



COMMONWEALTH OF KENTUCKY

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

BUREAU OF SURFACE MINING RECLAMATION AND ENFORCEMENT

ELMORE C. GRIM

COMMISSIONER

FRANKFORT, KENTUCKY 40601

RECLAMATION ADVISORY MEMORANDUM NO. 31

TO: Coal Operators and Company Engineers
Coal Operator Associations
Consulting Engineers
BSMRE Division Directors and Regional
Administrators

FROM: Elmore C. Grim, Commissioner *E.C.G.*
Bureau of Surface Mining Reclamation
and Enforcement

DATE: April 15, 1982

SUBJECT: Successor Operator Permit Requirements

APPLICABILITY AND EFFECT OF POLICY

This policy memorandum relaxes some of the requirements for filing a successor operator permit application under the Interim Program.

Under the permanent program, permits may be transferred upon approval of the Department, according to the permanent regulations, 405 KAR 8:010 Section 22. During the remaining portion of the interim program, however, successor operators must continue to obtain a new permit pursuant to KRS 350.135. This policy, effective immediately, reduces the application requirements for such new permit.

MINIMUM REQUIREMENTS FOR SUCCESSOR OPERATORS

A. PRIOR TO SURFACE COAL MINING OPERATIONS

No surface coal mining operations shall be conducted by a successor operator until he has demonstrated to the satisfaction of the Department that he has (1) obtained bond coverage and (2) assumed full liability for reclamation.

(1) Prior to any mining, the successor operator must submit proof of bond coverage equal to or better than that of the original permittee. Such proof must also be made a part of the successor operator permit application. (This is an exception to the rule normally requiring bond to be submitted only after a permit application is approved.)

If the successor operator wishes to use the original permittee's bond, amending the name of the principal by means of a rider, the rider must contain the following language:

(Bonding Company's Name) understands and expressly agrees that the liability under this Bond No. xxx-xxxx shall extend to all acts for which reclamation is required on areas disturbed in connection with Permit No. xxx-xxxx, both prior and subsequent to the date of this rider.

(2) Prior to any mining, the successor operator must submit a statement of liability to the Department. It must contain the following language:

(Name of Successor Operator) understands and expressly agrees that (Name of Successor Operator) is liable for all acts for which reclamation is required on areas disturbed in connection with Permit No. xxx-xxxx both prior and subsequent to the date of succession. (Name of Successor Operator) further understands and agrees that it is bound by the terms of Permit No. xxx-xxxx as originally issued to (Name of Original Permittee) on (Date, 198_)

B. UPON APPLICATION FOR A SUCCESSOR PERMIT

Within thirty (30) days after succeeding to the interest of a permittee, a successor in interest must apply for a new permit in order to continue surface coal mining operations. The application for such a successor operator permit shall contain the following:

(1) All original waivers and agreements must be replaced by the successor, unless they are transferable according to the terms of the documents themselves.

(2) All basic administrative information is required, including the first and second pages of the application, the bonding information, and the last page of the application.

(3) A processing fee of two hundred fifty dollars (\$250.00) for each permit application must be submitted. However, no acreage fees will be charged.

(4) The successor operator must publish a Notice of Intent to Mine in the newspaper with the largest bona fide circulation in the county where the proposed mining site is located. The name and address of the applicant and of the original permittee, the permit number, the particular geographic location of the permit area, and the address to which written comments may be sent to the Department, must be indicated in the Notice.

ADDITIONAL TERMS OF THIS POLICY

(1) Upon request prior to the succession in interest, the Department will conduct a "final inspection" of the mine site. During this "final inspection", all current violations will be noted, and the Department will notify the successor operator of such violations.

(2) No release of the original permittee's bond shall be made until the successor operator has been issued a permit covering all areas disturbed in connection with the original permit.

(3) If the successor operator application is temporarily withdrawn for corrections after its submission, the successor operator must resubmit his corrected application within thirty (30) days from the date of the withdrawal letter. If he fails to return the corrected application within that time, the successor operator will be subject to enforcement action for mining without a permit and the application will be denied. These conditions will be clearly stated in the letter of withdrawal.

(4) If the successor operator wishes to modify the original permittee's mining plan in any way, he must submit the desired modifications to the Department in the form of a revision or amendment after the successor operator permit has been issued.

NOTE: This policy memorandum does not change the department's procedures with respect to name changes by amendment of articles of incorporation, mergers or consolidations, or sale of stock.