

## II REFERENCE GUIDE FOR PUBLIC INVOLVEMENT



*File room in Jasonville – providing public access to the permit for every coal mine in Indiana.*

### **Permit Application Preparation**

Public participation in the granting of a coal permit is assured by SMCRA. Appropriate procedures are provided for public participation in the development, revision, and enforcement of regulations, standards, reclamation plans or programs established by the Secretary of Interior or by any state, including the State of Indiana. Citizens have a right to participate at every phase of the permit application and mining process.

While citizen participation is not, and cannot be, a substitute for governmental authority, the involvement of citizens in all phases of the regulatory scheme help ensure that the decisions and actions of the regulatory authority are grounded upon complete and full information.

Indiana law provides for citizens access to all the information and records relating to permits, inspections, bonds and all other information which the DOR uses to make decisions. There is only one exception. Information submitted by a coal operator that might jeopardize the competitive position of a coal operator with other operators is

protected from public availability. For example, information about the commercial characteristics of the coal seams to be mined.

The information in the coal company permit applications must be compiled and analyzed by various professional scientific specialists before the Division of Reclamation can accept the permit.

A professional geologist, who has been certified by the State of Indiana, must identify the components of the overburden (the rock and soil above the coal seam).

A registered professional engineer must design the construction of all structures before the permit is submitted. After construction is complete, the structure must then be certified as "built as designed."

The laboratory analysis (listing of the contents) of rock, coal and water must be complete and signed by laboratory personnel before DOR can accept the results and before the permit can be submitted.

Coal mining applicants must show that they have adequate public liability insurance by supplying certified insurance documents from companies licensed to insure in Indiana.

Archaeological concerns are addressed with various levels of investigation at the permit site. The archaeological investigation must come from a qualified professional who is listed by the U.S. Department of Interior as having met the necessary professional qualifications.

The Indiana Secretary of State provides Certificates of Existence for each applicant certifying the corporation has filed its most recent annual report required by law.

An Indiana Certified Blasting licensee must have designed all of the operational blasting plans submitted by the permit applicant. This provides continuity in the design of the blasting operation and ensures that blasting regulation requirements will be met.

Public concerns come from places other than the regulatory authority and public hearings. Agencies charged with specific public responsibilities have an opportunity to comment on each permit application. Each permit application is subject to an opportunity for comments from:

- U.S. Department of Fish and Wildlife
- U.S. Department of Labor
- Department of the Army (Corps of Engineers)
- U.S. Mine Safety and Health Administration
- Indiana Bureau of Mines and Safety
- Indiana Department of Environmental Management
- Indiana Division of Fish and Wildlife
- Indiana Division of Forestry
- Indiana Division of Historic Preservation
- Indiana Division of Nature Preserves
- County Agriculture Agents
- County Commissioners.

## **Permit Application Review Process**

When a properly completed permit application (*administratively complete*) is accepted for review, the coal mine operator will publish a public notice in a local

newspaper. This notice must appear once a week for 4 (four) consecutive weeks. The fourth notice marks the beginning of a 30-day period for public comment. Also, anyone who has property that is either inside or next to the permit area will receive in the mail a notice from the coal mine operator. This allows citizens the opportunity to request an informal conference or public hearing about the permit application. A request for an informal conference must be in writing and sent to the DOR. In the letter, you should explain how the permit might adversely affect your interests and briefly summarize the issues to be raised at the conference.

Following the publication of the notice in the newspaper, any interested party has the right to review the application and make written comment to DOR. The application can be reviewed at a library in the county where the mine will be located (see **Table 1**) or at the DOR field office in Jasonville. Written comments should be specific to the application and provide as much information as possible concerning omissions, inaccurate representations, or other areas of concern. All comments received will be addressed during the technical review of the application.

During the public comment period, A request for an informal conference or public hearing can be made to DOR. Requests should be made in writing to:

Director of the Division of Reclamation  
R.R.2 Box 129  
Jasonville, IN 47438-9517

Requests must identify the reason(s) for making the request. The purpose of an informal conference or public hearing is to provide information to the Division concerning the application. The conference or hearing provides a second avenue of public input during the permitting process. It is possible that the person in charge of an informal conference or public hearing will allow the submission of written comments as part of the process. A decision to accept additional written comment is made on a case-by-case basis and is based on the anticipated nature and content of the additional written comment. As with written comments submitted during normal public input, comments received in an informal conference or public hearing will be considered during the technical review of the application.

