

**NONCOAL
STANDARD OPERATING PROCEDURE NO. 1.4**

Land Quality Division

**SUBJECT: Procedures Pertaining to Public Notices, Proof of Notice and Sworn
Statement of Mailing for all Types of Noncoal Permitting Actions**

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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 Noncoal Permits. Staff shall make no significant deviations from this policy without the prior approval of the District Supervisor and the Administrator.

Signed this 13th day of February, 2014.



Nancy Nuttbrock
Administrator, Land Quality Division

I. General Instructions for Complying with Public Notice Requirements

A. Filing with the County Clerk's Office

1. Every applicant that is sent to public notice must file a copy of their application with the County Clerk for the county within which their operation is located, as required by W. S. § 35-11-406(d). The filing with the County Clerk provides an accessible public location at which the complete application may be reviewed. For any new application, the operator must file a complete copy (all volumes) of the application in the Clerk's office. It is recommended that operators with an application for a major permit revision or amendment, at a minimum, place on file all volumes of their permit that are changing. These volumes should be filed in their entirety. For most applications, this will be limited to the mine and reclamation plan volumes.
2. An index sheet shall be placed in the front of each individual volume on file indicating which portions of that volume are proposed to be changed as part of the application. This is necessary to ensure that a member of the public viewing an application at the County Clerk's office is able to understand what is being changed and what portions of the application are open to review and comment.
3. The applicant's filing of the complete application with the County Clerk and newspaper public notice shall not commence until the applicant has been given **written** direction by the Land Quality Division. The application must remain available for public review through the last day of public comment. The applicant should remove the application from the County Clerk office at the conclusion of the public comment period.
4. All parties should understand that neither the Clerk filing or public notice in any way constitute tentative or preliminary approval of the application. County Clerk filing and public notice only indicate that all necessary components of the application are present and in relative order.

5. No substantive changes may be made after publication.
6. Written notification to publish and file shall include one of the attached SAMPLE FORMATS, which provide specific directions to the applicant. A complete list of these formats is found in Table 1.

B. Proof of Mailing

1. The 1995 legislature modified W.S. § 35-11-406(j) so that an operator no longer has to provide proof of mailing. Instead, only a sworn statement of mailing shall be forwarded to LQD for inclusion in the permit application. This statute was also amended in 1995 to require that an operator mail copies of the notice only when new lands are being permitted. This means mailing of the notice only occurs with new permit applications or amending new lands onto an existing permit. The statute now reads as follows:

*(j) The applicant shall cause notice of the application to be published in a newspaper of general circulation in the locality of the proposed mining site once a week for four (4) consecutive weeks commencing within fifteen (15) days after being notified by the administrator. The notice shall contain information regarding the identity of the applicant, the location of the proposed operation, the proposed dates of commencement and completion of the operation, the proposed future use of the affected land, the location at which information about the application may be obtained, and the location and final date for filing objections to the application. **For initial applications or additions of new lands** the applicant shall mail a copy of the notice within five (5) days after first publication to all surface owners of record of the land within the permit area, to surface owners of record of immediately adjacent lands, and to any surface owners within one-half (2) mile of the proposed mining site. **The applicant shall mail a copy of the application mining plan map within five (5) days after publication to the Wyoming Oil and Gas Commission. Proof of notice and sworn statement of mailing shall be attached to and become part of the application.***

2. For record keeping purposes, the statement "shall be attached to and becomes part of the application" means that the aforementioned documents will be stored in the correspondence file associated with the application in question.
3. As a result of the 1995 amendments, mailing of notices is no longer required for permit renewals, major revisions or permit transfers. Submittal of U.S. Post Office forms is no longer necessary. All public notice formats now have a "fill in the blank" affidavit of mailing attached for use by the applicant. The applicant must complete and forward the affidavit to the appropriate LQD office for inclusion in the application. This affidavit must be received prior to the end of the public comment period.

4. All applicants instructed to go to public notice, regardless of the nature of the application, must mail a copy of their mine plan map to the Wyoming Oil and Gas Commission. Consequently, even those public notice formats for permit renewals, revisions or transfers have an example affidavit attached. This is necessary for verification that the mine plan map has been forwarded to the Wyoming Oil and Gas Commission. These applicants must also complete the affidavit and forward it to the appropriate LQD office for inclusion in the application prior to the end of the public comment period.
 5. The notification to ". . . surface owners of record of immediately adjacent lands, to any surface owners within one-half (½) mile . . ." includes only the owner of the title for that land and does not include easements or other interests.
 6. In addition, the LQD has interpreted this new statutory language regarding the "addition of new lands" to mean that an operator must mail notices to all owners within the original permit area, amendment area and surface owners within ½ mile of the original permit area boundary as well as those within ½ mile of the amendment area boundary.
- C. Proof of Notice will consist of the affidavit of publication executed by the newspaper. This is secured by the applicant and sent by the applicant to the appropriate LQD office as soon as publication is completed.
- D. Proof of Filing will consist of an affidavit of filing from the County Clerk. This is secured by the applicant and sent to the appropriate LQD office immediately following filing.

II. Goals and Requirements of Publication and Filing

A. Public Participation

1. The newspaper publication seeks to notify the general public of the proposed location, time schedule and general mining and reclamation features of the proposed mining operations. The notice also provides the opportunity and specific directions for the voicing of any comments prior to the final approval of the application. The notice identifies the locations where the application may be reviewed. It is important to note that besides the legal location of the operation, a general location is also included. This helps the general public know where the operation will occur.
2. The final public notice provides information regarding the request for an informal conference.

III. Request for Variance

In accordance with W.S. § 35-11-601 an operator can apply for a variance from any rule, regulation, standard or permit promulgated under the Act. Public notice and mailing is required prior to approval of such an application. The information necessary for this notice is provided in attached Format No. 9.

IV. Summary of Publication Requirements and Formats for Noncoal Permitting Actions

Type of Application	First Publication		Second Publication	
	Required?	Use Format No.	Required?	Use Format No.
Noncoal Small or Regular Mining Permit or Amendment	Yes - 2 weeks conditional*	1	yes - 4 weeks conditional*	2
Noncoal Regular or Small Mining Permit Revision	no	-	Yes, single publication for 4 weeks	3
Noncoal Conversion of a Small Mining Permit to a Regular Mining Permit	Yes-2 weeks	1	yes - 4 weeks	5
Uranium In situ Mining Permit or Amendment	Yes – 2 weeks conditional**	1	yes - 4 weeks conditional**	6
Noncoal Interim Mine Stabilization - Initial Application	no	-	Yes, single publication for 2 weeks	7
Noncoal Interim Mine Stabilization - Renewal Application	no	-	Yes, single publication for 3 weeks	8 & 9
Request for Variance	no	-	Yes, single publication for 4 weeks	10

* Newspaper publication and public mailings are required once the cumulative acreage of approved plus pending amendments (and Incidental Boundary Revisions) exceeds 20% of the original permit acreage. Once the milestone of 20% or greater cumulative acreage occurs and the applicant goes through public notice, the LQD resets the base calculation (i.e. now considered "original") acreage figure. The 20% criterion for the next amendment is subsequently applied against the new base acreage and a new cumulative acreage tally begins; see W.S. § 35-11-406(a)(xii).

** Newspaper publication and public mailings are not required for an in situ uranium operation that is amending lands if the lands will not be used for underground injection activities and they do not exceed 20% of the original permit area and are contiguous with the permit area (W.S. § 35-11-406(a)(xii)).