WEST VIRGINIA CODE: §22-4-5

§22-4-5. Quarry permit requirements.

(a) It is unlawful for any person to engage in quarrying without having first obtained from the division a permit as required by this article. The application shall fully state the information required by the director. Each new quarry permit shall be issued for a term of five years and is renewable for subsequent terms of five years. The director may grant an administrative extension of an existing permit for a period not to exceed one year. The application may be in writing and on a form prepared and furnished by the division, or the application may be submitted electronically. Applicants shall verify electronic submissions by signed affidavit.

(b) The application shall include the following information:

(1) The names and addresses of the applicant and every officer, partner, director, owner of the applicant;

(2) The names and mailing addresses of any person owning of record or beneficially ten percent or more of any class of stock of the applicant;

(3) The name of any person listed in subdivision (1) or (2) of this subsection who has ever had a quarry permit revoked or had a quarry bond forfeited;

(4) The names and addresses of the owners of the surface of the land to be quarried;

(5) The names and addresses of the owners of the mineral to be quarried;

(6) The source of the applicant's legal right to conduct quarrying on the land to be covered by the permit;

(7) A prequarry water assessment to establish the base level quality and quantity as provided in section fourteen of this article;

(8) The number of acres to be included in the permit area;

(9) A list of other quarrying permits previously or currently held by the applicant, by location and permit number, and any other type of mining permits being applied for or currently held by the applicant;

(10) The common name and geologic title, where applicable, of the mineral or minerals to be extracted;

(11) Provide proof of adequate insurance as required by this article;

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(12) A quarrying and reclamation plan as is required by section seventeen of this article;

(13) Any other information required by the director reasonably necessary to effectuate the purposes of this article.

(c) The application for a permit shall be accompanied by copies of an enlarged United States geological survey topographic map meeting the requirements of the subdivisions below. Aerial photographs of the area are acceptable if the plan for reclamation can be shown to the satisfaction of the director. Attendant documentation must include:

(1) A map prepared and certified by or under the supervision of a registered professional civil engineer, or a registered professional mining engineer, or a licensed land surveyor, who shall submit to the director a certificate of registration as a qualified engineer or land surveyor, and be in a scale approved by the director;

(2) Identify the area to correspond with application;

(3) Show probable limits of adjacent underground mining operations, probable limits of adjacent inactive or mined-out areas and the boundaries of surface properties and names of surface and mineral owners of the surface area within five hundred feet of any part of the proposed disturbed area;

(4) Show the base of the crop line, including appropriate geologic cross sections, regrading cross sections and attendant narratives;

(5) Show the names and locations of streams, creeks, tributaries or bodies of public water, roads, buildings, cemeteries, active, abandoned or plugged oil and gas wells, and utility lines on the area of land to be disturbed and within five hundred feet of such area;

(6) Show by appropriate markings the boundaries of the area of land to be disturbed and the total number of acres involved in the area of land to be disturbed;

(7) The date on which the map was prepared, the north point, and the longitude and latitude of the operation;

(8) Show the drainage plan on and away from the area of land to be disturbed. Such plan shall indicate the directional flow of water, constructed drainage systems, natural waterways used for drainage, and the streams or tributaries receiving or to receive this discharge. Upon receipt of such drainage plan, the director may furnish the office of water resources of the division a copy of all information required by this subdivision, as well as the names and locations of streams, creeks, tributaries or bodies of public water within five hundred feet of the area to be disturbed;

(9) Show the presence of known acid-producing materials which when present in the overburden, may cause spoil with a pH factor below 5.5, preventing effective revegetation. The presence of such materials, wherever occurring in significant quantity, shall be

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indicated on the map, filed with the application for permit. The operator shall also indicate the manner in which acid-bearing spoil will be suitably prepared for revegetation and stabilization, whether by application of mulch or suitable soil material to the surface or by some other type of treatment, subject to approval of the director.

(10) The operator shall also indicate the manner in which all permanent disposal sites will be stabilized.

(11) The certification of the maps shall read as follows: "I, the undersigned, hereby certify that this map is correct, and shows to the best of my knowledge and belief all the information required by the quarrying laws of this state." The certification shall be signed and notarized. The director may reject any map as incomplete if its accuracy is not so attested.

(d) Each applicant shall secure a performance bond or other appropriate financial assurance and insurance as required by this article.

(e) A permit may cover more than one tract of land, if the tracts are adjacent or part of the same quarrying complex, and described in the application.

(f) If a permittee has more than one permit at any quarrying site at an adjacent, or the same quarrying complex, and if the director deems appropriate, permits may be consolidated into one permit at the request of the permittee.

(g) A permit remains valid until quarrying is completed and the final inspection and report are approved or until the permit is revoked by the director.

(h) All underground quarry operations which disturb more than five acres of surface must obtain a quarry permit, including underground quarry operations located on more than one tract of land, if the tracts are adjacent or part of the same mining complex and the total disturbed area exceeds more than five acres. Those underground operations which disturb less than five acres of surface must:

(1) File a notice of intent to operate with the director at least sixty days prior to disturbance. The notice of intent to operate shall be made in writing on forms prescribed by the director and shall be signed and verified by the operator. This notice shall include the information required by subdivisions (1) through (11) and subdivision (13), subsection (b) of this section;

(2) The applicant shall publish a notice of intent to operate as a Class III legal advertisement in accordance with the provisions of article three, chapter fifty-nine of this code. The notice shall contain, in abbreviated form, the following:

(A) The name and address of the operator;

(B) The name and addresses of the surface and mineral owners;

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(C) That written comments on the application will be accepted until a specified date, within thirty days after the first date of publication of the notice;

(D) A description of the general area where the quarry will be located;

(E) The address of the office of the division to submit written comments.

(3) The director shall issue a decision to approve or deny the notice of intent to operate, within thirty days of close of the public comment period, unless the period is extended by the director to receive additional application information. The director may deny or limit permission to operate upon the finding that the underground quarry will cause serious adverse environmental impacts pursuant to section seven or eight of this article.

(4) A minimum of a $10,000 performance bond is required for each underground mining intent to operate. This performance bond shall be released if the permittee has complied with all permit requirements and has begun underground mining. Underground mining must begin within two years of receipt of a notice of intent to operate.

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