**Section 700.APPENDIX H Illinois Department of Mines and Minerals' Agricultural Land Preservation Policy Statement**

In response to the Farmland Preservation Act (Ill. Rev. Stat. 1985, ch. 5, par. 1301 et seq.), signed into law by Governor Thompson on August 19, 1982, the Department of Mines and Minerals hereby submits its Agricultural Land Preservation Policy.

POLICY

It is the Department's policy, in executing all of its functions, to protect and restore prime farmland and high capability land to the extent practicable.

DEPARTMENT PROGRAMS IMPACTING FARMLAND

Unlike many other state agencies, the Department does not acquire land, nor does it construct roads or buildings. The Department issues permits to drill wells (oil, gas and water) and to mine minerals, both coal and aggregate.

The oil, gas and water activities affect a minimal amount of farmland. The greatest effect from such activities are brine spills from pipeline breaks leading to saltwater disposal wells and saline runoff from other unauthorized sources. The Department issues approximately 2000 permits a year in connection with oil and gas production and water injection or brine disposal activities. The present policy is to phase-out all unlined surface evaporation pits which will reduce the amount of farmland being utilized for this purpose. The Department is committed to enforcement of this policy through 62 Ill. Adm. Code 240: Subpart I (Rule IX of the Oil and Gas Rules). Further, 62 Ill. Adm. Code 240.1170 requires that after proper plugging and abandonment, the area shall be cleared of all refuse material, burnt waste oil, drain and fill all excavations, remove concrete bases, machinery and material, and level the surface within 6 months and the area restored as nearly as possible to the condition encountered prior to when operations commenced.

With respect to aggregate mines, it is virtually impossible to protect agricultural land completely because all that remains after mining is a pit, which usually fills with water. In such a case, there is an inevitable trade-off between agricultural land, if it is involved, and sand and gravel needed for construction and maintenance of roads and buildings. It would be difficult to issue permits only to sites not containing farmland, since sand and gravel deposits do not necessarily occur in economically recoverable quantities only under nonagricultural surface lands.

The Department's activities with respect to surface coal mining have long taken into account preservation of agricultural land. Stringent cropland reclamation requirements, such as Rule 1104 (now 62 Ill. Adm. Code 1825.12), have been imposed in 1976.

These requirements were the precursors to the prime farmland reclamation requirements in the Federal Surface Mining Control and Reclamation Act of 1977 (Federal Act) (30 U.S.C. 1201 et seq.).

Pursuant to Section 503 of the Federal Act, Illinois sought and gained approval from the Secretary of the United States Department of the Interior on June 1, 1982, of a state administered program granting Illinois exclusive jurisdiction over surface coal mining operations in Illinois.

Implementation of this permanent program has resulted in the two-tiered system for restoration of cropland affected by surface mining activities in Illinois.

The prime farmland provisions of the program address reclamation of soils meeting the definition of prime farmland set forth by the Secretary of the United States Department of Agriculture (7 C.F.R. 657.5 (1987)). While these soils must meet the federal definition of prime farmland, these soils are generally Class I and II soils as defined by U.S. Soil Conservation Service, Handbook 210, "Land Capability Classification" (1973, U.S. Department of Agriculture, Washington, D.C.). The prime farmland permitting and performance standard requirements (62 Ill. Adm. Code 1785.17 and 1823) are all geared toward ensuring mined prime farmland soils are as productive after mining as they were prior to mining. Post-mining productivity of reclaimed prime farmland soils is determined pursuant to the Agricultural Land Productivity Formula (A.L.P.F.) (62 Ill. Adm. Code 1816. Appendix A) developed by the Illinois Department of Agriculture. The post-mining land use of prime farmland soils must be cropland. Incorporations by reference in this Appendix do not include any later amendments or editions.

The second tier of the program includes soils exempted from the prime farmland requirements and all other soils capable of row-crop production. These are all soils included in Handbook 210, Classes I through III, and those Class IV soils with slopes of five (5%) percent or less. These soils are treated as high capability soils and must meet the permitting and performance standards for such soils. The program requirements for these soils are designed to ensure prime farmland soils grandfathered after July, 1982, are as equally productive after mining as before mining and the remaining high capability soils are ninety (90%) percent as productive after mining. The A.L.P.F. is also utilized to determine post-mining productivity of these soils.

For prime farmland soils, the A.L.P.F. requires equivalent post-mining productivity be demonstrated a minimum of three (3) crop years. One (1) year of the three (3) years must be at least year five (5) of the minimum five (5) year revegetation responsibility period. Also, corn must have been the successful crop grown for at least one (1) year.

The A.L.P.F. requires high capability soils achieve ninety (90%) percent productivity post-mining for a minimum of two (2) crop years. One (1) year of the two (2) years must be at least year five (5) of the five (5) year minimum revegetation responsibility period. Corn must be grown successfully one (1) year. The productivity standard for prime farmland grandfathered after July, 1982, is one hundred (100%) percent. High capability soils reclaimed to hayland or pasture must meet the above requirements but in tons per acre rather than bushels per acre.

In addition to requiring restoration of cropland affected by surface mining activities, the State's mining program also requires restoration of cropland affected by subsidence of underground coal mine workings. Cropland affected by subsidence must be restored to the same capability to produce crops that existed before subsidence occurred. Generally, subsidence damage to cropland is limited to interruption of internal or surface drainage that in most cases is restorable by reestablishment of drainage tile or surface structures.

The Illinois Department of Agriculture has reviewed permit applications, commenting upon foreseeable agricultural impacts, since 1978, and will be doing so in the future on a continuing basis, in accordance with an Interagency Agreement.

Although many acres of prime farmland and high capability soils are affected by surface coal mining operations, the effect is only temporary, unlike the effects of road building, airport and other industrial construction, and urbanization in general. In fact, many acres of mined land are now producing rowcrops, wheat and corn being the most successful crop to date. Many more acres have been returned to pastureland, which also constitutes an agricultural use of land.

It would be impossible to wholly eliminate the effect of coal mining on agricultural lands in Illinois because prime farmland and high capability soils occur over most of the state in varying quantities. However, the Department's coal reclamation regulations, in addition to the involvement of the Illinois Department of Agriculture in the review of permit applications, probably represents the most recognition and protection of agricultural land afforded by any state agency in Illinois, next to the Department of Agriculture itself.

CONCLUSION

The Department presently has regulations which provide for protection and restoration of agricultural lands, and is committed to the spirit and letter of those regulations. To date, we have had a good working relationship with the Illinois Department of Agriculture, and we anticipate that this cooperation will continue.

(June 1987; revised)

(Source: Amended at 11 Ill. Reg. 18569, effective November 2, 1987)