WEST VIRGINIA CODE: §22-13-9

§22-13-9. Procedure for issuance or denial of permit; transfer of permits.

(a) Before issuing a permit, a public hearing shall be held. The director shall consider the application and shall fix a time and place for hearing on such application. The hearing shall be held in a county in which the proposed modification is to be made and, if the proposed modification is to be made in more than one county, then a separate hearing shall be held in each county in which the proposed modification is to be made. The applicant shall cause a notice of the time and place of such hearing and the purpose thereof to be published as a Class III-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication is the county or counties in which the proposed modification is to be made. Publication of the notice shall be completed at least fifteen days before such hearing. The applicant shall also cause to be served, at least fifteen days before such hearings, in the manner provided by law for the service of notice and process, a notice showing the time, place and purpose of such hearing, upon every owner of property, and every person holding a lien thereon, abutting on that portion of the stream on which the modification is to be made, or abutting on any portion of such stream within two miles above or below the proposed modification. The affidavit of publication of such notice shall be filed with the director or his or her duly designated hearing examiner at or before the hearing as a part of the record in the proceedings.

(b) At the time and place fixed for the hearings, the director or his or her duly designated hearing examiner shall hear any evidence relating to the proposed modification, the necessity therefor, the effect of such modification on the stream and any and all other matters relevant to the application and the proposed modification. If the director concludes and finds upon the record and evidence in the proceedings that the proposed modification should be permitted, he or she shall proceed to issue the permit: Provided, That the director may attach such conditions, qualifications or limitations to such permit as he or she finds appropriate.

(c) An application for any such permit shall be acted upon by the director and the division's permit delivered or mailed, or a copy of any order of the director denying any such application mailed as hereinafter specified, as the case may be, to the applicant by the director within forty-five days after the hearings have been completed.

(d) When it is established that an application for a permit should be denied, the director shall make and enter an order to that effect, which order shall specify the reasons for such denial, and shall cause a copy of such order to be served on the applicant by registered or certified mail. The director shall also cause a notice to be served with the copy of such order, which notice shall advise the applicant of his or her right to appeal to the board by filing a notice of appeal, on a form prescribed by the board for such purpose, with the board, within the time specified in and in accordance with the provisions of section seven, article one, chapter twenty-two-b of this code. However, an applicant may offer the plans and

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specifications for the proposed modification and submit a new application for any such permit, in which event the procedure hereinbefore outlined with respect to an original application shall apply.

(e) Upon the sale of property which includes an activity for which the division's permit was granted, the permit is transferable to the new owner, but the transfer does not become effective until it is made in the records of the division.

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