

**Surface Mining Reclamation and Enforcement, Interior**

**§ 905.773**

**§ 905.764 Process for designating areas unsuitable for surface coal mining operations.**

Part 764 of this chapter, *State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations*, pertaining to petitions, initial processing, hearing requirements, decisions, data base and inventory systems, public information, and regulatory responsibilities shall apply to surface coal mining operations beginning one year after the effective date of this program.

**§ 905.772 Requirements for coal exploration.**

(a) Part 772 of this chapter, *Requirements for Coal Exploration*, shall apply to any person who conducts coal exploration. For applications where § 772.12 applies, the requirements of paragraphs (b) through (d) apply in place of § 772.12(c) (1) and (3) and § 772.12(d)(1).

(b) Upon submission of an administratively complete application for an exploration permit, the applicant shall publish one public notice of the filing in a newspaper of general circulation in the county of the proposed exploration area, and provide proof of this publica-

tion to the regulatory authority within one week after the newspaper notice is published.

(c) Any person having an interest which is or may be adversely affected, shall have the right to file written comments for 10 days after the advertisement appears in the newspaper.

(d) The regulatory authority shall act upon an administratively complete application for a coal exploration permit and any written comments within 15 days from the close of the comment period. The approval of a coal exploration permit shall be based only on a complete and accurate application.

**§ 905.773 Requirements for permits and permit processing.**

(a) Part 773 of this chapter, *Requirements for Permits and Permit Processing*, shall apply to any person who applies for a permit for surface coal mining and reclamation operations.

(b) The Secretary shall coordinate, to the extent practicable, his responsibilities under the following Federal laws with the relevant California State laws to avoid duplication:

Federal law	State law
(1) Clean Water Act, as amended, 33 U.S.C. 1251 <i>et seq.</i> .....	The Porter-Cologne Water Quality Control Act, Cal. Pub. Res. Code section 13000 <i>et seq.</i> (West 1971).
(2) Clean Air Act, as amended, 42 U.S.C. 7401 <i>et seq.</i> .....	California Air Pollution Control Laws, Cal. Health & Safety Code section 39000 <i>et seq.</i> (West 1986).
(3) Resource Conservation and Recovery Act, 42 U.S.C. 3251 <i>et seq.</i>	Hazardous Waste Control Law, Cal. Health & Safety Code section 25100 <i>et seq.</i> (West 1984); Solid Waste Mgmt. and Resource Recovery Act of 1972, Cal. Gov. Code section 66770 <i>et seq.</i> (West 1983).
(4) National Environmental Policy Act, 42 U.S.C. 4321 <i>et seq.</i>	California Environmental Quality Act (CEQA), Cal. Pub. Res. Code section 21000 (West 1986).
(5) Archeological and Historic Preservation Act, 16 U.S.C. 469a.	CEQA.
(6) National Historic Preservation Act, 16 U.S.C. 470 <i>et seq.</i> ....	CEQA.
(7) Coastal Zone Management Act, 16 U.S.C. 1451, 1453-1464.	California Coastal Act of 1976, Cal. Pub. Res. Code section 30000 <i>et seq.</i> (West 1986).
(8) Section 208 of the Clean Water Act, as amended, 33 U.S.C. 1251 <i>et seq.</i>	The Porter-Cologne Act.
(9) Endangered Species Act, 16 U.S.C. 1531 <i>et seq.</i> .....	California Endangered Species Act of 1984, Cal. Fish & Game Code section 2060 <i>et seq.</i> (West Supp. 1988).
(10) Fish and Wildlife Coordination Act, 16 U.S.C. 661-667	
(11) Noise Control Act, 42 U.S.C. 4903 .....	California Noise Control Act of 1973, Cal. Health & Safety Code section 46000 <i>et seq.</i> (West Supp. 1986).
(12) Bald Eagle Protection Act, 16 U.S.C. 668-668(d)	

(c) Where applicable, no person shall conduct coal exploration operations which result in the removal of more than 250 tons in one location or surface coal mining and reclamation operations without a permit issued by the

Secretary pursuant to 30 CFR parts 772 and 773 and permits, leases and/or certificates required by the State of California, including compliance with the Porter-Cologne Water Quality Control Act, Cal. Pub. Res. Code section 13000 *et*

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*seq.*; the California Water Code section 1200 *et seq.*; the California Air Pollution Control Laws, Cal. Health & Safety Code section 39000 *et seq.*; the Hazardous Waste Control Law, Cal. Health & Safety Code section 25100 *et seq.*; the State Underground Storage of Hazardous Substances Law, Cal. Health & Safety Code section 25280 *et seq.*; the Solid Waste Management and Resource Recovery Act of 1972, Cal. Gov. Code section 66770 *et seq.*; the California Environmental Quality Act, Cal. Pub. Res. Code section 21000; the California Coastal Act of 1976, Cal. Pub. Res. Code section 30000 *et seq.*; the Z'berg-Nejedly Forest Practice Act of 1973, Cal. Pub. Res. Code section 4511 *et seq.*; and the California Public Resources Code section 4656.

(d) In addition to the requirements of part 773, the following permit application review procedures shall apply:

(1) Any person applying for a permit shall submit five copies of the application to the Western Field Operations office (WFO) in Denver, Colorado.

