

**DEPARTMENT OF MINES, MINERALS AND ENERGY**  
**VIRGINIA COAL SURFACE MINING RECLAMATION REGULATIONS - AMENDMENTS**

**4 VAC 25-130-816.22. Topsoil and subsoil.**

(a) Removal.

(1)(i) All topsoil shall be removed as a separate layer from the area to be disturbed, and segregated.

(ii) Where the topsoil is of insufficient quantity or poor quality for sustaining vegetation, the materials approved by the division in accordance with Paragraph (b) of this section shall be removed as a separate layer from the area to be disturbed, and segregated.

(2) If topsoil is less than 6 inches thick, the permittee may remove the topsoil and the unconsolidated materials immediately below the topsoil and treat the mixture as topsoil.

(3) The division may choose not to require the removal of topsoil for minor disturbances which--

(i) Occur at the site of small structures, such as power poles, signs, or fence lines; or

(ii) Will not destroy the existing vegetation and will not cause erosion.

(4) Timing. All material to be removed under this section shall be removed after the vegetative cover that would interfere with its salvage is cleared from the area to be disturbed, but before any drilling, blasting, mining, or other surface disturbance takes place.

(b) Substitutes and supplements.

(1) Selected overburden materials may be substituted for, or used as a supplement to topsoil if the permittee demonstrates to the division, in accordance with 4VAC25-130-780.18, that the resulting soil medium is equal to, or more suitable for sustaining vegetation than, the existing topsoil, and the resulting soil medium is the best available in the permit area to support revegetation.

(2) Substituted or supplemental material shall be removed, segregated, and replaced in compliance with the requirements of this section for topsoil.

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(3) Selected overburden materials may be substituted for or used as a supplement to topsoil, if the slope of the land containing the topsoil is greater than 60 percent (3v:5h) and the selected overburden materials satisfy the following criteria:

(i) The results of the analyses of the overburden required in 4VAC25-130-780.18 demonstrates the feasibility of using the overburden materials.

(ii) The substitute material has a pH greater than 5.0, has a net acidity of less than five tons per 1,000 tons of material or a net alkalinity, and is suitable for sustaining vegetation consistent with the standards for vegetation in 4VAC25-130-816.111 through 4VAC25-130-816.116, and the approved postmining land use.

(c) Storage.

(1) Materials removed under Paragraph (a) of this section shall be segregated and stockpiled when it is impractical to redistribute such materials promptly on regraded areas.

(2) Stockpiled materials shall--

(i) Be selectively placed on a stable site within the permit area;

(ii) Be protected from contaminants and unnecessary compaction that would interfere with revegetation;

(iii) Be protected from wind and water erosion through prompt establishment and maintenance of an effective, quick growing vegetative cover or through other measures approved by the division; and

(iv) Not be moved until required for redistribution unless approved by the division.

(3) When long-term surface disturbances will result from facilities such as support facilities and preparation plants and where stockpiling of materials removed under Paragraph (a)(1) of this section would be detrimental to the quality or quantity of those materials, the division may approve the temporary distribution of the soil materials so removed to an approved site within

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the permit area to enhance the current use of that site until the materials are needed for later reclamation, provided that--

- (i) Such action will not permanently diminish the capability of the topsoil of the host site; and
- (ii) The material will be retained in a condition more suitable for redistribution than if stockpiled.

(d) Redistribution.

(1) Topsoil materials and substitutes removed under Paragraphs (a) and (b) of this section shall be redistributed in a manner that--

(i) Achieves an approximately uniform, stable thickness when consistent with the approved postmining land use, contours, and surface-water drainage systems. Soil thickness may also be varied to the extent such variations help meet the specific revegetation goals identified in the permit;

(ii) Prevents excess compaction of the materials; and

(iii) Protects the materials from wind and water erosion before and after seeding and planting.

(2) Before redistribution of the material removed under Paragraph (a) of this section, the regraded land shall be treated if necessary to reduce potential slippage of the redistributed material and to promote root penetration. If no harm will be caused to the redistributed material and reestablished vegetation, such treatment may be conducted after such material is replaced.

(3) The division may choose not to require the redistribution of topsoil or topsoil substitutes on the approved postmining embankments of permanent impoundments or of roads if it determines that--

(i) Placement of topsoil or topsoil substitutes on such embankments is inconsistent with the requirement to use the best technology currently available to prevent sedimentation; and

(ii) Such embankments will be otherwise stabilized.

