

Policy Memorandum No. 10 to Mine Operators

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To: All Mine Operators and Lignite Council

From: Commissioners Reinbold, Wefald and Hagen

Subject: Clarification of 1) standards and methods for proving reclamation success on cropland areas disturbed after July 1, 1975 and not used in support of mining after May 3, 1978, 2) management practices for all reclaimed cropland, and 3) breaking pre-cropland grass-legume stands prior to final bond release.

Prior to final bond release of areas disturbed after July 1, 1975, the mining company must provide the Commission with proof that the reclaimed areas have attained a level of productivity equal to or greater than that which existed prior to mining. Approved reclamation success standards and methods for determining reclamation success are found in Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments, NDPSC, 1994. The applicable success standards in that document apply to all areas disturbed by mining after July 1, 1975, and the methods for proving reclamation success apply to all areas mined or used in support of mining after May 3, 1978.

This memo clarifies:

- * Standards and methods for proving reclamation success on cropland areas disturbed after July 1, 1975 and not used in support of mining after May 3, 1978,
- * Management practices for all reclaimed cropland, and
- * Breaking pre-cropland grass-legume stands prior to final bond release.

1) - Standards and Methods for Proving Reclamation Success on Areas Disturbed After July 1, 1975 and Not Used in Support of Mining After May 3, 1978

For reclaimed cropland that was disturbed by mining after July 1, 1975 and not used to support mining after May 3, 1978, the only specific vegetation standard for final bond release is that the productivity must be equal to or greater than that which existed prior to mining. Reclamation success may be proven by using 1) methods found in Section III(D) of Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments, NDPSC, 1994, or 2) other methods determined to be acceptable by the Commission on a case by case basis.

However, if representative strips within a reclaimed tract seeded to a precropland mix are broken and used for proving reclamation success, a single representative strip of adequate size may be used rather than the minimum of three required by Section III(D) of the revegetation success document. The single representative strip must maximize the variability in 1) soil redistribution thicknesses, 2) landscape forms, and 3) reclamation age occurring in the larger reclaimed area it represents. In addition, a separate representative strip must be established for each landowner, unless the landowner agrees that another representative strip having the same characteristics is adequate to represent his or her reclaimed land. A map identifying proposed representative strip(s) should be submitted to the Reclamation Division and approved prior to final selection.

2) - Cropland Management Practices

Management practices used on all reclaimed cropland (post July 1, 1975 disturbance and post-SMCRA areas) must be equivalent to those used on non-mined cropland in the surrounding area. If reclaimed tracts are to be fertilized, soil tests must be taken to determine the type and amount of fertilizer to be added. The type and amount of fertilizer must be based on recommendations contained in current North Dakota State University Extension Service publications when applying a realistic yield goal. Realistic yield goals for spring wheat in western North Dakota normally do not exceed 40 bushels per acre.

3) - Responsibility for "Breaking" Pre-Cropland Grass-Legume Stands

The mining company is normally responsible for "breaking" cropland areas seeded to a grass-legume mixture prior to final bond release. This breaking provision applies to both pre- and post-SMCRA areas, subject to the two exceptions noted below.

If a mining company chooses to break and use representative areas for proving reclamation success on reclaimed cropland rather than harvesting the entire tract, the remaining grass-legume stand does not have to be broken if the surface owner specifically requests in writing that the stand remain in place at the time of final bond release.

The breaking requirement does not apply to cropland areas that are specifically approved in the reclamation plan as perennial hayland.

For the purposes of this policy, "breaking" includes sufficient tillage and rock picking so that the area is in a condition to be readily seeded to annual crops. If an area has been broken and produced a harvestable annual crop in a previous year, the breaking requirement will be considered satisfied.

Susan E. Wefald
Commissioner

Leo M. Reinbold
President

Bruce Hagen
Commissioner