

**TITLE 62: MINING**  
**CHAPTER I: DEPARTMENT OF NATURAL RESOURCES**

**PART 1785**  
**REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING**

**Section**

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**AUTHORITY:** Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

**SOURCE:** Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 15930; amended at 9 Ill. Reg. 13324, effective October 10, 1985; amended at 11 Ill. Reg. 8416, effective July 1, 1987; amended at 17 Ill. Reg. 11075, effective July 1, 1993; amended at 20 Ill. Reg. 2107, effective January 19, 1996; recodified from Department of Mines and Minerals to the Department of Natural Resources at 21 Ill. Reg. 16192; amended at 22 Ill. Reg. 20273, effective November 5, 1998; amended at 26 Ill. Reg. 4283, effective March 6, 2002.

**Section 1785.1          Scope**

This Part establishes the minimum requirements for regulatory program provisions for permits for certain categories of surface coal mining and reclamation operations. These requirements are in addition to the general permit requirements contained in 62 Ill. Adm. Code 1770 through 1795. All of the provisions of 62 Ill. Adm. Code 1770 through 1795 apply to these operations, unless otherwise specifically provided in this Part.

**Section 1785.2          Objective**

The objective of this Part is to ensure that permits are issued for certain categories of surface coal mining and reclamation operations only after the Department receives information that shows that these operations will be conducted according to the applicable requirements of the Surface Mining Control and Reclamation Act (30 U.S.C. 1257 and 1258), 62 Ill. Adm. Code 1815 through 1828, and applicable regulatory programs.

### **Section 1785.13 Experimental Practices Mining**

- a) Experimental practices provide a variance from environmental protection performance standards of the Surface Coal Mining Land Conservation and Reclamation Act (State Act) [225 ILCS 720/1.01], 62 Ill. Adm. Code 1810 through 1828 and the regulatory program for experimental or research purposes, or to allow an alternative post-mining land use, and may be undertaken if they are approved by the Illinois Department of Natural Resources (Department) and the Director of the Office of Surface Mining Reclamation and Enforcement (Federal Director) and if they are incorporated into a permit or permit revision issued in accordance with the requirements of 62 Ill. Adm. Code 1772 through 1774.
- b) An application for an experimental practice shall contain descriptions, maps, plans and data which show:
  - 1) The nature of the experimental practice, including a description of the performance standards for which variances are requested, the duration of the experimental practice, and any special monitoring which will be conducted;
  - 2) How use of the experimental practice encourages advances in mining and reclamation technology or allows a post-mining land use for industrial, agricultural, commercial, residential, or public use (including recreation facilities) on an experimental basis;
  - 3) That the experimental practice:
    - A) Is potentially more, or at least as, environmentally protective, during and after mining operations, as would otherwise be required by standards promulgated under 62 Ill. Adm. Code 1810 through 1828; and
    - B) Will not reduce the protection afforded public health and safety below that provided by the requirements of 62 Ill. Adm. Code 1810 through 1828.
  - 4) That the applicant will conduct monitoring of the effects of the experimental practice. The monitoring program shall ensure the collection,

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analysis, and reporting of reliable data that are sufficient to enable the Department and the Federal Director to:

- A) Evaluate the effectiveness of the experimental practice; and
  - B) Identify, at the earliest possible time, potential risk to the environment and public health and safety which may be caused by the experimental practice during and after mining.
- c) Applications for experimental practices shall comply with the public notice requirements of 62 Ill. Adm. Code 1773.13.
- d) No application for an experimental practice under this Section shall be approved until the Department first finds in writing and the Federal Director then concurs that:
- 1) The experimental practice encourages advances in mining and reclamation technology or allows a post-mining land use for industrial, agricultural, commercial, residential, or public use (including recreational facilities) on an experimental basis;
  - 2) The experimental practice is potentially more, or at least as, environmentally protective, during and after mining operations, as would otherwise be required by standards promulgated under 62 Ill. Adm. Code 1810 through 1828;
  - 3) The mining operations approved for a particular land use or other purpose are not larger or more numerous than necessary to determine the effectiveness and economic feasibility of the experimental practice; and
  - 4) The experimental practice does not reduce the protection afforded public health and safety below that provided by standards promulgated under 62 Ill. Adm. Code 1810 through 1828.
- e) Experimental practices granting variances from the special environmental protection performance standards of Section 515 and 516 of the Surface Mining Reclamation and Control Act of 1977 (30 U.S.C. 1265 and 1266) (Federal Act) applicable to prime farmlands shall be approved only after consultation with the U.S. Department of Agriculture, Soil Conservation Service.
- f) Each person undertaking an experimental practice shall conduct the periodic monitoring, recording and reporting program set forth in the application, and shall satisfy such additional requirements as the Department or the Federal Director

