

**COAL
STANDARD OPERATING PROCEDURE NO. 1.8**

LAND QUALITY DIVISION

SUBJECT: PERMIT TRANSFER

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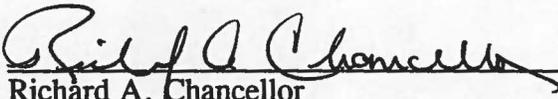
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Foreword

The attached Standard Operating Procedure is the internal policy of the Land Quality Division of the Wyoming Department of Environmental Quality covering the topic of Transfers of Coal Permits. Staff shall make no significant deviations from this policy without the prior approval of the District Supervisor and the Administrator.

Signed this 28 day of July, 1998


Richard A. Chancellor
Administrator
Land Quality Division

I. Reasons for Permit Transfers

A. Change in Operator or Permittee

Most transfers involve a new operator or permittee. This transfer is usually directly solicited by the new and old permittee.

B. Name or Corporate Structure Change

The Land Quality Division (LQD) should be alert to all changes in a permittee's name or status. If a new name appears on correspondence, annual report filings, etc., the LQD should inquire whether the change was simply a name change or whether the company was reorganized and the assets transferred to another entity. A written response from the company outlining the transaction(s) is required.

1. Company Name Change

If the change is merely a name change, a transfer is not required. The LQD requires verification from the Secretary of State's Office or a certified copy of the Board of Director's resolution which affected the change. A Form 11 along with a bond rider, Letter of Credit Amendment or new bonding instrument which lists the new name shall be sent in duplicate to the appropriate LQD District Office with directions to make appropriate changes in all files, record logs and forms. This will be processed as a

revision utilizing the Form 11. The District office must check with the Records Specialist for the appropriate change number.

2. Company Reorganization

Reorganization usually involves changes in the corporate family tree, such as a new corporate entity or a new partnership. Such reorganizations usually involve transfer of a permittee to a wholly-owned subsidiary or affiliated company.

These reorganizations require a formal permit transfer to the new corporate entity, new partnership or limited liability company. In the case where a partner or member is replaced by a new partner or member, the permit should be transferred to the new partnership or limited liability company. It is LQD's position that any change in the ownership results in the dissolution of the original partnership or limited liability company.

II. Definitions

Some of the transfer documents require different actions by specific parties.

- A. The TRANSFEROR is the current permit holder, Form 1(t), item 1(a).
- B. The TRANSFEREE is the prospective new permittee/applicant, Form 1(t), item 2(a) and Form 3, item 1.

III. Coordination Responsibilities

Unless otherwise designated by the Administrator, the respective District office will coordinate all permit transfers.

In general, the District office is responsible for:

- A. All preliminary discussion and coordination with the transferee and transferor to ensure a complete application.
- B. Initial processing of the transfer application including proper filing and coordination with the Cheyenne LQD staff for establishment of a Temporary Filing Number, solicitation of Cheyenne Staff assistance, etc.
- C. Determination of a complete application.

- D. Notification to the transferee that the application is complete and that public notice may begin.
- E. Conduct of necessary/appropriate compliance assessment (field inspection, contact with other DEQ agencies, etc.).
- F. Requesting Applicant Violator System (AVS) checks from the Mine Operations Permit/Bonding Analyst.
- G. Assembling the final transfer package including a draft approval letter(s), prospective Form 1(t) conditions, State Decision Document, warehousing directions, etc.

IV. Procedures

A. Coal Permit Transfer Application

The following items should be sent in duplicate to the appropriate LQD District office and be formatted to fit within the current permit. All pages and/or items which will be inserted into the permit must be detailed on an Index of Changes: See Attachment A.

1. Form 1(t), Permit Transfer Application

The transferee and transferor must submit a fully executed Form 1(t). The form must be an original with all four pages attached as one unit, with all original seals affixed.

2. Form 3, License to Mine Application

The transferee must submit a fully executed Form 3 and the \$25.00 filing fee made payable to the Department of Environmental Quality/Land Quality Division. If the transferee has a license to mine with the correct name under the present permit, a new Form 3 is not required.

The applicant must submit written correspondence stating which currently active licenses to mine are to remain active and which are to be terminated upon approval of the transfer.

