

Policy Memorandum No. 15 to Mine Operators

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TO: All Mine Operators and Lignite Energy Council

FROM: Commissioners Reinbold, Hagen and Wefald
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SUBJECT: Performance Bond Release for Waste Disposal Operations Located on
Mined Lands

The Commission has adopted a policy to totally release the performance bond amount of mined acreage utilized for the disposal of large quantities of ash from coal conversion facilities, sanitary landfills operated by a city, or other long-term solid waste disposal sites. Prior to Commission approval of such a bond release, a long-term industrial land use must be implemented in order to allow an exemption from the 10-year revegetation responsibility period pursuant to NDAC Section 69-05.2-12-09(2). This includes the issuance of the appropriate permits by the State Department of Health and county zoning authorities and the construction of the facility to a degree that it is ready for use. Final closure, revegetation and monitoring of these sites will have to be carried out in accordance with applicable State Department of Health and or county requirements.

The purpose of this policy is to eliminate duplication of regulation by the Commission and State Department of Health on waste disposal sites constructed on mined lands. It is also understood that future use of these sites following waste disposal and closure will probably be limited due to the final topography and the desire to maintain a permanent vegetation cover on the areas. However, with the respreading of sufficient topsoil and subsoil, most of the closed disposal sites will be capable of being hayed or having other well managed uses. As part of this policy, the Commission has assumed that sufficient topsoil and subsoil will be set aside and respread on these areas upon site closure to ensure a good vegetative cover to provide long term site stability, as well as having the capability to produce hay crops. Nearly all approved waste disposal sites located on mined lands were selected for that use following soil, overburden, and coal

removal. All available topsoil and sufficient subsoil from these lands were removed to meet soil respreading requirements in the Commission's mining and reclamation rules.

The State Department of Health rules require that at least six inches of soil be respread on solid waste disposal sites as part of closure. This "minimum" thickness is specified since the amount of suitable soil is limited at many pre-existing waste disposal sites on non-mined lands. However, in the case of solid waste disposal sites located on mined lands, considerably more than six inches of soil is removed prior to mining to meet the Commission's soil respread requirements. Therefore, before granting final bond release on mined areas used for long-term waste disposal activities, the Commission will require a showing that sufficient topsoil and subsoil have been set aside to provide a total respread thickness of at least 24 inches of soil for sites where the cover material is non-sodic spoil and 36 inches where the cover is sodic spoil, with a minimum topsoil thickness of 8 inches. Exceptions to these thicknesses will be allowed if the quantities of topsoil and subsoil removed prior to mining are less than those needed to provide these thicknesses.

These thicknesses of topsoil and subsoil are considered sufficient to ensure long term site stability and good vegetative production on the disposal sites upon final closure. The State Department of Health discourages cropping or grazing of the closed disposal sites due to the possibility of abusive practices that may cause the soil and other capping materials to erode and expose the wastes that were disposed. However, it is very likely that many of these areas will be suitable for haying (or other well managed uses) when the vegetation is adequately established.

The bond release application and Commission release procedures for approved waste disposal areas must comply with all applicable provisions of NDAC Chapter 69-05.2-12.

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