



28 (iii) the holders<sub>2</sub> of record<sub>2</sub> of any leasehold interest in the property;  
29 (iv) any purchaser<sub>2</sub> of record<sub>2</sub> of the property under a real estate contract;  
30 (v) the operator<sub>2</sub> if he is a person different from the applicant; and  
31 (vi) ~~if any of these are business entities other than a single proprietor;~~ the names and  
32 addresses of the principals, officers, and resident agent for service of process, if any of these are  
33 business entities other than a single proprietor.

34 (b) ~~[An]~~ (i) A permit application shall include:

35 (A) an accurate map or plan, to an appropriate scale, clearly showing the land to be  
36 affected as of the date of the application, and the area of land within the permit area upon which  
37 the applicant has the legal right to enter and commence surface mining operations[;]; and

38 (B) a statement of those documents upon which the applicant bases his legal right to enter  
39 and commence surface mining operations on the area affected, and whether that right is the subject  
40 of pending court litigation[; ~~but this~~].

41 (ii) This chapter may not be construed as vesting in the division the jurisdiction to  
42 adjudicate property title disputes.

43 (c) (i) A permit application shall also include a:

44 (A) determination of the probable hydrologic consequences of the mining and reclamation  
45 operations, both on and off the mine site with respect to the hydrologic regime[;];

46 (B) determination of the quantity and quality of water in surface and groundwater systems,  
47 including the dissolved and suspended solids under seasonal flow conditions[;]; and ~~the~~

48 (C) collection of sufficient data for the mine site and surrounding areas so that an  
49 assessment can be made by the division of the probable cumulative impacts of all anticipated  
50 mining in the area upon the hydrology of the area and, particularly, upon water availability[; ~~but~~  
51 ~~this~~].

52 (ii) The determination required under Subsection (2)(c)(i) shall not be required until [~~such~~  
53 ~~time as~~] the hydrologic information on the general area prior to mining is made available from an  
54 appropriate federal or state agency.

55 (iii) The permit shall not be approved until [~~this~~] the information required under this  
56 section is available and is incorporated into the application.

57 (d) (i) A ~~[statement of]~~ permit application will also include the following information:

58 (A) the result of test borings or core samplings from the permit area, including logs of the

59 drill holes;

60 (B) the thickness of the coal seam found;

61 (C) an analysis of the chemical properties of ~~[such]~~ the coal;

62 (D) the sulfur content of any coal seam;

63 (E) chemical analysis of potentially acid or toxic-forming sections of the overburden; and

64 (F) chemical analysis of the stratum lying immediately underneath the coal to be mined[;  
65 ~~except that the provisions~~].

66 (ii) Application requirements of this Subsection (2) may be waived by the division ~~[with~~  
67 ~~respect to the specific application by]~~ if there is a written determination that these requirements  
68 are unnecessary.

69 ~~[(3) If the division finds that the probable total annual production at all locations of any~~  
70 ~~coal surface mining operator will not exceed 100,000 tons, the determination of probable~~  
71 ~~hydrologic consequences required by Subsection (2)(c) and the statement of the result of test~~  
72 ~~borings or core samplings required by Subsection (2)(d) shall, upon the written request of the~~  
73 ~~operator, be performed by a qualified public or private laboratory designated by the division; and~~  
74 ~~the cost of the preparation of this determination and statement shall be assumed by the division.]~~

75 (3) (a) If the division finds that the probable total annual production at all locations of a  
76 coal surface mining operator will not exceed 300,000 tons, and if funding is available under the  
77 Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. Sec. 1201 et seq., the cost of the  
78 following activities shall be paid by the division, upon the written request of the operator in  
79 connection with a permit application:

80 (i) the determination of probable hydrologic consequences required by Subsection (2)(c),  
81 including the engineering analyses and designs necessary for the determination;

82 (ii) the development of cross-section maps and plans of the land to be affected, including  
83 the area to be mined;

84 (iii) the geologic drilling and statement of results of test borings and core samplings  
85 required by Subsection(2)(d);

86 (iv) the collection of archaeological and historical information required by the division,  
87 and the preparation of those plans;

88 (v) preblast surveys required by Subsection 40-10-17(2)(o); and

89 (vi) the collection of site-specific resource information and production of protection and

90 enhancement plans for fish and wildlife habitats and other environmental values required by the  
91 division under this act.

92 (b) The activities specified in Subsection (3)(a) shall be performed by a qualified public  
93 or private laboratory or other qualified public or private entity designated by the division.

94 (c) A coal operator who has received assistance pursuant to this Subsection (3) shall  
95 reimburse the division for the cost of the services rendered, if the division finds that the operator's  
96 actual and attributed annual production of coal for all locations exceeds 300,000 tons during the  
97 12 months immediately following the date on which the operator is issued the surface coal mining  
98 and reclamation permit.

99 (4) (a) Information pertaining to coal seams, test borings, core samplings, or soil samples  
100 or other equivalent information, as required by this section, shall be made available to [~~any~~] a  
101 person [~~with an~~] whose interest [~~which~~] is, or may be, adversely affected[~~; but information~~].

102 (b) Information which pertains only to the analysis of the chemical and physical properties  
103 of the coal [~~excepting~~], except information regarding any mineral or elemental content which is  
104 potentially toxic to the environment[~~]~~, shall be kept confidential and not made a matter of public  
105 record.

106 (5) [~~Each~~] An applicant for a surface coal mining and reclamation permit shall file a copy  
107 of the application [~~for public inspection~~] with the county clerk of the county, or an appropriate  
108 public office approved by the division where the mining is proposed to occur, except for [~~that~~]  
109 information pertaining to the coal seam itself.

110 (6) [~~Each~~] (a) An applicant for a permit shall be required to submit to the division as part  
111 of the permit application a certificate issued by an insurance company, authorized to do business  
112 in the state, certifying that the applicant has a public liability insurance policy in force for the  
113 surface mining and reclamation operation for which the permit is sought, or evidence that the  
114 applicant has satisfied other state or federal self-insurance requirements.

115 (b) The policy shall:

116 (i) provide for personal injury and property damage protection in an amount adequate to  
117 compensate any persons damaged as a result of surface coal mining and reclamation operations,  
118 including the use of explosives, and entitled to compensation under the applicable provisions of  
119 state law[~~. The policy shall~~]; and

120 (ii) be maintained in full force and effect during the terms of the permit or any renewal,

121 including the length of all reclamation operations.

122 (7) ~~[Each]~~ An applicant for a surface coal mining and reclamation permit shall submit to  
123 the division, as part of the permit application, a blasting plan which shall outline the procedures  
124 and standards by which the operator will meet the provisions of Subsection 40-10-17(2)(o).

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**Legislative Review Note**  
**as of 1-30-02 1:58 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**