(4) Nutrients and soil amendments shall be applied to the initially redistributed material when necessary to establish the vegetative cover. The types and amounts of nutrients and soil

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amendments shall be determined by soil tests performed by a qualified laboratory using standard methods which are approved by the division. If seeding is done without a site specific soil test--

(i) Fertilization rates of 300 pounds of 16-27-14 or 500 pounds of 10-20-10 or equivalents per acre shall be used.

(ii) Liming rates shall be in accordance with the following table:

Mine            Tons of Lime Needed per Acre to Increase pH to:

Spoil pH

5.1 - 5.5                      5.6 - 6.2

Test    Sandstone   Shale   Mixed   Sandstone   Shale   Mixed

-----  
 4.0 - 4.5    2       3       2       3       5       4

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 4.6 - 5.0    1       3       2       2       4       3  
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5.1 - 5.5    0       2       1       1       3       2

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5.6 - 6.0    0       1       0       0       2       1

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(iii) Soil tests shall be performed promptly after topsoiling but before application of any supplementary nutrients and any additional lime and fertilizer applied as necessary.

(e) Subsoil segregation. The division may require that the B horizon, C horizon, or other underlying strata, or portions thereof, be removed and segregated, stockpiled, and redistributed as subsoil in accordance with the requirements of Paragraphs (c) and (d) of this section if it finds that such subsoil layers are necessary to comply with the revegetation requirements of 4VAC25-130-816.111, 4VAC25-130-816.113, 4VAC25-130-816.114 and 4VAC25-130-816.116.

**4VAC25-130-816.43. Diversions.**

(a) General requirements.

(1) With the approval of the division, any flow from mined areas abandoned before May 3, 1978, and any flow from undisturbed areas or reclaimed areas, after meeting the criteria of 4VAC25-130-816.46 for siltation structure removal, may be diverted from disturbed areas by means of temporary or permanent diversions. All diversions shall be designed to minimize adverse impacts to the hydrologic balance within the permit and adjacent areas, to prevent material damage outside the permit area and to assure the safety of the public. Diversions shall not be used to divert water into underground mines without approval of the division under 4VAC25-130-816.41(i).

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(2) The diversion and its appurtenant structures shall be designed, located, constructed, maintained, and used to--

(i) Be stable;

(ii) Provide protection against flooding and resultant damage to life and property;

(iii) Prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow outside the permit area; and

(iv) Comply with all applicable local, State and Federal laws and regulations.

(3) Temporary diversions shall be removed promptly when no longer needed to achieve the purpose for which they were authorized. The land disturbed by the removal process shall be restored in accordance with this Part. Before diversions are removed, downstream water-treatment facilities previously protected by the diversion shall be modified or removed, as necessary, to prevent overtopping or failure of the facilities. This requirement shall not relieve the permittee from maintaining water-treatment facilities as otherwise required. A permanent diversion or a stream channel reclaimed after the removal of a temporary diversion shall be designed and constructed so as to restore or approximate the premining characteristics of the original stream channel including the natural riparian vegetation to promote the recovery and the enhancement of the aquatic habitat.

(4) Diversions which convey water continuously or frequently shall be designed by a qualified registered professional engineer and constructed to ensure stability and compliance with the standards of this Part and any other criteria set by the Division ~~lined with rock rip rap to at least the normal flow depth, including an allowance for freeboard. Diversions constructed in competent bedrock and portions of channels above normal flow depth shall comply with the velocity limitations of Paragraph (5) below.~~

~~(5) The maximum permissible velocity for the following methods of stabilization are:—~~

~~Vegetated channel constructed in soil~~

~~3.5 feet per second~~

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<del>Vegetated channel with jute netting</del>	<del>5.0 feet per second</del>
<del>Rock rip rap lined channel</del>	<del>16.0 feet per second</del>
<del>Channel constructed in competent bedrock</del>	<del>No limit</del>

**4VAC25-130-816.116. Revegetation; standards for success.**

(a) Success of revegetation shall be judged on the effectiveness of the vegetation for the approved postmining land use, the extent of cover compared to the cover occurring in natural vegetation of the area, and the general requirements of 4VAC25-130-816.111.

(1) Statistically valid sampling techniques shall be used for measuring success.

(2) Ground cover, production, or stocking shall be considered equal to the approved success standard when they are not less than ~~70~~ 90% of the success standard, except as provided by (b) of this section. ~~The sampling techniques for measuring success shall use a 90% statistical confidence interval (i.e., one-sided test with a 0.10 alpha error).~~ Sampling techniques for measuring woody plant stocking, ground cover, and production shall be in accordance with techniques approved by the division.

