

# Virginia Administrative Code

Agency 25 - DEPARTMENT OF MINES, MINERALS AND ENERGY

4VAC25-130-773.13. Public participation in permit processing.

(a) Filing and public notice.

(1) Upon submission of an administratively complete application, an applicant for a permit, significant revision of a permit under 4VAC25-130-774.13, or renewal of a permit under 4VAC25-130-774.15, shall place an advertisement in a local newspaper of general circulation in the locality of the proposed surface coal mining and reclamation operation at least once a week for four consecutive weeks. A copy of the advertisement as it will appear in the newspaper shall be submitted to the division. The advertisement shall contain, at a minimum, the following:

(i) The name and business address of the applicant.

(ii) A map or description which clearly shows or describes the precise location and boundaries of the proposed permit area and is sufficient to enable local residents to readily identify the proposed permit area. It may include towns, bodies of water, local landmarks, and any other information which would identify the location. The name of the U.S. Geological Survey 7.5 minute quadrangle map(s) which contains the area shown or described shall be stated; and if a map is used, it shall indicate the north direction.

(iii) The location where a copy of the application is available for public inspection.

(iv) The name and address of the division office where written comments, objections, or requests for informal conferences on the application may be submitted under Paragraphs (b) and (c) of this section.

(v) If an applicant seeks a permit to mine within 100 feet of the outside right-of-way of a public road or to relocate or close a public road, except where public notice and hearing have previously been provided for this particular part of the road in accordance with 4VAC25-130-761.12(d); a concise statement describing the public road, the particular part to be relocated or closed, and the approximate timing and duration of the relocation or closing.

(vi) If the application includes a request for an experimental practice under 4VAC25-130-785.13, a statement indicating that an experimental practice is requested and identifying the regulatory provisions for which a variance is requested.

(2) The applicant shall make an application for a permit, significant revision under 4VAC25-130-774.13, or renewal of a permit under 4VAC25-130-774.15, available for the public to inspect and copy by filing a full copy of the application with the Clerk of the Circuit Court of the city or county where the mining is proposed to occur, or an accessible public office approved by the division. This copy of the application need not include confidential information exempt from disclosure under Paragraph (d) of this section. The application required by this Paragraph shall be filed by the first date of newspaper advertisement of the application. The applicant shall file any changes to the application with the public office at the same time the change is submitted to the division.

(3) Upon receipt of an administratively complete application for a permit, a significant revision to a permit under 4VAC25-130-774.13, or a renewal of a permit under 4VAC25-130-774.15, the division shall issue written notification indicating the applicant's intention to mine the described tract of land, the application number or other identifier, the location where the copy of the application may be inspected, and the location where comments on the application may be submitted. The notification shall be sent to--

(i) Local governmental agencies with jurisdiction over or an interest in the area of the proposed surface coal mining

and reclamation operation, including but not limited to planning agencies, sewage and water treatment authorities, water companies; and

(ii) All Federal or State governmental agencies with authority to issue permits and licenses applicable to the proposed surface coal mining and reclamation operation and which are part of the permit coordinating process developed in accordance with 4VAC25-130-773.12; or those agencies with an interest in the proposed operation, including the U.S. Department of Agriculture, Natural Resources Conservation Service district office, the local U.S. Army Corps of Engineers district engineer, the National Park Service, State and Federal fish and wildlife agencies, and the historic preservation officer.

(b) Comments and objections on permit application.

(1) Within 30 days after notification, written comments or objections on an application for a permit, significant revision to a permit under 4VAC25-130-774.13, or renewal of a permit under 4VAC25-130-774.15, may be submitted to the division by public entities notified under Paragraph (a)(3) of this section with respect to the effects of the proposed mining operations on the environment within their areas of responsibility.

