WEST VIRGINIA CODE: §22A-2-63

§22A-2-63. No mine to be opened or reopened without prior approval of the Director of the Office of Miners' Health, Safety and Training; certificate of approval; approval fees; extension of certificate of approval; certificates of approval not transferable; section to be printed on certificates of approval.

(a) No mine may be opened or reopened unless prior approval has been obtained from the Director of the Office of Miners' Health, Safety and Training. The director may not unreasonably withhold approval. The operator shall pay a fee of $100 for the approval, which shall be tendered with the application for approval: Provided, That mines producing coal solely for the operator's use shall be issued a permit without charge if coal production will be less than fifty tons a year.

Within thirty days after January 1, of each year, the holder of a permit to open a mine shall apply for the extension of the permit for an additional year. The permit, evidenced by a document issued by the director, shall be granted as a matter of right for a fee of $100 if, at the time application is made, the permit holder is in compliance with the provisions of section seventy-seven of this article and has paid or otherwise appealed all coal mine assessments issued to the mine if operated by the permit holder and imposed under article one of this chapter. Applications for extension of permits not submitted within the time required shall be processed as an application to open or reopen a mine and shall be accompanied by a fee of $100.

(b) Permits issued pursuant to this section are not transferable.

(c) If the operator of a mine is not the permit holder as defined in subsection (a) of this section, then the operator shall apply for and obtain a certificate of approval to operate the mine on which the permit is held prior to commencing operations. The operator shall pay a fee of $100, which payment shall be tendered with the application for approval. The approval, evidenced by a certificate issued by the director, shall be granted if, at the time application is made, the applicant is in compliance with the provisions of section seventy-seven of this article and has paid or otherwise appealed all coal mine assessments imposed on the applicant for the certificate of approval under article one of this chapter.

(d) In addition to the director's authority to file a petition for enforcement under subdivision (4), subsection (a), section twenty-one, article one of this chapter, if an operator holding a certificate of approval issued pursuant to subsection (c) of this section, has been assessed a civil penalty in accordance with section twenty-one, article one of this chapter, and its implementing rules, and the penalty has become final, fails to pay the penalty within the time prescribed in the order, the director or the authorized representative of the director, by certified mail, return receipt requested, shall send a notice to the operator advising the operator of the unpaid penalty. If the penalty is not paid in full within sixty days from the issuance of the notice of delinquency by the director, then the director may revoke the

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operator's certificate of approval: Provided, That the operator to whom the delinquency notice is issued has thirty days from receipt of the delinquency notice to request, by certified mail, return receipt requested, a public hearing held in accordance with the procedures of section seventeen, article one of this chapter, and its implementing rules, including application for temporary relief. Once the operator's certificate of approval is revoked pursuant to this subsection, the operator may not obtain any certificate of approval under the provisions of this section to operate any other mine until that operator pays the delinquent penalties that have become final.

(e) Every firm, corporation, partnership or individual that contracts to perform services or construction at a coal mine is considered to be an operator and shall apply for and obtain a certificate of approval prior to commencing operations: Provided, That these persons shall only be required to obtain one certificate annually: Provided, however, That persons such as, but not limited to, consultants, mine vendors, office equipment suppliers and maintenance and delivery personnel are excluded from this requirement to obtain a certificate of approval. Operators who are required to obtain a certificate of approval pursuant to the provisions of this subsection shall pay a fee of $100 which shall be tendered with the application for approval. Approval evidenced by a certificate issued by the director, shall be granted if, at the time the application is made, the applicant has paid or otherwise appealed all coal mine assessments imposed on the applicant under article one of this chapter.

Within thirty days after January 1, of each year, the holder of a certificate of approval shall apply for the extension of that approval for an additional year. Applications for extension shall be accompanied by a fee of $100. An extension shall be granted if, at the time application is made, the applicant has paid or otherwise appealed all coal mine assessments imposed on the applicant under article one of this chapter. All delinquent assessments which have been imposed upon a certificate of approval holder or applicants under this section may not be imposed upon any permit holder or certificate of approval holder or any applicant pursuant to subsection (a) or (c) of this section.

(f) The provisions of this section shall be printed on the reverse side of every permit issued under subsection (a) of this section and certificate of approval issued under subsection (e) of this section.

(g) The district mine inspector shall conduct a preinspection of the area proposed for underground mining prior to issuance of any new opening permit approval.

(h) All moneys collected by the office of miners' health, safety and training for the approval fees set forth in subsections (a), (c) and (e) of this section shall be deposited with the treasurer of the State of West Virginia to the credit of the general administration--operating permit fees fund. The operating permit fees fund shall be used by the director who is authorized to expend the moneys in the fund for the administration of this chapter.

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