

	U.S. DEPARTMENT OF THE INTERIOR OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT DIRECTIVES SYSTEM	Subject Code: REG-8-2
		Transmittal Number: 943
		Date: OCT -6 2008
Subject: Oversight of State Regulatory Programs		
Approval: Brent Wahlquist		Title: Director
 CHANGE NOTICE		

1. **Purpose.** The purpose of the change notice is to clarify instructions for reporting acreage released from each phase of performance bond in Table 5, Annual State Mining and Reclamation Results, of Directive REG-8, Oversight of State Regulatory Programs.

2. **Background.** A number of tables were modified in the December 21, 2006, revision of Directive REG-8. Changes made to Table 5 included new data elements and revision of existing data elements and instructions for completion of this table. Introduced in 2007, the Data for States and Tribes (DST) Database uses the REG-8 tables as templates for reporting the regulatory statistics. The Evaluation of Pilot Data from States and Tribes, completed in May 2008, found that new instructions and guidance for Table 5 were not clear to some respondents. The Evaluation recommended that "Table 5 should be reviewed and additional guidance incorporated through a Change Notice to Directive REG-8, if necessary." In response, the Assistant Director for Program Support Directorate developed instructions, along with detailed illustrations showing how to enter acreage for several different data scenarios (see Appendix A).

3. **Summary of Changes.** Paragraphs two through four, identified as "PHASE I," "PHASE II," "PHASE III," and "Explanation of columns D & E," as well as the illustration showing how to complete this section of the table, are deleted from the Directive's "Instructions for Completion of Specific Tables" for Table 5 and are replaced with the following instructions:

ACREAGE RELEASED FROM SINGLE OR MULTIPLE PHASES OF PERFORMANCE BOND. Acreage to be released from performance bond must meet the applicable performance standards of each phase, e.g., Phase I, for which release of bond is sought. Applicable performance standards for each phase of bond release are listed in column "B" of the phased bond release section in Table 5, as reproduced below.

For ease of reference with instructions provided herein for completion of this section of the table, each cell in columns "C," "D," and "E" has been identified by its column letter, e.g., "C," and its row number, e.g., "1," where the column and row intersect, e.g., "C1." The type of bond release acreage to be entered is described below for each cell in these three columns that are identified with an alpha-numeric designation, e.g., "E3." In addition, examples illustrating how to enter specific sets of acreage data are included in Appendix A.

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TABLE 5				
Annual State Mining and Reclamation Results				
Bond release phase	Applicable performance standard	During this Evaluation Year		
		Total acreage released	Acreage also released under Phase I	Acreage also released under Phase II
A	B	C	D	E
Phase I	- Approximate original contour restored - Topsoil or approved alternative replaced C1 >			
Phase II	- Surface stability - Establishment of vegetation C2 >		D2 >	
Phase III	- Post-mining land use/productivity restored - Successful permanent vegetation - Groundwater recharge, quality and quantity restored C3 > - Surface water quality and quantity restored		D3 > E3 >	

C1 - Enter the total acreage released from Phase I bond during the year including both:

- Acreage where only Phase I bond was released plus
- Acreage released from Phase I bond when the Phase I acreage was released along with other phases.

C2 - Enter the total acreage released from Phase II bond during the year including both:

- Acreage where only Phase II bond was released plus
- Acreage released from Phase II bond when the Phase II acreage was released along with other phases.

C3 - Enter the total acreage released from Phase III bond during the year including both:

- Acreage where only Phase III bond was released plus
- Acreage released from Phase III bond when the Phase III acreage was released along with other phases.

D2 - Enter only the acreage released from Phase I bond during the year in conjunction with a Phase II bond release.

D3 - Enter only the acreage released from Phase I bond during the year in conjunction with a Phase II and Phase III bond release.

E3 - Enter only the acreage released from Phase II bond that was released during the year in conjunction with either:

- A Phase I and Phase III bond release (Phase I, Phase II, and Phase III released), or
- A Phase III bond release (Phase II and Phase III released).

4. **Reporting Requirements.** This Change Notice clarifies instructions for data entry in one section of Table 5 and removes the footnote that appears at the bottom of the table. The reporting requirements in Directive REG-8 remain unchanged.

5. **Effective Date.** Upon issuance

6. **Distribution.** In electronic format for OSM Directives page and via email to all OSM organizational units involved in the oversight of state regulatory programs and reporting of regulatory data.

7. **Appendices.** Appendix A: An "Additional Completion Instructions for Table 5" showing how to enter specific acreage data sets in the phased bond release section of Table 5.

Contact: Program Support Directorate, Chief of the Division of Regulatory Support

Additional Completion Instructions for Table 5 Data for States and Tribes (DST) Database Examples for Completion of Data Tables

Subject: Table – 5, Annual State Mining and Reclamation Results, Section on Phased Bond Release

Example Number: T5-002-2007, August 8, 2007, as updated July 1, 2008

Background/Discussion: The request for acreage achieving the various phases of bond release contained in Table 5 of Office of Surface Mining Reclamation and Enforcement (OSM) Directive REG-8, as revised December 21, 2006, is intended to collect data relevant to the success of on-the-ground reclamation. As specified in Directive REG-8, “OSM will evaluate and report on the effectiveness of State programs in ensuring successful reclamation on lands affected by surface coal mining operations. Success will be determined based on the number of acres that meet the bond release standards and have been released by the State.” Bond may be released for acres achieving the phase of reclamation for which the applicable performance standards(s) are successfully completed. The regulatory authority must conduct an inspection to determine whether the applicable performance standards have been met. If the standards have been met, then the appropriate amount of bond may be released. The request for inspection by the regulatory authority must be initiated by the operator.

