

A Citizen's Guide To **The Mining Permit Application Process**



pennsylvania
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

Department of Environmental Protection

An Equal Opportunity Employer

A CITIZEN'S GUIDE TO THE MINING PERMIT APPLICATION PROCESS

Mining Activities Requiring Permits

State mining laws require those proposing to conduct mining activities to submit permit applications to the Pennsylvania Department of Environmental Protection (DEP). The permit application must be reviewed and approved by DEP prior to starting mining activities.

In Pennsylvania, mining activities fall into one of the following categories:

- *Coal surface mining*
- *Underground coal mining*
- *Coal preparation*
- *Coal refuse disposal*
- *Coal refuse reprocessing*
- *Surface mining of industrial minerals (Large and Small noncoal)*
- *Underground mining of industrial minerals (noncoal)*

A permit may cover several activities that comprise a single operation. For example, an underground mine could have a coal preparation plant and coal refuse disposal area.

Mining activity permits are written to cover various aspects of the mining operations including reclamation, water quality protection, air quality protection, waste disposal, and mine subsidence control. State laws relating to mining and the activities requiring a permit under each law are listed in *Table 1*.

Table 1. State Laws and Permits Required*

State Law	Activity Requiring Permit
Clean Streams Law, Act 394 of 1937 35 P.S. §§ 691.1 - 691.1001	Discharging of water to streams
Surface Mining Conservation and Reclamation Act, Act 418 of 1945 52 P.S. §§ 1396.1 - 1396.31	Surface mining (and surface activities of underground mining) of anthracite and bituminous coal
Bituminous Mine Subsidence and Land Conservation Act, Act 1 of 1966 52 P.S. §§ 1406.1 - 1406.21	Underground mining of bituminous coal
Coal Refuse Disposal Control Act, Act 318 of 1968 52 P.S. §§ 30.51 - 30.66	Disposing of anthracite and bituminous coal refuse
Noncoal Surface Mining Conservation and Reclamation Act, Act 219 of 1984 52 P.S. §§ 3301- 3326	Surface mining (and surface activities of underground mining) of industrial minerals
Air Pollution Control Act, Act 787 of 1959 35 P.S. §§ 4001 - 4015	Emitting particulates to the air
Dam Safety and Encroachments Act, Act 325 of 1978 32 P.S. §§ 693.1 - 693.27	Constructing dams or other water impoundments/Encroaching upon streams and wetlands
Solid Waste Management Act, Act 97 of 1980 35 P.S. §§ 6018.101 - 6018.1003	Using coal ash, biosolids, and other industrial by-products for reclamation
*Copies of these laws are available upon request by calling 717-787-5103. The state public library in Harrisburg, Dauphin County, and many local libraries have copies of these laws available for viewing.	

Regulations

The regulations that govern mining activities can be found at PACode.com under Title 25: Environmental Protection:

- Chapter 77: Noncoal Mining (including blasting)
- Chapter 86: Surface and Underground Coal Mining: General
- Chapter 87: Surface Mining of Coal (including blasting)
- Chapter 88: Anthracite Coal (including blasting)
- Chapter 89: Underground Mining of Coal and Coal Preparation Facilities
- Chapter 90: Coal Refuse Disposal
- Chapter 211: Storage, Handling and Use of Explosives
- Chapter 290: Beneficial Use of Coal Ash

Types of Permit Applications

Mine operators may apply for a variety of permits. Each serves a specific purpose in DEP's mining regulatory program.

- ***New permit applications*** - Applications for newly proposed mining activities.
- ***Permit revision applications*** - Applications to revise an existing permit to accommodate proposed changes to the mining operation.
- ***Permit renewal applications*** - Applications to continue mining operations (coal mining permits must be renewed every five years).
- ***Permit transfer application*** - Applications to transfer a permit from one mining company to another.
- ***General permits (GP)*** - Statewide permits for specific mining activities. Applicants file a Notice of Intent to operate under at GP.

Procedures for Processing Mining Permit Applications

The application for a new Bituminous Surface Coal Mining permit is available to be submitted electronically in the ePermitting process through DEP's Greenport (depgreenport.state.pa.us). The submitted information is available for viewing online. Additional applications will be added in the future. For application updates, visit the Bureau of Mining Program home page at:

www.dep.pa.gov/Business/Land/Mining/BureauofMiningPrograms

Administrative Processing and Completeness Review

DEP has six district mining offices (DMOs) that review mining permit applications. The names, addresses, and telephone numbers of these offices, along with the permitting responsibilities, including the counties under their purview, are listed in the back of this booklet.

