**Section 1764.17 Hearing Requirements**

a)

1) Within ten (10) months after receipt of a complete petition, the Department shall hold a public hearing in the locality of the area covered by the petition. If all petitioners and intervenors agree, the hearing need not be held. Any party to a hearing may be represented by counsel, make oral or written arguments, offer testimony and cross-examine witnesses, cause the issuance of subpoenas, or take any combination of such actions. The rules of evidence and privilege as applied in civil cases in the circuit courts of Illinois shall be followed. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. However, evidence not admissable under such rules of evidence, including, without limitation, citizen opinion on whether lands fall within the criteria for unsuitability and should be designated unsuitable, may be admitted if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited, and the parties will not be prejudiced, any part of the evidence may be received in written form. The Department shall make a verbatim transcript of the hearing. All relevant parts of the data base and inventory system and all public comments received during the public comment period shall be included in the record and considered by the Department in its decision on the petition.

2) The Department's decision shall be made based on substantial evidence in the record, which shall, insofar as practicable, include competent and scientifically sound data and information or other relevant evidence supporting the decision. If any party desires to rely upon information specified in Section 1764.19(a), then by the close of the record or such other convenient time set by the hearing officer, it shall so notify the Department and other parties, specifying clearly the particular information relied on, the reasons for reliance and the alleged relevance, validity and effect on such information. Other parties shall have opportunity to comment thereon. If in the course of preparing its decision the Department uses information specified in Section 1764.19(a), and not noted by a party, notice of such use and opportunity for comment thereon shall be given the parties prior to the Department's final decision.

b)

1) The Department shall give notice of the date, time, and location of the hearing to:

A) Local, State, and Federal agencies which may have an interest in the decision on the petition;

B) The petitioner and the intervenors; and

C) Any person with an ownership or other interest known to the Department in the area covered by the petition. Proper notice to persons with an ownership interest of record shall comply with the requirements of applicable State law.

2) Notice of the hearing shall be sent by certified mail to petitioners and intervenors and by regular mail to government agencies and property owners involved in the proceeding, and postmarked not less than thirty (30) days before the scheduled date of the hearing.

3) Such notice shall state that a Land Report is available for public inspection and the locations at which it may be inspected. The Land Report must be available to the public at least thirty (30) days before the hearing required under this Section. Written comments on the Land Report may be submitted to the Department until three (3) days before the Department holds the hearing required by this Part.

c) The Department shall notify the general public of the date, time, and location of the hearing by placing a newspaper advertisement once (1) a week for two (2) consecutive weeks in the locale of the area covered by the petition and once (1) during the week prior to the public hearing. The consecutive weekly advertisement must begin between four (4) and five (5) weeks before the scheduled date of the public hearing.

d) The Department may consolidate in a single hearing the hearings required for each of several petitions which relate to areas in the same locale.

e) Prior to designating any land areas as unsuitable for surface coal mining operations, the Department shall prepare a detailed statement, using existing and available information on the potential coal resources of the area, the demand for coal resources, and the impact of such designation on the environment, the economy, and the supply of coal.

f) In the event that all petitioners and intervenors stipulate agreement prior to the hearing, the petition may be withdrawn from consideration.

(Source: Amended at 11 Ill. Reg. 8567, effective July 1, 1987)