

**SUBJECT: Coal Removal on Quarry**

**DATE: November 1, 2001 - Revised 09-01-06**

**Legal Authority: 22-4-4, 22-3-3(u)2**

WV Code Chapter 22, Article 4, Section 4, states, “This article does not address coal mining activities unless covered by sub-division (2), subsection (u), section three, article three of this chapter.”

WV Code Chapter 22, Article 3, Section 3(u)(2), states in part, “...extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent of the tonnage of minerals removed for purposes of commercial use or sale”, does not constitute surface mining.

Therefore, coal removal is allowed on a quarry permit (no Article 3 permit required) as long as the tonnage of coal removal does not exceed sixteen and two-thirds percentage of the total minerals removed. A quarry operator must demonstrate in the quarry application that the coal removed is incidental to the quarrying operations and does not exceed sixteen and two-thirds percent of the total minerals to be sold.

An operator must submit a **Quarterly Production Report (MR-41)** validating the amount of coal and other minerals produced and sold, and the amount stockpiled. Compliance with the statute will be determined upon submission of this report. The report is to be submitted to the Inspector within 10 days of the calendar quarter ending in March, June, September, and December of each year.

If an operator is determined **NOT** to be in compliance of coal removal from their operation, a Notice of Violation shall be issued for surface mining without a permit (Article 3 violation) and coal mining and removal ceased until an Inspector validates compliance. In the case of continuing violations, it may be construed a violation of Chapter 22, Article 3 and the operator may be required to obtain a Surface Coal Mining Permit.

***Note:** If an operator has an Article 3 permit and intends to quarry on a commercial basis, an Article 4 permit is required (22-4-5) regardless of the tonnage involved.*

*If an Article 3 permit utilizes mineral (i.e. road material, riprap, etc.) on-site, and does not sell the mineral, an Article 4 permit is not required.*

*If an operator has an Article 4 permit and intends to remove more than sixteen and two thirds percentage of coal, an Article 3 permit shall also be required.*