

1 HB467
2 179068-1
3 By Representative South
4 RFD: State Government
5 First Read: 06-APR-17

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8 SYNOPSIS: Under existing law, the Division of Surface
9 Mining Control and Reclamation of the Alabama
10 Surface Mining Commission issues surface coal
11 mining reclamation permits.

12 Under existing law, the commission may
13 charge a permit fee not to exceed the anticipated
14 cost of reviewing, administering, and enforcing the
15 permit.

16 Under existing law, the permit fee may be
17 paid over the term of the permit.

18 This bill would specify that the reclamation
19 permit fee would be payable over the life of the
20 mine.

21 This bill would specify that the life of the
22 mine means the term of the permit and the time it
23 takes to complete all surface mining and
24 reclamation activities.

25
26 A BILL
27 TO BE ENTITLED

1 AN ACT

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3 To amend Section 9-16-83, Code of Alabama 1975,
4 relating to surface coal mining; to provide for payment of the
5 reclamation permit fee over the life of the mine.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Section 9-16-83 of the Code of Alabama
8 1975, is amended to read as follows:

9 "§9-16-83.

10 "(a) Each application for a surface coal mining
11 reclamation permit under this article shall be accompanied by
12 a fee as determined by the regulatory authority, but not to
13 exceed the anticipated cost of reviewing, administering, and
14 enforcing the permit. In no event shall the permit fee be less
15 than one thousand dollars (\$1,000). The regulatory authority
16 shall develop procedures to enable the cost of the fee to be
17 paid over the ~~term~~ life of the ~~permit.~~ mine. The life of the
18 mine means the term of the permit and the time required to
19 successfully complete all surface coal mining and reclamation
20 activities and obtain a full release of the performance bond
21 for each bonded area.

22 "(b) The permit application shall be submitted in a
23 format prescribed by and satisfactory to the regulatory
24 authority and shall contain, among other things, all of the
25 following:

26 "(1) The names and addresses of each of the
27 following:

1 "a. The permit applicant.

2 "b. Every legal owner of record of the property
3 (surface and mineral) to be mined.

4 "c. The holders of record of any leasehold interest
5 in the property.

6 "d. Any purchaser of record of the property under a
7 real estate contract.

8 "e. The operator if he or she is a person different
9 from the applicant.

10 "f. If any of these are business entities other than
11 a single proprietor, the names and addresses of the
12 principals, officers, and resident agent.

13 "(2) The names and addresses of the owners of record
14 of all surface and subsurface areas adjacent to any part of
15 the permit area.

16 "(3) A statement of any current or previous surface
17 coal mining permits in the United States held by the applicant
18 and the permit identification of each pending application.

19 "(4) Any information which has changed from that
20 submitted from the license application or renewal.

21 "(5) A copy of the applicant's advertisement to be
22 published in a newspaper of general circulation in the
23 locality of the proposed site at least once a week for four
24 successive weeks, and which includes the ownership, a
25 description of the exact location and boundaries of the
26 proposed site sufficient so that the proposed operation may be

1 located by local residents, and the location of where the
2 application is available for public inspection.

3 "(6) A description of the type and method of coal
4 mining operation that exists or is proposed, the engineering
5 techniques proposed or used, and the equipment used or
6 proposed to be used.

7 "(7) The anticipated or actual starting and
8 termination dates of each phase of the mining operation and
9 number of acres of land to be affected.

10 "(8) The applicant shall file with the regulatory
11 authority on an accurate map or plan, to an appropriate scale,
12 prepared by or under the direction of and certified by a
13 registered professional engineer or registered land surveyor
14 clearly showing the land to be affected as of the date of the
15 application, the area of land within the permit area upon
16 which the applicant has the legal right to enter and commence
17 surface mining operations and shall provide to the regulatory
18 authority a statement of those documents upon which the
19 applicant bases his or her legal right to enter and commence
20 surface mining operations on the area affected and whether
21 that right is the subject of pending court litigation. Nothing
22 in this article shall be construed as vesting in the
23 regulatory authority the jurisdiction to adjudicate property
24 title disputes.

