

**§ 1264. Decisions of regulatory authority and appeals**

**(a) Issuance of findings within 60 days after informal conference**

If an informal conference has been held pursuant to section 1263(b) of this title, the regulatory authority shall issue and furnish the applicant for a permit and persons who are parties to the administrative proceedings with the written finding of the regulatory authority, granting or denying the permit in whole or in part and stating the reasons therefor, within the sixty days of said hearings.

**(b) Decision without informal conference; notification within a reasonable time**

If there has been no informal conference held pursuant to section 1263(b) of this title, the regulatory authority shall notify the applicant for a permit within a reasonable time as determined by the regulatory authority and set forth in regulations, taking into account the time needed for proper investigation of the site, the complexity of the permit application, and whether or not written objection to the application has been filed, whether the application has been approved or disapproved in whole or part.

**(c) Request for rehearing on reasons for final determination; time; issuance of decision**

If the application is approved, the permit shall be issued. If the application is disapproved, specific reasons therefor must be set forth in the notification. Within thirty days after the applicant is notified of the final decision of the regulatory authority on the permit application, the applicant or any person with an interest which is or may be adversely affected may request a hearing on the reasons for the final determination. The regulatory authority shall hold a hearing within thirty days of such request and provide notification to all interested parties at the time that the applicant is so notified. If the Secretary is the regulatory authority the hearing shall be of record and governed by section 554 of title 5. Where the regulatory authority is the State, such hearing shall be of record, adjudicatory in nature and no person who presided at a conference under section 1263(b) of this title shall either preside at the hearing or participate in this decision thereon or in any administrative appeal therefrom. Within thirty days after the hearing the regulatory authority shall issue and furnish the applicant, and all persons who participated in the hearing, with the written decision of the regulatory authority granting or denying the permit in whole or in part and stating the reasons therefor.

**(d) Temporary relief**

Where a hearing is requested pursuant to subsection (c) of this section, the Secretary, where the Secretary is the regulatory authority, or the State hearing authority may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceedings if—

(1) all parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

(2) the person requesting such relief shows that there is a substantial likelihood that he

will prevail on the merits of the final determination of the proceeding; and

(3) such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

**(e) Power of regulatory authority with respect to rehearing**

For the purpose of such hearing, the regulatory authority may administer oaths, subpoena witnesses, or written or printed materials, compel attendance of the witness, or production of the materials, and take evidence including but not limited to site inspections of the land to be affected and other surface coal mining operations carried on by the applicant in the general vicinity of the proposed operation. A verbatim record of each public hearing required by this chapter shall be made, and a transcript made available on the motion of any party or by order of the regulatory authority.

**(f) Right to appeal in accordance with section 1276 of this title**

Any applicant or any person with an interest which is or may be adversely affected who has participated in the administrative proceedings as an objector, and who is aggrieved by the decision of the regulatory authority, or if the regulatory authority fails to act within the time limits specified in this chapter shall have the right to appeal in accordance with section 1276 of this title.

(Pub. L. 95-87, title V, §514, Aug. 3, 1977, 91 Stat. 485.)

**§ 1265. Environmental protection performance standards**

**(a) Permit requirement**

Any permit issued under any approved State or Federal program pursuant to this chapter to conduct surface coal mining operations shall require that such surface coal mining operations will meet all applicable performance standards of this chapter, and such other requirements as the regulatory authority shall promulgate.

**(b) General standards**

General performance standards shall be applicable to all surface coal mining and reclamation operations and shall require the operation as a minimum to—

(1) conduct surface coal mining operations so as to maximize the utilization and conservation of the solid fuel resource being recovered so that reffecting the land in the future through surface coal mining can be minimized;

(2) restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is reasonable likelihood, so long as such use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution, and the permit applicants' declared proposed land use following reclamation is not deemed to be impractical or unreasonable, inconsistent with applicable land use policies