**Section 1700.11 Applicability**

a) The requirements of 62 Ill. Adm. Code 1700 through 1850 apply to all coal exploration and surface coal mining and reclamation operations, except:

1) The extraction of coal by a landowner or lessee for the landowner's or lessee's own noncommercial use from land owned or leased by him or her where 250 tons or less of coal are removed in any 12 consecutive months. Noncommercial use does not include the extraction of coal by one unit of an integrated company or other business or nonprofit entity which uses the coal in its own manufacturing or power plants;

2) *The extraction of coal incidental to the extraction of other minerals where coal does not exceed* 162/3% *of the total mineral tonnage mined* for purposes of commercial use or sale in accordance with 62 Ill. Adm. Code 1702;

3) Coal exploration on lands subject to the requirements of 43 CFR 3480-3487 (1994); and

4) *The extraction of coal on Federal lands except to the extent provided under a cooperative agreement with the United States.* (Section 1.06 of the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720/1.06(d)])

b) The Illinois Department of Natural Resources, Office of Mines and Minerals (Department) shall, within 60 days after a request from any person who intends to conduct surface coal mining operations, make a written determination whether the operation is exempt under subsection (a). The Department shall, within 30 days after receipt of a request for exemption under subsection (a), publish notice of the request in a newspaper of general circulation in the area of the proposed exempted operation. Prior to the time a determination is made, any person may submit, and the Department shall consider, any written information relevant to the determination. A person requesting that an operation be declared exempt shall have the burden of establishing the exemption. If a written determination of exemption is reversed through subsequent administrative or judicial action, any person who has made a complete and accurate request for an exemption and relied upon the determination shall not be cited for violations which occurred prior to the date of the reversal.

c) The requirements of 62 Ill. Adm. Code 1800 through 1850 (the permanent program regulations) apply to all surface coal mining and reclamation operations for which the surface coal mining operation is required to obtain a permit under the Surface Coal Mining Land Conservation and Reclamation Act (the State Act) [225 ILCS 720] on and after February 1, 1983. 62 Ill. Adm. Code 1815 and 1840 through 1846 apply to both coal exploration operations and surface coal mining and reclamation operations regardless of whether a permit is required, except as otherwise specified in those rules.

d) Existing structures

1) Each structure used in connection with a coal exploration or surface coal mining and reclamation operations shall comply with the performance standards and the design requirements of the permanent program regulations except that:

A) The Department shall exempt an existing structure which meets the performance standards of the permanent program regulations but does not meet the design requirements of the permanent program regulations from meeting those design requirements. The Department shall grant this exemption as part of the permit application process after both obtaining the information 62 Ill. Adm. Code 1780.12 or 1784.12 require and after the Department makes the findings required in 62 Ill. Adm. Code 1773.15(c)(6); and

B) If a performance standard in 62 Ill. Adm. Code 280 (interim program regulations) is at least as stringent as the comparable performance standard of the permanent program regulations, an existing structure which meets the performance standards of the interim program regulations shall be exempted by the Department from meeting the design requirements of the permanent program regulations. The Department will grant this exemption as part of the permit application process after obtaining the information 62 Ill. Adm. Code 1780.12 or 1784.12 require and after the Department makes the findings required in 62 Ill. Adm. Code 1773.15(c)(6).

2) The exemptions provided in subsections (d)(1)(A) and (d)(1)(B) shall not apply to:

A) The requirements for existing and new waste piles used either temporarily or permanently as dams or embankments; and

B) The requirements to restore the approximate original contour of the land.

3) The permittee shall modify or reconstruct an existing structure which meets a performance standard of the interim program regulations which is incompatible with the permanent program regulations to meet the design standard of the permanent program regulations, pursuant to 62 Ill. Adm. Code 1773.15(c)(6), 1780.12 and 1784.12.

4) The permittee shall modify or reconstruct an existing structure which does not meet the performance standards of the interim program regulations and which the applicant proposes to use in connection with a coal exploration or surface coal mining and reclamation operation to meet the design standards of the permanent program regulations prior to issuance of the permit.

e) Effective dates

1) Any person conducting coal exploration on or after February 1, 1983, shall either file a notice of intention to explore or obtain approval of the Department, as required by 62 Ill. Adm. Code 1772.

2) Coal exploration performance standards in 62 Ill. Adm. Code 1815 apply after August 3, 1982.

f) Termination of jurisdiction

1) The Department may terminate its jurisdiction under the regulatory program over the reclaimed site of a completed surface coal mining and reclamation operation, or increment thereof, when:

A) The Department determines in writing that under the initial program, all requirements imposed under 62 Ill. Adm. Code 280 have been successfully completed; or

B) The Department determines in writing that under the permanent program, all requirements imposed under the regulatory program have been successfully completed or, where a performance bond was required, the Department has made a final decision in accordance with 62 Ill. Adm. Code 1800.40 to release the performance bond fully.

2) Following a termination under subsection (f)(1) above, the Department shall reassert jurisdiction under the regulatory program over a site if it is demonstrated that the bond release or written determination referred to in subsection (f)(1) above was based upon fraud, collusion or misrepresentation of a material fact.

(Source: Amended at 26 Ill. Reg. 4209, effective March 6, 2002)