After the public comment period has ended, the Director will determine whether the application must be modified to conform to rules and law. Any required modifications will be detailed in a letter from the DOR Director. A copy of the letter will be filed in the public library in the county where the proposed coal mine is to be located and at the DOR field office in Jasonville. In both places, the letter will be available for public inspection. When the coal mine operator responds to the letter of required modifications, the DOR Director will release the DNR written permit application decision findings document. It will respond to citizen comments received during the public review period. A newspaper advertisement will announce the decision of the DOR Director.

If an interested party feels that a concern has not been addressed sufficiently and that the approval or denial of an application has been inconsistent with the requirements of IC 14-34, formal objections to the decision can be filed. These objections will be heard before an administrative law judge (ALJ) who, on the basis of the record before the Director, will render a recommended decision concerning the appropriateness of the decision to the Natural Resources Commission. Citizens may file written objections and provide oral testimony to the Commission, who will render the final DNR order on the permit application.

If an affected party continues to disagree with the permit decision, a judicial appeal to an Indiana court may be filed.

Citizen participation during a permit amendment, significant revision, or renewal is the same as those for a permit application.

**County Library List  
Table 1**

**Clay**

Brazil Public Library  
204 North Walnut Street  
Brazil, IN 47834

**Daviess**

Washington Carnegie Public Library  
300 West Main Street  
Washington, IN 47501

**Dubois**

Jasper Public Library  
1116 Main Street  
Jasper, IN 47546

**Fountain**

Covington Public Library  
620 5<sup>th</sup> Street  
Covington, IN 47932

**Gibson**

Princeton Public Library  
126 South Hart Street  
Princeton, IN 47670

**Greene**

Linton Public Library  
110 East Vincennes Street  
P.O. Box 613  
Linton, IN 47441

**Knox**

Knox County Public Library  
502 North 7<sup>th</sup> Street  
Vincennes, IN 47591

**Lawrence**

Lawrence County Cont. Public Library  
1323 K. Street  
Bedford, IN 47421

**Martin**

Shoals Public Library  
Fourth and High Streets  
P.O. Box 189  
Shoals, IN 47581

**Monroe**

Monroe County Public Library  
303 East Kirkwood Avenue  
Bloomington, IN 47401

**Owen**

Spencer-Owen County Cont. Public Library  
110 East Market  
Spencer, IN 47460

**Parke**

Rockville Public Library  
106 North Market Street  
Rockville, IN 47872

**Perry**

Tell City-Perry Co. Cont. Public Library  
909 Franklin Street  
Tell City, IN 47586

**Pike**

Pike County Library  
c/o St. Barrett Memorial Public Library  
1104 Main Street  
Petersburg, IN 47567

**Posey**

Alexandrian Free Public Library  
520 Main Street  
Mount Vernon, IN 47620

**Spencer**

Rockport-Ohio Township Public Library  
Third and Walnut Street  
Rockport, IN 47635

**Sullivan**

Sullivan County Public Library  
100 South Crowder  
Sullivan, IN 47882

**Vanderburgh**

Evansville-Vanderburgh County Public Library  
22 South East 5<sup>th</sup> Street  
Evansville, IN 47708

**Vermillion**

Clinton Public Library  
313 South 4<sup>th</sup> Street  
Clinton, IN 47842

**Vigo**

Vigo County Public Library  
One Library Square  
Terre Haute, IN 47807

**Warrick**

Boonville-Warrick County Public Library  
611 West Main  
Boonville, IN 47601-1573

## **Pre-Blast Survey**

At least 30 days before the initiation of blasting at a mine site, the operator must notify in writing all residents living within one-half mile of the permit area on how to request a pre-blast survey. The purpose of the pre-blast survey is to determine the condition of a dwelling or structure and document any pre-blasting damage and other physical factors that could reasonably be affected by the proposed blasting.

Additionally, regulations provide that any citizen within 1 (one) mile of the permit area is entitled to request a survey. A coal operator places a notice in a local newspaper in the county in which blasting will occur for 4 (four) consecutive weeks informing residents within one mile of the permit area of the opportunity to obtain a pre-blast survey. The coal operator must also mail a blasting schedule to every resident within one-half mile of the blasting area. It is the responsibility of the coal operator to conduct the pre-blast survey or contract the work out. *The Division encourages residents eligible for a pre-blast survey to take the time to request one.* Requests can be made either to the coal mine operator or to the Division of Reclamation. There is no fee for a pre-blast survey.