shall impose to ensure protection of the public health and safety and the environment.

- g) Each experimental practice shall be reviewed by the Department at a frequency set forth in the approved permit, but no less frequently than every two and a half (2 1/2) years. After review, the Department may require such modifications of the experimental practice as are necessary to ensure that the activities fully protect the environment and the public health and safety. Copies of the decision of the Department shall be sent to the permittee and shall be subject to the provisions for administrative and judicial review of 62 Ill. Adm. Code 1847.3.
- h) Revisions or modifications to an experimental practice shall be processed in accordance with the requirements of 62 Ill. Adm. Code 1774.13 and approved by the Department. Any revisions which proposed significant alterations in the experimental practice shall, at a minimum, be subject to notice, hearing, and public participation requirements of 62 Ill. Adm. Code 1773.13 and concurrence by the Federal Director. Revisions that do not propose significant alterations in the experimental practice shall not require concurrence by the Federal Director.

(Source: Amended at 17 Ill. Reg. 11031, effective July 1, 1993)

#### **Section 1785.14      Mountaintop Removal Mining**

- a) This Section applies to any person who conducts or intends to conduct surface mining activities by mountaintop removal mining.
- b) Mountaintop removal mining means surface mining activities, where the mining operation removes an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill, except as provided for in 62 Ill. Adm. Code 1824.11(f), by removing substantially all of the overburden off the bench and creating a level plateau or a gently rolling contour, with no highwalls remaining, and capable of supporting post-mining land uses in accordance with the requirements of this Section.
- c) The Department may issue a permit for mountaintop removal mining, without regard to the requirements of 62 Ill. Adm. Code 1816.102, 1816.104, 1816.105 and 1816.107 to restore the lands disturbed by such mining to their approximate original contour, if it first finds, in writing, on the basis of a complete application, that the following requirements are met:
  - 1) The proposed post-mining land use of the lands to be affected will be an industrial, commercial, agricultural, residential, or public facility (including recreational facilities) use and, if:

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- A) After consultation with the appropriate land use planning agencies, if any, the proposed land use is deemed by the Department to constitute an equal or better economic or public use of the affected land compared with the premining use;
  - B) The applicant demonstrates compliance with the requirements for acceptable alternative post-mining land capability of 62 Ill. Adm. Code 1816.133;
  - C) The proposed use would be compatible with adjacent land uses and existing State and local land use plans and programs; and
  - D) The Department has provided, in writing, an opportunity of not more than sixty (60) days to review and comment on such proposed use to the governing body of general purpose government in whose jurisdiction the land is located and any State or Federal agency which the Department determines to have an interest in the proposed use.
- 2) The applicant has demonstrated that, in place of restoration of the land to be affected to the approximate original contour under 62 Ill. Adm. Code 1816.102, 1816.104, 1816.105, and 1816.107, the operation will be conducted in compliance with the requirements of 62 Ill. Adm. Code 1824;
  - 3) The requirements of 62 Ill. Adm. Code 1824 are made a specific condition of the permit;
  - 4) All other requirements of the Federal Act, this Chapter, and the regulatory program are met by the proposed operations; and
  - 5) The permit is clearly identified as being for mountaintop removal mining.
- d)
- 1) Any permits incorporating a variance issued under this Section shall be reviewed by the Department to evaluate the progress and development of mining activities to establish that the operator is proceeding in accordance with the terms of the variance:
    - A) Within the sixth (6th) month preceding the third (3rd) year from the date of its issuance;
    - B) Before each permit renewal; and

