

**COAL
STANDARD OPERATING PROCEDURE NO. 1.9**

Land Quality Division

SUBJECT: Procedures pertaining to public notices, proof of notice and sworn statement of mailing for all types of coal permitting actions

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I. General Instructions for Complying with Public Notice Requirements

A. Filing with the County Clerk's Office

1. Every applicant for a new permit, amendment, renewal, transfer or major revision 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 permit renewal, major revision or permit 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. The application filed with the County Clerk should not be a series of pages excerpted from complete 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.
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.
7. Upon approval of the application, the Land Quality Division should notify the applicant that the application should be retrieved from the County Clerk's office.

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 (½) 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 become 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 (1/2) 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 1/2 mile of the original permit area boundary as well as those within 1/2 mile of the amendment area boundary.
 7. As a result of these changes in statutory requirements, several additional public notice formats were developed to address surface and underground coal mine permit major revisions and underground coal mining permits, permit renewals and permit amendments.
- 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.

B. LQD Notification of Governmental Agencies

1. The LQD Administrator is required to send a copy of the final (four week publication) notice to various governmental agencies listed in Coal Regulation, Chapter 12, Section 1.(a)(ii). This notification is only required for new, renewed or amended coal mine permit applications. The following entities should receive a copy of the notice:

Appropriate County Commissioners

Appropriate County Planners

Administrator/Mayor of the appropriate City

State of Wyoming, Department of Commerce, Division of Economic and Community Development, U.S. West Bldg., 6101 Yellowstone, Cheyenne, WY 82002

State of Wyoming, State Historic Preservation Office, U.S. West Bldg., 6101 Yellowstone, Cheyenne, WY 82002

State of Wyoming, Game and Fish Department, 5400 Bishop Blvd., Cheyenne, WY 82002

State of Wyoming, Commissioner of State Lands, Herschler 3W, 122 W. 25th St., Cheyenne, WY 82002 (**only if state lands are included in the permit area**)

State of Wyoming, State Geologist, PO Box 3008, University Station, Laramie, WY 82071

State of Wyoming, State Mine Inspector, PO Box 1094, Rock Springs, WY 82901

State of Wyoming, Superintendent & Chief Engineer, Department of Transportation, 5300 Bishop Blvd, PO Box 1708, Cheyenne, WY 82002

U.S.D.A. Natural Resource Conservation Service - local office

U.S. Fish and Wildlife Service, 4000 Morrie Ave, Cheyenne, WY 82001

U.S. Army Corps of Engineers, Wyoming Office, 2232 Dell Range Blvd., Cheyenne, WY 82009

Bureau of Land Management, State Director, PO Box 1828, Cheyenne, WY 82001 (**not needed for private coal on private surface**)

U.S. Forest Service, if appropriate

Office of Surface Mining, Program Operations Manager, 1999 Broadway, Suite 3320, Denver, CO 80202-5733

III. Publication of the Administrator's Decision on a Coal Mine Application

- A. Chapter 12, Section 1(a)(ii)(B) requires the LQD Administrator to publish a notice in the local newspaper summarizing the LQD's decision on a coal mining application (Format No.

9). This notice shall be published one time only. This notice should be published even if an application has been disapproved.

B. This requirement applies to new, renewal, major revision, amendment and Form 1(t) transfer applications.

C. This publication is initiated by the Cheyenne Office.

IV. Annual Reports

A. Chapter 12, Section 2(c) of the Coal Rules and Regulations requires that the Administrator publish a notice in a newspaper of general circulation in the locality of the mining operation one time only.

B. Format No. 10 (attached) describes the type of information that shall be incorporated into this notice.

C. Publishing this notice is initiated by the LQD District Office.

V. Coal Exploration - License to Explore

A. Chapter 10 of the Coal Rules and Regulations requires that any person who intends to explore for coal outside a permit area must apply for a License to Explore. Chapter 10, Section 1 makes the distinction that if someone is proposing to remove less than 250 tons they must apply for a notice of intent to explore. However, the Division has historically required a License to Explore for all coal exploration regardless of the tonnage removed. In addition, newspaper publication of the applicant's intent to explore is only required if more than 250 tons of coal is proposed for removal.

B. Upon notification by the Administrator that the application for the license to explore is complete, an applicant wishing to remove more than 250 tons of coal shall publish their intent in a newspaper of general circulation in the county of the proposed exploration area. This notice shall be published one time only.

C. Format No. 11 (attached) describes the type of information that shall be incorporated into this notice.

VI. Bond Release

A. Chapter 15, Section 1(c) of the Coal Rules and Regulations requires that an applicant for bond release publish a notice describing this intent in a newspaper of general circulation in the locality of the mining operation within 15 days of notification by the Administrator

that the bond release request is complete. This notice shall be published once a week for four consecutive weeks.

- B. The applicant is also required to notify numerous entities of their intention to seek bond release.
- C. The list of persons who shall receive a notice of intent and the required contents of the public notice are provided in Format No. 12 (attached).

VII. Temporary Cessation of Operations

- A. When a coal operator proposes a temporary cessation of operations that will last longer than 30 days (as allowed by Chapter 4, Section 2(u) of the Coal Rules and Regulations), this request will be processed as a major revision. Upon determination that the revision application is suitable for public notice, a notice must be published in a newspaper according to the requirements of W.S. § 35-11-406(j).
- B. If this proposal for temporary cessation is part of a renewal application, then the fact that temporary cessation is being requested must be included in the public notice for the renewal.
- C. If the request for temporary cessation is received as a single revision item or is one of several revision items received at once, then the fact that a temporary cessation is being sought must also be published.
- D. Consequently, the request for temporary cessation of operations must always constitute a major revision, even if other change items accompanying it do not.

VIII. Coal In Situ Operations

- A. A sample public notice format **has not** been developed for coal in situ permitting because there are no current or pending applications for this type of coal mining.
- B. However, in the event that a coal in situ permit application is received by LQD, appropriate formats for new permits, permit amendments, permit renewals and permit revisions will be created and added to this standard operating procedure.

IX. Summary of Publication Requirements and Formats for Coal Permitting Actions

Table 1

Type of Application	First Publication		Second Publication	
	Required?	Use Format No.	Required?	Use Format No.
Surface Coal Mining Permit or Amendment	yes	1	yes - 4 weeks	2
Surface Coal Mining Permit Renewal	yes	1	yes - 4 weeks	3
Surface Coal Mining Permit Major Revision	no	-	yes - 4 weeks	4
Underground Coal Mining Permit or Amendment	yes	1	yes - 4 weeks	5
Underground Coal Mining Permit Renewal	yes	1	yes - 4 weeks	6
Underground Coal Mining Permit Major Revision	no	-	yes - 4 weeks	7
Coal Mining Permit Transfer	no	-	yes - 4 weeks	8
Coal Mining - Administrator's Decision *	no	-	yes - 1 week	9
Annual Reports*	no	-	yes - 1 week	10
Coal Exploration	no	-	yes - 1 week	11
Bond Release	no	-	yes - 4 weeks	12

* Public notice published by the Administrator