The resulting data is used in the OSM annual report, in calculations of bureau performance measures required by the Government Performance and Results Act of 1993, in studies and in a variety of other documents and memoranda. However, as the Directive REG-8 tables were being reviewed during 2006 in preparation for automation, it was determined that new Columns “D” and “E” should be added to (existing) Column “C,” in order to ensure that acreage for each phase could be captured accurately when the same acreage was released under multiple phases during the same evaluation year. The following examples have been created to show how to enter this acreage into the appropriate section of Table 5 as that Table was revised effective December 21, 2006.

Examples: Table 5, Acreage Released From Bond, By Phase of Reclamation Achieved, During This Evaluation Year

These examples present a number of different scenarios wherein acreage is released under single or multiple phases. Each scenario contains the appropriate section of Table 5 completed to show where the acreage described in the scenario should be entered. Scenario 5 shows the cells in which to enter the total of ALL acreage described in previous Scenarios 1 through 4. For ease of reference in discussing these examples, each cell in (this section of) the table has been identified by its column letter, e.g., “C,” and its row number, e.g., “1,” where the column and row intersect, e.g., “C1.”

Note: Only one Table 5 can be submitted in the DST Database.

Scenario 1: The following acreage was released for only one phase during the evaluation year.

Phase I	=	60,000 acres (enter in cell C1)
Phase II	=	20,000 acres (enter in cell C2)
Phase III	=	35,000 acres (enter in cell C3)

EY 200X, ending

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TABLE 5

Annual State Mining and Reclamation Results

Bond release phase	Applicable performance standard	During this Evaluation Year		
		Total acreage released	Acreage also released under Phase I	Acreage also released under Phase II
A	B	C	D	E
Phase I	- Approximate original contour restored - Topsoil or approved alternative replaced C1 >	60,000		
Phase II	- Surface stability - Establishment of vegetation C2 >	20,000	D2 >	
Phase III	- Post-mining land use/productivity restored - Successful permanent vegetation - Groundwater recharge, quality and quantity restored - Surface water quality and quantity restored C3 >	35,000	D3 >	E3 >

Scenario 2: The following acreage was released for both Phase I and II during the same evaluation year.

Phase I = 10,000 acres (enter in cells C1 and D2)
Phase II = 10,000 acres (enter in cell C2)

EY 200X, ending.

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TABLE 5

Annual State Mining and Reclamation Results

Bond release phase	Applicable performance standard	During this Evaluation Year		
		Total acreage released	Acreage also released under Phase I	Acreage also released under Phase II
A	B	C	D	E
Phase I	- Approximate original contour restored - Topsoil or approved alternative replaced C1 >	10,000		
Phase II	- Surface stability - Establishment of vegetation C2 >	10,000	D2 > 10,000	
Phase III	- Post-mining land use/productivity restored - Successful permanent vegetation - Groundwater recharge, quality and quantity restored - Surface water quality and quantity restored C3 >		D3 >	E3 >

Scenario 3: The following acreage was released for both Phase II and III during the same evaluation year.

Phase II = 15,000 acres (enter in cell C2 and E3)
Phase III = 15,000 acres (enter in cell C3)

EY 200X, ending.

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TABLE 5

Annual State Mining and Reclamation Results

Bond release phase	Applicable performance standard	During this Evaluation Year		
		Total acreage released	Acreage also released under Phase I	Acreage also released under Phase II
A	B	C	D	E
Phase I	- Approximate original contour restored - Topsoil or approved alternative replaced C1 >			
Phase II	- Surface stability - Establishment of vegetation C2 >	15,000	D2 >	
Phase III	- Post-mining land use/productivity restored - Successful permanent vegetation - Groundwater recharge, quality and quantity restored - Surface water quality and quantity restored C3 >	15,000	D3 >	E3 > 15,000

Scenario 4: The following acreage was released for all three phases during the same evaluation year.

- Phase I = 30,000 acres (enter in cell C1 and D3)
- Phase II = 30,000 acres (enter in cell C2 and E3)
- Phase III = 30,000 acres (enter in cell C3)

EY 200X, ending.

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TABLE 5

Annual State Mining and Reclamation Results

Bond release phase	Applicable performance standard	During this Evaluation Year		
		Total acreage released	Acreage also released under Phase I	Acreage also released under Phase II
A	B	C	D	E
Phase I	- Approximate original contour restored - Topsoil or approved alternative replaced C1 >	30,000		
Phase II	- Surface stability - Establishment of vegetation C2 >	30,000	D2 >	
Phase III	- Post-mining land use/productivity restored - Successful permanent vegetation - Groundwater recharge, quality and quantity restored - Surface water quality and quantity restored C3 >	30,000	D3 > 30,000	E3 > 30,000

Scenario 5: The following acreage represents the total amount of acreage released by phase during the same evaluation year.

- Phase I = 100,000 acres (total of entries in C1 from Scenarios 1 – 4 above)
- Phase II = 75,000 acres (total of entries in C2 from Scenarios 1 – 4 above)
- Phase III = 80,000 acres (total of entries in C3 from Scenarios 1 – 4 above)

EY 200X, ending.

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TABLE 5

Annual State Mining and Reclamation Results

Bond release phase	Applicable performance standard	During this Evaluation Year		
		Total acreage released	Acreage also released under Phase I	Acreage also released under Phase II
A	B	C	D	E
Phase I	- Approximate original contour restored - Topsoil or approved alternative replaced C1 >	100,000		
Phase II	- Surface stability - Establishment of vegetation C2 >	75,000	D2 > 10,000	
Phase III	- Post-mining land use/productivity restored - Successful permanent vegetation - Groundwater recharge, quality and quantity restored - Surface water quality and quantity restored C3 >	80,000	D3 > 30,000 E3 >	45,000