

**DEPARTMENT OF MINES, MINERALS AND ENERGY
DIVISION OF MINED LAND RECLAMATION**

GUIDANCE MEMORANDUM¹ No. 9-04

Issue Date: February 17, 2004

Subject: Requirements for Permit Transfer

In order to expedite the review process and to incorporate this activity into the electronic permitting process, this memorandum identifies the information that is needed in an application for permit transfer.

The application for permit transfer (succession) should contain forms: **DMLR-PT-034p**, **DMLR-PT-034e**, and **DMLR-PT-034o** (only if adding an operator).

DMLR-PT-034p

Complete all items concerning the permittee information.

DMLR-PT-034e

- a. Answer ALL the Yes/No questions throughout the application as they pertain to the existing permit.
- b. Include the appropriate code (A, C or D) to information contained in the following items: 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.12, 4.2, 5.3, 5.7, 5.12, 5.15, 7.1, 7.6, 10.3, 11.2, 12.2, 14.1, and 17.1.
- c. Complete all information in Sections I, II, III, V, XIX and XXI.

Section II -

- d. Include a current certificate of liability insurance, and rider (4 VAC 25-130-778.18 and 4 VAC 25-130-800.60) - attach in Item 2.5.
- e. Include a sample public notice (example attached) - attach in Item 2.6.
- f. Include the original Certificate of Publication² - attach in Item 2.7.

¹ This Memorandum is to be considered a guideline issued under the authority of § 45.1-230.A1 of the Code of Virginia which reads:

"In addition to the adoption of regulations under this chapter, the Director may at his discretion issue or distribute to the public interpretative, advisory or procedural bulletins or guidelines pertaining to permit applications or to matters reasonably related thereto without following any of the procedures set forth in the Administrative Process Act (§ 2.2-4000 et seq.). The materials shall be clearly designated as to their nature, shall be solely for purposes of public information and education, and shall not have the force of regulations under this chapter or under any other provision of this Code."

² Upon obtaining a publication number from the field inspector, the public notice should be published in a newspaper of general circulation in the locality of the operation for one (1) week. A 30-day public comment period will commence on the date of the publication. A copy of the application should be at the DMLR's Big Stone Gap office on the first day of publication. The original Certificate of Publication is to be submitted as an attachment in Item 2.7.

Section III -

- g. Include a completed relinquishment form (DMLR-PT-027) - attach in Item 3.13.

Section V -

- h. Include a completed DMLR-PT-128 (NPDES application form) - attach in Item 5.15.

Section XIX -

- i. Include a completed Coal Surface Mining Reclamation Fund³ application form (DMLR-PT-162), if applicable - attach in Item 19.1.
j. Include a brief narrative describing the bonding plan and amounts - attach in Item 19.1.

Section XXI

- k. Include a notarized statement that the applicant will assume the terms and conditions of the original permit # _____, presently permitted to _____ - attach in Item 21.1.
l. Include a notarized statement that the new permittee will abate any existing violations within a period acceptable to DMLR - attach in Item 21.1.
m. Include a proof of consummation (*example attached: Section 4 VAC 25-130-774.17 (e)(2)*) - attach in Item 21.1.
NOTE: Items "k, l, and m" may be included in one document and attached in Item 21.1).
n. Include a completed application certification form (DMLR-PT-034d) - attach in Item 21.1.
o. Include a certified map that identifies the remaining coal reserves (underground only) - attach in Item 21.2.

DMLR-PT-034o

Complete all items concerning the operator information as requested.

Note: If a new operator is being added at the time of transfer, the appropriate information should be included in the public notice. If an existing operator is to be removed, that should be done prior to getting the data download for the transfer application.

The transfer application material should be completed and submitted to the Inspector for review. This would include the electronic copy along with the package containing the original signature documents. If the application is submitted in paper format the original and one copy should be submitted.