- C) Not later than the middle of each permit term.
- 2) Any review required under subsection (d)(1) need not be held if the permittee has demonstrated and the Department finds, in writing, within three (3) months before the scheduled review, that all operations under the permit are proceeding and will continue to be conducted in accordance with the terms of the permit and requirements of the Federal Act, this Chapter, and the regulatory program.
- 3) The terms and conditions of a permit for mountaintop removal mining may be modified at any time by the Department, if it determines that more stringent measures are necessary insure that the operation involved is conducted in compliance with the requirements of the Federal Act, this Chapter, and the regulatory program.

(Source: Amended at 11 Ill. Reg. 8416, effective July 1, 1987)

**Section 1785.15 Steep Slope Mining**

- a) This Section applies to any persons who conducts or intends to conduct steep slope surface coal mining and reclamation operations, except:
  - 1) Where an operator proposes to conduct surface coal mining and reclamation operations on flat or gently rolling terrain, leaving a plain or predominantly flat area, but on which an occasional steep slope is encountered as the mining proceeds;
  - 2) Where a person obtains a permit under the provisions of Section 1785.14; or
  - 3) To the extent that a person obtains a permit incorporating a variance under Section 1785.16.
- b) Any application for a permit for surface coal mining and reclamation operations covered by this Section shall contain sufficient information to establish that the operations will be conducted in accordance with the requirements of 62 Ill. Adm. Code 1816.107.
- c) No permit shall be issued for any operations covered by this Section, unless the Department finds, in writing, that in addition to meeting all other requirements of 62 Ill. Adm. Code 1772 through 1785, the operation will be conducted in accordance with the requirements of 62 Ill. Adm. Code 1816.107 or 1817.107.

(Source: Amended at 11 Ill. Reg. 8416, effective July 1, 1987)

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**Section 1785.16 Permits Incorporating Variances From Approximate Original Contour Restoration Requirements**

- a) The Department may issue a permit for nonmountaintop removal steep slope mining which includes a variance from the requirements of 62 Ill. Adm. Code 1816.102, 1816.104, 1816.105, and 1816.107 or 1817.102 and 1817.107 to restore the disturbed areas to their approximate original contour. The permit may contain such a variance only if the Department finds, in writing, that the applicant has demonstrated, on the basis of a complete application, that the following requirements are met:
- 1) After reclamation, the lands to be affected by the variance within the permit area will be suitable for an industrial, commercial, residential, or public post-mining land use (including recreational facilities).
  - 2) The requirements of 62 Ill. Adm. Code 1816.133 or 1817.133 will be met.
  - 3) The watershed of lands within the proposed permit and adjacent areas will be improved by the operations when compared with the condition of the watershed before mining or with its condition if the approximate original contour were to be restored. The watershed will be deemed improved only if:
    - A) The amount of total suspended solids or other pollutants discharged to ground or surface water from the permit area will be reduced, so as to improve the public or private uses or the ecology of such water, or flood hazards within the watershed containing the permit area will be reduced by reduction of the peak flow discharge from precipitation events or thaws;
    - B) The total volume of flow from the proposed permit area, during every season of the year, will not vary in a way that adversely affects the ecology of any surface water or any existing or planned use of surface or ground water; and
    - C) The appropriate State environmental agency approves the plan.
  - 4) The owner of the surface of the lands within the permit area has knowingly requested, in writing, as part of the application, that a variance be granted. The request shall be made separately from any surface owner consent given for the operations under 62 Ill. Adm. Code 1778.15 of this chapter and shall show an understanding that the variance could not be granted without the surface owner's request.