The DMOs follow a standardized process and timeframes for permit reviews and approvals. This is known as the Permit Decision Guarantee (PDG). The DEP established the following timeframes providing that applicants have submitted complete, technically adequate applications that address all applicable regulatory and statutory requirements.

Table 2. Mining Permit Activities and PDG Timeframes

Permit Activity	Permit Type	PDG Timeframe (In Business Days)
Underground Coal Mining Permit	New	380
	Major revision	380
	Minor revision	200
	Transfer	100
Surface Coal Mining Permit	New	130
	Major revision	130
	Minor revision	130
	Transfer	130
Industrial Minerals, Small Surface Mining Permit (less than 10,000 tons per year)	New	120
Industrial Minerals Large Surface Mining Permit (with or without groundwater pumping)	New	150
	Major revision	150
	Minor revision	130
Industrial Minerals Underground Mining Permit	New	160
	Minor revision	120

The DMOs conduct an initial completeness review of permit applications prior to formally accepting the applications for review and public notice. Applications are checked to ensure that they include all necessary signatures, fees, modules, maps, forms, and supporting information. Program staff members also review the form and content of the public notice that the applicant will publish in local newspapers. If the application is determined to

be administratively complete, the DMO notifies the applicant by letter and proceeds to publish notice of the application in the *Pennsylvania Bulletin*. State law requires DEP to conduct these administrative reviews within 20 days of the receipt of an application. However, the DMOs routinely complete these reviews in less time.

The DMO also solicits input from various federal, state, and local agencies whose interests may be affected by proposed mining activities. *Table 3* lists the agencies normally notified along with their respective areas of interest.

Table 3. Agencies and Areas of Interest

Agency	Areas
Pa. Fish and Boat Commission	Streams, wetlands, and threatened or endangered aquatic species and critical habitats
Pa. Game Commission	Wildlife and threatened or endangered wildlife species/state game lands
Pa. Historical and Museum Commission	Historic and archaeological resources
Pa. Dept. of Transportation	State highway encroachments
Pa. Dept. of Conservation and Natural Resources	State park land, state forest land, natural areas, scenic rivers, and public water supplies
U.S. Army Corps of Engineers	Flood protection projects and wetlands
U.S. Dept. of Interior/Natural Resources Conservation Service (formerly Soil Conservation Service)	Prime farmlands
County Conservation District	Soil erosion and sedimentation control practices
Local municipality	Township road encroachments and land use plans
U.S. EPA	NPDES permits

In addition to outside agencies, the DMO staff often consults with other DEP offices, including the regional offices, the Bureau of Abandoned Mine Reclamation and Bureau of Deep Mine Safety. If federally protected species are involved, coordination is with the U.S. Fish and Wildlife Services.

Technical Review

Applications deemed administratively complete are forwarded to technical staff for review. The technical review is conducted by DEP staff with expertise in geology, hydrology, mining engineering, forestry, and other relevant fields. The technical review addresses many concerns including the following.

- Potential for postmining discharge.
- Handling and treatment of water during the active mining operations.
- Adequacy of water supply replacement.
- Subsidence damage repair provisions.
- Regrading and revegetation of lands disturbed by mining.
- Protection of fish and wildlife.

As part of the technical review, program staff consider comments submitted by the public and outside agencies.

Application items that require clarification and requests for additional information are summarized in a review letter sent to the applicant for response. Depending on the nature and complexity of an application, one or more review letters are normally required.

The DMO will complete the initial technical review within 60 days of the date the application was accepted as complete. After the review letter is sent out to the applicant, the applicant has 30 days to respond, and then the DMO has 30 days to review the response. The applicant may request additional time to respond to the review letter.

Associated Authorizations

Mine operators must obtain an individual NPDES (National Pollution Discharge Elimination System) permit or GP-104 (NPDES for stormwater only) in association with their mining permit. An operation may also require additional permits or authorizations such as air quality permits (for specific processing activities), blast plan approvals (as part of the mining permit application), variances for road or stream crossings (with entity approvals through the mining permit application), or other waivers. Information about these associated activities are in the permit application.