(2) Written objections to an application for a permit, significant revision to a permit under 4VAC25-130-774.13, or renewal of a permit under 4VAC25-130-774.15, may be submitted to the division by any person having an interest which is or may be adversely affected by the decision on the application, or by an officer or head of any Federal, State, or local government agency or authority, within 30 days after the last publication of the newspaper notice required by Paragraph (a) of this section.

(3) The division shall upon receipt of such written comments or objections--

(i) Transmit a copy of the comments or objections to the applicant; and

(ii) File a copy for public inspection at the same public office where the application is filed.

(c) Informal conferences.

(1) Any person having an interest which is or may be adversely affected by the decision on the application, or an officer or a head of a Federal, State, or local government agency, may request in writing that the division hold an informal conference on the application for a permit, significant revision to a permit under 4VAC25-130-774.13, or renewal of a permit under 4VAC25-130-774.15. The request shall--

(i) Briefly summarize the issues to be raised by the requestor at the conference;

(ii) State whether the requestor desires to have the conference conducted in the locality of the proposed operation; and

(iii) Be filed with the division no later than 30 days after the last publication of the newspaper advertisement required under Paragraph (a) of this section.

(2) Except as provided in Paragraph (c)(3) of this section, if an informal conference is requested in accordance with Paragraph (c)(1) of this section, the division shall hold an informal conference within a reasonable time following the receipt of the request. The informal conference shall be conducted as follows:

(i) If requested under Paragraph (c)(1)(ii) of this section, it shall be held in the locality of the proposed surface coal mining and reclamation operation.

(ii) The date, time, and location of the informal conference shall be sent to the applicant and other parties to the

conference and advertised by the division in a newspaper of general circulation in the locality of the proposed surface coal mining and reclamation operation at least 2 weeks before the scheduled conference.

(iii) If requested in writing by a conference requestor at a reasonable time before the conference, the division may arrange with the applicant to grant parties to the conference access to the proposed permit area and, to the extent that the applicant has the right to grant access to it, to the adjacent area prior to the date of the conference for the purpose of gathering information relevant to the conference.

(iv) The conference shall be conducted by a representative of the division, who may accept oral or written statements and any other relevant information from any party to the conference. An electronic or stenographic record shall be made of the conference, unless waived by all the parties. The record shall be maintained and shall be accessible to the parties of the conference until final release of the applicant's performance bond or other equivalent guarantee pursuant to Subchapter VJ.

(3) If all parties requesting the informal conference withdraw their request before the conference is held, the informal conference may be canceled.

(4) Informal conferences held in accordance with this section may be used by the division as the public hearing required under 4VAC25-130-761.12(d) on proposed relocation or closing of public roads.

(d) Public availability of permit applications.

(1) General availability. Except as provided in Paragraphs (d)(2) or (d)(3) of this section, all applications for permits; revisions; renewals; and transfers, assignments or sales of permit rights on file with the Division shall be available, at reasonable times, for public inspection and copying.

(2) Limited availability. Except as provided in Paragraph (d)(3)(i) of this section, information pertaining to coal seams, test borings, core samplings, or soil samples in an application shall be made available to any person with an interest which is or may be adversely affected. Information subject to this Paragraph shall be made available to the public when such information is required to be on public file pursuant to State law.

(3) Confidentiality. The division shall provide procedures, including notice and opportunity to be heard for persons both seeking and opposing disclosure, to ensure confidentiality of qualified confidential information, which shall be clearly identified by the applicant and submitted separately from the remainder of the application. Confidential information is limited to--

(i) Information that pertains only to the analysis of the chemical and physical properties of the coal to be mined, except information on components of such coal which are potentially toxic in the environment;

(ii) Information required under Section 45.1-236 of the Act that is not on public file pursuant to State law and that the applicant has requested in writing to be held confidential;

(iii) Information on the nature and location of archeological resources on public land and Indian land as required under the Archeological Resources Protection Act of 1979 (Pub. L. 96-95, 93 Stat. 721, 16 USC § 470).

Statutory Authority

§§ 45.1-161.3 and 45.1-230 of the Code of Virginia.

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