**Section 1761.14 Procedures for Relocation or Closing of a Public Road or Waiving the Prohibition on Surface Coal Mining Operations within the Buffer Zone of a Public Road**

a) This Section does not apply to:

1) Lands for which a person has valid existing rights, as determined under Section 1761.16.

2) Lands within the scope of the exception for existing operations in Section 1761.12.

3) Access or haul roads that join a public road, as described in Section 1761.11(d)(1).

b) Subject to subsection (a), where the proposed mining operation is proposed to be conducted within 100 feet measured horizontally of the outside right-of-way line of any public road (except as provided in Section 1761.11(d)(2)) and the applicant does not have VER, or where the applicant proposes to relocate or close any public road, the Department shall:

1) Require the applicant to submit the request with an application for a new permit, a significant revision of a permit, an insignificant revision of a permit, or an incidental boundary revision, as applicable;

2) Require the applicant to obtain necessary approvals of the authority with jurisdiction over the public road for relocation or closure of a public road;

3) Provide public notice in a newspaper of general circulation of the affected locale of an opportunity for a public hearing in the locality of the proposed mining operation for the purpose of determining whether the interests of the public and affected landowners will be protected. Any person with an interest that is or may be adversely affected by the proposed mining operation may request in writing that the Department hold a public hearing. The request shall be submitted to the Department within 14 days after the newspaper notice required by this subsection (b)(3);

4) If a public hearing is requested, provide appropriate advance notice of the public hearing, to be published in a newspaper of general circulation in the affected locale at least two weeks prior to the hearing; and

5) Make a written finding based upon information received at the public hearing, or submitted in writing, as to whether the interests of the affected public and landowners will be protected from the proposed mining operations. No mining shall be allowed within 100 feet of the outside right-of-way line of a road, nor may a road be relocated or closed, unless the Department determines that the interests of the affected public and landowners will be protected.

i) If the proposal to conduct mining operations within 100 feet measured horizontally of the outside right-of-way line of any public road or to relocate or close any public road is contained in an application for a new permit pursuant to 62 Ill. Adm. Code 1773.13, or a significant revision pursuant to 62 Ill. Adm. Code 1774.13(b)(3), the written findings shall be issued concurrently with the permit decision pursuant to 62 Ill. Adm. Code 1773.15(a); or

ii) If the proposal to conduct mining operations within 100 feet measured horizontally of the outside right-of-way line of any public road or to relocate or close any public road is contained in an application for an insignificant revision pursuant to 62 Ill. Adm. Code 1774.13(b), or an incidental boundary revision pursuant to 62 Ill. Adm. Code 1774.13(d), the written findings shall be issued concurrently with the decision to issue or deny the revision.

(Source: Amended at 29 Ill. Reg. 8330, effective May 27, 2005)