



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**  
**HB4490**

Introduced 02/03/04, by David R. Leitch

**SYNOPSIS AS INTRODUCED:**

225 ILCS 715/5

from Ch. 96 1/2, par. 4506

Amends the Surface-Mined Land Conservation and Reclamation Act. Provides that if a conservation and reclamation plan includes a mining operation within unincorporated territory of a county and the mining operation is within 1.5 miles of the boundaries of a municipality that has adopted a zoning ordinance, the Department of Natural Resources may not approve the permit unless the corporate authorities of the municipality approve the permit by a 2/3 vote. Effective immediately.

LRB093 17937 MKM 43620 b

1 AN ACT concerning mining.

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

4 Section 5. The Surface-Mined Land Conservation and  
5 Reclamation Act is amended by changing Section 5 as follows:

6 (225 ILCS 715/5) (from Ch. 96 1/2, par. 4506)

7 Sec. 5. Application for permit; bond; fee; permit.

8 (a) Application for a permit shall be made upon a form  
9 furnished by the Department, which form shall contain a  
10 description of the tract or tracts of land and the estimated  
11 number of acres thereof to be affected by surface mining by the  
12 applicant to the tenth succeeding June 30, which description  
13 shall include the section, township, range, and county in which  
14 the land is located and shall otherwise describe the land with  
15 sufficient certainty so that it may be located and  
16 distinguished from other lands, and a statement that the  
17 applicant has the right and power by legal estate owned to mine  
18 by surface mining and to reclaim the land so described. Such  
19 application shall be accompanied by: (i) a bond or security  
20 meeting the requirements of Section 8 of this Act; and (ii) a  
21 fee of \$100 for every acre and fraction of an acre of land to be  
22 permitted.

23 (b) An operator desiring to have a permit amended to cover  
24 additional land may file an amended application with the  
25 Department with such additional fee and bond or security as may  
26 be required under the provisions of this Act. Such amendment  
27 shall comply with all requirements of this Act.

28 (c) An operator may withdraw any land covered by a permit,  
29 excepting affected land, by notifying the Department thereof,  
30 in which case the penalty of the bond or security filed by such  
31 operator pursuant to the provisions of this Act shall be  
32 reduced proportionately.

1 (d) (Blank).

2 (e) Every application, and every amendment to an  
3 application, submitted under this Act shall contain the  
4 following, except that the Director may waive the requirements  
5 of this subsection (e) for amendments if the affected acreage  
6 is similar in nature to the acreage stated in the permit to be  
7 amended:

8 1. a statement of the ownership of the land and of the  
9 minerals to be mined;

10 2. the minerals to be mined;

11 3. the character and composition of the vegetation and  
12 wildlife on lands to be affected;

13 4. the current and past uses to which the lands to be  
14 affected have been put;

15 5. the current assessed valuation of the lands to be  
16 affected and the assessed valuation shown by the two  
17 quadrennial assessments next preceding the currently  
18 effective assessment;

19 6. the nature, depth and proposed disposition of the  
20 overburden;

21 7. the estimated depth to which the mineral deposit  
22 will be mined;

23 8. the location of existing roads, and anticipated  
24 access and haulage roads planned to be used or constructed  
25 in conducting surface mining;

26 9. the technique to be used in surface mining;

27 10. the location and names of all streams, creeks,  
28 bodies of water and underground water resources within  
29 lands to be affected;

30 11. drainage on and away from the lands to be affected  
31 including directional flow of water, natural and  
32 artificial drainways and waterways, and streams or  
33 tributaries receiving the discharge;

34 12. the location of buildings and utility lines within  
35 lands to be affected;

36 13. the results of core drillings of consolidated

1 materials in the overburden when required by the  
2 Department, provided that the Department may not require  
3 core drillings at the applicant's expense in excess of one  
4 core drill for every 25 acres of land to be affected;

5 14. a conservation and reclamation plan and map  
6 acceptable to the Department. The operator shall designate  
7 which parts of the lands to be affected are proposed to be  
8 reclaimed for forest, pasture, crop, horticultural,  
9 homesite, recreational, industrial or other uses including  
10 food, shelter and ground cover for wildlife and shall show  
11 the same by appropriate designation on a reclamation map.  
12 The plan shall:

13 (i) provide for timely compliance with all  
14 operator duties set forth in Section 6 of this Act by  
15 feasible and available means; and

16 (ii) provide for storage of all overburden and  
17 refuse.

18 Information respecting the minerals to be mined required by  
19 subparagraph (e)2 of this Section, respecting the estimated  
20 depth to which the mineral deposit will be mined required by  
21 subparagraph (e)7 of this Section, and respecting the results  
22 of core drillings required by subparagraph (e)13 of this  
23 Section shall be held confidential by the Department upon  
24 written request of the applicant.