(b) Standards for success shall be applied in accordance with the approved postmining land use and, at a minimum, the following conditions:

(1) For areas developed for use as grazing land or pasture land, the ground cover and production of living plants on the revegetated area shall be at least equal to that of a reference area or if approved by the division, a vegetative ground cover of 90% for areas planted only in herbaceous species and productivity at least equal to the productivity of the premining soils may be achieved. Premining productivity shall be based upon data of the U.S. Natural Resources Conservation Service and measured in such units as weight of material produced per acre or animal units supported.

(2) For areas developed for use as cropland, crop production on the revegetated area shall be at least equal to that of a reference area or if approved by the division, crop yields shall be at least equal to the yields for reference crops from unmined lands. Reference crop yields shall be

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determined from the current yield records of representative local farms in the surrounding area or from the average county yields recognized by the U.S. Department of Agriculture.

(3) For areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products, success of vegetation shall be determined on the basis of tree and shrub stocking and vegetative ground cover. Such parameters are described as follows:

(i) Minimum stocking and planting arrangements shall be specified by the division on the basis of local and regional conditions and after consultation with and approval by the state agencies responsible for the administration of forestry and wildlife programs. Consultation and approval may occur on either a program wide or a permit specific basis.

(ii) Trees and shrubs that will be used in determining the success of stocking and the adequacy of the plant arrangement shall have utility for the approved postmining land use. Trees and shrubs counted in determining such success shall be healthy and have been in place for not less than two growing seasons. At the time of bond release, at least 80% of the trees and shrubs used to determine such success shall have been in place for at least three years. Root crown or sprouts over one foot in height shall count as one toward meeting the stocking requirements. Where multiple stems occur, only the tallest stem will be counted.

(iii) Vegetative ground cover shall not be less than that required to control erosion and achieve the approved postmining land use.

(iv) Where commercial forest land is the approved postmining land use:

(A) The area shall have a minimum stocking of 400 trees per acre.

(B) All countable trees shall be commercial species and shall be well distributed over each acre stocked.

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(C) Additionally, the area shall have an average of at least 40 wildlife food-producing shrubs per acre. The shrubs shall be suitably located for wildlife enhancement, and may be distributed or clustered.

(v) Where woody plants are used for wildlife management, recreation, shelter belts, or forest uses other than commercial forest land:

(A) The stocking of trees, shrubs, half-shrubs and the ground cover established on the revegetated area shall approximate the stocking and ground cover on the surrounding unmined area and shall utilize local and regional recommendations regarding species composition, spacing and planting arrangement;

(B) Areas planted only in herbaceous species shall sustain a vegetative ground cover of 90%;

(C) Areas planted with a mixture of herbaceous and woody species shall sustain a herbaceous vegetative ground cover of 70 ~~90~~% and an average of 400 woody plants per acre. At least 40 of the woody plants for each acre shall be wildlife food-producing shrubs located suitably for wildlife enhancement, which may be distributed or clustered on the area.

(4) For areas to be developed for industrial, commercial, or residential use less than two years after regrading is completed, the vegetative ground cover shall not be less than that required to control erosion.

(5) For areas previously disturbed by mining that were not reclaimed to the requirements of this subchapter and that are remined or otherwise redisturbed by surface coal mining operations, as a minimum, the vegetative ground cover shall be not less than the ground cover existing before redisturbance, and shall be adequate to control erosion.

(c) (1) The period of extended responsibility for successful revegetation shall begin after the last year of augmented seeding, fertilizing, irrigation, or other work, excluding husbandry practices that are approved by the division in accordance with subdivision (c)(3) of this section.

(2) The period of responsibility shall continue for a period of not less than:

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(i) Five full years except as provided in subdivision (c)(2)(ii) of this section. The vegetation parameters identified in subsection (b) of this section for grazing land or pastureland and cropland shall equal or exceed the approved success standard during the growing seasons of any two years of the responsibility period, except the first year. Areas approved for the other uses identified in subsection (b) of this section shall equal or exceed the applicable success standard during the growing season of the last year of the responsibility period.

(ii) Two full years for lands eligible for re-mining. To the extent that the success standards are established by subdivision (b)(5) of this section, the lands shall equal or exceed the standards during the growing season of the last year of the responsibility period.

