the result of mitigation or planned construction projects and which function as a wetland are included within this definition even when all three wetland parameters are not present]. At the May 31, 1995, meeting (Administrative Record No. 1654), Illinois stated that it was using the definition of wetlands contained in the Illinois Interagency Wetland Policy Act of 1989 (20 ILCS 830/1-6). Illinois explained that the definition applies to created wetlands which are functioning as a wetland "* * * even when all three wetland parameters are not present." Illinois further explained that generally the "hydric" soil profile may not be fully developed in an artificial wetland.

Illinois submitted a copy of the "Interagency Wetlands Policy Act of 1989" to OSM (Administrative Record No. 1650A).

110. 1000/1).

B. 62 IAC 1773.20 Improvidently Issued Permits: General Procedures

At 62 IAC 1773.20(c)(4), Illinois proposes to change the word "rescind" in the sentence "If the Department decides to rescind the permit, it shall give at least 30 days written notice to the permittee" to the word "suspend."

C. 62 IAC 1773.23 Review of Ownership or Control and Violation Information

At 62 IAC 1773.23(a), Illinois proposes to change its regulation reference from "1773.22(b)" to "1773.22."

At 62 IAC 1773.23(b)(2)(B), Illinois proposes to change its regulation reference from "1773.15(b)" to "1773.15(b)(1)."

D. 62 IAC 1773.24 Procedures for Challenging Ownership or Control Links Shown in the Applicant Violator System

At 62 IAC 1773.34(a)(1), Illinois proposes to change the regulation reference from "subsections (b) through (d) below and Section 1773,25" to "30 CFR 773.24(b) through (d) and 30 CFR 773.25."

At 62 IAC 1773.24(a)(2), Illinois proposes to change the regulation reference from "subsections (b) through (d)" to "30 CFR 773.24 (b) through (d)."

(d)" to "30 CFR 773.24 (b) through (d)." At 62 IAC 1773.24(a)(3), Illinois proposes to replace the language "the State program for the State that issued the violation notice" with subsections (b) through (d) below and Section 1 773.25."

At 62 IAC 1773.24 (b) through (d), Illinois proposes to replace the originally proposed procedures for those persons eligible under subsections (a)(1) or (a)(2) to challenge the status of an ownership or control link shown in the

AVS or the status of federal violations with procedures for those persons eligible under subsection (a)(3) to challenge the status of state violations. The revised regulations read as follows:

(b) Any applicant or other person who wishes to challenge an ownership or control link shown in AVS or the status of a state violation, and who is eligible to do so under the provisions of subsection (a)(3) above, shall submit a written explanation of the basis for the challenge, along with any relevant evidentiary materials and supporting documents.

(c) The Department shall review any information submitted under subsection (b) above and shall make a written decision whether or not the ownership or control link has been shown to be erroneous or has been rebutted and/or whether the violation covered by the notice remains outstanding, has been corrected, is in the process of being corrected, or is the subject of a good faith appeal within the meaning of Section 1773.15(b)(1).

(d) Notice to applicant.

(1) If, as a result of the decision reached under subsection (c) above, the Department determines that the ownership or control link has been shown to be erroneous or has been rebutted and/or that the violation covered by the notice has been corrected, is in the process of being corrected, or is the subject of a good faith appeal, the Department shall so notify the applicant or other person and, if an application is pending, OSM, and shall correct the information in AVS.

(2) If, as a result of the decision reached under subsection (c) above, the Department determines that the ownership or control link has not been shown to be erroneous and has not been rebutted and that the violation covered by the notice remains outstanding, the Department shall so notify the applicant or other person and, if an application is pending, OSM, and shall update the information is AVS, if necessary.

(3) The Department shall serve a copy of the decision on the applicant or other person by certified mail, or by any means consistent with the rules governing service of a summons and complaint under Rule 4 of the Federal Rules of Civil Procedure. Service shall be complete upon tender of the notice or of the mail and shall not be deemed incomplete because of a refusal to accept.

(4) The applicant or other person may appeal the Department's decision within 30 days of service of the decision in accordance with 62 Ill. Adm. Code 1847.3. The Department's decision shall remain in effect during the pendency of

the appeal, unless temporary relief is granted in accordance with 62 Ill. Adm. Code 1847.3(k).

E. 62 IAC 1785.17 Prime Farmlands

At 62 IAC 1785.17(d)(1), Illinois proposes to reinstate the sentence "The State recognizes that the permit cannot be issued without the required consultation with USDA."

F. 62 IAC 1816 (Surface Mining Activities) and 1817 (Underground Mining Activities) Permanent Program Performance Standards

Since most of the surface mining and underground mining regulations in these parts are identical, the revisions are being combined for discussion purposes, unless otherwise noted.

1. 62 IAC 1816.13 and 1816.15 Casing and Sealing of Drilled Holes and 62 IAC 1817.13 and 1817.15 Casing and Sealing or Exposed Underground Openings

Illinois proposes to withdraw its originally proposed requirements that exposed underground openings be backfilled.

- 2. IAC 1816.116(a)(2)(F)/ 1817.116(a)(2)(F) Revegetation Standards for Success: Augmentation
- a. At 62 IAC 1816/1817.116(a)(2)(F)(i), Illinois proposes to reinstate the existing language from 62 IAC 1816/1817.116(a)(2)(F)(ii) and add some clarification language. This revised provision reads as follows:

The five (5) year period of responsibility shall not recommence after deep tillage on areas where the operator has met the revegetation success standards of subsection (a)(3)(E) below.

b. Originally proposed 62 IAC 1816/1817.116(a)(2)(F) is redesignated 62 IAC 1816/1817.116(a)(2)(F)(ii), and Illinois proposes to add the follow exception to its provision that considers the application of chemical treatments or fertilizers to wetland areas as augmentation.

Except that wetlands managed as wildlife food plot areas using agricultural techniques shall not be considered augmented when normal husbandry practices, such as routine liming and fertilization, are used.

3. 62 IAC 1816.116(a)(3)(F)/ 1817.116(a)(3)(F) Revegetation Standards for Success: Non-contiguous Areas

If response to issues raised in OSM's letters dated April 28 and August 3, 1995 (Administrative Record Nos. IL–1649 and IL–1660, respectively), Illinois proposes to revise 62 IAC 1816/1817.116(a)(3)(F) to read as follows.