

**VIRGINIA DEPARTMENT OF ENERGY  
MINED LAND REPURPOSING**

**GUIDANCE MEMORANDUM<sup>1</sup> No. 10-05**

**Issue Date: March 4, 2005**

**Subject: Requirements for Haulroad Construction and Design**

The **Virginia Coal Surface Mining Reclamation Regulations** at 4 VAC 25-130-816.150, 151 and 152 and 4 VAC 25-130-817.150, 151 and 152 – Roads; general, primary roads and existing roads are specific about the types of roads that are used at mine sites.

Section 4 VAC 25-130-816.150 (a) lists the two road classification systems.

- Primary road - is any road that will be used for transporting coal and or spoil, or frequently used for access or other purposes for a period in excess of six months, or is to be retained for an approved postmining land use.
- Ancillary road – is any road not classified as a primary road.

Both road classifications must meet the construction requirements of 4 VAC 25-130-816/817.150 that requires environmental protection as well as prevention or control of damage to public and private property. Before any construction or reconstruction of a primary or ancillary road, approval must be obtained from Mined Land Repurposing (MLR).

Primary roads must meet the additional requirements of 4 VAC 25-130-816.151 and 4 VAC 25-130-817.151. These requirements include certification and construction -

*816/817.151(a)(1)*

*A qualified registered professional engineer shall certify the construction or reconstruction of a primary road in a report to the division. The report shall indicate that the primary road has been constructed or reconstructed as designed and in accordance with the approved plan.*

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<sup>1</sup> This Memorandum is to be considered a guideline 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."

An important design criterion of a primary road that must be considered is the road location. If a primary road is to be located where an embankment is to be placed on side slopes exceeding 36%, a keyway cut must be constructed at the toe of the embankment fill to ensure stability (the design specifics can be found at 4 VAC 25-130-816/817.151 (b)(2)(i)(ii)).

In accordance with 4 VAC 25-130-816/817.152, existing roads may be used if they meet the performance standards of 4 VAC 25-130-816/817.150 and 4 VAC 25-130-816/817.151, or it can be demonstrated that meeting the design standards would result in greater environmental harm and MLR waives compliance with the standards.

Roadways or ramps within the pit area or within spoil or coal mine waste disposal areas are not subject to primary and ancillary road construction, permitting, and design standards.

As mining progresses any temporary roads used to access the pit areas, that are retained as haulage roads must be shown as primary roads. A permittee must update the permit maps and plans for these type roads at each renewal, mid-term review, and submittal of the anniversary report. "As built" construction certifications should be included with each submittal. In order to continue to be used as primary roads, these roads must have been constructed using the design standards of 4 VAC 25-130-816/817.150 and 4 VAC 130-816/817.151.

New permit applications submitted to MLR should include plans for primary roads whose proposed locations are known. The language addressing these roads should be included in the permit narrative in Section 17.1 and should note that any updates to the maps, plans, or as-built construction certifications will be submitted in accordance with this guidance memorandum.

MLR Inspectors will check to ensure that roads being used within the permitted area are properly classified and meet the appropriate section of the regulations. If roads within the permitted area are not properly identified or classified, have not been designed and constructed to meet the requirements of 4 VAC-25-130.816/817.150 and 151, or the permit maps and plans have not been updated as road construction progresses (as noted above), MLR inspectors will take appropriate enforcement action, such as issuing a Revision Order Notice (RON).

Companies should begin inventorying existing roads on their permit(s) to determine if they are primary roads, so the necessary maps, plans, and certifications may be prepared. MLR Inspectors will be reviewing all permits, paying particular attention to the existing roads, such as those constructed along the perimeter of permits and on slopes above houses. These will receive the inspector's priority review and emphasis over roads which are constructed in reclaimed mined areas or are approaching eligibility for final bond release.

Should you have any questions regarding road classifications, please contact the MLR's Reclamation Services Manager at (276) 523-8100.