(3) The division may approve selective husbandry practices, excluding augmented seeding, fertilization, or irrigation, without extending the period of responsibility for revegetation success and bond liability, if such practices can be expected to continue as part of the postmining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices shall be normal conservation practices within the region for unmined lands having land uses similar to the approved postmining land use of the disturbed area, including such practices as disease, pest, and vermin control; and any pruning, reseeding and/or transplanting specifically necessitated by such actions.

**4 VAC 25-130-817.22. Topsoil and subsoil.**

(a) Removal.

(1)(i) All topsoil shall be removed as a separate layer from the area to be disturbed, and segregated.

(ii) Where the topsoil is of insufficient quantity or of poor quality for sustaining vegetation, the materials approved by the division in accordance with Paragraph (b) of this section shall be removed as a separate layer from the area to be disturbed, and segregated.

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(2) If topsoil is less than six inches thick, the permittee may remove the topsoil and the unconsolidated materials immediately below the topsoil and treat the mixture as topsoil.

(3) The division may choose not to require the removal of topsoil for minor disturbances which -

(i) Occur at the site of small structures, such as power poles, signs, or fence lines; or

(ii) Will not destroy the existing vegetation and will not cause erosion.

(4) Timing. All materials to be removed under this section shall be removed after the vegetative cover that would interfere with its salvage is cleared from the area to be disturbed, but before any drilling, blasting, mining, or other surface disturbance takes place.

(b) Substitutes and supplements.

(1) Selected overburden materials may be substituted for, or used as a supplement to, topsoil if the permittee demonstrates to the division, in accordance with 4VAC25-130-784.13 that the resulting soil medium is equal to, or more suitable for sustaining vegetation than, the existing topsoil, and the resulting soil medium is the best available in the permit area to support revegetation.

(2) Substituted or supplemental material shall be removed, segregated, and replaced in compliance with the requirements of this section for topsoil.

(3) Selected overburden materials may be substituted for or used as a supplement to topsoil, if the slope of the land containing the topsoil is greater than 60 percent (3v:5h) and the selected overburden materials satisfy the following criteria:

(i) The results of the analyses of the overburden required in 4VAC25-130-784.13 demonstrates the feasibility of using the overburden materials.

(ii) The substitute material has a pH greater than 5.0, has a net acidity of less than five tons per 1,000 tons of material or a net alkalinity, and is suitable for sustaining vegetation consistent with

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the standards for vegetation in 4VAC25-130-817.111 through 4VAC25-130-817.116, and the approved postmining land use.

(c) Storage.

(1) Materials removed under Paragraph (a) of this section shall be segregated and stockpiled when it is impractical to redistribute such materials promptly on regraded areas.

(2) Stockpiled materials shall-

(i) Be selectively placed on a stable site within the permit area;

(ii) Be protected from contaminants and unnecessary compaction that would interfere with revegetation;

(iii) Be protected from wind and water erosion through prompt establishment and maintenance of an effective, quick growing vegetative cover or through other measures approved by the division; and

(iv) Not be moved until required for redistribution unless approved by the division.

(3) Where long term surface disturbances will result from facilities such as support facilities and preparation plants and where stockpiling of materials removed under Paragraph (a)(1) of this section would be detrimental to the quality or quantity of those materials, the division may approve the temporary distribution of the soil materials so removed to an approved site within the permit area to enhance the current use of that site until the materials are needed for later reclamation, provided that-

(i) Such action will not permanently diminish the capability of the topsoil of the host site; and

(ii) The material will be retained in a condition more suitable for redistribution than if stockpiled.

(d) Redistribution.

(1) Topsoil materials and substitutes removed under Paragraphs (a) and (b) of this section shall be redistributed in a manner that--

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(i) Achieves an approximately uniform, stable thickness when consistent with the approved postmining land use, contours, and surface-water drainage systems. Soil thickness may also be varied to the extent such variations help meet the specific revegetation goals identified in the permit;

(ii) Prevents excess compaction of the materials; and

(iii) Protects the materials from wind and water erosion before and after seeding and planting.

**4 VAC 25-130-817.43. Diversions.**

(a) General requirements.

(1) With the approval of the division, any flow from mined areas abandoned before May 3, 1978, and any flow from undisturbed areas or reclaimed areas, after meeting the criteria of 4VAC25-130-817.46 for siltation structure removal, may be diverted from disturbed areas by means of temporary or permanent diversions. All diversions shall be designed to minimize adverse impacts to the hydrologic balance within the permit and adjacent areas, to prevent material damage outside the permit area and to assure the safety of the public. Diversions shall not be used to divert water into underground mines without approval of the division in accordance with 4VAC25-130-817.41(h).

