**Section 280.20 General Provisions**

The following regulations shall apply to all surface coal mining operations:

a) Determinations

1) All requests for a determination must be submitted to the Regulatory Authority in writing. Each submission shall set forth facts necessary to the determinations, the specific request requiring action and contain a citation to the Federal Regulation Section involved. Letters of request for determination shall be attested as to the truth of the facts stated therein and notarized.

2) Acknowledgement of receipt of a request for a determination will state:

A) Notice that the request is incomplete and that additional information is required.

B) Notice that the request appears to be complete.

3) All determinations shall be available for public inspection at the office of the Authority.

b) Deadlines. All persons engaged in surface coal mining operations are required to meet all deadlines set forth in the Federal Regulations for submitting requests for determination of compliance with the performance standards. The honoring of requests for determination after federal deadlines have expired shall not be binding upon the Office of Surface Mining nor any person other than the Regulatory Authority, and such requests shall not constitute a bar or defense to federal enforcement.

c) Conflicts

1) In the event a permittee believes there is a conflict within a combined permit between conditions imposed by Section 4 and conditions imposed by Section 17, the permittee shall request a finding by the Authority.

2) The request shall set out the alleged conflicting conditions, including the pertinent rules and facts, and may include comments by the permittee. The permittee shall also include a statement as to which condition or rule is more stringent. Regulations which provide for control of surface coal mining operations, and as to which there is no similar provision in the Federal Act or Section 17 Regulations, shall be construed consistent with Section 17 Regulations. Conflicts shall not be deemed to exist unless conformance with a given standard or condition significantly interferes with or precludes conformity with another standard or condition.

d) Stringency. The Federal Surface Regulations shall apply to all surface coal mining operations in connection with surface mining of coal in Illinois. The Federal Underground Mine Regulations shall apply to all surface coal mining operations in connection with underground coal mines in Illinois. Standards used and conditions imposed in the administration and enforcement of Section 17 shall be no more stringent than required by the Federal Act and Federal Regulations thereunder. If any other provision of the Illinois Act, or any provision of the Section 4 Regulations, or a provision of any other State law or regulation thereunder, now or hereafter effective, provides for more stringent land use and environmental control standards or conditions upon surface coal mining operations than the Federal Act or Regulations, it shall be applicable and enforceable in accordance with its terms. The Regulatory Authority shall determine which of any conflicting standards or conditions are more stringent, taking into account factors of technological practicability, cost, environmental protection and the goal of reclamation to optimal conditions.

e) Permit Applications. Applications shall be filed with the Regulatory Authority, Land Reclamation Division, at its offices in Springfield, Illinois, and shall, at a minimum, contain information sufficient to demonstrate that the applicant will comply with all requirements of the Illinois Act, Section 17 Regulations, and, if applicable, Section 4 Regulations. The application shall be submitted on forms provided by the Regulatory Authority, with supplements as deemed necessary.

f) Requirement of a Permit. No person shall open, develop or operate a surface coal mining operation without a permit issued by the Authority, or without a permit expressly deemed to exist under these Regulations, nor shall any person open, develop or operate a surface coal mining operation except in compliance with such permit and determinations of the Authority.

1) All existing surface mines must possess a Section 4 permit which incorporates Section 17 conditions.

2) All existing underground coal mines must possess a Section 17 permit.

3) All new surface mines which are subject to Section 4 must possess a combined permit.

4) All new underground coal mines must possess a Section 17 permit.

5) All other new surface coal mining operations which are not subject to Section 4 or exempt and under Section 17 must possess a Section 17 permit.

