**Section 1785.14 Mountaintop Removal Mining**

a) This Section applies to any person who conducts or intends to conduct surface mining activities by mountaintop removal mining.

b) Mountaintop removal mining means surface mining activities, where the mining operation removes an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill, except as provided for in 62 Ill. Adm. Code 1824.11(f), by removing substantially all of the overburden off the bench and creating a level plateau or a gently rolling contour, with no highwalls remaining, and capable of supporting post-mining land uses in accordance with the requirements of this Section.

c) The Department may issue a permit for mountaintop removal mining, without regard to the requirements of 62 Ill. Adm. Code 1816.102, 1816.104, 1816.105 and 1816.107 to restore the lands disturbed by such mining to their approximate original contour, if it first finds, in writing, on the basis of a complete application, that the following requirements are met:

1) The proposed post-mining land use of the lands to be affected will be an industrial, commercial, agricultural, residential, or public facility (including recreational facilities) use and, if:

A) After consultation with the appropriate land use planning agencies, if any, the proposed land use is deemed by the Department to constitute an equal or better economic or public use of the affected land compared with the premining use;

B) The applicant demonstrates compliance with the requirements for acceptable alternative post-mining land capability of 62 Ill. Adm. Code 1816.133;

C) The proposed use would be compatible with adjacent land uses and existing State and local land use plans and programs; and

D) The Department has provided, in writing, an opportunity of not more than sixty (60) days to review and comment on such proposed use to the governing body of general purpose government in whose jurisdiction the land is located and any State or Federal agency which the Department determines to have an interest in the proposed use.

2) The applicant has demonstrated that, in place of restoration of the land to be affected to the approximate original contour under 62 Ill. Adm. Code 1816.102, 1816.104, 1816.105, and 1816.107, the operation will be conducted in compliance with the requirements of 62 Ill. Adm. Code 1824;

3) The requirements of 62 Ill. Adm. Code 1824 are made a specific condition of the permit;

4) All other requirements of the Federal Act, this Chapter, and the regulatory program are met by the proposed operations; and

5) The permit is clearly identified as being for mountaintop removal mining.

d)

1) Any permits incorporating a variance issued under this Section shall be reviewed by the Department to evaluate the progress and development of mining activities to establish that the operator is proceeding in accordance with the terms of the variance:

A) Within the sixth (6th) month preceding the third (3rd) year from the date of its issuance;

B) Before each permit renewal; and

C) Not later than the middle of each permit term.

2) Any review required under subsection (d)(1) need not be held if the permittee has demonstrated and the Department finds, in writing, within three (3) months before the scheduled review, that all operations under the permit are proceeding and will continue to be conducted in accordance with the terms of the permit and requirements of the Federal Act, this Chapter, and the regulatory program.

3) The terms and conditions of a permit for mountaintop removal mining may be modified at any time by the Department, if it determines that more stringent measures are necessary insure that the operation involved is conducted in compliance with the requirements of the Federal Act, this Chapter, and the regulatory program.

(Source: Amended at 11 Ill. Reg. 8416, effective July 1, 1987)