Permit Decision and Appeal Process

The DMO provides written notice of its decision to issue or deny a mine permit to the applicant, and to each person and governmental agency who commented on the application. Upon receiving this decision, any person or agency whose interests may be impacted can appeal the decision to the Environmental Hearing Board. The Environmental Hearing Board follows

standard courtroom procedures in hearing permit appeals. All appeals must be filed within 30 days of the notice of the decision.

Public Input and Participation

The public's right to know about and comment on certain types of pending permit applications is ensured by state laws and regulations. These laws and regulations provide for the following:

- Public notices in local newspapers and the *Pennsylvania Bulletin* informing the public of the submission of a permit application.
- An opportunity to submit comments to the DMO during the time the four weekly public notices are in the local newspaper and during the 30 days following the last weekly notice.
- A complete copy of a permit application available for the public to examine at a local public office within the county where the mining activity is proposed or online.
- The public's right to request a public hearing or informal conference regarding the permit application and to present oral and written comments at that public hearing or informal conference.
- The right of anyone who attends a public hearing or informal conference to receive DEP's findings as a result of the public hearing or informal conference.
- An opportunity to view copies of all DEP review letters and applicant responses at a local public office within the county where the mining activity is proposed or online.
- Public notice of DEP's final decision on a permit application to include notice to anyone who filed a written objection or comment on the application.
- The right of a person whose interest may be affected by DEP's final decision on a permit application to appeal that decision.

* *Permit applications for small industrial minerals operations extracting less than 10,000 tons of minerals per year are processed under different requirements, specifically, the requirements of 25 Pa Code § 77.108. For instance, public notices of DEP decisions regarding these applications are published only in the Pennsylvania Bulletin – not local newspapers – to afford persons the opportunity to appeal that decision.*

Table 4 shows how these opportunities fit into the normal framework of the application review process.

Table 4. Mining Permit Application Review Process

Application Review Process	Public Involvement
A Pre-Application meeting is held to determine the scope of the proposed project and to understand any unique issues involved and which inter-agency permits may be needed.	
Applicant submits application	
DEP reviews the application to determine if it is administratively complete. If accepted, the application is entered into the tracking database.	Public is notified of the receipt of a permit application through notices in local newspaper(s), the <i>Pennsylvania Bulletin</i> or via personal online notifications within the eFACTs database.
DEP notifies outside agencies of the receipt of a permit application.	Public has opportunity to review a copy of the application filed in a local public office, DEP office, or online.
DEP assigns application to a lead reviewer and support staff.	Public has opportunity to submit comments to DEP and may request a public hearing or informal conference. (If scheduled, this will be held within 60 days after the close of the public comment period.)
DEP staff review technical aspects of application and comments submitted by outside agencies and the public.	
Lead reviewer prepares first review letter.	
Applicant responds to the first review letter.	Public has opportunity to review applicant's responses and revisions filed with the pending application.
DEP staff review responses and revisions submitted in response to first review letter.	
Lead reviewer prepares second review letter, if necessary.	
Applicant responds to second review letter, if sent.	Public has opportunity to review applicant's responses and revisions filed with the pending application.

Application Review Process	Public Involvement
DEP sends out written responses to comments received at public hearing or informal conference (if applicable).	Persons attending public hearing or informal conference receive written responses to comments received at hearing or conference.
DEP prepares written findings and makes decision to issue or deny permit.	
DEP notifies applicant of its decision to deny the permit or approve and request bond. Applicant submits bond.	If denied, citizens who have submitted comments will receive notice of permit action.

Tips for Effective Commenting

DEP welcomes comments from all members of the public and all agencies whose interests may be affected by the issuance or denial of a permit application to the attention of DEP and the permit applicant. The comments should be factual and pertinent to the permit application under review. The following are examples of effective comments:

- *There is a developed spring (or underground gas pipeline, small cemetery) on my property (or adjacent property) that is not shown on the mine maps.*
- *I understand the mine operator will be doing a pre-blast survey of my home, but the blasting plan does not include my name on the list of names of people who requested a pre-blast survey.*
- *There is an underground mine on the southwest side of my property that is not shown on application maps. If mining is approved as planned, it is likely to intercept those workings.*
- *Plans call for water supplies to be replaced by drilling to the Mahoning sandstone. In drilling my well, the driller had to case-off that interval because it contained poor quality water.*
- *The mine reclamation plan indicates my land will be used for pastureland following mining and reclamation, but I no longer raise livestock.*
- *The mining plan indicates the pond to be built to collect runoff from the mine site will be removed following mining. I would like to keep it for a fishing pond for my grandchildren after mining is completed.*

