

CHAPTER 13

SURFACE COAL MINING PERMIT REVISIONS

Section 1. ~~Submittal of Revisions.~~ Permit Revision Applications.

(a) ~~A permit may be revised, upon approval by the Administrator, if the operator submits an application to the Division in accordance with Section 1(d) of this Chapter. Significant revisions are those which constitute a change described in Section 2 of this Chapter.~~

(b) ~~Non-significant revisions shall be submitted in a format approved by the Administrator. All non-significant revisions shall include:~~

(i) ~~A brief description of the change and why the change is being sought;~~

(ii) ~~An outline or index indicating what pages, maps, tables, or other parts of the approved permit are affected by the revision; and~~

(iii) ~~Additional information necessary to support or justify the change.~~

(e) ~~RESERVED~~

(~~a~~ d) ~~Each application shall contain~~ Applications for a permit revision shall contain:

(i) The name and address of the operator;

(ii) The permit number and date approved;

(iii) A description of the change and why the change is being sought;

(iv) An outline or index indicating what pages, maps, tables, or other parts of the approved permit will be affected by the revision; and

(~~v~~ ~~iii~~) The following information, if different from that submitted in the original permit application:

(A) The precise location of the permit area by legal subdivision, ~~S~~section, township, range, county, and municipal corporation, if any;

(B) The names and last known addresses of the owners of record of the surface and mineral rights of the land covered by the permit; and

(C) The names and last known addresses of the owners of record of the surface rights of the lands immediately adjacent to the permit area;

(~~vi~~ ~~iv~~) A detailed description of the proposed revised mining or reclamation operation which shall also include:

(~~A~~) ~~A USGS topographic map or equivalent of the permit area showing the land to be affected by the revised mining or reclamation operation, in detail, distinctly outlined and identified;~~

(~~A~~ ~~B~~) For any proposed newly affected lands, if not submitted and approved in the original application for the permit:

(~~I~~) A USGS topographic map or equivalent of the permit area showing the land to be affected by the revised mining or reclamation operation, in detail, distinctly outlined and identified;

(~~II~~) The information required in Wyoming Statute (W.S.) § 35-11-406(a)(vii) and (ix) or, for in situ mining operations, the information required in W.S. § 35-11-428; ~~and~~

(~~III~~) The extent to which the revised mining or reclamation operation will disturb, change or deface the lands proposed to be affected; ~~and, the proposed future use or uses and the plan whereby the operator will reclaim the affected lands to the proposed future use or uses.~~

(~~IV~~) The proposed future use or uses of the affected lands and the plan whereby the operator will reclaim the affected lands to the proposed use or uses;

(~~B~~ ~~C~~) Any ~~significant~~ changes in the estimate of the total cost of reclaiming the affected and proposed affected lands, computed in accordance with established engineering principles;

(~~vii~~) Any additional information necessary to support or justify the change; and

(~~viii~~) Such other information as the Administrator deems necessary.

(~~b~~ ~~D~~) ~~For surface coal mining operations, the~~ The Administrator shall require a revised or updated probable hydrologic consequences assessment if significant changes in the results of the assessment are expected to occur as a result of a revised operation or new data. The ~~information~~ assessment shall be in sufficient detail to enable the Administrator to determine whether a new or updated ~~assessment of probable~~ cumulative hydrologic impacts assessment (CHIA) is required. If a new or updated CHIA ~~assessment~~ is required, the Administrator shall reassess the probable cumulative hydrologic impacts in accordance with Chapter 19, Section 2 of these rules ~~regulations~~.

(~~v~~) ~~Such other information as the Administrator deems necessary or as good faith compliance with the provisions of the Act require.~~

Section 2. Criteria for Public Notice Requirements.

(a) Within ~~90~~ ninety days after ~~submission of the~~ receiving a application for permit revision application, the Administrator shall notify the operator of whether or not the application is complete and whether the revision is determined to be significant, requiring notice and opportunity for interested parties to submit objections to the revision application for public hearing is required.

