

LAND RECLAMATION DIVISION
MEMORANDUM 98-2

TO: Recipients of Permanent Program Regulations

DATE: June 1, 1998

FROM: Donald J. Pflederer, Supervisor
Land Reclamation Division

RE: Regulatory Amendment

On May 29, 1996, the Office of Surface Mining (OSM) did not approve regulation 62 Ill. Adm. Code 1816.116/1817.116 (a)(3)(F) which is related to revegetation of small areas of minor disturbances. These regulations were part of a much larger approved rulemaking which was forwarded to you via Land Reclamation Division Memorandum 96-4. At the Department's request and after the submittal of additional clarification and conditions, OSM revisited this rule. On April 8, 1998, OSM subsequently approved this rule. A detailed rationale for the approval may be found in the Federal Register pages 17094-17098.

Therefore this regulation has now been approved by OSM as it is written in the current published form which was sent under the 96-4 memorandum.

The regulation reads:

“Non-contiguous areas less than or equal to four acres which were disturbed from activities such as, but not limited to, signs, boreholes, power poles, stockpiles and substations shall be considered successfully revegetated if the operator can demonstrate that the soil disturbance was minor, i.e., the majority of subsoil remains in place, the soil has been returned to its original capability, and the area is supporting its approved post-mining land use at the end of the responsibility period.”

This regulation is applicable to pasture/hayland and cropland post mining land uses.

Implementation of the regulation:

The Department will evaluate these areas on request and if the following demonstrations can be made:

1. The maximum size requirement must be met, and,
2. Documentation that either the topsoil was left in place as in the case of signs and markers or,
3. Documentation that the subsoil or majority of subsoil was left in place, and
4. Were not affected by coal or toxic materials.
5. Have no excessive compaction, either by describing the conditions under which the area was created and reclaimed, including any reclamation compaction alleviation efforts.
6. Achieving the original capability by supporting the approved post mining land use.

Permittee's seeking evaluation of areas under this regulation must provide the above information when the areas are requested. The requests should come in at the time of testing requests under the ALPF program. The Department will consider later dates as conditions allow.

The areas will be required to successfully meeting Item No. six for a minimum of the required two or three year standard, except for the first year of the responsibility period, to meet this performance standard.

The evaluation for each field will be done near the harvest season and will be done by qualified personnel, such as crop enumerators, IDOA, or LRD staff.

Operators are strongly encouraged to address potential compaction issues as early in the reclamation process as possible to avoid delays in restoring land capability and bond release.

If you have any questions about this memo or the regulations, please contact Dean Spindler in the Springfield office at (217) 782-4970