



Illinois Department of Natural Resources

One Natural Resources Way Springfield, Illinois 62702-1271
www.dnr.illinois.gov

Bruce Rauner, Governor

Wayne A. Rosenthal, Director

Operator Memorandum No. 2017-06

To: All Coal Mine Operators/Consultants

Date: June 6, 2017

From: Scott K. Fowler, Supervisor
Land Reclamation Division

A handwritten signature in black ink, appearing to read "S. K. Fowler".

Re: Ephemeral Stream Justification

Pursuant to 62 Ill. Adm. Code 1816/1817.57, no land within 100 feet of the top of the bank of the normal channel of a stream classified as perennial or intermittent shall be disturbed by surface mining activities, unless a stream buffer zone exemption has been granted by the Department or there will be a temporary or permanent diversion of the stream channel. Streams classified as ephemeral are not subject to these same regulatory requirements. An ephemeral stream is defined at Section 1701.05 Appendix A as a stream which flows only in direct response to precipitation in the immediate watershed or in response to the melting of a cover of snow and ice; and it has a channel bottom that is always above the local water table. Furthermore, an ephemeral stream drains a watershed of less than one square mile. Department policy requires that applicants classifying a stream as ephemeral must provide a statement of justification that the stream does not receive contribution from groundwater flow.

Applicants are required to declare the presence of intermittent or perennial streams within or adjacent to permit boundaries in either Part IV (7)(I) of the UCM-1 Application, Part IV (8)(1) of the SCM-1 Application, or Part III 2.D.2 of the IBR Application. If the applicant is proposing surface mining activities with 100 feet of a stream classified as ephemeral, then the justification described above shall be provided in the appropriate application part. This justification shall be provided in the applicable parts of any future updated versions of these applications.

The Department provides the following examples of the types of data and information acceptable as justification that a stream does not receive contribution from groundwater flow. Applicant should note that the types of acceptable data and information is not limited to these examples and

the Department may accept other alternatives. The Department encourages the applicant to utilize multiple types of data and information to justify the ephemeral stream classification.

- 1) Comparison of soil types, average depth to groundwater table, depth of channel bottom
- 2) Documentation that the stream is a 1st order/headwater stream
- 3) Documented presence of upland plants rooted in the stream bed
- 4) Documented absence of obligate or facultative wetland plants
- 5) Documented absence of bed and bank
- 6) Documented absence of meanders, riffles and pools
- 7) Documented absence of active erosional features (i.e. head cuts)
- 8) Documented absence of base flow 48 hours post rainfall event
- 9) Soil borings documenting absence of hydric soils

The Department recognizes that some of this information may be located in a stream and/or wetland resources report supplied with applications. However, to facilitate and expedite review of applications, this data and information shall be supplied within the text of the appropriate application part. Table format or other summary type format is acceptable. In addition, the names and qualifications of the individual(s) or organization(s) making the ephemeral stream determination shall be supplied to the Department pursuant to Section 1777.13.

Should you have questions, please contact the Department wildlife staff for clarification.

Reference:

NC Division of Water Quality. (2010). Methodology for identification of intermittent and perennial streams and their origins, Version 4.11. North Carolina Department of Environment and Natural Resources, Division of Water Quality. Raleigh, NC.