**Section 1772.14 Requirements for Commercial Use or Sale**

a) Except as provided under 62 Ill. Adm. Code 1772.14(b) and 1700.11(a)(3), any person who intends to commercially use or sell coal extracted during coal exploration operations under an exploration permit, shall first obtain a permit to conduct surface coal mining operations for those operations from the Department under 62 Ill. Adm. Code 1773 through 1785.

b) With the prior written approval of the Department, no permit to conduct surface coal mining operations is required for the sale or commercial use of coal extracted during exploration operations if such sale or commercial use is for coal testing purposes only. The person conducting the exploration shall file an application for such approval with the Department. The application shall demonstrate that the coal testing is necessary for the development of a surface coal mining and reclamation operation for which a surface coal mining operations permit application is to be submitted in the near future, and that the proposed commercial use or sale of coal extracted during exploration operations is solely for the purpose of testing coal. The application shall contain the following:

1) The name of the testing firm and the locations at which the coal will be tested.

2) If the coal will be sold directly to, or commercially used directly by, the intended end user, a statement from the intended end user, or if the coal is sold indirectly to the intended end user through an agent or broker, a statement from the agent or broker. The statement shall include:

A) The specific reason for the test, including why the coal may be so different from the intended user's other coal supplies as to require testing;

B) the amount of coal necessary for the test and why a lesser amount is not sufficient; and

C) a description of the specific tests that will be conducted.

3) Evidence that sufficient reserves of coal are available to the person conducting exploration or its principals for future commercial use or sale to the intended end user, or agent or broker of such user identified above, to demonstrate that the amount of coal to be removed is not the total reserve, but is a sampling of a larger reserve.

4) An explanation as to why other means of exploration, such as core drilling, are not adequate to determine the quality of the coal and/or the feasibility of developing a surface coal mining operation.

(Source: Amended at 15 Ill. Reg. 17269, effective January 1, 1992)