

OHIO DEPARTMENT OF NATURAL RESOURCES
DIVISION OF RECLAMATION

****POLICY/PROCEDURE DIRECTIVE****

Inspection and Enforcement 88-3

Subject: Enforcement Criteria for Conversion From IM to Coal.
Effective: February 29, 1988; REVISED April 11, 1988
Purpose: To provide guidance in the evaluation of existing incidental coal permits.

I. For the purposes of determining what is "incidental coal" the following criteria will be used:

- A. The total tonnage of coal removed will not exceed 1/6 of the total tonnage produced in each mining area.
- B. In each mining area the mineral being mined is to be below the coal seam being mined or the coal seam is to be immediately below the mineral being mined.

For the purposes of preparing proper loading conditions for coal located immediately below the mineral to be mined the term immediately will mean that the coal prepared for loading shall not be located more than three feet below the bottom of the produced mineral above.

- C. Augering of coal is not an acceptable mining method for incidental coal permits, except for those permits issued prior to February 29, 1988 that had approved mining plans that allowed augering of coal.
- D. Fill is not an acceptable product in calculating the 5/6 - 1/6 ratio for meeting tonnage requirements.

II. Enforcement Criteria for Conversion from IM to Coal

A. Field observations:

- 1) Spoiling of the mineral.
- 2) Covering of the pit after coal removal without recovering designated minerals.
- 3) Reclamation over mined minerals.
- 4) Changes in merchantable strata(s).
- 5) Other pertinent outside sources.

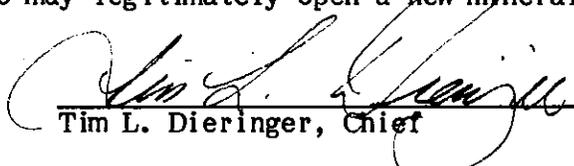
- 6) Product use off permit (i.e., is mineral being used as fill?).
 - 7) No evidence of production of minerals.
- B. Receipt of royalties by the landowner and/or provisions in the lease for royalties (i.e., landowner only being paid coal royalties, no mineral royalties).
 - C. OSM audit request results.
 - D. Marketability of minerals.
 - E. Operator's annual report (If the report shows that the operator has exceeded the required ratio, the Chief should be consulted).

If the inspector finds after reviewing items A through E above, that these activities appear to constitute a coal mining operation, a recommendation for a show cause hearing for conversion should be made to the Inspection and Enforcement Manager.

The above criteria need to be assessed in the evaluation of a possible conversion. Examples of necessary documentation include, but are not limited to:

- Inspection reports detailing observations
- Photographs of mining activities such as spoiled minerals
- Statements from landowners, neighbors re: the mining activity
- Documentation of royalties paid
- Documents indicating a change in the market (i.e., cancellation of a contract)
- Reclamation staff engineer's surveys
- Aerial photography

The purpose of this policy is to prevent the use of IM permits to circumvent Chapter 1513. ORC. The intent is not, however, to be so stringent as to eliminate new operators from entering the mining business and/or eliminate coal operators who may legitimately open a new mineral market.


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