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- b) If a variance is granted under this section:
    - 1) The requirements of 62 Ill. Adm. Code 1816.133(d) or 62 Ill. Adm. Code 1817.133(d) shall be included as a specific condition of the permit; and
    - 2) The permit shall be specifically marked as containing a variance from approximate original contour.
  - c) A permit incorporating a variance under this section shall be reviewed by the Department at least every thirty (30) months following the issuance of the permit to evaluate the progress and development of the surface coal mining and reclamation operations to establish that the operator is proceeding in accordance with the terms of the variance.
  - d) If the permittee demonstrates to the Department that the operations have been, and continue to be, conducted in compliance with the terms and conditions of the permit, the requirements of the Federal Act, 62 Ill. Adm. Code 1700-1850, and the regulatory program, the review specified in subsection (c) need not be held.
  - e) The terms and conditions of a permit incorporating a variance under this Section may be modified at any time by the Department, if it determines that more stringent measures are necessary to ensure that the operations involved are conducted in compliance with the requirements of the Federal Act, and the regulatory program.

(Source: Amended at 11 Ill. Reg. 8416, effective July 1, 1987)

**Section 1785.17 Prime Farmlands**

- a) Scope
  - 1) This Section applies to any person who conducts or intends to conduct surface coal mining and reclamation operations on prime farmlands historically used for cropland.
  - 2) This Section does not apply to:
    - A) Lands on which surface coal mining and reclamation operations are conducted pursuant to any permit issued prior to August 3, 1977; or
    - B) Lands on which surface coal mining and reclamation operations are conducted pursuant to any renewal or revision of a permit issued prior to August 3, 1977; or

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- C) Lands included in any existing surface coal mining operations for which a permit was issued for all or any part thereof prior to August 3, 1977, provided that:
- i) Such lands are part of a single continuous surface coal mining operation begun under a permit issued before August 3, 1977; and
  - ii) The permittee had a legal right to mine the lands prior to August 3, 1977, through ownership, contract, or lease but not including an option to buy, lease or contract; and
  - iii) The lands contain part of a continuous recoverable coal seam that was being mined in a single continuous mining pit (or multiple pits if the lands are proven to be part of a single continuous surface coal mining operation) begun under a permit issued prior to August 3, 1977.

3) For the purposes of this Section:

- A) "Renewal" of a permit shall mean a decision by the Department to extend the time by which a permittee may complete mining within the boundaries of the original permit and "revision" of the permit shall mean a decision by the Department to allow changes in the method of mining operations within the original permit area, or the decision of the Department to allow amendment, pursuant to State law, prior to June 1, 1982, or other incidental boundary changes to the original permit;
- B) A pit shall be deemed to be a single continuous mining pit even if portions of the pit are crossed by a road, pipeline, railroad, or powerline or similar crossing;
- C) A single continuous surface coal mining operation is presumed to consist only of a single continuous mining pit under a permit issued prior to August 3, 1977, but may include non-contiguous parcels if the operator can prove by clear and convincing evidence that, prior to August 3, 1977, the non-contiguous parcels were part of a single permitted operation. For the purpose of the paragraph, clear and convincing evidence includes, but is not limited to, contracts, leases, deeds or other properly executed documents (not including options) that specifically treat separate parcels as one surface coal mining operation.

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- 4) All applicants for an exemption shall supply the Department with a scale map of the area proposed to be exempted, delineating all prime farmland soils and showing the total number of acres proposed for exemption to the nearest acre, and the numbers of acres of each prime farmland soil type in the area proposed to be exempted.
- b) Application contents--reconnaissance inspection.
- 1) All permit applications, whether or not prime farmland is present, shall include the results of a reconnaissance inspection of the proposed permit area to indicate whether prime farmland exists. The reconnaissance inspection shall be either a review of an existing soil survey for the proposed permit area or an on-site inspection of the proposed permit area. The Department shall consult with the Natural Resources Conservation Service to determine the nature and extent of the required reconnaissance inspection.
  - 2) If the reconnaissance inspection establishes that no land within the proposed permit area is prime farmland historically used for cropland, the applicant shall submit a statement that no prime farmland is present. The statement shall identify the basis upon which such a conclusion was reached.
  - 3) In those cases where an on-site inspection of the proposed permit area was the type of reconnaissance inspection conducted, the applicant shall have a soil survey made of the lands within the permit area which the reconnaissance inspection indicates could be prime farmland. In those cases where a review of an existing soil survey was the type of reconnaissance inspection conducted, the applicant shall have the soil survey revised, if necessary, to meet the standards of subsection (c)(1). Soil surveys of the detail used by the Natural Resources Conservation Service for operational conservation planning shall be used to identify and locate prime farmland soils, as specified in subsection (c)(1)(A).
    - A) If the soil survey indicates that no prime farmland soils are present within the proposed permit area, subsection (b)(2) shall apply.
    - B) If the soil survey indicates that prime farmland soils are present within the proposed permit area, subsection (c) shall apply.
- c) Application contents for prime farmland.

