

**PART 778—PERMIT APPLICATIONS—
MINIMUM REQUIREMENTS FOR
LEGAL, FINANCIAL, COMPLIANCE,
AND RELATED INFORMATION**

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AUTHORITY: 30 U.S.C. 1201 *et seq.*

SOURCE: 48 FR 44399, Sept. 28, 1983, unless otherwise noted.

§ 778.1 Scope and purpose.

This part establishes the minimum requirements for the permit applications for surface coal mining and reclamation operations under a State or Federal program. This part covers minimum legal, financial, and compliance requirements and general information that must be contained in permit applications. This part applies to any person who submits an application to a regulatory authority for a permit to conduct surface coal mining and reclamation operations.

If . . .	then you . . .
(1) All or part of the information already in AVS is accurate and complete.	may certify to us by swearing or affirming, under oath and in writing, that the relevant information in AVS is accurate, complete, and up to date.
(2) Part of the information in AVS is missing or incorrect	must submit to us the necessary information or corrections and swear or affirm, under oath and in writing, that the information you submit is accurate and complete.
(3) You can neither certify that the data in AVS is accurate and complete nor make needed corrections.	must include in your permit application the information required under this part.

(b) You must swear or affirm, under oath and in writing, that all information you provide in an application is accurate and complete.

§ 778.8 Information collection.

The collections of information contained in part 778 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029-0117. The information collected will be used by the regulatory authority to ensure that all legal, financial, and compliance information requirements are satisfied before issuance of a permit. Persons intending to conduct surface coal mining operations must respond to obtain a benefit. A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Response is required to obtain a benefit in accordance with SM CRA. Send comments regarding burden estimates or any other aspect of this collection of information, including suggestions for reducing the burden, to the Office of Surface Mining Reclamation and Enforcement, Information Collection Clearance Officer, Room 202-SIB, 1951 Constitution Avenue, NW., Washington, DC 20240.

[72 FR 68031, Dec. 3, 2007]

§ 778.9 Certifying and updating existing permit application information.

In this section, “you” means the applicant and “we” or “us” means the regulatory authority.

(a) If you have previously applied for a permit and the required information is already in AVS, then you may update the information as shown in the following table.

(c) We may establish a central file to house your identity information, rather than place duplicate information in each of your permit application files.

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We will make the information available to the public upon request.

(d) After we approve an application, but before we issue a permit, you must update, correct, or indicate that no change has occurred in the information previously submitted under this section and §§ 778.11 through 778.14 of this part.

[65 FR 79668, Dec. 19, 2000]

§ 778.11 Providing applicant and operator information.

(a) You, the applicant, must provide in the permit application—

(1) A statement indicating whether you and your operator are corporations, partnerships, associations, sole proprietorships, or other business entities;

(2) Taxpayer identification numbers for you and your operator.

(b) You must provide the name, address, and telephone number for—

(1) The applicant.

(2) Your resident agent who will accept service of process.

(3) Any operator, if different from the applicant.

(4) Each business entity in the applicant's and operator's organizational structure, up to and including the ultimate parent entity of the applicant and operator; for every such business entity, you must also provide the required information for every president, chief executive officer, and director (or persons in similar positions), and every person who owns, of record, 10 percent or more of the entity.

(c) For you and your operator, you must provide the information required by paragraph (d) of this section for every—

(1) Officer.

(2) Partner.

(3) Member.

(4) Director.

(5) Person performing a function similar to a director.

(6) Person who owns, of record, 10 percent or more of the applicant or operator.

(d) You must provide the following information for each person listed in paragraph (c) of this section—

(1) The person's name, address, and telephone number.

(2) The person's position title and relationship to you, including percentage of ownership and location in the organizational structure.

(3) The date the person began functioning in that position.

(e) We need not make a finding as provided for under § 774.11(g) of this subchapter before entering into AVS the information required to be disclosed under this section; however, the mere listing in AVS of a person identified in paragraph (b) or (c) of this section does not create a presumption or constitute a determination that such person owns or controls a surface coal mining operation.

[65 FR 79668, Dec. 19, 2000, as amended at 72 FR 68031, Dec. 3, 2007]

§ 778.12 Providing permit history information.

(a) You, the applicant, must provide a list of all names under which you, your operator, your partners or principal shareholders, and your operator's partners or principal shareholders operate or previously operated a surface coal mining operation in the United States within the five-year period preceding the date of submission of the application.

(b) For you and your operator, you must provide a list of any pending permit applications for surface coal mining operations filed in the United States. The list must identify each application by its application number and jurisdiction, or by other identifying information when necessary.

