



COALEX COMPARISON REPORT - 49 October 4, 1985

TOPIC: PERMIT AND ACREAGE FEES*

* This Report is based on the most recent documents identified in the COALEX Library. A state may have additional or revised rules or procedures not contained in the COALEX Library. This Report does not consider coal severance taxes or other taxes that may be levied on coal production by a state.

SEARCH RESULTS: A COALEX search was conducted to compare the various permit and acreage fees assessed by state regulatory authorities pursuant to Sec. 507(a) of SMCRA. Information was located for twenty-five state programs listed with COALEX.

LEGISLATIVE HISTORY

Statutory authority for the imposition of permit and acreage fees is contained in the Surface Mining Control and Reclamation Act of 1977 (SMCRA) at Sec. 507(a), 30 USC Sec. 1257(a). States are authorized to collect a fee determined by the regulatory authority, which may be less than but may not exceed the actual or anticipated cost of administering, reviewing, and enforcing the permit. In addition, the regulatory authority may develop a system to enable the cost of the fee to be paid over the term of the permit.

Every major version of SMCRA included a provision pertaining to permit and acreage fees. The provision which allows the fee to be paid over the permit term was added in 1975, and was retained in subsequent versions. (S. Rep. No. 28, 94th Cong., 1st Sess. 55, 206 (1975)) Another committee clarified the intention of Sec. 507(a) by noting that the states were to be given wide discretion in setting the fees.= If the regulatory authority desires, the fee may be set at a nominal rate, with the balance of expenses coming from other sources. (S. Rep. No. 95-128, 95th Cong., 1st Sess. 75 (1977))

FEDERAL REGULATIONS

30 CFR Sec. 777.17 authorizes the assessment of permit fees by the state regulatory authority. The language of this section mirrors that found at Sec. 507(a) of SMCRA. There have been no major revisions, but the provision for permit fees was moved to Part 777 from Sec. 771.25 in 1983. (48 FR 44344 (1983))

Information pertaining to the assessment of permit fees on federal lands is found at 30 CFR Sec. 740.13(b)(1). Each application for a permit to mine on federal lands must also be accompanied by a permit fee. The amount of this fee is to be determined in accordance with the permit fee criteria of the applicable state regulatory program. Whether or not a fee will be required for permit renewals and revisions also depends on the provisions of the applicable state program;



thus, if the state program is silent on the collection of these fees, none is required for federal lands. (30 CFR Sec. 740.13(b)(1) (1984), 48 FR 6912 (1983))

OSM has recently issued a proposed rule dealing with the collection of permit fees on other federal lands and on Indian lands. Under this rule, an operator filing for a permit on these lands will be required to reimburse OSM for the actual cost incurred by the Department in providing a service. These costs include: direct and indirect labor costs, management, materials, machines, travel, overhead, contract, and environmental studies or documents.

Operators will also be responsible for costs incurred in renewing, revising, transferring or selling a permit and for mid-term review. OSM estimates that the costs of processing incurred at the OSM technical center would range from \$37,000 to \$110,000 for Western mines, with an average of \$60,000. For Eastern mines, processing costs range from \$6,000 to \$29,000. This rule would apply to applications for mining on Indian lands, in the federal program states, and on federal lands in states not having state/federal cooperative agreements. (50 FR 7522 (1985))

STATE REGULATIONS

Permit fees vary widely among the twenty-five states listed with COALEX. The search identified six basic categories or areas for which permit fees are charged: a basic permit fee; an amount=per acre fee; fees for renewal, revision, or transfer of a permit; and an exploration fee. Specific dollar amounts were found for twenty-four of the twenty-five COALEX states. Mississippi does not currently assess a specific dollar amount. In a recent telephone conversation, Mr. Bill Gilliland, Administrator of the Mississippi Mine and Reclamation Section, noted that the state has no permit applications pending at this time. The program is currently under revision, and no permit fee has been set.

