**Section 1772.12 Permit Requirements for Exploration Removing More Than 250 Tons of Coal**

a) Any person who intends to conduct coal exploration outside a permit area during which more than 250 tons of coal will be removed or which will take place on lands designated as unsuitable for surface mining under 62 Ill. Adm. Code 1761 through 1764 shall before conducting the exploration submit an application and obtain written approval from the Department in an exploration permit.

b) Each application for an exploration permit shall contain, at a minimum, the following information:

1) The name, address, and telephone number of the applicant;

2) The name, address, and telephone number of the applicant's representative who will be present at, and be responsible for, conducting the exploration;

3) A narrative and map describing the proposed exploration area;

4) A narrative description of the methods and equipment to be used to conduct the exploration and reclamation;

5) An estimated time table for conducting and completing each phase of the exploration and reclamation;

6) The estimated amount of coal to be removed and a description of the methods to be used to determine the amounts;

7) A statement of why extraction of more than 250 tons of coal is necessary for exploration;

8) A description of:

A) Cultural or historical resources listed on the National Register of Historic Places,

B) Cultural or historical resources known to be eligible for listing on the National Register of Historic Places,

C) Known archeological resources located within the proposed exploration area, and

D) Any other information which the Department may require regarding known or unknown historic or archeological resources, based upon consultation with the Illinois State Historic Preservation Agency;

9) A description of any endangered or threatened species listed pursuant to the Endangered Species Act of 1973 (16 USC 1531 et seq.) identified within the proposed exploration area;

10) A description of the measures to be used to comply with the applicable requirements of 62 Ill. Adm. Code 1815;

11) The name and address of the owner of record of the surface land and of the subsurface mineral estate of the area to be explored;

12) A map or maps at a scale of 1:24,000 or larger, showing the areas of the proposed exploration and reclamation. The map shall specifically show existing roads, occupied dwellings, topographic and drainage features, bodies of surface water, and pipelines; proposed location of trenches, roads, and other access routes and structures to be constructed; the location of proposed land excavations; the location of exploration holes or other drill holes or underground openings; location of excavated earth or waste-material disposal areas; and the location of critical habitats of any endangered or threatened species listed pursuant to the Endangered Species Act of 1973 (16 USC 1531 et seq.);

13) 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 exploration and reclamation; and

14) For any lands listed in 62 Ill. Adm. Code 1761.11, a demonstration that, to the extent technologically and economically feasible, the proposed exploration activities have been designed to minimize interference with the values for which those lands were designated as unsuitable for surface coal mining operations. The application must include documentation of consultation with the owner of the feature causing the land to come under the protection of 62 Ill. Adm. Code 1761.11, and, when applicable, with the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of 62 Ill. Adm. Code 1761.11.

c) Public notice of the application and opportunity to comment shall be provided as follows:

1) Within 5 days, the applicant shall provide public notice of the filing of an administratively complete application with the Department in a newspaper of general circulation which is on the Department's list of approved newspapers in the county of the proposed exploration area;

2) The public notice shall state the name and address of the person seeking approval, the date of filing of the application, the address of the Department where written comments on the application may be submitted, the closing date of the comment period, and a description of the general area of exploration. 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 specified public comment period.

d) Decision on an application for exploration removing more than 250 tons of coal.

1) The Department shall act upon an administratively complete application for a coal exploration permit and any written comments within 60 days after the close of the public comment period. The approval of a coal exploration permit may be based only on a complete and accurate application.

2) The Department shall approve a complete and accurate application for a coal exploration permit filed in accordance with this Part, if it finds, in writing, that the applicant has demonstrated that the exploration and reclamation described in the application will:

A) Be conducted in accordance with the Surface Mining Control and Reclamation Act of 1977 (30 USC 1201 et seq.) (Act), 62 Ill. Adm. Code 1815, this Part and the regulatory program;

B) Not jeopardize the continued existence of an endangered or threatened species listed pursuant to Section 4 of the Endangered Species Act of 1973 (16 USC 1533) or result in the destruction or adverse modification of critical habitat of those species as defined in Section 3 of the Endangered Species Act of 1973 (16 USC 1532);

C) Not adversely affect any cultural or historic resources listed on the National Register of Historic Places, pursuant to the National Historic Preservation Act, as amended (16 USC 470 et seq., 1976, Supp. V), unless the proposed exploration has been approved by the Department and the Illinois Historic Preservation Agency; and

D) With respect to exploration activities on any lands protected under 62 Ill. Adm. Code 1761.11, minimize interference, to the extent technologically and economically feasible, with the values for which those lands were designated as unsuitable for surface coal mining operations. Before making this finding, the Department must provide reasonable opportunity to the owner of the feature causing the land to come under the protection of 62 Ill. Adm. Code 1761.11, and, when applicable, to the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of 62 Ill. Adm. Code 1761.11, to comment on whether the finding is appropriate.

3) Terms of approval. Each approval issued by the Department shall contain conditions necessary to ensure that the exploration and reclamation will be conducted in compliance with the Act, this Part, 62 Ill. Adm. Code 1815, and the regulatory program.

e) Notice and review.

1) The Department shall notify the applicant, the appropriate local government officials, and other commentors on the application in writing, of its decision on the application. If the application is disapproved, the notice to the applicant shall include a statement of the reason for disapproval. Public notice of the decision on each application shall be posted by the Department at a public office in the vicinity of the exploration operations.

2) Any person with an interest which is or may be adversely affected by a decision of the Department pursuant to subsection (e)(1), shall have the opportunity for administrative and judicial review as set forth in 62 Ill. Adm. Code 1847.3.

(Source: Amended at 29 Ill. Reg. 8348, effective May 27, 2005)