(2) The diversion and its appurtenant structures shall be designed, located, constructed, and maintained to-

(i) Be stable;

(ii) Provide protection against flooding and resultant damage to life and property;

(iii) Prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow outside the permit area; and

(iv) Comply with all applicable local, State, and Federal laws and regulations.

(3) Temporary diversions shall be removed when no longer needed to achieve the purpose for which they were authorized. The land disturbed by the removal process shall be restored in

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accordance with this Part. Before diversions are removed, downstream water treatment facilities previously protected by the diversion shall be modified or removed, as necessary to prevent overtopping or failure of the facilities. This requirement shall not relieve the permittee from maintaining water treatment facilities as otherwise required. A permanent diversion or a stream channel reclaimed after the removal of a temporary diversion shall be designed and constructed so as to restore or approximate the premining characteristics of the original stream channel including the natural riparian vegetation to promote the recovery and the enhancement of the aquatic habitat.

(4) Diversions which convey water continuously or frequently shall be designed by a qualified registered professional engineer and constructed to ensure stability and compliance with the standards of this Part and any other criteria set by the Division ~~lined with rock rip rap to at least the normal flow depth, including an allowance for freeboard. Diversions constructed in competent bedrock and portions of channels above normal flow depth shall comply with the velocity limitations of Paragraph (5) below.~~

(5) ~~The maximum permissible velocity for the following methods of stabilization are:—~~

<del>Vegetated channel constructed in soil</del>	<del>3.5 feet per second</del>
<del>Vegetated channel with jute netting</del>	<del>5.0 feet per second</del>
<del>Rock rip rap lined channel</del>	<del>16.0 feet per second</del>
<del>Channel constructed in competent bedrock</del>	<del>No limit</del>

**4VAC25-130-817.116. Revegetation; standards for success.**

(a) Success of revegetation shall be judged on the effectiveness of the vegetation for the approved postmining land use, the extent of cover compared to the cover occurring in natural vegetation of the area, and the general requirements of 4VAC25-130-816.111.

(1) Statistically valid sampling techniques shall be used for measuring success.

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(2) Ground cover, production, or stocking shall be considered equal to the approved success standard when they are not less than ~~70~~ 90% of the success standard, except as provided by (b) of this section. ~~The sampling techniques for measuring success shall use a 90% statistical confidence interval (i.e., one-sided test with a 0.10 alpha error).~~ Sampling techniques for measuring woody plant stocking, ground cover, and production shall be in accordance with techniques approved by the division.

(b) Standards for success shall be applied in accordance with the approved postmining land use and, at a minimum, the following conditions:

(1) For areas developed for use as grazing land or pasture land, the ground cover and production of living plants on the revegetated area shall be at least equal to that of a reference area or if approved by the division, a vegetative ground cover of 90% for areas planted only in herbaceous species and productivity at least equal to the productivity of the premining soils may be achieved. Premining productivity shall be based upon data of the U.S. Natural Resources Conservation Service and measured in such units as weight of material produced per acre or animal units supported.

(2) For areas developed for use as cropland, crop production on the revegetated area shall be at least equal to that of a reference area or if approved by the division, crop yields shall be at least equal to the yields for reference crops from unmined lands. Reference crop yields shall be determined from the current yield records of representative local farms in the surrounding area or from the average county yields recognized by the U.S. Department of Agriculture.

(3) For areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products, success of vegetation shall be determined on the basis of tree and shrub stocking and vegetative ground cover. Such parameters are described as follows:

(i) Minimum stocking and planting arrangements shall be specified by the division on the basis of local and regional conditions and after consultation with and approval by the state agencies responsible for the administration of forestry and wildlife programs. Consultation and approval may occur on either a program wide or a permit specific basis.

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(ii) Trees and shrubs that will be used in determining the success of stocking and the adequacy of the plant arrangement shall have utility for the approved postmining land use. Trees and shrubs counted in determining such success shall be healthy and have been in place for not less than two growing seasons. At the time of bond release, at least 80% of the trees and shrubs used to determine such success shall have been in place for at least three years. Root crown or sprouts over one foot in height shall count as one toward meeting the stocking requirements. Where multiple stems occur, only the tallest stem will be counted.

(iii) Vegetative ground cover shall not be less than that required to control erosion and achieve the approved postmining land use.

(iv) Where commercial forest land is the approved postmining land use:

(A) The area shall have a minimum stocking of 400 trees per acre.

(B) All countable trees shall be commercial species and shall be well distributed over each acre stocked.