Six states (Louisiana, Maryland, Montana, Oklahoma, Utah and West Virginia) charge only a basic permitting fee. These fees range from \$5 - \$1750. Eight states (Colorado, Illinois, Indiana, Kansas, Kentucky, Ohio, Tennessee and Virginia) charge a fee based on the number of acres to be permitted. The acreage fee is either charged alone or along with a basic fee. These states and the amount charged can be found at Tables 1 and 2 (attached).

The remaining ten states assess a variety of fees. Alabama's regulations set a basic fee of \$2,500 and \$25 per acre. The fee for a permit renewal application is \$500, and is \$100 for a permit transfer application. The fees for a permit revision depend on the changes: \$250 for an incidental boundary revision, \$750 for an insignificant alteration to the mining and reclamation plan, and \$1,500 for a significant alteration. (Ala. Surface Mining Comm'n Rules and Regs., Sec. 880-X-8B.07 (1980))

For a new permit, Alaska assesses a fee of \$10 per acre, with a minimum of \$500 and a maximum of \$20,000. An application for major revisions of permits or for transfer, assignment or sale of permit rights is \$500. For renewals of permits within previously approved boundaries there is a \$500 charge; if acreage is added, the fee is \$1,000. An exploration permit can lead to two charges: \$100 for notice of intent and \$500 for a substantial disturbance. In addition, the



permittee is to pay the cost of all required public notices. (Alaska Admin. Code, Tit. 11, Sec. 90.011 (1983))

Arkansas' regulations require a \$500 permit review fee plus a \$500 or \$30 per affected acre (whichever is greater) annual administration and enforcement fee. The "affected acres" include: (1) areas from which coal will be removed; (2) areas from which coal has been removed but for which backfilling, regrading and drainage control is incomplete; (3) areas used for haul roads; and (4) areas used for processing or loading facilities or tipples. (Ark. Surface Coal Mining and Reclamation Code, Sec. 771.25(a) and (b) (1980))

Iowa's regulations specify a dollar per acre amount and set a minimum amount to be paid. For a new permit, the fee is \$5 per acre with a minimum of \$100. Permit revisions require a fee of \$2 per acre for the total permit area with a minimum of \$40; if new acreage is included, an additional \$5 per acre is assessed. Permit renewals with no additional area require a fee of \$100, but added acreage requires a \$5 per acre fee with a minimum of \$200. The fee for the transfer, assignment or sale of a permit is \$50, with a \$2 per acre charge for any added acreage. (Iowa Admin. Code, Sec. 4.311(3) (1981))

A \$100 fee is charged in Missouri on an annual basis. A \$35 acreage fee is also charged. For multiple year permits, the acreage fee is paid annually by dividing the total acres in the permit area by the number of years covered by the permit and multiplying that number by that year's acreage fee. Applications for permit renewal or revision, a successor to a permit, coal exploration, and for reinstatement of a permit after suspension all carry a fee of \$100. (Mo. Admin. Beg. Sec. 10 CSR 40-6010(6) (proposed) (1980))

New Mexico assesses a permit filing fee of \$1,000 plus \$15 per acre for the area to be disturbed during the first year of mining. The same fees are charged for subsequent years, with the acreage fee falling between \$1,000 and \$10,000. The fee for a permit revision is on a sliding scale from \$0 to \$2,500, depending upon the significance of the revision. Fifty dollars is the required fee for exploration of less than 250 tons; exploration of more than 250 tons is \$100. The fee for transferring a permit is \$500. (N. Mex. Surface Coal Mining Regs., Sec. 5-25 (1980))

North Dakota requires a filing fee of \$250 plus a refundable fee of \$10 per acre. Permit revision applications that propose additional acreage to be included within the permit area because of incidental boundary changes are subject to the \$10/acre fee. If the permit application or revision is withdrawn or rejected, the acreage fee is refunded. (N.D. Admin. Code Sec. 69-05.2-05-03 (1980))