All permit applications for areas in which prime farmland has been identified, within the proposed permit area, shall include the following:

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- 1) A soil survey of the permit area according to the standards of the National Cooperative Soil Survey and in accordance with the procedures set forth in U.S. Department of Agriculture Handbooks 436 (Soil Taxonomy, 1975) and 18 (Soil Survey Manual, 1993);
    - A) These publications are hereby incorporated by reference as they exist on the date of adoption of this Part. Agriculture Handbooks 436 (Soil Taxonomy) and 18 (Soil Survey Manual) are on file and available for inspection at the Office of Surface Mining and Reclamation (OSMRE) Central Office, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C., at each OSMRE Technical Center and Field Office. Copies of these publications may also be obtained by written request to the above locations. Copies of these documents are also available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Stock Number 001-000-04611-0 (Soil Survey Manual) and Stock Number 001-000-0461208 (Soil Taxonomy). In addition, these documents are available for inspection at the national, state, and local offices of the Natural Resources Conservation Service, U.S. Department of Agriculture (USDA) and at the Federal Register Library, 1100 L. Street, N.W., Washington, D.C. Copies of these documents will be available for public review and copying at cost at the Office of the Secretary of State, and at the Springfield and Benton office of the Land Reclamation Division of the Department.
    - B) The soil survey shall include a description of soil mapping units and a representative soil profile as determined by the Natural Resources Conservation Service, including, but not limited to, soil horizon depths, pH, and range of soil densities for each prime farmland soil map unit within the permit area. Other representative soil profile descriptions from the locality, prepared according to the standards of the National Cooperative Soil Survey, may be used if their use is approved by the State Conservationist of the Natural Resources Conservation Service. The Department shall request the operator to provide information on other physical and chemical soil properties as needed to make a determination that the operator has the technological capability to restore the prime farmland within the permit area to the soil reconstruction standards of 62 Ill. Adm. Code 1823.
  - 2) A plan for soil reconstruction, replacement and stabilization for the purpose of establishing the technological capability of the mine operator to comply with the requirements of 62 Ill. Adm. Code 1823.

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- 3) Scientific data, such as agricultural school studies, for areas with comparable soils, climate, and management that demonstrate that the proposed method of reclamation, including the use of soil mixtures or substitutes, if any, will achieve, within a reasonable time, levels of yield equivalent to, or higher than, those of nonmined prime farmland in the surrounding area.
  - 4) The productivity prior to mining, including the average yield of food, fiber, forage, or wood products obtained under a high level of management.
- d) Consultation with the State Conservationist.
- 1) Before any permit is issued for areas that include prime farmlands, the Department shall consult with the State Conservationist of the Natural Resources Conservation Service. The State Conservationist shall provide for the review of, and comment on the proposed method of soil reconstruction in the plan submitted under subsection (c). If the State Conservationist considers those methods to be inadequate, he or she shall suggest revisions resulting in more complete and adequate reconstruction. In keeping with the time limitations imposed by these regulations, the State Conservationist's response will be expected within 30 days after the last publication of the newspaper advertisement placed by the applicant. The State recognizes that the permit cannot be issued without the required consultation with USDA.
  - 2) The State Conservationist shall provide to the Department a list of prime farmland soils, their location, physical and chemical characteristics, crop yields, and associated data necessary to support adequate prime farmland soil descriptions.
  - 3) The State Conservationist shall assist the Department in determining the adequacy of all soil surveys required in subsection (b)(1).
- e) Issuance of permit.  
A permit for the mining and reclamation of prime farmland may be granted by the Department, if it first finds, in writing, upon the basis of a complete application, that:
- 1) The approved proposed post-mining land use of these prime farmlands will be cropland;

