

**40-10-9 Permit required for surface coal mining operations -- Exemptions -- Expiration of permit -- Maximum time for commencement of mining operations -- Renewal of permit.**

- (1) No person shall engage in or carry out surface coal mining operations within the state unless that person has first obtained a permit issued by the division pursuant to an approved mining and reclamation program, but the permit will not be required if the operations are exempt as provided in Section 40-10-5.
- (2)
  - (a) All permits issued pursuant to the requirements of this chapter shall be issued for a term not to exceed five years; but 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 division may grant a permit for the longer term.
  - (b) A successor in interest to a permittee who applies for a new permit within 30 days after succeeding to the 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 the successor's application is granted or denied.
- (3)
  - (a) A permit shall terminate if the permittee has not commenced the surface coal mining operations covered by the permit within three years after the issuance of the permit; but the division may grant reasonable extensions of time upon a showing that the extensions are necessary by reason of litigation precluding this 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.
  - (b) 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.
- (4)
  - (a)
    - (i) 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.
    - (ii) The holders of the permit may apply for renewal, and the renewal shall be issued (but on application for renewal the burden shall be upon the opponents of renewal), subsequent to fulfillment of the public notice requirements of Sections 40-10-13 and 40-10-14 unless it is established that and written findings by the division 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 approved plan;
      - (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 the operation will continue in full force and effect for any renewal requested in the application as well as any additional bond the division might require pursuant to Section 40-10-15; or
      - (E) any additional revised or updated information required by the division has not been provided.
    - (iii) Prior to the approval of any renewal of any permit, the division shall provide notice to the appropriate public authorities.

- (b) 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; but if the surface coal mining operations authorized by a permit issued pursuant to this chapter were not subject to the standards contained in Subsections 40-10-11(2)(e)(i) and 40-10-11(2)(e)(ii) by reason of complying with the provisions of Subsection 40-10-11(2)(e), 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 40-10-10 shall not be subject to the standards contained in Subsections 40-10-11(2)(e)(i) and 40-10-11(2)(e)(ii).
- (c)
  - (i) Any permit renewal shall be for a term not to exceed the period of the original permit established by this chapter.
  - (ii) Application for permit renewal shall be made at least 120 days prior to the expiration of the valid permit.

Amended by Chapter 306, 2007 General Session