25 "(9) The name of the watershed and location of the
26 surface stream or tributary into which surface and pit
27 drainage will be discharged.

1 "(10) A determination of the probable hydrologic
2 consequences of the mining and reclamation operations, both on
3 and off the mine site, with respect to the hydrologic regime,
4 quantity and quality of water in surface and ground water
5 systems including the dissolved and suspended solids under
6 seasonal flow conditions and the collection of sufficient data
7 for the mining site and surrounding areas so that an
8 assessment can be made by the regulatory authority of the
9 probable cumulative impacts of all anticipated mining in the
10 area upon the hydrology of the area and particularly upon
11 water availability. This determination shall not be required
12 until such time as hydrologic information on the general area
13 prior to mining is made available from an appropriate federal
14 or state agency and the permit shall not be approved until
15 such information is available and is incorporated into the
16 application.

17 "(11) When requested by the regulatory authority,
18 the climatological factors that are peculiar to the locality
19 of the land to be affected, including the average seasonal
20 precipitation, the average direction and velocity of
21 prevailing winds, and the seasonal temperature ranges.

22 "(12) Accurate maps to an appropriate scale prepared
23 by or under the direction of and certified by a registered
24 professional engineer or registered land surveyor clearly
25 showing a. the land to be affected as of the date of
26 application and b. all types of information set forth on
27 topographical maps of the United States Geological Survey of a

1 scale of 1:24,000 or 1:25,000 or larger, including all manmade
2 features and significant known archeological sites existing on
3 the date of application. The map or plan shall among other
4 things specified by the regulatory authority show all
5 boundaries of the land to be affected, the boundary lines and
6 names of present owners of record of all surface areas
7 abutting the permit area, and the location of all buildings
8 within 1,000 feet of the permit area.

9 "(13) Cross-section maps or plans of the land to be
10 affected including the actual area to be mined, prepared by or
11 under the direction of and certified by a. a qualified
12 registered professional engineer, or b. a professional
13 geologist with assistance from experts in related fields such
14 as land surveying and landscape architecture, showing
15 pertinent elevation and location of test borings or core
16 samplings and depicting the following information: the nature
17 and depth of the various strata of overburden; the location of
18 sub-surface water, if encountered, and its quality; the nature
19 and thickness of any coal or rider seam above the coal seam to
20 be mined; the nature of the stratum immediately beneath the
21 coal seam to be mined; all mineral crop lines and the strike
22 and dip of the coal to be mined, within the area of land to be
23 affected; existing or previous surface mining limits; the
24 location and extent of known workings of any underground
25 mines, including mine openings to the surface; the location of
26 aquifers; the estimated elevation of the water table; the
27 location of spoil, waste, or refuse areas and topsoil

1 preservation areas; the location of all impoundments for waste
2 or erosion control; any settling or water treatment facility;
3 constructed or natural drainways and the location of any
4 discharges to any surface body of water on the area of land to
5 be affected or adjacent thereto; and profiles at appropriate
6 cross sections of the anticipated final surface configuration
7 that will be achieved pursuant to the operator's proposed
8 reclamation plan.

9 "(14) A statement of the result of the test borings
10 or core samplings from the permit area, including logs of the
11 drill holes; the thickness of the coal seam found, an analysis
12 of the chemical properties of such coal; the sulfur content of
13 any coal seam; chemical analysis of potentially acid or toxic
14 forming sections of the overburden; and chemical analysis of
15 the stratum lying immediately underneath the coal to be mined
16 except that the provisions of this subdivision may be waived
17 by the regulatory authority with respect to the specific
18 application by a written determination that such requirements
19 are unnecessary.

20 "(15) For those lands in the permit application
21 which a reconnaissance inspection suggests may be prime farm
22 lands, a soil survey shall be made or obtained according to
23 standards established by the Secretary of Agriculture in order
24 to confirm the exact location of such prime farm lands, if
25 any.

