**Section 1702.11 Application Requirements and Procedures**

a) Application for exemption.

1) Any person who plans to commence or continue coal extraction after the effective date of this Part in reliance on the incidental mining exemption shall file a complete application for exemption with the Illinois Department of Natural Resources (Department) for each mining area.

2) No person may commence coal extraction based upon the exemption until the Department approves such application for exemption, except as provided in subsection (e)(3) below.

b) Existing operations. Any person who has commenced coal extraction at a mining area in reliance upon the incidental mining exemption prior to the effective date of this Part may continue mining operations for sixty (60) days after such effective date. Coal extraction may not continue after such sixty (60) day period unless that person files an administratively complete application for exemption with the Department. If an administratively complete application is filed within sixty (60) days, the person may continue extracting coal in reliance on the exemption beyond the sixty (60) day period until the Department makes an administrative decision on such application.

c) Additional information. The Department shall notify the applicant if the application for exemption is incomplete and may at any time require submittal of additional information.

d) Public comment period. Written comments or objections to an application for exemption may be submitted to the Department by any person having an interest which is or may be adversely affected by the decision on the application within thirty (30) days after the newspaper notice required by Section 1702.12(i).

e) Exemption determination.

1) No later than ninety (90) days after the filing of an administratively complete application, the Department shall make a written determination whether, and under what conditions, the persons claiming the exemption are exempt under this Part, and shall notify the applicant and persons submitting comments on the application of the determination and the basis for the determination.

2) The determination of exemption shall be based upon information contained in the application and any other information available to the Department at that time.

3) If the Department fails to provide an applicant with the determination as specified in subsection (e)(1) above, an applicant who has not begun may commence coal extraction pending a determination on the application unless the Department issues an interim finding, together with reasons therefor, that the applicant may not begin coal extraction.

f) Administrative hearing.

1) Any adversely affected person may request administrative review of a determination under subsection (e) above within thirty (30) days of the notification of such determination in accordance with procedures established under 62 Ill. Adm. Code 1847.3. The hearing shall be conducted in accordance with 62 Ill. Adm. Code 1847.3.

2) A petition for administrative hearing filed in accordance with 62 Ill. Adm. Code 1847.3 shall not suspend the effect of a determination under subsection (e) above.

(Source: Amended at 17 Ill. Reg. 10936, effective July 1, 1993)