- 2) The permit incorporates as specific conditions the contents of the plan submitted under subsection (c), after consideration of any revisions to that plan suggested by the State Conservationist under subsection (d);
- 3) The applicant has the technological capability to restore the prime farmland, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management;
- 4) The proposed operations will be conducted in compliance with the requirements of 62 Ill. Adm. Code 1823 and other environmental protection performance and reclamation standards for mining and reclamation of prime farmland of the regulatory program; and
- 5) The aggregate total prime farmland acreage shall not be decreased from that which existed prior to mining. Water bodies, if any, to be constructed during mining and reclamation must be located within the post-reclamation non-prime farmland portions of the permit area. The creation of any such water bodies must be approved by the Department and the consent of all affected property owners within the permit area must be obtained.

(Source: Amended at 22 Ill. Reg. 20273, effective November 5, 1998)

**Section 1785.18      Variances for Delay in Contemporaneous Reclamation Requirement in Combined Surface and Underground Mining Activities**

- a) Scope. This Section shall apply to any person or persons who conducts or intends to conduct combined surface mining activities and underground mining activities, where a variance is requested from the contemporaneous reclamation requirement of 62 Ill. Adm. Code 1816.100.
- b) Application contents for variances. Any person who desires to obtain a variance under this Section shall file with the Department complete applications for both the surface mining activities and underground mining activities which are to be combined. The reclamation and operation plans for these permits shall contain appropriate narratives, maps, and plans, which:
  - 1) Show why the proposed underground mining activities are necessary or desirable to assure maximum practical recovery of coal;
  - 2) Show how multiple future disturbances of surface lands or waters will be avoided;

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- 3) Identify the specific surface areas for which a variance is sought and the particular Sections of the Federal Act, 62 Ill. Adm. Code 1700 - 1850 and the regulatory program from which a variance is being sought;
  - 4) Show how the activities will comply with 62 Ill. Adm. Code 1816.79 and other applicable requirements of the regulatory program;
  - 5) Show why the variance sought is necessary for the implementation of the proposed underground mining activities;
  - 6) Provide an assessment of the adverse environmental consequences and damages, if any, that will result if the reclamation of surface mining activities is delayed; and
  - 7) Show how off-site storage of spoil will be conducted to comply with the requirements of the Federal Act, 62 Ill. Adm. Code 1816.71 through 1816.74, and the regulatory program.
- c) Issuance of permit. A permit incorporating a variance under this Section may be issued by the Department, if it first finds, in writing, upon the basis of a complete application filed in accordance with this Section, that:
- 1) The applicant has presented, as part of the permit application, specific feasible plans for the proposed underground mining activities;
  - 2) The proposed underground mining activities are necessary or desirable to assure maximum practical recovery of the mineral resource and will avoid multiple future disturbances of surface land or waters;
  - 3) The applicant has satisfactorily demonstrated that the applications for the surface mining activities and underground mining activities conform to the requirements of the regulatory program and that all other permits necessary for the underground mining activities have been issued by the appropriate authorities;
  - 4) The surface area of surface mining activities proposed for the variance has been shown by the applicant to be necessary for implementing the proposed underground mining activities;
  - 5) No substantial adverse environmental damage, either on-site or off-site, will result from the delay in completion of reclamation otherwise required by Section 515(b)(16) of the Federal Act, 62 Ill. Adm. Code 1816 and the regulatory program;

- 6) The operations will, insofar as a variance is authorized, be conducted in compliance with the requirements of 62 Ill. Adm. Code 1816.79 and the regulatory program;
- 7) Provisions for off-site storage of spoil will comply with the requirements of Section 515(b)(22) of the Federal Act, 62 Ill. Adm. Code 1816.71 through 1816.74 and the regulatory program;
- 8) Liability under the performance bond required to be filed by the applicant with the Department pursuant to 62 Ill. Adm. Code 1800 and the regulatory program shall be for the duration of the underground mining activities and until all requirements of 62 Ill. Adm. Code 1800 and the regulatory program have been complied with; and
- 9) The permit for the surface mining activities contains specific conditions:
  - A) Delineating the particular surface areas for which a variance is authorized;
  - B) Identifying the applicable provisions of Section 515 (b) of the Federal Act, 62 Ill. Adm. Code 1816 and the regulatory program; and
  - C) Providing a detailed schedule for compliance with the provisions of this Section.
- d) Review of permits containing variances. Variances granted by permits issued under this Section shall be reviewed by the Department no later than three (3) years from the dates of issuance of the permit and any permit renewals.

