

thereafter, shall be superseded by any provision of this chapter or any regulation issued pursuant thereto, except insofar as such State law or regulation is inconsistent with the provisions of this chapter.

(b) Any provision of any State law or regulation in effect upon August 3, 1977, or which may become effective thereafter, which provides for more stringent land use and environmental controls and regulations of surface coal mining and reclamation operation than do the provisions of this chapter or any regulation issued pursuant thereto shall not be construed to be inconsistent with this chapter. The Secretary shall set forth any State law or regulation which is construed to be inconsistent with this chapter. Any provision of any State law or regulation in effect on August 3, 1977, or which may become effective thereafter, which provides for the control and regulation of surface mining and reclamation operations for which no provision is contained in this chapter shall not be construed to be inconsistent with this chapter.

(Pub. L. 95-87, title V, § 505, Aug. 3, 1977, 91 Stat. 473.)

### § 1256. Permits

#### (a) Persons engaged in surface coal mining within State; time limit; exception

No later than eight months from the date on which a State program is approved by the Secretary, pursuant to section 1253 of this title, or no later than eight months from the date on which the Secretary has promulgated a Federal program for a State not having a State program pursuant to section 1254 of this title, no person shall engage in or carry out on lands within a State any surface coal mining operations unless such person has first obtained a permit issued by such State pursuant to an approved State program or by the Secretary pursuant to a Federal program; except a person conducting surface coal mining operations under a permit from the State regulatory authority, issued in accordance with the provisions of section 1252 of this title, may conduct such operations beyond such period if an application for a permit has been filed in accordance with the provisions of this chapter, but the initial administrative decision has not been rendered.

#### (b) Term

All permits issued pursuant to the requirements of this chapter 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 such specified longer term, the regulatory authority may grant a permit for such longer term. A successor in interest to a permittee who applies for a new permit within thirty days of succeeding to such interest and who is able to obtain the bond coverage of the original permittee may continue surface coal mining and reclamation operations according to the approved mining and reclamation plan of the original permittee until such successor's application is granted or denied.

#### (c) Termination

A permit shall terminate if the permittee has not commenced the surface coal mining operations covered by such permit within three years of the issuance of the permit: *Provided*, That the regulatory authority may grant reasonable extensions of time upon a showing that such extensions are necessary by reason of litigation precluding such 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 further*, That in the case of a coal lease issued under the Federal Mineral Leasing Act, as amended [30 U.S.C. 181 et seq.], extensions of time may not extend beyond the period allowed for diligent development in accordance with section 7 of that Act [30 U.S.C. 207]: *Provided further*, 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 deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel or generating facility is initiated.

#### (d) Renewal

(1) Any valid permit issued pursuant to this chapter shall carry 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 such renewal shall be issued (provided that on application for renewal the burden shall be on the opponents of renewal), subsequent to fulfillment of the public notice requirements of sections 1263 and 1264 of this title unless it is established that and written findings by the regulatory authority are made that—

(A) the terms and conditions of the existing permit are not being satisfactorily met;

(B) the present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter and the approved State plan or Federal program pursuant to this chapter; or

(C) the renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas;

(D) the operator has not provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the regulatory authority might require pursuant to section 1259 of this title; or

(E) any additional revised or updated information required by the regulatory authority has not been provided. Prior to the approval of any renewal of permit the regulatory authority shall provide notice to the appropriate public authorities.

(2) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new land areas shall be subject to the full standards applicable to new applications under this chapter: *Provided, however*, That if the surface coal mining operations authorized by a per-

mit issued pursuant to this chapter were not subject to the standards contained in section 1260(b)(5)(A) and (B) of this title by reason of complying with the proviso of section 1260(b)(5) of this title, then the portion of the application for renewal of the permit which addresses any new land areas previously identified in the reclamation plan submitted pursuant to section 1258 of this title shall not be subject to the standards contained in section 1260(b)(5)(A) and (B) of this title.

(3) Any permit renewal shall be for a term not to exceed the period of the original permit established by this chapter. Application for permit renewal shall be made at least one hundred and twenty days prior to the expiration of the valid permit.

(Pub. L. 95-87, title V, § 506, Aug. 3, 1977, 91 Stat. 473.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Federal Mineral Leasing Act, as amended, referred to in subsec. (c), probably means act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§181 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 181 of this title and Tables.

#### § 1257. Application requirements

##### (a) Fee

Each application for a surface coal mining and reclamation permit pursuant to an approved State program or a Federal program under the provisions of this chapter shall be accompanied by a fee as determined by the regulatory authority. Such fee may be less than but shall not exceed the actual or anticipated cost of reviewing, administering, and enforcing such permit issued pursuant to a State or Federal program. The regulatory authority may develop procedures so as to enable the cost of the fee to be paid over the term of the permit.

##### (b) Submittal; contents

The permit application shall be submitted in a manner satisfactory to the regulatory authority and shall contain, among other things—

(1) the names and addresses of (A) the permit applicant; (B) every legal owner of record of the property (surface and mineral), to be mined; (C) the holders of record of any leasehold interest in the property; (D) any purchaser of record of the property under a real estate contract; and (E) the operator if he is a person different from the applicant; and (F) if any of these are business entities other than a single proprietor, the names and addresses of the principals, officers, and resident agent;

(2) the names and addresses of the owners of record of all surface and subsurface areas adjacent to any part of the permit area;

(3) a statement of any current or previous surface coal mining permits in the United States held by the applicant and the permit identification and each pending application;

(4) if the applicant is a partnership, corporation, association, or other business entity, the following where applicable: the names and ad-

resses of every officer, partner, director, or person performing a function similar to a director, of the applicant, together with the name and address of any person owning, of record 10 per centum or more of any class of voting stock of the applicant and a list of all names under which the applicant, partner, or principal shareholder previously operated a surface mining operation within the United States within the five-year period preceding the date of submission of the application;

(5) a statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant, has ever held a Federal or State mining permit which in the five-year period prior to the date of submission of the application has been suspended or revoked or has had a mining bond or similar security deposited in lieu of bond forfeited<sup>1</sup> and, if so, a brief explanation of the facts involved;

(6) a copy of the applicant's advertisement to be published in a newspaper of general circulation in the locality of the proposed site at least once a week for four successive weeks, and which includes the ownership, a description of the exact location and boundaries of the proposed site sufficient so that the proposed operation is readily locatable by local residents, and the location of where the application is available for public inspection;

(7) a description of the type and method of coal mining operation that exists or is proposed, the engineering techniques proposed or used, and the equipment used or proposed to be used;

(8) the anticipated or actual starting and termination dates of each phase of the mining operation and number of acres of land to be affected;

(9) the applicant shall file with the regulatory authority on an accurate map or plan, to an appropriate scale, clearly showing the land to be affected as of the date of the application, the area of land within the permit area upon which the applicant has the legal right to enter and commence surface mining operations and shall provide to the regulatory authority a statement of those documents upon which the applicant bases his legal right to enter and commence surface mining operations on the area affected, and whether that right is the subject of pending court litigation: *Provided*, That nothing in this chapter shall be construed as vesting in the regulatory authority the jurisdiction to adjudicate property title disputes.<sup>2</sup>

(10) the name of the watershed and location of the surface stream or tributary into which surface and pit drainage will be discharged;

(11) a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for

<sup>1</sup> So in original. Probably should be "forfeited".

<sup>2</sup> So in original. The period probably should be a semicolon.