ILLINOIS DEPARTMENT OF MINES AND MINERALS

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PROTECTING OUR RESOURCES

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LAND RECLAMATION DIVISION
MEMORANDUM NO. 93-5

TO: All Coal Operators

DATE: August 5, 1993

FROM: Fred Bowman FB

RE: Revegetation/Bond Release Issues

This memorandum deals with four issues pertaining to the revegetation and release of reclaimed areas; (1) the counting of successful productivity years for fields tested prior to 1992, (2) the calculation of the five year revegetation responsibility period, (3) Phase II bond release for areas on which vegetation has been established, and (4) bond release on refuse areas which have received a four foot cover variance.

(1) As you know, effective January 1, 1992 the productivity standards for pasture and cropland changed to allow the use of successful yields in any two (three for prime farmland) years except the first year of the responsibility period as per 62 Ill. Adm. Code 1816.116(a)(3)(C) and 1817.116(a)(3)(C). Prior to that time the regulations allowed the use of the first year but required one of the successful years to be year five or later in the responsibility period. Many fields were established prior to 1992 and have successful yields in year one of the responsibility period. For those fields which were planted prior to 1992 and that have successful yields for year one, those first year results will be allowed to count toward the revegetation success provided there has been no change in the responsibility period during this time due to augmentation.

(2) There has been some confusion as to when the five-year revegetation responsibility period begins. The responsibility period starts immediately after the planting of the approved species, as per Section 1816.116(a)(2)(A) and 1817.116(a)(2)(A). Year one ends one year after the planting of the approved species. Augmentative husbandry practices will require restarting of the responsibility period. Regulations identifying non-augmentative (normal) husbandry practices have gone through the state rulemaking process and await federal

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approval (Illinois Register dated July 16, 1993 - Section 1816.116(a)(2)(C) and 1816.117(a)(2)(C).

The following are more specific examples:

Forest/wildlife - The responsibility period starts when the trees/shrubs are initially planted. Replanting is allowed, as specified in Section 1816.117(a)(5) and 1817.117(a)(5). Areas that have received no replanting or replanting only in the first year can be counted, at the earliest, in the fall, four calendar years later. If any replanting has been done in year two, the youngest trees must be three years old before the area can be counted and this would result in the area not being counted until after the end of year five.

Planting Date	Earliest Counting Date	Earliest Phase III Release Date
Spring, 1990 (initial)	Fall, 1994	Spring, 1995
Spring, 1991 (first year replant)	Fall, 1994	Spring, 1995
Spring, 1992 (second year replant)	Spring, 1995	Spring, 1995

Please note that it is the permittee's responsibility to evaluate the trees/shrubs in the fall of the year of the initial planting and of the following year to determine if replanting is necessary.

Pasture/Hayland - The responsibility period starts when the permanent grasses and legumes are planted. If a temporary nurse crop is planted in the fall and the permanent vegetation is not planted until the following spring, the responsibility period does not start until the spring.

Cropland - The responsibility period starts with the planting of the first crop, including wheat or pasture/hayland species.

Remined pasture areas - The responsibility period starts when the permanent grasses and legumes are planted, the same as with pasture/hayland. Counts to establish that revegetation is adequate to control erosion may be taken no earlier than the late summer of the fifth year, but the area cannot be released until after the fifth anniversary of being planted.

(3) Section 1800.40(c)(2) states that Phase II bond release can be made on areas other than prime farmland "after revegetation has been established on the regraded mined lands in accordance with the approved plan." For pasture/hayland areas the Department has determined this to mean there is permanent vegetation growing on the area to such an

extent that it can reasonably be expected to successfully meet the required revegetation standards by the end of the responsibility period.

On areas to be reclaimed to forest or wildlife, this means the vegetative ground cover must be established as indicated above and the trees/shrubs shall have been planted and are growing. The earliest this evaluation can be made is the late summer of the year the trees are planted.

For cropland areas other than prime farmland, this means to have a crop planted and growing on the area, or if the area is to be initially planted to pasture vegetation, to have met the establishment requirements for pasture/hayland areas noted above.

Prime farmland areas must have met the productivity requirements of Section 1823.15(b)(3) prior to Phase II bond release.

(4) A number of permittees have applied for and received variances to use some form of treatment other than four feet of cover to reclaim coal refuse areas. A condition has been added to those permits which have received variances, requiring that the refuse area be covered with four feet of the best available material should the proposed treatment and/or reduced cover plan be deemed a failure by the Department.

The Department will process phase bond release requests for areas that have received refuse cover variances, but the amount of bond released will be reduced as necessary to guarantee the successful reclamation of the reduced cover variance area in the event the variance treatment fails.

The complicated nature of the regulations and responsibility periods is very evident. Operators are reminded of the significant role the Yearly Revegetation Reports (form SCML-4) play in providing the appropriate documentation for establishing responsibility periods toward eventual bond release. Also, operators are reminded that documentation of revegetation work done between 1983 and 1986, prior to the date of the current reporting requirements, must be provided prior to processing of Phase III bond release requests.

Upon review of the above policy, it should be evident that in most cases the time period between eligibility for Phase I and Phase II release is relatively short. Due to the cost and complexity of permanent program bond release procedures, it may be advisable to submit both Phase I and Phase II release requests at such time as eligibility for Phase II is determined. This is not a requirement and the Department will continue to process individual phase release requests.

If you have any questions concerning these matters please contact your field representative.