

1 AN ACT concerning regulation.

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

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

6 (225 ILCS 720/2.11) (from Ch. 96 1/2, par. 7902.11)
7 Sec. 2.11. Procedures for Approval.

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

15 (b) If no hearing has been held under Section 2.04, the
16 Department shall make its decision on the application within
17 120 days after receipt by the Department of a complete
18 application and shall promptly notify the applicant, local
19 government officials in the area of the affected land, and
20 persons who have submitted written comments on the application
21 of the Department's decision with the written findings of the
22 Department and stating the specific reasons for its decision.

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

1 final decision of the Department on the permit application, the
2 applicant or any person with an interest that is or may be
3 adversely affected may request a hearing on the reasons for the
4 final determination. The Department shall hold a hearing within
5 30 days after this request and notify all interested parties at
6 the time that the applicant is notified. The notice shall be
7 published in a newspaper of general circulation published in
8 each county in which any part of the area of the affected land
9 is located. The notice shall appear no more than 14 days nor
10 less than 7 days prior to the date of the hearing. The notice
11 shall be no less than one eighth page in size, and the smallest
12 type used shall be twelve point and shall be enclosed in a
13 black border no less than 1/4 inch wide. The notice shall not
14 be placed in that portion of the newspaper where legal notices
15 and classified advertisements appear. The hearing shall be of
16 record and adjudicatory in nature. No person who presided at a
17 hearing under Section 2.04 shall either preside at the hearing
18 or participate in the decision on the hearing. Once a hearing
19 has started, the hearing officer may issue interim orders
20 allowing the Department or the applicant to correct or alter
21 the permit or application. Within 30 days after the hearing,
22 the Department shall issue, and furnish the applicant, local
23 government officials in the area of the affected land, and all
24 persons who participated in the hearing, its written decision
25 granting or denying the permit in whole or in part and stating
26 the reasons for its decision. No party to a formal adjudicatory

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

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

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

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

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

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

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

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