

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Surface Coal Mining Land Conservation and Reclamation Act is amended by changing Section 2.11 as follows:

(225 ILCS 720/2.11) (from Ch. 96 1/2, par. 7902.11)

Sec. 2.11. Procedures for Approval.

(a) If a hearing has been held under Section 2.04, the Department shall within 60 days after the last such hearing make its decision on the application and shall promptly furnish the applicant, local government officials in the area of the affected land, and persons who are parties to the administrative proceedings, with the written findings of the Department and stating the specific reasons for its decision.

(b) If no hearing has been held under Section 2.04, the Department shall make its decision on the application within 120 days after receipt by the Department of a complete application and shall promptly notify the applicant, local government officials in the area of the affected land, and persons who have submitted written comments on the application of the Department's decision with the written findings of the Department and stating the specific reasons for its decision.

(c) Within 30 days after the applicant is notified of the

final decision of the Department on the permit application, the applicant or any person with an interest that is or may be adversely affected may request a hearing on the reasons for the final determination. The Department shall hold a hearing within 30 days after this request and notify all interested parties at the time that the applicant is notified. The notice shall be published in a newspaper of general circulation published in each county in which any part of the area of the affected land is located. The notice shall appear no more than 14 days nor less than 7 days prior to the date of the hearing. The notice shall be no less than one eighth page in size, and the smallest type used shall be twelve point and shall be enclosed in a black border no less than 1/4 inch wide. The notice shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The hearing shall be of record and adjudicatory in nature. No person who presided at a hearing under Section 2.04 shall either preside at the hearing or participate in the decision on the hearing. Once a hearing has started, the hearing officer may issue interim orders allowing the Department or the applicant to correct or alter the permit or application. Within 30 days after the hearing, the Department shall issue, and furnish the applicant, local government officials in the area of the affected land, and all persons who participated in the hearing, its written decision granting or denying the permit in whole or in part and stating the reasons for its decision. No party to a formal adjudicatory

hearing under this subsection may seek judicial review of the Department's final decision on the permit application until after the issuance of the hearing officer's written decision granting or denying the permit.

(d) If the application is approved under either subsection (a) or (b) of this Section, the permit shall be issued.

(e) If a hearing is requested under subsection (c) of this Section, the Department may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceedings if all parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief, the person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding, and such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

(f) If final action on an application does not occur within the times prescribed in subsections (a) or (b) of this Section, whichever applies, the applicant may deem the application denied, and such denial shall constitute final action. The applicant may waive these time limits.

(g) For the purpose of hearings under this Section, the Department may administer oaths, subpoena witnesses or written or printed materials, compel attendance of the witnesses or

production of the materials, and take evidence including but not limited to site inspections of the land to be affected and other mining operations carried on by the applicant in the general vicinity of the proposed operation. A verbatim record of each hearing under this Section shall be made, and a transcript shall be made available on the motion of any party or by order of the Department.

(Source: P.A. 88-63; 88-185; 88-670, eff. 12-2-94.)

Section 99. Effective date. This Act takes effect upon becoming law.