WEST VIRGINIA CODE: §22-3-19

§22-3-19. Permit revision and renewal requirements; incidental boundary revisions; requirements for transfer; assignment and sale of permit rights; operator reassignment; and procedures to obtain inactive status.

(a)(1) Any valid permit issued pursuant to this article carries with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holders of the permit may apply for renewal and the renewal shall be issued: Provided, That on application for renewal, the burden is on the opponents of renewal, unless it is established that and written findings by the secretary are made that: (A) The terms and conditions of the existing permit are not being satisfactorily met: Provided, however, That if the permittee is required to modify operations pursuant to mining or reclamation requirements which become applicable after the original date of permit issuance, the permittee shall be provided an opportunity to submit a schedule allowing a reasonable period to comply with such revised requirements; (B) the present surface mining operation is not in compliance with the applicable environmental protection standards of this article; (C) the renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas; (D) the operator has not provided evidence that the bond in effect for said operation will continue in effect for any renewal requested as required pursuant to sections eleven or twelve of this article; or (E) any additional revised or updated information as required pursuant to rules promulgated by the secretary has not been provided.

(2) If an application for renewal of a valid permit includes a proposal to extend the surface mining operation beyond the boundaries authorized in the existing permit, that portion of the application for renewal which addresses any new land area is subject to the full standards of this article, which includes, but is not limited to: (A) Adequate bond; (B) a map showing the disturbed area and facilities; and (C) a reclamation plan.

(3) Any permit renewal shall be for a term not to exceed the period of time for which the original permit was issued. Application for permit renewal shall be made at least one hundred twenty days prior to the expiration of the valid permit.

(4) Any renewal application for an active permit shall be on forms prescribed by the secretary and shall be accompanied by a filing fee of $3,000. The application shall contain such information as the secretary requires pursuant to rule.

(b)(1) During the term of the permit, the permittee may submit to the secretary an application for a revision of the permit, together with a revised reclamation plan.

(2) An application for a significant revision of a permit is subject to all requirements of this article and rules promulgated pursuant thereto and shall be accompanied by a filing fee of $2,00.

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(3) Any extension to an area already covered by the permit, except incidental boundary revisions, shall be made by application for another permit. If the permittee desires to add the new area to his or her existing permit in order to have existing areas and new areas under one permit, the secretary may so amend the original permit: Provided, That the application for the new area is subject to all procedures and requirements applicable to applications for original permits under this article and a filing fee of $550.

(c) The secretary shall review outstanding permits of a five-year term before the end of the third year of the permit. Other permits shall be reviewed within the time established by rules. The secretary may require reasonable revision or modification of the permit following review: Provided, That such revision or modification shall be based upon written findings and shall be preceded by notice to the permittee of an opportunity for hearing.

(d) No transfer, assignment or sale of the rights granted under any permit issued pursuant to this article may be made without the prior written approval of the secretary, application for which shall be accompanied by a filing fee of $1,500 for transfer or $1,500 for assignment.

(e) Each request for inactive status shall be submitted on forms prescribed by the secretary, shall be accompanied by a filing fee of $2,00, and shall be granted in accordance with the procedure established in the Surface Mining and Reclamation Rule.

(f) The secretary shall promulgate for review and consideration by the West Virginia Legislature legislative rules or emergency rules during the 2016 Regular Session of the West Virginia Legislature revisions to rules for granting inactive status under this article. The secretary shall specifically consider the adoption of federal standards codified at 30 C. F. R. §816.131 (1979) and 30 C. F. R. §817.131 (1979).

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