3. **Reclamation Performance Bond**

The permit transfer package must include a fully executed Reclamation Performance Bond in the name of the prospective transferee. The bond aggregate and proper LQD bond form must be verified.

The transferor's bond will be released concurrently with the approval of the permit transfer.

4. **Certificate of Public Liability Insurance**

The transferee must submit a Certificate of Insurance which complies with W.S. §35-11-406(a)(xiii) and Land Quality Division Rules & Regulations (LQDRR) Chapter 12, Section 2.(i) and (j).

5. **Right to Entry**

As discussed in LQDRR, Chapter 2, Section 2.(a)(iii). This shall include copies of state or federal leases or private surface owner agreements which have been assigned to the transferee.

6. **Appendix C: A new appendix must be submitted if the appendix currently on file does not include all approved incidental boundary revisions.**

A list of the location of lands by legal subdivision, section, township, range, county and municipal corporation, if any.

A United States Geological Survey (USGS) topographic map, if available, of the permit area or evidence of prior approval to submit other than an original USGS quad.

A tabulation of lands in the permit area where no right to mine is claimed with acreage, and of lands which overlap with other permittee.

7. **Identification of Interests & Statement of Compliance**

- a. If the applicant is a business entity other than a single proprietorship, a list of names and addresses of all limited and general partners, or if a corporation, names and addresses of principal shareholders, officers and directors or other persons performing a function similar to a director, and resident agent(s) of

the applicant. This list shall also include the name(s) under which the applicant, partner or principal shareholder operates or previously operated surface coal mining operation(s) in the United States within the five years preceding the date of application.

Beginning and/or ending dates of all individuals' appointment dates must be provided.

- b. Compliance information must include a list of all notices of violation issued to the transferee for any U.S. coal mining operation during the three-year period prior to the date of the application transfer. [See W.S. §35-11-406(a)(xiv) and LQDRR Chapter 2, Section 2.(a)(ii)(A) and (B)]. This listing pertains to the transferee and subsidiaries and/or affiliates of the transferee.

Information required by LQDRR Chapter 2, Section 2.(a)(v) should be arranged in a tabular format; include a statement concerning any permit not yet transferred.

Pursuant to the Memorandum of Understanding (MOU) between the Office of Surface Mining Reclamation and Enforcement (OSMRE) and the Department of Environmental Quality, and LQD, a nationwide AVS compliance check will be completed on the transferee. [See W.S. §35-11-406(n)(vii), which is the LQD counterpart statute.]. Three compliance checks must be conducted; when the application is received, when it is deemed technically complete, and three days prior to approval.

The District office shall specifically request that the Mine Operations Permit/Bonding Analyst conduct the requisite AVS checks. These must be completed prior to the final recommendation for permit transfer.

8. Compliance Assessment

W.S. §35-11-408 provides that no permit be transferred if the permit holder is in violation of the Wyoming Environmental Quality Act (EQA) and/or applicable Agency Rules and Regulations. This includes violations of Air Quality Division, Water Quality Division, LQD or Solid & Hazardous Waste Division statutes.

When a permit transfer is requested, the LQD will inspect the permit area to verify current compliance with the EQA. If the permit holder is found not to be in compliance, approval of the transfer will be withheld pending resolution of the violations unless the transferee agrees to bring the permit into compliance.

In consultation with the Administrator, the District Supervisor may exercise some discretion in the need for a formal field compliance inspection of all permitted acreage.

9. Interim Annual Report

In consultation with the Administrator, the District Supervisor may require an Interim Annual Report from the current permittee. This Interim Annual Report should address the items listed in W.S. §35-11-411 for the benefit of the State and the permit transferee. This report, along with the annual report submitted by the transferee at the first normal Annual Report due date would provide relatively complete documentation of activities conducted during the report period. The permit anniversary date will remain the same after any permit transfer.

10. Existing Permit Conditions or Proposed Permit Revisions

The permit is normally transferred with all procedures, commitments, conditions, etc. intact. The transferee may request minor changes to the existing permit as a component of the overall transfer application. The transferee must clearly identify these changes and agree on formatting of the changes with the LQD prior to submittal of the transfer application.

The proposed revisions will be reviewed and specifically approved as a component of the overall permit transfer.