(c) For any surface coal mining operations that you or your operator owned or controlled within the five-year period preceding the date of submission of the application, and for any surface coal mining operation you or your operator own or control on that date, you must provide the—

(1) Permittee's and operator's name and address;

(2) Permittee's and operator's taxpayer identification numbers;

(3) Federal or State permit number and corresponding MSHA number;

(4) Regulatory authority with jurisdiction over the permit; and

(5) Permittee's and operator's relationship to the operation, including

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percentage of ownership and location in the organizational structure.

[65 FR 79669, Dec. 19, 2000]

§ 778.13 Providing property interest information.

You, the applicant, must provide in the permit application all of the following information for the property to be mined—

(a) The name and address of—

(1) Each legal or equitable owner(s) of record of the surface and mineral.

(2) The holder(s) of record of any leasehold interest.

(3) Any purchaser(s) of record under a real estate contract.

(b) The name and address of each owner of record of all property (surface and subsurface) contiguous to any part of the proposed permit area.

(c) A statement of all interests, options, or pending bids you hold or have made for lands contiguous to the proposed permit area. If you request in writing, we will hold as confidential, under § 773.6(d)(3)(ii) of this chapter, any information you are required to submit under this paragraph which is not on public file under State law.

(d) The Mine Safety and Health Administration (MSHA) numbers for all structures that require MSHA approval.

[65 FR 79669, Dec. 19, 2000]

§ 778.14 Providing violation information.

(a) You, the applicant, must state, in your permit application, whether you, your operator, or any subsidiary, affiliate, or entity which you or your operator own or control or which is under common control with you or your operator, has—

(1) Had a Federal or State permit for surface coal mining operations suspended or revoked during the five-year period preceding the date of submission of the application; or

(2) Forfeited a performance bond or similar security deposited in lieu of bond in connection with surface coal mining and reclamation operations during the five-year period preceding the date of submission of the application.

(b) For each suspension, revocation, or forfeiture identified under paragraph (a), you must provide a brief explanation of the facts involved, including the—

(1) Permit number.

(2) Date of suspension, revocation, or forfeiture, and, when applicable, the amount of bond or similar security forfeited.

(3) Regulatory authority that suspended or revoked the permit or forfeited the bond and the stated reasons for the action.

(4) Current status of the permit, bond, or similar security involved.

(5) Date, location, type, and current status of any administrative or judicial proceedings concerning the suspension, revocation, or forfeiture.

(c) A list of all violation notices you or your operator received for any surface coal mining and reclamation operation during the three-year period preceding the date of submission of the application. In addition you must submit a list of all unabated or uncorrected violation notices incurred in connection with any surface coal mining and reclamation operation that you or your operator own or control on that date. For each violation notice reported, you must include the following information, when applicable—

(1) The permit number and associated MSHA number.

(2) The issue date, identification number, and current status of the violation notice.

(3) The name of the person to whom the violation notice was issued,

(4) The name of the regulatory authority or agency that issued the violation notice.

(5) A brief description of the violation alleged in the notice.

(6) The date, location, type, and current status of any administrative or judicial proceedings concerning the violation notice.

(7) If the abatement period for a violation in a notice of violation issued under § 843.12 of this chapter, or its State regulatory program equivalent, has not expired, certification that the violation is being abated or corrected to the satisfaction of the agency with jurisdiction over the violation.

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(8) For all violations not covered by paragraph (c)(7) of this section, the actions taken to abate or correct the violation.

[65 FR 79669, Dec. 19, 2000]

§ 778.15 Right-of-entry information.

(a) An application shall contain a description of the documents upon which the applicant bases his legal right to enter and begin surface coal mining and reclamation operations in the permit area and shall state whether that right is the subject of pending litigation. The description shall identify the documents by type and date of execution, identify the specific lands to which the document pertains, and explain the legal rights claimed by the applicant.

(b) Where the private mineral estate to be mined has been severed from the private surface estate, an applicant shall also submit—

(1) A copy of the written consent of the surface owner for the extraction of coal by surface mining methods;

(2) A copy of the conveyance that expressly grants or reserves the right to extract coal by surface mining methods; or

(3) If the conveyance does not expressly grant the right to extract the coal by surface mining methods, documentation that under applicable State law, the applicant has the legal authority to extract the coal by those methods.

(c) Nothing in this section shall be construed to provide the regulatory authority with the authority to adjudicate property rights disputes.

§ 778.16 Status of unsuitability claims.

(a) An application shall contain available information as to whether the proposed permit area is within an area designated as unsuitable for surface coal mining and reclamation operations or is within an area under study for designation in an administrative proceeding under parts 762, 764, and 769 of this chapter.

