**Section 1761.17 Department Obligations at Time of Permit Application Review**

a) Upon receipt of an administratively complete application for a permit for a surface coal mining operation, or an administratively complete application for revision of the boundaries of a surface coal mining operation permit, the Department must review the application to determine whether the proposed surface coal mining operation would be located on any lands protected under Section 1761.11.

b) The Department must reject any portion of the application that would locate surface coal mining operations on land protected under Section 1761.11 unless:

1) The site qualifies for the exception for existing operations under Section 1761.12;

2) A person has valid existing rights for the land, as determined under Section 1761.16;

3) The applicant obtains a waiver or exception from the prohibitions of Section 1761.11 in accordance with Sections 1761.14 and 1761.15; or

4) For lands protected by Section 1761.11(c), both the regulatory authority and the agency with jurisdiction over the park or place jointly approve the proposed operation in accordance with subsection (d) of this Section.

c) Location verification. If the Department has difficulty determining whether an application includes land within an area specified in Section 1761.11(a) or within the specified distance from a structure or feature listed in Section 1761.11(f) or (g), the Department must request that the Federal, State or local governmental agency with jurisdiction over the protected land, structure, or feature verify the location.

1) The request for location verification must:

A) Include relevant portions of the permit application.

B) Provide the agency with 30 days after receipt to respond, with a notice that another 30 days is available upon request.

C) Specify that the Department will not necessarily consider a response received after the comment period provided under subsection (c)(1)(B) of this Section.

2) If the agency does not respond in a timely manner, the Department may make the necessary determination based on available information.

d) Procedures for joint approval of surface coal mining operations that will adversely affect publicly owned parks or historic places.

1) If the Department determines that the proposed surface coal mining operation will adversely affect any publicly owned park or any place currently included in the National Register of Historic Places, the Department must request that the Federal, State or local agency with jurisdiction over the park or place either approve or object to the proposed operation. The request must:

A) Include a copy of applicable parts of the permit application.

B) Provide the agency with 30 days after receipt to respond, with a notice that another 30 days is available upon request.

C) State that failure to interpose an objection within the time specified under subsection (d)(1)(B) of this Section will constitute approval of the proposed operation.

2) The Department may not issue a permit for a proposed operation subject to subsection (d)(1) of this Section unless all affected agencies jointly approve.

3) Subsections (d)(1) and (d)(2) of this Section do not apply to:

A) Lands for which a person has valid existing rights, as determined under Section 1761.16.

B) Lands within the scope of the exception for existing operations in Section 1761.12.

(Source: Added at 27 Ill. Reg. 4625, effective February 26, 2003)