B. Public Notice Requirements

Please refer to Coal SOP 1.9

C. Final Decision Recommendation

Upon completion of the public comment period, the District office will determine the status of any objections and devise appropriate action in consultation with the LQD Cheyenne office. If no objections were received, the District office will prepare a draft approval letters for the Administrator and forward these drafts with other necessary supporting information to the LQD Cheyenne office.

1. Sample approval letter - Attachment B
2. Letter to previous operator - Attachment C
3. State Decision Document - revise only appropriate elements
4. Routing Slip
5. Tracking Sheet - Attachment D

D. Coal Drilling Notifications

Coal Drilling Notifications may be transferred to another operator. The process requires the following:

1. Submittal of a new fully executed Form 9CN. The LQD staff should ensure that the transferee uses the most current version of Form 9CN.
2. Reclamation Performance Bond

The permit assumption package must include a fully executed Reclamation Performance Bond (RPB) in the name of the prospective transferee. The bond amount will be determined by the District office.

The transferor's bond will be released concurrently with the approval of the permit transfer.

3. Submittal of a fully executed Reclamation Assumption of Liability form.
4. The LQD should make some effort to ensure that there is no outstanding compliance issue. The need for an actual site inspection lies with the discretion of the District Supervisor.
5. The District office shall consolidate all materials and forward them, along with a recommendation for approval, to the Mine Operations Permit/Bonding Analyst, who will prepare the appropriate approval letters for the Administrator's approval.
 - a. Sample approval letter - Attachment E
 - b. Letter to previous operator - Attachment F

E. License to Explore by Dozing

Licenses to Explore may be transferred to another operator. The process requires:

1. Submittal of a new fully executed Form 4C along with the \$25.00 fee. The LQD staff should ensure that the transferee uses the most current version of Form 4C.

2. Reclamation Performance Bond

The permit assumption package must include a fully executed Reclamation Performance Bond (RPB) in the name of the prospective transferee. The bond amount will be determined by the District office.

The transferor's bond will be released concurrently with the approval of the permit transfer.

3. Submittal of a fully executed Reclamation Assumption of Liability form.

4. The LQD should make some effort to ensure that there is no outstanding compliance issue. The need for an actual site inspection lies with the discretion of the District Supervisor.

5. The District office shall consolidate all materials and forward them along with a recommendation for approval to the Mine Operations Permit/Bonding Analyst, who will prepare the appropriate approval letters for the Administrator's approval.

a. Sample approval letter - Attachment G

b. Letter to previous operator - Attachment H

V. Filing Procedures

The approved Transfer will be catalogued as a separate document with the original permit document. The District Office will consult with the Cheyenne LQD Records Specialist to ensure that procedures agree.

VI. Attachments - see following pages

Attachment A
WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY (WDEQ)
LAND QUALITY DIVISION (LQD)

INDEX SHEET FOR LQD PERMITTING CHANGES

Please use the supplied index sheet on the following page to make copies for all index sheets to accompany a submittal. Copy the supplied sheet as much as necessary, but please do not alter or modify the supplied index sheet in any way.

INDEX SHEET FOR MINE PERMIT TRANSFERS

Page ___ **of** ___
Date _____

TFN _____

- 2) List all revision or change elements in sequence by volume number; number index sheets sequentially as needed.
- 3) If there are no revisions to one or more volumes, include an entry for that volume stating NO CHANGE.

Attachment B

OMIT DATE

RE: Approval of Transfer for Permit No. xxx-Tx , TFN x x/xxx , Change No. x

Dear

With the recommendation of , District , your pending permit transfer referenced above has been approved effective this date. This action is labeled as Change No. to Permit No. xxx-Tx. **Surety Name, Bank name, etc. Bond #, LOC #, etc.** no. has been accepted in the amount of Dollars (\$) to cover the reclamation costs associated with Permit No. . Copies of your approved permit transfer application, license to mine, and bond are enclosed. Also enclosed for your information is a copy of the State Decision Document for this action.

As of this date no further mining activity may take place by under Permit no. .

Termination of licenses??

