WEST VIRGINIA CODE: §22-3-8

§22-3-8. Prohibition of surface mining without a permit; permit requirements; successor in interest; duration of permits; proof of insurance; termination of permits; permit fees.

(a) No person may engage in surface mining operations unless he or she has first obtained a permit from the secretary in accordance with the following:

(1) All permits issued pursuant to the requirements of this article shall be issued for a term not to exceed five years: Provided, That if the applicant demonstrates that a specified longer term is reasonably needed to allow the applicant to obtain necessary financing for equipment and the opening of the operation, and if the application is full and complete for the specified longer term, the secretary may extend a permit for a longer term: Provided, however, That subject to the prior approval of the secretary, with the approval being subject to the provisions of subsection (c), section eighteen of this article, a successor in interest to a permittee who applies for a new permit, or transfer of a permit, within thirty days of succeeding to the interest and who is able to obtain the bond coverage of the original permittee, may continue surface mining and reclamation operations according to the approved mining and reclamation plan of the original permittee until the successor's permit application or application for transfer is granted or denied.

(2) Proof of insurance is required on an annual basis.

(3) A permit terminates if the permittee has not commenced the surface mining operations covered by the permit within three years of the date the permit was issued: Provided, That the secretary may grant reasonable extensions of time upon a timely showing that the extensions are necessary by reason of litigation precluding commencement, or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee: Provided, however, That with respect to coal to be mined for use in a synthetic fuel facility or specific major electric-generating facility, the permittee shall be considered to have commenced surface mining operations at the time the construction of the synthetic fuel or generating facility is initiated.

(4) Each application for a new surface mining permit filed pursuant to this article shall be accompanied by a fee of $3,500. All permit fees and renewal fees provided in this section or elsewhere in this article shall be collected by the secretary and deposited with the Treasurer of the State of West Virginia to the credit of the Operating Permit Fees Fund and shall be used, upon requisition of the secretary, for the administration of this article.

(5) Prior to the issuance of any permit, the secretary shall ascertain from the Commissioner of the Division of Labor whether the applicant is in compliance with section fourteen, article five, chapter twenty-one of this code. Upon issuance of the permit, the secretary shall forward a copy to the Commissioner of the Division of Labor, who shall assure continued

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compliance under the permit.

(6)(A) Prior to the issuance of any permit the secretary shall ascertain from the Executive Director of Workforce West Virginia and the Insurance Commissioner whether the applicant is in compliance with the provisions of section six-c, article two, chapter twenty-one-a of this code and section five, article two, chapter twenty-three of this code with regard to any required subscription to the Unemployment Compensation Fund or to the Workers' Compensation Fund, the payment of premiums and other charges to the fund, the timely filing of payroll reports and the maintenance of adequate deposits. If the applicant is delinquent or defaulted, or has been terminated by the executive director or the Insurance Commissioner, the permit may not be issued until the applicant returns to compliance or is restored by the executive director or the Insurance Commissioner under a reinstatement agreement: Provided, That in all inquiries the Executive Director of Workforce West Virginia and the Insurance Commissioner shall make response to the Department of Environmental Protection within fifteen calendar days; otherwise, failure to respond timely is considered to indicate the applicant is in compliance and the failure will not be used to preclude issuance of the permit.

(B) It is a requirement of this article that each operator maintain continued compliance with the provisions of section five, article two, chapter twenty-three of this code and section six-c, article two, chapter twenty-one-a of this code and provide proof of compliance to the secretary on a quarterly basis.

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