(b) Notice and opportunity to submit objections for public hearing is required whenever the application ~~for permit revision proposes the following changes, so long as they constitute~~ proposes significant deviations from ~~that which was contemplated in the approved mining and reclamation plan.~~ The following will ~~normally~~ be considered significant deviations, unless otherwise determined by the Administrator:

(i) A change in the approved future land use or uses ~~which that~~ affects more than ~~20~~ twenty percent of the land within the permit area;

(ii) A change in the approved method for insuring that all acid-forming or toxic materials, radioactive materials, or materials constituting a fire, health or safety hazard uncovered during or created by the mining process are promptly treated or disposed of during the mining or reclamation process in a manner designed to prevent pollution of surface or subsurface water or threats to human or animal health and safety;

(iii) The construction or relocation of mills or ~~and~~ tailings disposal facilities;

(iv) A change in the approved method of mining that ~~which~~ results in surface disturbance (e.g. underground, surface or in situ mining);

(v) A change that ~~which~~ would adversely affect the quality, quantity, or distribution of water in surface or groundwater systems; or

~~(vi) For surface coal mining operations, continuing operation after cancellation or material reduction of the liability insurance policy, the performance bond or other equivalent guarantee upon which the original permit was approved; or~~

(vii) Any changes that ~~which~~ propose significant alterations in the approved mining or reclamation operation, as determined by the Administrator.

Section 3. Permit Decisions, Public Notice, and Opportunity for Filing Objections ~~Public Hearing.~~

(a) For all permit revision applications, the Director shall approve or deny the proposed revision in accordance with the applicable criteria set forth in W.S. § 35-11-406 and these rules.

(b) For non-significant revisions, that do not require public notice, the Director shall render a decision on the application within thirty days after the Administrator determines the application to be complete.

(c) For significant permit revisions:

(i a) When required under Section 2, the ~~The~~ operator shall cause notice of the application for permit revision to be published in a newspaper of general circulation in the locality of the mining site once a week for four consecutive weeks commencing within 15 days after notification that publication is required. The notice shall contain that information required by W.S. § 35-11-406(j), the permit number and date approved, and a general description of the proposed revision. The operator shall also mail a copy of the application mine plan map to the Wyoming Oil and Gas Commission in accordance with W.S. § 35-11-406(j);

(ii b) Any interested person may file objections and request an informal conference ~~Objections may be filed in accordance with W.S. § 35-11-406(p k), which objections shall list one or more reasons for denying a permit as set out in W.S. § 35-11-406(m) or (n). If such written objections are filed, a public hearing shall be held in accordance with W.S. § 35-11-406(k). The Council shall issue findings of fact and make a decision on the application within 60 days after the final hearing.~~

Section 4. — Decision.

(iii a) The Director shall hold an informal conference upon request and render a decision on the application in accordance with W.S. § 35-11-406(p); and The Administrator shall, with the concurrence of the Director, render a decision on the application for permit revision and approve or disapprove the proposed revision in accordance with the applicable criteria set out in W.S. § 35-11-406 and any regulations adopted pursuant thereto. The decision shall be made:

(iv) The applicant or objector may appeal the Director's decision to the Environmental Quality Council in accordance with W.S. § 35-11-406(p).

~~(i) Within 30 days after notification of a complete application, if notice is not required; or~~

~~(ii) If notice is required:~~

~~(A) Within 30 days after completion of the notice period, if the application for permit revision is not protested; or~~

~~(B) If the revision is protested and a hearing held, within 15 days from the receipt of any findings of fact and decision from the Environmental Quality Council.~~

~~(b) The applicant shall be promptly informed of the decision on the application.~~

Section 4 5. Review of Existing Outstanding Permits.

~~(a) Upon review of the operator's annual report or inspection of the existing operation, T~~the Administrator, with the concurrence of the Director, may require an ~~the~~ operator to submit an application for permit revision when the Administrator finds in writing that a mine or reclamation plan revision is necessary to account for actual changes in the operator's mining or reclamation operations and comply with all requirements of this Chapter. An operator may appeal the Administrator's decision to the Environmental Quality Council in accordance with W.S. § 35-11-112(a)(iii). ~~Any such requirement shall be based on written findings that, upon review of the operator's annual report or inspection of the existing operation, there is or is intended to be conducted a revised mining or reclamation operation. Such review or inspection shall be conducted at least each year upon receipt of the operator's annual report. Right of review shall be afforded as provided in the Wyoming Administrative Procedure Act. Nothing contained herein shall be construed to require compliance with any provision of the Act or regulation from which the existing operation has been specifically excepted.~~

Section 5 6. Exception.

~~(a) For surface coal mining operations, this~~ This Chapter does not apply to extensions of the mine permit boundary. Any ~~such~~ boundary revision other than an extension, ~~except~~ incidental boundary revisions, must be made in accordance with the Act and by application for a permit amendment with public notice, and opportunity for filing objections hearing. The operator shall notify the Administrator in advance where the extension is an incidental boundary revision, and possess a copy of the notification at the site of the operation. The operator will not be allowed to utilize this provision for incidental boundary revisions so as to circumvent the policy and purpose of this Chapter ~~and~~ or the Wyoming Environmental Quality Act.