the request of the permittee, the Department shall recalculate the yield standards for the permit (pit) based solely on the soils which were disturbed. Recalculated targets shall be applicable to all areas tested for productivity, after approval of the recalculation. Approved significant revisions after permanent cessation of mining shall cause the targets to be recalculated.

New subsection (f) specifies that at the request of the permittee, the Department shall consolidate prime farmland and high capability targets, provided the Department determines that the soil reconstruction of the high capability land is equal to or better than the prime farmland.

17. Section 1816. Appendix A— Agricultural Lands Productivity Formula—Agricultural Lands Productivity Formula Sampling Method

Illinois proposed changes for the "Agricultural Lands Productivity Formula Sampling Method" section. In the last paragraph of this section, a revision was made to require the Department and the Illinois Department of Agriculture to jointly request the operator to verify yields by harvest weight. Reason Number 3 for this verification request was deleted.

P. 62 IAC 1825.14—High Capability Lands: Soil Replacement

At subsection (e), Illinois proposes

adding the title of "Compaction."
Subsection (e)(1) is revised by adding the word "above" after the regulatory citation "Section 1825.14(a). Illinois added new subsection (e)(1)(E) to specify that excessive compaction is also indicated by other diagnostic methods approved by the Department, in consultation with the Illinois Department of Agriculture and the U.S. Department of Agriculture, Soil Conservation Service.

At subsection (e)(2), Illinois is proposing an additional method for the Department to evaluate excessive compaction. The permittee will have a choice between the existing provision and the new provision which specifies that compaction alleviation is required unless the permittee can demonstrate that the requirements of 62 IAC 1816.116 or 1816.117, as applicable, have been met without compaction alleviation on areas reclaimed in a similar manner. A second new provision in subsection (e)(2) requires the Department to retain sufficient bond at the time of Phase II bond release if it determines that compaction alleviation may be needed to achieve the revegetation success requirements.

Q. 62 IAC 1840—Department Inspections

1. Section 1840.11—Inspections by the Department

At subsection (d) the heading "Aerial inspections" was added.

Illinois proposed new subsections (g) and (h) to address inspections at sites which have been abandoned without completion of reclamation or abatement of violations. The proposed amendments are consistent with 30 CFR 840.11 (g) and (h), as amended on November 28, 1994 (59 FR 60876).

New subsection (g) contains the criteria required for classifying a site as abandoned. Before a site can qualify for a change in inspection frequency, Illinois must make a written finding that the site meets the abandoned site definition criteria.

New subsection (h) contains the criteria for selecting an alternate inspection frequency commensurate with the public health and safety and environmental considerations present at each specific site. Illinois must conduct a complete inspection of the abandoned site and provide public notice of its findings. A written finding, which addresses all the criteria contained in this section, justifying the alternative inspection frequency selected must be prepared and maintained for public

2. Section 1840.17—Review of Decision Not to Inspect or Enforce

Subsection (a) is proposed to be revised by requiring the request for review to be submitted within 30 days from the date the citizen is notified of the decision. Failure to file a request for informal review within this time period shall result in a waiver of the right to such review.

Subsection (c) is proposed to be amended to reference 62 IAC 1847.3 of the regulations for formal review of the Department's decision not to inspect or enforce, rather than section 8.07 of the State Act.

R. 62 IAC 1843—State Enforcement

Illinois proposes revisions to the following sections of part 1843.

1. Section 1843.13—Suspension or **Revocation of Permits**

At subsection (a)(1), the phrase "Except as provided in subsection (b) below" is deleted.

At subsection (a)(3), the existing provisions are deleted. New provisions were added which specify that the Department shall promptly review the history of violations of any permittee who has been cited for violations of the

same or related requirements of the Federal Act, the State Act, 62 IAC 1700 through 1850 or the permit during 3 or more State inspections of the permit area within any 12-month period. If after such review, the Department determines that a pattern of violations exists or has existed, an order to show cause as provided in subsection (a)(1) shall be issued.

Existing subsection (b) was deleted, and existing subsection (c), (d), (e), and (f) were redesignated as (b), (c), (d), and (e), respectively.

2. Section 1843.23—Enforcement Actions at Abandoned Sites

This new section specifies that the Department may refrain from issuing a notice of violation or cessation order for a violation at an abandoned site, as defined in 62 IAC 1840.11(g), if abatement of the violation is required under any previously issued notice or

S. 62 IAC 1845.12—When Penalty Will be Assessed

Illinois is proposing to amend subsection (d) by adding a requirement that the Department take into account the factors set forth in § 1845.13 in determining whether to assess a penalty below \$1,100. Illinois is also codifying its long-standing policy of assessing a penalty below \$1,100 if it is the permittee's second or more related violation within a 12-month period.

T. 62 IAC 1847—Administrative and Judicial Review

Illinois proposes revisions to the following sections of part 1847.

1. Section 1847.3—Hearings

The section heading is changed from "Permit Hearings" to "Hearings."

At subsection (a), Illinois is specifying that administrative review under this section also applies to decisions not to inspect or enforce under 62 IAC 1840.17 and permit decisions issued pursuant to 62 IAC 1785.23.

At subsection (i), Illinois is proposing to change the time period from 15 to 10 days for filing of written exceptions and responses. Also, they are to be filed with the hearing officer instead of the Director.

At subsection (j), Illinois is proposing to have the proposed decision become final in 10 days instead of 15 if no written exceptions are filed. Illinois is also proposing that the hearing officer instead of the Director issue the final administrative decision affirming or modifying or vacating the proposed decision if written exceptions are filed.