**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], 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, 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. 11075, effective July 1, 1993)