**Section 2501.10 Eligible Coal Lands and Water**

Coal lands and water are eligible for reclamation activities with federal funds provided pursuant to the Federal Act if:

a) They were mined for coal or affected by coal mining processes;

b) They were mined prior to August 3, 1977, and left or abandoned in either an unreclaimed or inadequately reclaimed condition; and

c) There is no continuing responsibility for reclamation by the operator, permittee, or agent of the permittee under statutes of the State or Federal Government, or as a result of bond forfeiture. Bond forfeiture will render lands or water ineligible only if the amount forfeited is sufficient to pay the total cost of the necessary reclamation. In cases where the forfeited bond is insufficient to pay the total cost of reclamation additional federal funding may be sought.

d) Notwithstanding subsections (a), (b) and (c) of this Section, coal lands and waters damaged and abandoned after August 3, 1977 by coal mining processes are also eligible if the Department, with the concurrence of OSM, finds in writing that:

1) They were mined for coal or affected by coal mining processes and:

A) The mining occurred and the site was left in either an unreclaimed or inadequately reclaimed condition between August 4, 1977 and June 1, 1982, and any funds for reclamation or abatement that are available pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site; or

B) The mining occurred between August 4, 1977 and November 5, 1990 and the surety of the mining operator became insolvent during that period, and as of November 5, 1990, funds immediately available from proceedings relating to insolvency, or from any financial guarantee or other source, are not sufficient to provide for adequate reclamation or abatement at the site; and

2) The site qualifies as a priority 1 or 2 site under Section 2501.7(c) and (e) of this Part.

e) The Department may expend funds available under paragraphs 402(g)(1) and (5) of the Surface Mining Control and Reclamation Act for reclamation and abatement of any site eligible under subsection (d) above, if the Department, with concurrence of OSM, makes the findings required in subsection (d) above and the Department determines that the reclamation priority of the site is the same or more urgent than the reclamation priority for the lands and water eligible pursuant to subsection (a), (b) or (c) above that qualify as a priority 1 or 2 site under Section 403(a) of the Surface Mining Control and Reclamation Act (30 U.S.C. 1233(a)).

f) With respect to lands and waters eligible pursuant to subsection (d) or (e) above, monies available from sources outside the Abandoned Mined Lands Reclamation Federal Trust Fund or that are ultimately recovered from responsible parties shall either be used to offset the cost of the reclamation or transferred to the Abandoned Mined Lands Reclamation Federal Trust Fund if not required for further reclamation activities at the permitted site.

g) If reclamation of a site covered by an interim or permanent program permit is carried out under the AML program, the permittee of the site shall reimburse the AML Fund for the cost of reclamation that is in excess of any bond forefeited to ensure reclamation. The Department, when performing reclamation under subsection (d) above shall not be held liable for any violations of any performance standards or reclamation requirements specified in Title V of the Federal Act, or in the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720], nor shall a reclamation activity undertaken on such lands or waters be held to any standards set forth in those Acts.

h) Surface coal mining operations on lands eligible for remining shall not affect the eligibility of such lands for reclamation and restoration after the release of the bonds or deposits posted by any such operation. If the bond or deposit for a surface coal mining operation on lands eligible for remining is forfeited, AML funds may be used if the amount of such bond or deposit is not sufficient to provide for adequate reclamation or abatement, except that, if emergency conditions warrant, the Department shall immediately exercise its authority under the Emergency program.

(Source: Amended at 22 Ill. Reg. 11382, effective June 23, 1998)