## **Request for State Inspection**

Indiana regulations provide that citizens can request that a coal mine inspection if they believe that any condition or practice at a mine is in violation of the law. Such requests, generally known as citizen complaints, should be filed in writing and be as specific as possible in describing the condition believed to be in violation. Specific information is needed to assure that the state inspector can accurately determine the nature of the complaint and fully investigate the situation. Complaints or requests should also contain the name of the coal mine operator, the permit number, and an address and telephone number where the citizen can be contacted. Citizens have the right to accompany the Division on inspections resulting from their complaints. Citizen complaints will be held confidential if requested. Citizens who choose to participate in the inspection waive confidentiality.

Complaints filed by telephone will be investigated by the Division at its earliest opportunity. The results of the investigation may be found in regular inspection reports filed at the county library. Complaints filed by telephone that allege significant imminent environmental harm or an imminent danger to the health and safety of the public as defined by law, or which the Division believes requires an immediate response will be investigated as soon as possible. In these cases the state inspector may arrange to meet the citizen to investigate. The inspector will also ask that a written complaint be filled out and signed by the citizen making the complaint.

All citizen complaints are investigated. Inspections in response to written requests will be conducted within 10 days of receiving the request and a written report detailing the results of the investigation will be provided to the citizen within 10 days of the inspection. Requests or complaints filed by telephone and not followed up in writing will be investigated at the earliest opportunity during the course of regular inspections and no direct reply to the citizen will be provided.

## **Bond Release**

As with other areas of the Division's work, citizens are able to provide input during all phases of bond release.

An operator must formally apply for the release of all or part of the bond or deposit. As part of this procedure the operator must:

- publish a newspaper advertisement once a week for 4 (four) consecutive weeks announcing the bond release request
- show the precise location of affected land
- provide the number of acres being requested
- provide the amount of bond filed and the portion being sought for release
- provide the type and dates of reclamation work performed
- provide a description of the results achieved by the reclamation.

Upon publication in the newspaper of the fourth advertisement about the bond release request; within 30 days, any person with a valid legal interest who might be adversely affected by the request, can file written objections with the Division or request a public hearing or informal conference.

The DOR must conduct, in a timely manner, an inspection and evaluation of the reclamation work involved. The Division will notify the landowner, agent or lessee of the inspection. The DOR encourages citizen participation in the bond release inspection. The Division will evaluate compliance with the approved plan including:

- restoration of the approximate
- original contour
- soil replacement thickness
- crop productivity records
- number of living trees or shrubs
- present per acre
- erosion control
- water quality
- plant coverage and type
- impoundment designs

The Director may release the whole bond or part of it, when the coal mine operator demonstrates that the reclamation covered by the bond has been performed as required and public notice requirements have been met. When an operator completes the backfilling, re-grading and drainage control of a bonded area as specified in the reclamation plan, as much as 60% of the bond may be released. After vegetation has been established on the re-graded mined lands, as much as 25% of the bond may be released. Release of the last portion of the bond happens when an operator has successfully completed all the remaining mining and reclamation requirements. Citizens can provide input at any stage of bond release.

Any landowner, coal operator or other potentially adversely affected party can request a review and hearing on the DOR bond release decision before a Department ALJ. If a party continues to disagree, judicial review can be sought.

## Rulemaking

Any person may petition the DOR Director or the Natural Resources Commission to initiate a proceeding for the adoption, amendment or repeal of any rule that enforces Indiana Code 14-34. The petitioner must set forth facts that necessitate the promulgation, amendment or repeal of that rule. The petition must specify the proposed rule that is to be adopted, amended or repealed and indicate if the petitioner desires a hearing. Within 90 days of receipt of the petition, the Natural Resources Commission shall either grant or deny the petition.

## Summary

The Division of Reclamation values hearing from citizens. What you have to say about a permit application is very important to us. It is important for you to know that your comments and concerns will receive the careful examination they deserve and be considered to the fullest extent allowed by the law. DOR encourages citizens to use the opportunities explained in this guide book to be better informed about surface coal mining and the DOR. By having such knowledge, you will be able to better present and protect your interests. If you have any questions about coal mining or DOR, you are welcome to contact:

Division of Reclamation  
Indiana Department of Natural Resources  
RR 2, Box 129  
Jasonville, IN 47438-9517  
**1-800-772-MINE (6463)**  
(Toll-Free only in Indiana)  
1-812-665-2207  
1-812-665-5041 FAX  
[www.in.gov/dnr/reclamation/](http://www.in.gov/dnr/reclamation/)