

except when the Secretary, with the recommendation of the Land Reclamation Committee and the approval of the Board of Public Works, determines that the mining could occur in conjunction with public construction activities that will disturb the vegetation and topsoil of State land. If the Department's failure to issue, extend or renew a permit involves taking a property right without just compensation in violation of the Constitution of the United States or the Constitution of Maryland and the General Assembly has not appropriated sufficient funds to pay the compensation, the State may use available funds under Program Open Space to purchase or otherwise pay for the property rights.

(2) Subject to valid existing rights, as that term is used in the federal Surface Mining Control and Reclamation Act of 1977, the Department may not issue, extend or renew any permit:

(i) Which would adversely affect any publicly owned park or place recorded in the National Register of Historic Sites, unless approved by the federal, State or local agency with jurisdiction over the park or historic site;

(ii) Within the Youghiogheny River scenic corridor, notwithstanding any other provision of law;

(iii) Within 100 feet of the outside right-of-way line of any public road (except where mine access roads or haulage roads join the right-of-way line), unless the Department, after a public hearing in the locality, determines that the interests of the public and the affected landowners will be protected;

(iv) Within 300 feet from any occupied dwelling, unless waived by the owner thereof;

(v) Within 300 feet of any public building, school, public park, church, community or institutional building; or

(vi) Within 100 feet of a cemetery.

(c) The permit application shall be submitted in a manner satisfactory to the Department and shall contain at a minimum:

(1) A copy of the applicant's advertisement to be published in a newspaper of general circulation in the county of the proposed mining site at least once a week for 4 successive weeks, and which includes the ownership of the land affected, a description of the location and boundaries of the proposed site sufficient so that the proposed operation is easily locatable by local residents, the location of where the application is available for public inspection, and notice that public comment will be received by the Department for at least 30 days after the last newspaper publication;