(C) Additionally, the area shall have an average of at least 40 wildlife food-producing shrubs per acre. The shrubs shall be suitably located for wildlife enhancement, and may be distributed or clustered.

(v) Where woody plants are used for wildlife management, recreation, shelter belts, or forest uses other than commercial forest land:

(A) The stocking of trees, shrubs, half-shrubs and the ground cover established on the revegetated area shall approximate the stocking and ground cover on the surrounding unmined area and shall utilize local and regional recommendations regarding species composition, spacing and planting arrangement;

(B) Areas planted only in herbaceous species shall sustain a vegetative ground cover of 90%;

(C) Areas planted with a mixture of herbaceous and woody species shall sustain a herbaceous vegetative ground cover of 70 90% and an average of 400 woody plants per acre. At least 40 of

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the woody plants for each acre shall be wildlife food-producing shrubs located suitably for wildlife enhancement, which may be distributed or clustered on the area.

(4) For areas to be developed for industrial, commercial, or residential use less than two years after regrading is completed, the vegetative ground cover shall not be less than that required to control erosion.

(5) For areas previously disturbed by mining that were not reclaimed to the requirements of this subchapter and that are remined or other wise redisturbed by surface coal mining operations, as a minimum, the vegetative ground cover shall be not less than the ground cover existing before redisturbance and shall be adequate to control erosion.

(c) (1) The period of extended responsibility for successful revegetation shall begin after the last year of augmented seeding, fertilizing, irrigation, or other work, excluding husbandry practices that are approved by the division in accordance with subdivision (c)(3) of this section.

(2) The period of responsibility shall continue for a period of not less than

(i) Five full years except as provided in subdivision (c)(2)(ii) of this section. The vegetation parameters identified in subsection (b) of this section for grazing land or pastureland and cropland shall equal or exceed the approved success standard during the growing seasons of any two years of the responsibility period, except the first year. Areas approved for the other uses identified in subsection (b) of this section shall equal or exceed the applicable success standard during the growing season of the last year of the responsibility period.

(ii) Two full years for lands eligible for remining. To the extent that the success standards are established by subdivision (b)(5) of this section, the lands shall equal or exceed the standards during the growing season of the last year of the responsibility period.

(3) The division may approve selective husbandry practices, excluding augmented seeding, fertilization, or irrigation, without extending the period of responsibility for revegetation success and bond liability, if such practices can be expected to continue as part of the postmining land use or if discontinuance of the practices after the liability period expires will not reduce the

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probability of permanent revegetation success. Approved practices shall be normal husbandry practices within the region for unmined lands having land uses similar to the approved postmining land use of the disturbed area, including such practices as disease, pest, and vermin control; and any pruning, reseeding and/or transplanting specifically necessitated by such actions.

**4VAC25-130-842.15. Review of decision not to inspect or enforce.**

(a) Any person who is or may be adversely affected by a coal exploration or surface coal mining and reclamation operation may ask the division to review informally an authorized representative's decision not to inspect or take appropriate enforcement action with respect to any violation alleged by that person in a request for inspection under 4VAC25-130-842.12. The request for review shall be in writing and include a statement of how the person is or may be adversely affected and why the decision merits review.

(b) The division shall conduct the review and inform the person, in writing, of the results of the review within 30 days of receipt of the request. The person alleged to be in violation shall also be given a copy of the results of the review, except that the name of the person who is or may be adversely affected shall not be disclosed unless confidentiality has been waived or disclosure is required under the Virginia Freedom of Information Act (Chapter 21 (§2.1-340 et seq.) of Title 2.1 of the Code of Virginia).

(c) Informal review under this section shall not affect any right to formal review under Section 45.1-249 of the Act or to a citizen's suit under Section 45.1-246.1 of the Act.

(d) Any person who requested a review of a decision not to inspect or enforce under this section and who is or may be adversely affected by any determination made under Subsection (b) of this section may request review of that determination by filing within 30 days of the division's determination an application for formal review and request for hearing under the Virginia Administrative Process Act, §2.2-4000 et seq. of the Code of Virginia. All requests for hearing or appeals for review and reconsideration made under this section shall be filed with the Director, Division of Mined Land Reclamation, Department of Mines, Minerals and Energy, Post Office Drawer 900, Big Stone Gap, Virginia 24219.

**DEPARTMENT OF MINES, MINERALS AND ENERGY**  
**VIRGINIA COAL SURFACE MINING RECLAMATION REGULATIONS - AMENDMENTS**