(2) The WFO shall review an application for administrative completeness and acceptability for further review and shall notify the applicant in writing of the findings. The WFO may:

(i) Reject a flagrantly deficient application, notifying the applicant of the findings;

(ii) Request additional information required for completeness stating specifically what information must be supplied; or

(iii) Judge the application administratively complete and acceptable for further review.

(3) When the application is judged administratively complete, the applicant shall be advised by the WFO to file the public notice required by §773.6 of this chapter.

(4) A representative of the WFO shall visit the proposed permit area to determine whether the operation and reclamation plans are consistent with actual site conditions. The applicant will be notified in advance of the time of the visit. At the time of the visit, the applicant shall have the locations of the proposed permit boundaries, topsoil storage areas, sediment control structures, roads, and other significant fea-

tures contained in the application marked by flags.

(5) Adequacy of information to allow the WFO to comply with the National Environmental Policy Act, 42 U.S.C. 4332, and the National Historic Preservation Act, 16 U.S.C. 470 *et seq.*, shall be considered in the determination of a complete application. The WFO may require specific additional information from the applicant as any environmental review progresses when such specific information is needed.

(e) In addition to the information required by Subchapter G of this chapter, the WFO may require an applicant to submit supplemental information to ensure compliance with applicable Federal laws and regulations other than the Act.

(f) The regulatory authority shall review the application for a permit, written comments and objections submitted; and records of any informal conference or hearing held on the application and, where there is no environmental impact statement (EIS) and the WFO has found, pursuant to 36 WFO 800.4(d) and 800.5(b), that the operation will not affect historic properties, issue a written decision within 60 days from the close of the comment period or if an informal conference is held under §773.6(c), 60 days from the close of the informal conference. Where an EIS has been prepared for the application and/or the WFO must comply with 36 CFR 800.5 (d) or (e), the written decision shall be issued within 60 days from the Environmental Protection Agency's publication of the notice of availability of the final EIS in the FEDERAL REGISTER or the completion of OSMRE's responsibilities under 36 CFR part 800, whichever is later.

(g) Only application information that is labeled confidential by the applicant and submitted separately from the remainder of the application will be reviewed by OSMRE for withholding from disclosure under §773.6(d).

(1) If the application contains information identified as confidential by the applicant, the public notice required by §905.773(d)(3) must identify the type of information considered to be confidential.

(2) OSMRE shall determine in regard to qualification of any application information labeled confidential within 10 days of the last publication of the notice required under §905.773(d)(3) of this chapter, unless additional time is necessary to obtain public comment or in the event of unforeseen circumstances.

[60 FR 18716, Apr. 12, 1995, as amended at 65 FR 79672, Dec. 19, 2000]

**§ 905.774 Revision; renewal; and transfer, assignment, or sale of permit rights.**

(a) Part 774 of this chapter, *Revision; Renewal; and Transfer, Assignment, or Sale of Permit Rights*, shall apply to any such actions involving surface coal mining and reclamation operations permits, except as specified below.

(b) Any revision to the approved mining or reclamation plan will be subject to review and approval by the WFO. A significant revision to the reclamation plan will be subject to the public notice and hearing provisions of §§905.773(d)(3) and 773.6 (b) and (c) prior to approval and implementation. A revision to the reclamation plan will be considered significant if it has the potential to adversely affect the achievement of reclamation as specified in the approved plan.

(c) The regulatory authority will approve or disapprove non-significant permit revisions within 30 days of receipt of the administratively complete revision. Significant revisions and renewals will be approved or disapproved under the provisions of §905.773(f).

(d) In addition to the requirements of part 774 of this chapter, any person having an interest which is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any Federal, State, or local government agency, may submit written comments on the application to the Office within 30 days of the publication of the newspaper advertisement required by §774.17(b)(2) of this chapter, or receipt of an administratively complete application, whichever is later.

(e) Within 30 days from the last publication of the newspaper notice, written comments or objections on an application for significant revision, or re-

newal of a permit under §774.15 of this chapter may be submitted to the regulatory authority by any person having an interest that is or may be adversely affected by the decision on the application, or by public entities notified under §773.6(a)(3) of this chapter with respect to the effects of the proposed mining operations on the environment within their areas of responsibility.

[60 FR 18716, Apr. 12, 1995, as amended at 65 FR 79672, Dec. 19, 2000]

**§ 905.775 Administrative and judicial review of decisions.**

Part 775 of this chapter, *Administrative and Judicial Review of Decisions*, shall apply to all decisions on permits.

**§ 905.777 General content requirements for permit applications.**

(a) Part 777 of this chapter, *General Content Requirements for Permit Applications*, shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

(b) Any person who wishes to conduct new surface coal mining and reclamation operations shall file a complete application as early as possible prior to the date permit issuance is desired and shall pay to the Secretary a permit fee in accordance with 30 CFR 777.17.

(c) Any person who wishes to revise a permit shall submit a complete application as early as possible prior to the date approval of the permit revision is desired and to pay a permit fee in accordance with 30 CFR 777.17.

**§ 905.778 Permit application—Minimum requirements for legal, financial, compliance, and related information.**

Part 778 of this chapter, *Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information*, shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

**§ 905.779 Surface mining permit applications—Minimum requirements for information on environmental resources.**

(a) Part 779 of this chapter, *Surface Mining Permit Applications—Minimum*