26 "(16) Information pertaining to coal seams, test
27 borings, core samplings, or soil samples as required by this

1 section shall be made available to any person with an interest
2 which is or may be adversely affected; provided, that
3 information which pertains only to the analysis of the
4 chemical and physical properties of the coal (excepting
5 information regarding such mineral or elemental content which
6 is potentially toxic in the environment) shall be kept
7 confidential and not made a matter of public record.

8 "(c) (1) If the regulatory authority finds that the
9 probable total annual production at all locations of any
10 surface coal mining operator will not exceed 300,000 tons, the
11 cost of the following activities, which shall be performed by
12 a qualified public or private laboratory or such other public
13 or private qualified entity designated by the regulatory
14 authority, shall be assumed by the regulatory authority upon
15 the written request of the operator in connection with a
16 permit application, provided that funds are made available to
17 the regulatory authority for such purposes by the Secretary of
18 the United States Department of the Interior:

19 "a. The determination of probable hydrologic
20 consequences required by subdivision (10) of subsection (b),
21 including the engineering analyses and designs necessary for
22 the determination.

23 "b. The development of cross-section maps and plans
24 required by subdivision (13) of subsection (b).

25 "c. The geologic drilling and statement of results
26 of test borings and core samplings required by subdivision
27 (14) of subsection (b).

1 "d. The collection of archaeological information
2 required by subdivision (12) of subsection (b) and any other
3 archaeological and historical information required by the
4 regulatory authority, and the preparation of plans
5 necessitated thereby.

6 "e. Pre-blast surveys required by paragraph e. of
7 subdivision (15) of subsection (b) of Section 9-16-90.

8 "f. The collection of site-specific resource
9 information and production of protection and enhancement plans
10 for fish and wildlife habitats and other environmental values
11 required by the regulatory authority under this article.

12 "(2) The regulatory authority shall provide or
13 assume the cost of training coal operators that meet the
14 qualifications stated in subdivision (1) concerning the
15 preparation of permit applications and compliance with the
16 regulatory program, and shall ensure that qualified coal
17 operators are aware of the assistance available under this
18 subsection. Funds for such purposes shall be made available to
19 the regulatory authority by the Secretary of the United States
20 Department of the Interior.

21 "(d) Each applicant for a permit shall be required
22 to submit to the regulatory authority as part of the permit
23 application a reclamation plan which shall meet the
24 requirements of this article.

25 "(e) Each applicant for a surface coal mining and
26 reclamation permit shall file a copy of his or her application
27 for public inspection with the recorder at the courthouse of

1 the county or an appropriate public office approved by the
2 regulatory authority where the mining is proposed to occur,
3 except for that information pertaining to the coal seam
4 itself.

5 "(f) Each applicant for a permit shall be required
6 to submit to the regulatory authority as part of the permit
7 application a certificate issued by an insurance company
8 authorized to do business in the state certifying that the
9 applicant has a public liability insurance policy in force for
10 the surface mining and reclamation operations for which such
11 permit is sought, or evidence that the applicant has satisfied
12 other state self-insurance requirements. The policy shall
13 provide for personal injury and property damage protection in
14 an amount adequate to compensate any persons damaged as a
15 result of surface coal mining and reclamation operations
16 including use of explosives and entitled to compensation under
17 the applicable provisions of state law. The policy shall be
18 maintained in full force and effect during the terms of the
19 permit or any renewal, including the length of all reclamation
20 operations.

21 "(g) Each applicant for a surface coal mining and
22 reclamation permit shall submit to the regulatory authority as
23 part of the permit application a blasting plan which shall
24 outline the procedures and standards by which the operator
25 will meet the provisions of subdivision (15) of subsection (b)
26 of Section 9-16-90.

1 "(h) A coal operator that has received assistance
2 pursuant to subdivision (1) or (2) of subsection (c) shall
3 reimburse the regulatory authority for the cost of the
4 services rendered if the program administrator finds that the
5 operator's actual and attributed annual production of coal for
6 all locations exceeds 300,000 tons during the 12 months
7 immediately following the date on which the operator is issued
8 the surface coal mining and reclamation permit."

9 Section 2. This act shall become effective on the
10 first day of the third month following its passage and
11 approval by the Governor, or its otherwise becoming law.