6) All operations to recover coal from a deposit (mine waste disposal site) that is not in its natural geological location (carbon recovery operations), if they have not already done so, must complete and submit a permit application form provided by the Department for a Section 17 permit. Carbon recovery operations may continue in operation, or in preparation to operate, after September 22, 1981, only if a completed application form was received by that date, pending a final decision by the Department. For operations contemplated during the interim period between September 22, 1981, and eight months after permanent program approval, if no application was filed by September 22, 1981, no operation may commence or continue until such time as the operator submits and the Department issues the interim permit. All new and existing carbon recovery operations are subject to the performance standards of 30 CFR 715, as adopted by Section 280.50 of these regulations until eight months after a state permanent program is approved, or until a permanent program permit is issued, whichever is earlier.

g) Federal Act Prohibitions. Subject to valid existing rights as determined in writing by the Regulatory Authority, no surface coal mining operations except those which existed August 3, 1977, shall be permitted:

1) on any lands within the boundaries of units of the National Park System, the National Wildlife Refuge Systems, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under Section 5 (a) of the Wild and Scenic Rivers Act (16 U.S.C. 127.1 et seq.) and National Recreation Areas designated by Act of Congress:

2) on any Federal lands within the boundaries of any national forest: Provided, however, that surface coal mining operations may be permitted on such lands if the Secretary of Interior finds that there are no significant recreational, timber, economic, or other values which may be incompatible with such surface mining operations, and surface operations and impacts are incident to an underground coal mine;

3) which will adversely affect any publicly owned park or places included in the National Register of Historic Sites unless approved jointly by the Regulatory Authority and the federal, state, or local agency with jurisdiction over the park or the historic site;

4) within one hundred feet of the outside right-of-way line of any public road, except where mine access roads or haulage roads join such right-of-way line and except that the Regulatory Authority may permit such roads to be relocated or the area affected to lie within one hundred feet of such road, if after public notice and opportunity for public hearing in the locality a written finding is made that the interests of the public and the landowners affected thereby will be protected; or

5) within three hundred feet from any occupied dwelling, unless waived by the owner thereof, nor within three hundred feet of any public building, school, church, community, or institutional building, public park, or within one hundred feet of a cemetery.

h) Time for Final Action. Final action on an application shall occur within 120 days of receipt of a complete application by the Regulatory Authority unless time for such action is waived by the applicant. For surface coal mining operations subject to Section 4 requirements, the deadline for final action may be tolled by notice pursuant to Section 4 Regulations. If no final action occurs within the time in which final action is required, the applicant upon written notice to the Regulatory Authority may deem the application denied. The Regulatory Authority shall acknowledge the receipt of a complete application in writing, noting the date of receipt.

i) Violations

1) No person shall open, develop or operate a surface coal mining operation except in compliance with these regulations.

2) No person shall perform any act in connection with the opening, developing or operation of a surface coal mining operation prior to obtaining a permit, determination, approval, exemption, finding or other authorization where such permit, determination, approval, exemption, finding or other authorization is required by these regulations or the Federal Regulations.

3) The fact that a person, permittee, owner or operator is , or would be, entitled to a favorable ruling on a request for a determination, approval, exemption, finding or other authorization shall not constitute a defense to an enforcement proceeding brought for failure to timely request a determination, approval, exemption, finding or other authorization.

j) Maps Required. All persons conducting surface coal mining and reclamation operations must have on file two copies of an accurate map of the operation or permit area at a scale of 1 inch to 400 feet or larger, showing, as of May 3, 1978, lands in the permit area from which coal had not yet been removed and the lands disturbed and structures used to facilitate mining as of that date. One copy of the map must be on file with the Authority, and one copy must be on file with the Regional Director, Office of Surface Mining, Region 3, P.O. Box 44294, Indianapolis, Indiana 46204.

k) It shall be the policy of the Regulatory Authority to honor any court decision of competent jurisdiction that is binding upon and directed to the Office of Surface Mining, respecting the interpretation or enforcement of 30 CFR, and the initial environmental protection regulations of the Secretary of the Interior. Persons believing that such court decisions require the alteration or deletion of any of these Regulations, or affect interpretation thereof, are encouraged to state their conclusions in writing to the Authority, together with citation of the appropriate court order.

(Source: Amended at 6 Ill. Reg. 1, effective January 14, 1982)