(Source: Amended at 11 Ill. Reg. 8416, effective July 1, 1987)

**Section 1785.20 Augering**

- a) This Section applies to any person who conducts or intends to conduct surface coal mining and reclamation operations utilizing augering operations.
- b) Any application for a permit for operations covered by this Section shall contain, in the mining and reclamation plan, a description of the augering methods to be used and the measures to be used to comply with 62 Ill. Adm. Code 1819.
- c) No permit shall be issued for any operations covered by this Section unless the Department finds, in writing, that in addition to meeting all other applicable

requirements of 62 Ill. Adm. Code 1772 through 1785, the operation will be conducted in compliance with 62 Ill. Adm. Code 1819.

(Source: Amended at 11 Ill. Reg. 8416, effective July 1, 1987)

**Section 1785.21 Coal Preparation Plants Not Located Within the Permit Area of a Mine**

- a) This Section applies to any person who operates or intends to operate a coal preparation plant outside the permit area of any mine, other than such plants which are located at the site of ultimate coal use. Any person who operates such a preparation plant shall obtain a permit from the Department in accordance with the requirements of this Section.
- b) Any application for a permit for operations covered by this Section shall contain an operation and reclamation plan which specifies plans, including descriptions, maps, and cross sections, of the construction, operation, maintenance, and removal of the preparation plant and support facilities operated incident thereto or resulting therefrom. The plan shall demonstrate that those operations will be conducted in compliance with 62 Ill. Adm. Code 1827.
- c) No permit shall be issued for any operation covered by this Section, unless the Department finds, in writing, that, in addition to meeting all other applicable requirements of 62 Ill. Adm. Code 1772 through 1785, the operations will be conducted in compliance with the requirements of 62 Ill. Adm. Code 1827.

(Source: Amended at 11 Ill. Reg. 8416, effective July 1, 1987)

**Section 1785.22 In Situ Processing Activities**

- a) This Section applies to any person who conducts or intends to conduct surface coal mining and reclamation operations utilizing in situ processing activities.
- b) Any application for a permit for operations covered by this Section shall be made according to all requirements of 62 Ill. Adm. Code 1772 through 1785 applicable to underground mining activities. In addition, the mining and reclamation operations plan for operations involving in situ processing activities shall contain information establishing how those operations will be conducted in compliance with the requirements of 62 Ill. Adm. Code 1828, including:
  - 1) Delineation of proposed holes and wells and production zone for approval of the Department;
  - 2) Specifications of drill holes and casings proposed to be used;

- 3) A plan for treatment, confinement, or disposal of all acid-forming or radioactive gases, solids, or liquids constituting a fire, health, safety or environmental hazard caused by the mining and recovery process; and
  - 4) Plans for monitoring surface and ground water and air quality, as required by the Department.
- c) No permit shall be issued for operations covered by this Section, unless the Department first finds, in writing, upon the basis of a complete application made in accordance with subsection (b), that the operation will be conducted in compliance with all requirements of 62 Ill. Adm. Code 1772 through 1785 relating to underground mining activities, and 62 Ill. Adm. Code 1817 and 1828.