Each permit application filed in Pennsylvania must be accompanied by a basic fee of \$250 and \$50 per acre to be bonded. Revisions and renewals are subject to a \$250 fee, as are applications for a coal preparation plant. For coal refuse disposal activities, a permit fee of \$500 is assessed, plus \$10 per acre for acreage in excess of fifty acres. (Pa. Dept. of Environmental Resources Coal Mining Regs., Sec. = 86.17 (1982))

Texas' regulations call for a flat fee of \$500 for a permit area of 499 acres or less and \$1000 for 500 or more acres. Revisions and renewals are \$500; however, if acreage is added the fee is



\$1,000. Applications for the transfer, assignment or sale of permit rights containing no change from previous plans are subject to a \$500 fee. If any changes are made, the fee rises to \$1,000. (Tex. Surface Coal Mining Regs., Sec. 051.07.04.108 (1980))

Wyoming imposes a basic fee of \$100 plus \$10 per acre, but the maximum fee for any permit is not to exceed \$2,000. The fee for a permit amendment is \$200 plus \$10 per acre, with a maximum of \$2,000. (Wyo. Environmental Quality Act, Sec. 35-11-406(a)(xii) (1983))

The results of this search are summarized in the attached tables.

ATTACHMENTS

- A. Excerpt, S. Rep. No. 28, 94th Cong., 1st Sess. 55,206 (1975).
- B. Excerpt, S. Rep. No. 95-128, 95th Cong., 1st Sess. 75 (1977).
- C. 48 FR 44344 (1983).
- D. 48 FR 6912 (1983).
- E. 50 FR 7522 (1985).
- F. Ala. Surface Mining Comm'n Rules & Regs., Sec. 880-X-8B-07 (1980).
- G. Alaska Admin. Code, Tit. 11, Sec. 90.011 (1983).
- H. Ark. Surface Coal Mining & Reclamation Code, Sec. 771.2-5(a) and (b) (1980).
- I. Iowa Admin. Code, Sec. 4.311(3) (1981).
- J. Mo. Admin. Reg., Sec. 10 CSR 40-6010(6) (proposed) (1980).
- K. N. Mex. Surface Coal Mining Regs., Sec. 5-25 (1980).
- L. N.D. Admin. Code, Sec. 69-05.2-05-03 (1980).
- M. Pa. Dept. of Environmental Resources Coal Mining Regs., Sec. 86.17 (1982).
- N. Tex. Surface Coal Mining Regs., Sec. 051.07.04.108 (1980).
- O. Wyo. Environmental Quality Act, Sec. 35-11-406(a)(xii-) (1983).

Note: Citations in this report appear as found in COALEX documents and may not reflect the states' proper citation form.

TABLE 1: STATES WHICH CHARGE A BASIC PERMIT FEE ONLY AND AMOUNT (Reformatted from original)

LOUISIANA

\$1,750; \$75 for exploration.

MARYLAND

\$10.

Md. Admin. Code, Tit. 8, 9 13.09.02G (1980).

MONTANA

\$50.

Mont. Strip and Underground Mine Siting Act, Sec. 82-4-123 (1979).



OKLAHOMA

\$500 per year of permit.

UTAH

\$5.

WEST VIRGINIA

\$500.

W. Va. Code Sec. 20-6-9(f) (1981).

TABLE 2: STATES WHICH CHARGE AN AMOUNT PER ACRE

(Reformatted from original)

COLORADO

\$10/acre plus \$25 basic fee, not to exceed \$2,500.

Colo. Mined Land Reclamation Board Rules & Regs., Sec. 2.01.6 (1982).

ILLINOIS

\$125/acre to be surface mined. \$5/acre for all other areas.

Ill. Surface Coal Mining Conservation & Reclamation Rules & Regs., Sec. 1771.25 (1980).

INDIANA

\$50/acre and \$100 basic fee.

