permittee on Federal lands without giving prior notice to or receiving concurrence from the DMLR. OSM is required to provide the DMLR a copy of the inspection report and enforcement action issued to the permittee within 15 days after its inspection of the operation.

Bond Release -

The DMLR must obtain concurrence from the USFS prior to granting bond release.

An application for bond release or reduction shall be handled per 4 VAC 25-130-800.40 and the Federal Lands Cooperative agreement. The Field Inspector shall coordinate the DMLR, USFS, and OSM bond release inspection.

The Division must receive the USFS's written approval of the permittee's bond release request, before the Division can release the applicable bond amount. After receipt of the USFS's written concurrence, the Review Inspector shall prepare the necessary bond release notifications.

Bond Forfeiture - In the event bond forfeiture must be pursued, the DMLR shall follow Procedure #3.3.09.

The Reclamation Services Office Services Specialist shall send a copy of all correspondence concerning the forfeiture action to the OSM and USFS. Prior to finalization of bond forfeiture, the Reclamation Services Manager must obtain OSM's written concurrence. This must be obtained following the Division Director's approval of the initial "notice of intent to forfeit" the performance bond, but prior to notifying the permittee of the final forfeiture action.

DMLR Annual Report to OSM - The annual report shall cover the period of March 24th to March 23rd of the following year. The Reclamation Services Manager and technical and permitting supervisors shall prepare this report within 10 working days from the close of the report year.

Once the report has been drafted, a joint meeting to discuss the DMLR report among the OSM, USFS and DMLR shall be held. The meeting shall be held within 20 days from the close of the report year. Any problems or discrepancies identified at the meeting shall be addressed, corrected, and included in the final report. The final report shall be submitted to OSM and the USFS by May 1st.

Financial Status Report - Any financial status reports required under the cooperative agreement or State accounting procedures will be prepared by the Agency Management Analyst. The enforcement and technical staff shall provide assistance to the Agency Management Analyst, as requested.

Changes in DMLR Personnel and Organization - The Reclamation Services Manager shall notify OSM and the USFS of changes in inspector area assignments (including name, address, and phone number) and other key personnel as required by Article XV of the cooperative agreement.