(Source: Amended at 11 Ill. Reg. 8416, effective July 1, 1987)

**Section 1785.23      Minor Underground Mine Facilities Not at or Adjacent to the Processing or Preparation Facility or Area**

- a) Any person who intends to conduct underground mining activities which require establishment or use of minor underground mine facilities not at or adjacent to the processing or preparation facility or area shall obtain a permit from the Department.
- b) Minor underground mine facilities include air shafts, fan and ventilation buildings, small support buildings or sheds, access power holes, other small miscellaneous structures and associated roads.
- c) Contents of application for permit. Each application for a permit shall contain, at a minimum, the following information:
  - 1) The name, address, and telephone number of the applicant;
  - 2) Reclamation and operations plans, including:
    - A) A narrative description of the proposed minor disturbance area, cross-referenced to the map required under subsection (c)(4), including surface topography; geological, surface water, and other physical features; and vegetative cover;
    - B) A narrative description of the methods to be used in the operations and reclamation, including, but not limited to, the types and uses of equipment, drilling, blasting, road or other access route construction, and excavated earth and other debris disposal activities;

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- C) An estimated timetable for conducting and completing each phase of the reclamation;
  - D) The estimated amounts of coal to be removed and a description of the methods to be used to determine those amounts; and
  - E) A description of the measures to be used to comply with the applicable requirements of 62 Ill. Adm. Code 1817.182;
- 3) The name and address of the owner of record of the surface land;
  - 4) A map at a scale of 1:24,000 or larger, showing the areas of land to be disturbed by the proposed operations and reclamation. The map shall specifically show existing roads, occupied dwellings, and pipelines; proposed location of trenches, roads, and other access routes and structures to be constructed; the location of land excavations to be conducted; water or coal exploratory holes and wells to be drilled or altered; earth or debris disposal areas; existing bodies of surface water; historic, topographic, cultural, and drainage features; and
  - 5) If the surface is owned by a person other than the applicant, a description of the basis upon which the applicant claims the right to enter that land for the purpose of conducting operations and reclamation.
- d) Public notice and opportunity to comment. Public notice of the application and opportunity to comment shall be provided as follows:
    - 1) Within 5 days after filing of an application with the Department, public notice shall be posted by the applicant at the courthouse or other public office designated by the Department in the vicinity of the proposed permit area and shall be published in a local newspaper in the area of the proposed activities;
    - 2) The public notice shall state the name and business address of the person seeking the permit, the date of filing of the application, the address of the Department at which written comments on the application may be submitted, the closing date of the comment period, and a description of the general area of the proposed activities. In no case shall the public comment period be less than 30 days;
    - 3) Any person with an interest which is or may be adversely affected shall have the right to file written comments on the application within the public comment period; and

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- 4) Other State agencies deemed appropriate by the Department shall be given copies of the application and provided 30 days from the date of receipt to submit comments.
- e) Applications: Approval or disapproval of minor underground mining activities not at or near the mine site.
    - 1) The Department shall make its final decision to approve, deny or required modification of the complete application for a permit within 20 days following the close of the public comment period; or
    - 2) The Department shall approve a complete application filed in accordance with this Section if it finds in writing that the applicant has demonstrated that the activities and reclamation described in the application will be conducted in accordance with the State Act and 62 Ill. Adm. Code 1817.182.
  - f) Terms of approval. Each permit issued by the Department shall contain conditions necessary to ensure that the activities and reclamation will be conducted in compliance with the State Act and 62 Ill. Adm. Code 1817.182.
  - g) Applications: Notice and hearing for minor underground mining facilities.
    - 1) The Department shall notify the applicant, each person who filed comments or objections to the permit application and the appropriate local government officials, in writing, of its decision to approve or deny the application. If the application is denied, the notice to the applicant shall include a statement of the reason for disapproval.
    - 2) Any person with interests which are or may be adversely affected by a decision of the Department pursuant to subsection (g)(1) above shall have the opportunity for administrative and judicial review as set forth in 62 Ill. Adm. Code 1847.3.
  - h) Minor facility compliance duties.
    - 1) Minor underground mine facilities not at or adjacent to the processing or preparation facility or area shall be conducted in accordance with 62 Ill. Adm. Code 1817.182 and any conditions on approval of such activities.
    - 2) Any person who utilizes or establishes such minor facilities in violation of the State Act, this Section or 62 Ill. Adm. Code 1817.182 shall be subject to the provisions of Sections 8.01 to 8.10 of the State Act and 62 Ill. Adm. Code 1840 through 1845.

(Source: Amended at 26 Ill. Reg. 4283, effective March 6, 2002)