

# DRAFT

## ANNEX A

### CHAPTER 86. SURFACE AND UNDERGROUND COAL MINING: GENERAL

#### Subchapter A. GENERAL PROVISIONS

Sec.

86.1. Definitions.

86.2. Scope.

86.3. Use of Coal Refuse Disposal Control Fund.

86.5. Extraction of coal incidental to noncoal surface mining.

**86.6. Extraction of coal incidental to government-financed highway OR OTHER construction or reclamation projects.**

**§ 86.6. Extraction of coal incidental to government-financed highway OR OTHER construction or reclamation projects.**

**(a) Extraction of coal incidental to government-financed highway OR OTHER construction or government-financed reclamation projects is exempt from the acts 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:**

**(1) 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**

## DRAFT

GOVERNMENT-FINANCED CONSTRUCTION OR government-financed reclamation, may be considered incidental to that construction or reclamation.

(2) 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) 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.

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

(c) A person extracting coal incidental to government-financed highway OR OTHER construction or 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 DOCUMENTS THAT SHOW [the following]:

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

(2) 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.

## DRAFT

**(3) 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.**

**(d) PROJECTS THAT QUALIFY UNDER SUBSECTION (a) ARE NOT EXEMPT FROM OTHER DEPARTMENT REGULATIONS SUCH AS CHAPTERS 91 – 96, 102 AND 105.**