(b) An application in which the applicant claims the exemption described in §762.13(c) of this chapter shall contain information supporting the assertion that the applicant made substantial legal and financial commitments be-

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fore January 4, 1977, concerning the proposed surface coal mining and reclamation operations.

(c) An application that proposes to conduct surface coal mining operations within 100 feet of a public road or within 300 feet of an occupied dwelling must meet the requirements of §761.14 or §761.15 of this chapter, respectively.

[48 FR 44399, Sept. 28, 1983, as amended at 64 FR 70837, Dec. 17, 1999]

§ 778.17 Permit term.

(a) Each application shall state the anticipated or actual starting and termination date of each phase of the surface coal mining and reclamation operation and the anticipated number of acres of land to be affected during each phase of mining over the life of the mine.

(b) If the applicant requires an initial permit term in excess of 5 years in order to obtain necessary financing for equipment and the opening of the operation, the application shall—

(1) Be complete and accurate covering the specified longer term; and

(2) Show that the proposed longer term is reasonably needed to allow the applicant to obtain financing for equipment and for the opening of the operation with the need confirmed, in writing, by the applicant's proposed source of financing.

§ 778.18 Insurance.

An application shall contain either a certificate of liability insurance or evidence of self-insurance in compliance with §800.60 of this chapter.

§ 778.21 Proof of publication.

A copy of the newspaper advertisements of the application for a permit, significant revision of a permit, or renewal of a permit, or proof of publication of the advertisements which is acceptable to the regulatory authority shall be filed with the regulatory authority and shall be made a part of the application not later than 4 weeks after the last date of publication as required by §773.6(a)(1) of this chapter.

[48 FR 44399, Sept. 28, 1983, as amended at 65 FR 79669, Dec. 19, 2000]

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§ 778.22 Facilities or structures used in common.

The plans of a facility or structure that is to be shared by two or more separately permitted mining operations may be included in one permit application and referenced in the other applications. In accordance with part 800 of this chapter, each permittee shall bond the facility or structure unless the permittees sharing it agree to another arrangement for assuming their respective responsibilities. If such agreement is reached, then the application shall include a copy of the agreement between or among the parties setting forth the respective bonding responsibilities of each party for the facility or structure. The agreement shall demonstrate to the satisfaction of the regulatory authority that all responsibilities under this chapter for the facility or structure will be met.

PART 779—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

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AUTHORITY: 30 U.S.C. 1201 *et seq.*; sec. 115 of Pub. L. 98-146, (30 U.S.C. 1257), and 16 U.S.C. 470 *et seq.*

SOURCE: 44 FR 15354, Mar. 13, 1979, unless otherwise noted.

EDITORIAL NOTE: At 82 FR 54948, Nov. 17, 2017, as required by the Congressional Review Act and Public Law 115-5, the Office of Surface Mining Reclamation and Enforcement removed all amendments to part 779 made effective on Jan. 19, 2017, at 81 FR 93327, Dec. 20, 2016.

§ 779.1 Scope.

This part establishes the minimum requirements for the Secretary's ap-

proval of regulatory program provisions for the environmental resources contents of applications for surface mining activities.

[44 FR 15354, Mar. 13, 1979, as amended at 81 FR 93327, Dec. 20, 2016; 82 FR 54948, Nov. 17, 2017]

§ 779.2 Objectives.

The objectives of this part are to ensure that each application provides to the regulatory authority a complete and accurate description of the environmental resources that may be impacted or affected by proposed surface mining activities.

[44 FR 15354, Mar. 13, 1979, as amended at 81 FR 93327, Dec. 20, 2016; 82 FR 54948, Nov. 17, 2017]

§ 779.4 Responsibilities.

(a) It is the responsibility of the applicant to provide, except where specifically exempted in this part, all information required by this part in the application.

(b) It is the responsibility of State and Federal government agencies to provide information for applications as specifically required by this part.

[44 FR 15354, Mar. 13, 1979, as amended at 81 FR 93327, Dec. 20, 2016; 82 FR 54948, Nov. 17, 2017]

§ 779.10 Information collection.

The information collection requirements contained in 30 CFR 779.11, 779.12, 779.13, 779.14, 779.15, 779.16, 779.17, 779.18, 779.19, 779.21, 779.22, 779.24, 779.25 and 779.27 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029-0035. The information is being collected to meet the requirements of sections 507 and 508 of Pub. L. 95-87, which require the applicant to present an adequate description of the existing pre-mining environmental resources within and around the proposed mine plan area. This information will be used by the regulatory authority to determine whether the applicant can comply with the performance standards of the regulations for surface coal mining and whether reclamation of these areas is feasible. The obligation to respond is mandatory.[47 FR 33686, Aug. 4, 1982, as amended at 52 FR 47359,