After review of the application material and completion of the public comment period, the following items will be required for final decision on the permit transfer application:

³ The company may apply to participate in the Coal Surface Mining Reclamation Fund if coal production will occur under the new permit.

- i. A current original affidavit for proof of payment of reclamation fees (DMLR-PT-244) (a new affidavit is required for the previous quarter, 30 days following the end of that quarter)
- ii. Replacement of bond (current bond will be released to the original permittee when the transfer application is approved and bond replaced).
- iii. Permit fees at \$26.00 per acre and any portion thereof.
- iv. Reclamation fund entrance fee (4 VAC 25-130-801.12(a)), if applicable.
- v. Original ownership and control affidavits (DMLR-PT-240).

ADDITIONAL NOTES:

- If a permit renewal application is currently in review, the renewal should be approved prior to requesting a data download for the transfer application.
- If a permit renewal application is submitted while a transfer application is being reviewed, the Division's decision on the permit renewal application will be made first. The transfer application would have to be updated to reflect any changes made as a result of the renewal application approval.
- If there are two or more applications submitted for the permit being transferred (e.g., transfer or revision applications):
 - ❖ If the transfer application is approved and processed prior to the Division's decision on the other application(s), the pending application(s) will be denied. The applicant or consultant would need to obtain a new data download for the pending application(s) using the new permit number.
 - ❖ If the additional application(s) is/are approved and processed (for the existing permit) prior to the Division's decision on the transfer application, the applicant or consultant will be directed to incorporate the new data from the approved application(s) into the transfer application (in order to ensure all data has been captured).

Should you have any questions regarding permit transfer process or the electronic permitting requirements, please contact the Division of Mined Land Reclamation's Reclamation Program Manager at (276) 523-8202.

BASIC PUBLIC NOTICE FORMAT (1 week/30 day comment)

EXAMPLE - Transfer, Assignment, Sale of Permit Rights - Application

PUBLIC NOTICE
APPLICATION FOR TRANSFER,
ASSIGNMENT, OR SALE OF PERMIT RIGHTS
UNDER CHAPTER 19, TITLE 45.1 OF THE CODE OF VIRGINIA

PUBLICATION NUMBER: _____

(Company Name and Business Address) is applying for the transfer, assignment,
or sale of the permit rights of **(Current Permittee and Business Address)** concerning Permit
No. _____ located in _____ County _____ **(Precise Location)**
as provided by 4 VAC 25-130-774.17 of the **Virginia Coal Surface Mining Reclamation
Regulations.**

Any person with a valid legal interest which might be adversely affected by this application to transfer, assign, or sell the permit rights of the aforementioned permit, may within 30 days of **(Date of Publication)** submit written comments concerning the application to the Division of Mined Land Reclamation. All correspondence concerning the application should be submitted to the attention of the Division of Mined Land Reclamation's Permit Section at Post Office Drawer 900; Big Stone Gap, Virginia 24219. Written comments may be e-mailed to the Division at DmlrPublicNotice@dmme.virginia.gov.

Questions concerning the application review process may be directed to the Permit Section at (276) 523-8202.

EXAMPLE:

Proof of Consummation

The purpose of this succession application is to transfer Virginia Division of Mined Land Reclamation Permit Number xxxxxxx from (**Relinquishing Company Name**) to (**Succession Company Name**).

The application (#xxxxxxx) is based upon an (**agreement, contract, lease, etc.**) dated (**Date**) between (**Relinquishing Company Name**) and (**Succession Company Name**) to:

- Assume the terms and conditions of listed Virginia Division of Mined Land Reclamation permit.
- Bond xxxxxxx acres by (**type of bond, surety, letter of credit, CD, etc.**)
- Abate any existing violations associated with the listed Virginia Division of Mined Land Reclamation permit in a timely manner.

Signed: _____ Title: _____

Subscribed and sworn/affirmed to before me by _____

this ____ day of _____, 20____, in the State of _____

City/County of _____ .

Notary Public Signature My Commission Expires _____

Notary Public Signature

(attach SEAL)