General Permits

Registration under general permits are standardized expedited processes. Notices of Intent to operate under a General Permit and issuances of registration to operate under a general permit are published in the *Pennsylvania Bulletin*. The following mining general permits are available:

- **GP-103 Short-term Construction** - Extraction of noncoal minerals to supply fill material for a specific construction project. Duration: One-year.
- **GP-105 Bluestone** - Extraction of bluestone under 5 acres. Duration: Ten years.

Contacts for Additional Information

Additional information concerning the permitting process may be obtained from any of the district mining offices listed on the back of this booklet. Please note that inquiries relating to an application for a specific mining operation should be submitted to the district mining office reviewing the application. Information may also be obtained from:

DEP Bureau of Mining Programs

P.O. Box 8461

Harrisburg, PA 17105-8461

717-787-5103

RA-EPMININGPERMITS@pa.gov

Inquiries can also be submitted to *CONTACT DEP* by visiting DEP's website at www.dep.pa.gov/About/Contact.

District Mining Offices

Office Name, Address, and Telephone Number	Permitting Responsibility
Cambria District Office 286 Industrial Park Road Ebensburg, PA 15931-4119 Telephone: 814-472-1900	Bituminous coal surface mining, coal refuse reprocessing, industrial minerals surface, and underground mining
<i>Counties:</i> Adams, Bedford, Blair, Cambria, Cumberland, Franklin, Fulton, Huntingdon, Indiana, Juniata, Mifflin, Perry, and Somerset	
New Stanton District Office 131 Broadview Road New Stanton, PA 15672 Telephone: 724-925-5557	Bituminous coal surface mining, coal refuse reprocessing, industrial minerals surface, and underground mining
<i>Counties:</i> Allegheny, Armstrong, Fayette, Greene, Washington, and Westmoreland	
Moshannon District Office 186 Enterprise Drive Philipsburg, PA 16866 Telephone: 814-342-8200	Bituminous coal surface mining, coal refuse reprocessing, industrial minerals surface, and underground mining
<i>Counties:</i> Bradford, Cameron, Centre, Clearfield, Clinton, Lycoming, Potter, Snyder, Sullivan, Tioga, and Union	
Knox District Office White Memorial Building P.O. Box 669 Knox, PA 16232-0669 Telephone: 814-797-1191	Bituminous coal surface mining, coal refuse reprocessing, industrial minerals surface, and underground mining
<i>Counties:</i> Beaver, Butler, Clarion, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Venango, and Warren	
California District Office 25 Technology Drive Coal Center, PA 15423 Telephone: 724-769-1100	Bituminous coal underground mining, coal refuse disposal, and coal preparation plants
<i>Counties:</i> All counties with bituminous underground mining	
Pottsville District Office 5 W. Laurel Blvd. Pottsville, PA 17901-2522 Telephone: 570-621-3118	Anthracite coal surface mines, refuse reprocessing, underground mining, refuse disposal, coal preparation plants, industrial minerals surface, and underground mining
<i>Counties:</i> Carbon, Lackawanna, Lehigh, Monroe, Northampton, Pike, Schuylkill, Susquehanna, Wayne, Wilkes-Barre, and Wyoming	

Glossary

- **Administrative Code.** A state law establishing administrative processes and procedures for Commonwealth departments and commissions.
- **Coal refuse.** Any waste coal, rock, slate, and related materials associated with or near a coal seam, that results from the mining of coal and cleaning or preparation of the coal.
- **Coal refuse disposal.** The placement of coal refuse on the land surface.
- **Coal refuse reprocessing.** The extraction of coal from coal refuse.
- **Environmental Hearing Board.** A state board of administrative law judges appointed by the governor that holds hearings and issues legal decisions on appeals from DEP actions (including decisions to issue or deny mining permit applications).
- **Mine subsidence.** Movement of the ground surface as a result of the collapse of underground mine workings.
- **Pennsylvania Bulletin.** A weekly state publication that serves as an official public notice of various proposals and decisions of Commonwealth Departments and Commissions.

This document and other related environmental information are available electronically at: www.dep.pa.gov, search term: Mining Offices.