Please submit three (3) copies of the transfer package along with a copy of this letter and a copy of the final Index of Changes to:

Mr. Bill Clark
U.S. Department of Interior
Office of Surface Mining
Western Regional Coordinating Center
1999 Broadway, Suite 3320
Denver, CO 80202-5733

Should you should have any questions, please feel free to contact the District office in .

Sincerely,

Richard A. Chancellor
Administrator
Land Quality Division

Dennis Hemmer
Director
Dept. of Environmental Quality

DH:RAC:
Enclosure

xc: District
Surety/Bank - released bond
Licensees??
Surety Co. - new bond w/encl.

Attachment C

OMIT DATE

CERTIFIED

(old permittee)

RE: Approval of Transfer of Permit No.

Dear :

With the recommendation of , , District , the pending transfer referenced above has been approved effective this date. Enclosed is which may be presented to the surety for cancellation.

As of this date no further mining activity may take place by (old permittee name) under Permit No. .

Should you should have any questions, please feel free to contact the District (I, II or III) office in (Cheyenne, Lander or Sheridan) .

Sincerely,

Richard A. Chancellor
Administrator
Land Quality Division

Dennis Hemmer
Director
Dept. of Environmental Quality

DH:RAC:

Enclosure

xc: District
(surety)

Attachment D

**COAL PERMIT TRANSFER
TRACKING SHEET**

Date of receipt of original Form 1(t) application
Date(s) of all review comments sent to applicant

Date application declared complete and sent to
public notice filing

Date public comment period opened and closed

Receipt of proof of filing with County Clerk

Receipt of proof of mailing to Oil & Gas Commission

Receipt of proof of newspaper public notice

Date of field compliance inspection

Date of initial AVS request - 1st check

Date of 2nd AVS request and 510C check (when
application is deemed technically complete)

Date of final AVS request

Date Final Decision Recommendation sent to Cheyenne

BG:kn

Attachment E

OMIT DATE

CERTIFIED

RE: Approval of Assumption of Coal Notification No. CN, TFN

Dear :

With the recommendation of , , District , your pending coal notification assumption cited above has been approved effective this date. bond no. in the amount of _ (\$) has been accepted as the bonding instruments to cover the reclamation costs associated with Coal Notification No. CN. A copy of your approved bond is enclosed.

If you have any questions about the drill hole report or any other aspect of this permit, please contact the District (I, II or III) office in (Cheyenne, Lander or Sheridan).

Sincerely,

Richard A. Chancellor
Administrator
Land Quality Division

RAC:

Enclosure

xc: District
(surety)

Attachment F

OMIT DATE

CERTIFIED

(old permittee)

RE: Approval of Assumption of Coal Notification No. CN

Dear :

With the recommendation of , , District , the pending coal notification assumption referenced above has been approved effective this date. Enclosed is which may be presented to the surety for cancellation.

As of this date no further drilling activity may take place by (old permittee name) under Coal Notification No. CN.

Should you should have any questions, please feel free to contact the District (I, II or III) office.

Sincerely,

Richard A. Chancellor
Administrator
Land Quality Division

RAC:

Enclosure

xc: District
(surety)

Attachment G

OMIT DATE

CERTIFIED

RE: Approval of Assumption of License to Explore No. LE, TFN

Dear :

With the recommendation of , , District , your pending license to explore assumption cited above has been approved effective this date. bond no. in the amount of (\$) has been accepted as the bonding instruments to cover the reclamation costs associated with License to Explore No. LE. Copies of your approved license and bond are enclosed.

If you have any questions about this license, please contact the District (I, II or III) office in (Cheyenne, Lander or Sheridan).

Sincerely,

Richard A. Chancellor
Administrator
Land Quality Division

RAC:
Enclosure
xc: District
(surety)

Attachment H

OMIT DATE

CERTIFIED

(old permittee)

RE: Approval of Assumption of License to Explore No. LE

Dear :

With the recommendation of , , District , the pending license to explore assumption referenced above has been approved effective this date. Enclosed is which may be presented to the surety for cancellation.

As of this date no further exploration activity may take place by (old permittee name) under License to Explore No. LE.

Should you should have any questions, please feel free to contact the District (I, II or III) office.

Sincerely,

Richard A. Chancellor
Administrator
Land Quality Division

RAC:

Enclosure

xc: District
(surety)