310 Ind. Ann. Code Sec. 12-3-8 (1982).

KANSAS

Amount/acre (determined by reg. authority) plus \$50 basic fee.

Kans. Mined Land Conservation and Reclamation Act, Sec. 49-406(g) (1980).

KENTUCKY

\$75/acre plus \$375 basic fee.

405 Ky. Admin. Reg., Sec. 8:010-06 (1983).

OHIO

\$50/acre.

Ohio Admin. Code Sec. 1501:13-4-01 (JO (1982)).

TENNESSEE

\$25/acre plus \$250 basic fee.

Tenn. Div. of Surface Mining Rules, Sec. 0400-1-2-01(4) (1982).

(Note: This is now a federal program)

VIRGINIA

\$12/acre plus \$6/acre annually.

Va. Coal Surface Mining Reclamation Regs., Sec. V771.25 (1981).



TABLE 3

(Reformatted from original)

MONTANA

Basic Fee: \$50

Dollar Per Acre Amount: --

Renewal: --

Revision: --

Exploration: --

Transfer: --

Payment in Increments Allowed?: No

Other: --

NEW MEXICO

Basic Fee: \$1000/year

Dollar Per Acre Amount: \$15/year

Renewal: --

Revision: \$0 TO \$2500, depending on significance

Exploration: \$50-intent; \$100-approval

Transfer: \$500

Payment in Increments Allowed?: Yes

Other: --

NORTH DAKOTA

Basic Fee: \$250

Dollar Per Acre Amount: \$10

Renewal: --

Revision: \$10 per acre (if add. acres)

Exploration: --

Transfer: --

Payment in Increments Allowed?: No

Other: Acreage fee refundable

OHIO

Basic Fee: --

Dollar Per Acre Amount: \$50

Renewal: --

Revision: --

Exploration: --

Transfer: --

Payment in Increments Allowed?: No

Other: --



OKLAHOMA

Basic Fee: \$500
Dollar Per Acre Amount: --
Renewal: --
Revision: --
Exploration: --
Transfer: --
Payment in Increments Allowed?: No
Other: --

PENNSYLVANIA

Basic Fee: \$250
Dollar Per Acre Amount: \$50
Renewal: \$250
Revision: \$250
Exploration: --
Transfer: --
Payment in Increments Allowed?: No
Other: Prep plant \$250; refuse disposal \$500 per acre if over 50 acres

TENNESSEE

Basic Fee: \$250
Dollar Per Acre Amount: \$25
Renewal: --
Revision: --
Exploration: --
Transfer: --
Payment in Increments Allowed?: No
Other: Federal program

TEXAS

Basic Fee: \$100 if 500 acres or more; \$500 if less than 500 acres
Dollar Per Acre Amount: --
Renewal: \$500 if No new acreage; \$1000 if added acreage
Revision: \$500
Exploration: --
Transfer: \$500 - No change; \$1000 - if changes
Payment in Increments Allowed?: No
Other: --

VIRGINIA

Basic Fee: --
Dollar Per Acre Amount: \$12 + \$6/year
Renewal: --
Revision: --



Exploration: --
Transfer: --
Payment in Increments Allowed?: No
Other: --

UTAH

Basic Fee: \$5
Dollar Per Acre Amount: --
Renewal: --
Revision: --
Exploration: --
Transfer: --
Payment in Increments Allowed?: No
Other: --

WEST VIRGINIA

Basic Fee: \$500
Dollar Per Acre Amount: --
Renewal: --
Revision: --
Exploration: --
Transfer: --
Payment in Increments Allowed?: No
Other: --

WYOMING

Basic Fee: \$100
Dollar Per Acre Amount: \$10, not to exceed \$2000 for area
Renewal: --
Revision: \$200 + \$10/acre not to exceed \$2000
Exploration: --
Transfer: --
Payment in Increments Allowed?: No
Other: --