

ANNEX A

CHAPTER 86. SURFACE AND UNDERGROUND COAL  
MINING: GENERAL

Subchapter A. GENERAL PROVISIONS

Sec.

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**§ 86.6. Extraction of coal incidental to government-financed [~~highway~~] construction or GOVERNMENT-FINANCED reclamation projects.**

**(a) Extraction of coal incidental to government-financed [~~highway~~] construction or government-financed reclamation projects is exempt from [~~the acts~~] THE PERMITTING REQUIREMENTS OF THE SURFACE MINING CONSERVATION AND RECLAMATION ACT and this chapter as it relates to surface mining activities and operations, and Chapters 87 and 88 (relating to surface mining of coal; and anthracite coal) if THE FOLLOWING ARE MET:**

(1) DURING THE PROJECT SITE SELECTION PROCESS AND PRIOR TO DEVELOPMENT OF FINAL CONSTRUCTION PLANS OR RECLAMATION PLANS FOR PROJECTS LOCATED WITHIN COAL BEARING REGIONS, THE GOVERNMENT ENTITY FINANCING THE CONSTRUCTION OR RECLAMATION HAS PROVIDED THE DEPARTMENT WITH AN OPPORTUNITY TO PROVIDE COMMENTS ON THE POTENTIAL ENVIRONMENTAL IMPACTS OF THE PROJECT.

~~1~~(2) The extraction of coal is necessary to enable the construction or reclamation to be accomplished. Only that coal extracted from within the right-of-way, in the case of a road, RAILROAD, UTILITY LINE OR OTHER SUCH CONSTRUCTION, or within the boundaries of the area directly affected by OTHER TYPES OF GOVERNMENT-FINANCED CONSTRUCTION OR government-financed reclamation, may be considered incidental to that construction or reclamation.

~~2~~(3) The construction or reclamation is funded by a Federal, Commonwealth, county, municipal, or local unit of government, or a department, bureau, agency, or office of the unit which, directly or through another unit of government, finances the construction or reclamation.

~~3~~(4) The construction or reclamation is funded 50% or more by funds appropriated from the government unit's budget or obtained from general revenue bonds. Funding at less than 50% may qualify if the construction is undertaken as a Department-approved reclamation contract or project.

(5) THE CONSTRUCTION OR RECLAMATION IS PERFORMED UNDER A BOND, CONTRACT AND SPECIFICATIONS THAT SUBSTANTIALLY

**PROVIDE FOR AND REQUIRE PROTECTION OF THE ENVIRONMENT,  
RECLAMATION OF THE AFFECTED AREA, AND HANDLING OF EXCAVATED  
MATERIALS IN A MANNER CONSISTENT WITH THE ACTS AND REGULATIONS  
IMPLEMENTING THE ACTS.**

**(6) THE DEPARTMENT HAS APPROVED THE STANDARDS AND  
SPECIFICATIONS FOR PROTECTION OF THE ENVIRONMENT THAT WILL  
APPLY TO THE PROJECT WHEN POTENTIAL ADVERSE ENVIRONMENTAL  
IMPACTS HAVE BEEN IDENTIFIED.**

**(b) [Highway] Construction funded through government financing agency  
guarantees, insurance, loans, funds obtained through industrial revenue bonds or their  
equivalent or in-kind payments DO [does] not qualify as government-financed  
construction.**

**(c) A person extracting coal incidental to government-financed [highway]  
construction or GOVERNMENT-FINANCED reclamation who extracts more than 250  
tons of coal or affects more than 2 acres shall maintain on the site of the extraction  
operation and make available for inspection the following DOCUMENTS:**

**(1) A WRITTEN description of the construction or reclamation project.**

**(2) A MAP SHOWING the exact location of the construction or  
reclamation, right-of-way or the boundaries of the area which will be directly affected by  
the construction or reclamation.**

**(3) A STATEMENT IDENTIFYING the government agency that is  
providing the financing and the kind and amount of public financing, including the  
percentage of the entire construction costs represented by the government financing.**

**(4) WHEN THE AREA DELINEATED IN PARAGRAPH (2) IS WHOLLY OR PARTIALLY WITHIN AN AREA DESIGNATED UNSUITABLE FOR MINING BY THE ENVIRONMENTAL QUALITY BOARD UNDER § 86.130 (RELATING TO AREAS DESIGNATED AS UNSUITABLE FOR MINING), A COPY OF THE DETAILED REPORT REQUIRED BY § 86.124(e) (RELATING TO PROCEDURES: INITIAL PROCESSING, RECORDKEEPING AND NOTIFICATION REQUIREMENTS).**

**(d) GOVERNMENT-FINANCED CONSTRUCTION PROJECTS AND GOVERNMENT-FINANCED RECLAMATION SHALL COMPLY WITH CHAPTERS 91 – 96, 102 AND 105.**