25 (f) All information required in subsection (e) of this  
26 Section, with the exception of that information which is to be  
27 held in confidentiality by the Department shall be made  
28 available by the operator for public inspection at the county  
29 seat of each county containing land to be affected. The county  
30 board of each county containing lands to be affected may  
31 propose the use for which such lands within its county are to  
32 be reclaimed and such proposal shall be considered by the  
33 Department, provided that any such proposal must be consistent  
34 with all requirements of this Act.

35 Such plan shall be deposited with the county board no less  
36 than 60 days prior to any action on the plan by the Department.

1 All actions by the county board pursuant to this Section must  
2 be taken within 45 days of receiving the plan.

3 If requested by a county board of a county to be affected  
4 under a proposed permit, a public hearing to be conducted by  
5 the Department shall be held in such county on the permit  
6 applicant's proposed reclamation plan. By rules and  
7 regulations the Department shall establish hearing dates which  
8 provide county boards reasonable time in which to have reviewed  
9 the proposed plans and the procedural rules for the calling and  
10 conducting of the public hearing. Such procedural rules shall  
11 include provisions for reasonable notice to all parties,  
12 including the applicant, and reasonable opportunity for all  
13 parties to respond by oral or written testimony, or both, to  
14 statements and objections made at the public hearing. County  
15 boards and the public shall present their recommendations at  
16 these hearings. A complete record of the hearings and all  
17 testimony shall be made by the Department and recorded  
18 stenographically.

19 (g) The Department shall approve a conservation and  
20 reclamation plan if the plan complies with this Act and  
21 completion of the plan will in fact achieve every duty of the  
22 operator required by this Act. If the conservation and  
23 reclamation plan includes a mining operation within  
24 unincorporated territory of a county and the mining operation  
25 is within 1.5 miles of the boundaries of a municipality that  
26 has adopted a zoning ordinance, the Department may not approve  
27 the permit unless the corporate authorities of the municipality  
28 approve the permit by a 2/3 vote. The Department's approval of  
29 a plan shall be based upon the advice of technically trained  
30 foresters, agronomists, economists, engineers, planners and  
31 other relevant experts having experience in reclaiming  
32 surface-mined lands, and having scientific or technical  
33 knowledge based upon research into reclaiming and utilizing  
34 surface-mined lands. The Department shall consider all  
35 testimony presented at the public hearings as provided in  
36 subsection (f) of this Section. In cases where no public

1 hearing is held on a proposed plan, the Department shall  
2 consider written testimony from county boards when submitted no  
3 later than 45 days following filing of the proposed plan with  
4 the county board. The Department shall immediately serve copies  
5 of such written testimony on the applicant and give the  
6 applicant a reasonable opportunity to respond by written  
7 testimony. The Department shall consider the short and long  
8 term impact of the proposed mining on vegetation, wildlife,  
9 fish, land use, land values, local tax base, the economy of the  
10 region and the State, employment opportunities, air pollution,  
11 water pollution, soil contamination, noise pollution and  
12 drainage. The Department may consider feasible alternative  
13 uses for which reclamation might prepare the land to be  
14 affected and may analyze the relative costs and effects of such  
15 alternatives. Whenever the Department does not approve the  
16 operator's plan, and whenever the plan approved by the  
17 Department does not conform to the views of the county board  
18 expressed in accordance with subsection (f) of this Section,  
19 the Department shall issue a statement of its reasons for its  
20 determination and shall make such statement public. The  
21 approved plan shall be filed by the applicant with the clerk of  
22 each county containing lands to be affected and such plan shall  
23 be available for public inspection at the office of the clerk  
24 until reclamation is completed and the bond is released in  
25 accordance with the provisions of the Act.

26 (h) Upon receipt of a bond or security, all fees due from  
27 the operator, and approval of the conservation and reclamation  
28 plan by the Department, the Department shall issue a permit to  
29 the applicant which shall entitle him to engage thereafter in  
30 surface mining on the land therein described until the tenth  
31 succeeding June 30, the period for which such permits are  
32 issued being hereafter referred to as the "permit period".

33 (i) The operator may transfer any existing permit to a  
34 second operator, after first notifying the Department of the  
35 intent to transfer said permit. The Department shall transfer  
36 any existing permit to a second party upon written notification

1 from both parties and the posting of an adequate performance  
2 bond by the new permittee.

3 (Source: P.A. 91-357, eff. 7-29-99; 91-938, eff. 1-11-01.)

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.