

notification required by paragraph (b) of this section.

(b) *Notification.* The regulatory authority shall issue written notification of the decision to the following persons and entities:

(1) The applicant, each person who files comments or objections to the permit application, and each party to an informal conference.

(2) The local governmental officials in the local political subdivision in which the land to be affected is located within 10 days after the issuance of a permit, including a description of the location of the land.

(3) If the regulatory authority is a State agency, the local OSM office.

(c) *Permit term.* Each permit shall be issued for a fixed term of 5 years or less, unless the requirements of § 778.17 of this chapter are met.

(d) *Right of renewal.* Permit application approval shall apply to those lands that are specifically designated as the permit area on the maps submitted with the application and for which the application is complete and accurate. Any valid permit issued in accordance with paragraph (a) of this section shall carry with it the right of successive renewal, within the approved boundaries of the existing permit, upon expiration of the term of the permit, in accordance with § 774.15.

(e) *Initiation of operations.* (1) A permit shall terminate if the permittee has not begun the surface coal mining and reclamation operation covered by the permit within 3 years of the issuance of the permit.

(2) The regulatory authority may grant a reasonable extension of time for commencement of these operations, upon receipt of a written statement showing that such an extension of time is necessary, if—

(i) Litigation precludes the commencement or threatens substantial economic loss to the permittee; or

(ii) There are conditions beyond the control and without the fault or negligence of the permittee.

(3) With respect to coal to be mined for use in a synthetic fuel facility or specified major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at the time that the construc-

tion of the synthetic fuel or generating facility is initiated.

(4) Extensions of time granted by the regulatory authority under this paragraph shall be specifically set forth in the permit, and notice of the extension shall be made public by the regulatory authority.

§ 773.20 Improvidently issued permits: General procedures.

(a) *Permit review.* A regulatory authority which has reason to believe that it improvidently issued a surface coal mining and reclamation permit must review the circumstances under which the permit was issued, using the criteria in paragraph (b) of this section. When the regulatory authority finds that the permit was improvidently issued, it must comply with paragraph (c) of this section.

(b) *Review criteria.* (1) A regulatory authority must find that a surface coal mining and reclamation permit was improvidently issued if:

(i) Under the violations review criteria of the regulatory program at the time the permit was issued:

(A) The regulatory authority should not have issued the permit because of an unabated violation or a delinquent penalty or fee; or

(B) The permit was issued on the presumption that a notice of violation was in the process of being corrected to the satisfaction of the agency with jurisdiction over the violation, but a cessation order subsequently was issued; and

(ii) The violation, penalty, or fee:

(A) Remains unabated or delinquent; and

(B) Is not the subject of a good faith appeal, or of an abatement plan or payment schedule that is being met to the satisfaction of the responsible agency; and

(iii) The permittee or any person owned or controlled by the permittee continues to be responsible for the violation, penalty, or fee.

(2) The provisions § 773.25 of this part apply whenever a regulatory authority makes one of the following determinations:

(i) Whether a violation, penalty, or fee existed at the time that it was cited, remains unabated or delinquent,

§ 773.21

has been corrected, is in the process of being corrected, or is the subject of a good faith appeal, and

(ii) Whether the permittee or any person owned or controlled by the permittee continues to be responsible for the violation, penalty, or fee.

(c) *Remedial measures.* (1) A regulatory authority which, under paragraph (b) of this section, finds that, because of an unabated violation or a delinquent penalty or fee, a permit was improvidently issued must use one or more of the following remedial measures:

(i) Implement, with the cooperation of the responsible agency, the permittee, and persons owned or controlled by the permittee, a plan for abatement of the violation or a schedule for payment of the penalty or fee;

(ii) Impose on the permit a condition requiring abatement of the violation or payment of the penalty or fee within a reasonable time;

(iii) Suspend the permit until the violation is abated or the penalty or fee is paid; or

(iv) Rescind the permit.

(2) If the regulatory authority decides to suspend the permit, it must afford at least 30 days written notice to the permittee. If the regulatory authority decides to rescind the permit, it must issue a notice in accordance with § 773.21 of this part. In either case, the permittee must be given the opportunity to request administrative review of the notice under 43 CFR 4.1370 through 4.1370 through 4.1377, where OSM is the regulatory authority, or under the State program equivalent, where a State is the regulatory authority. The regulatory authority's decision will remain in effect during the pendency of the appeal, unless temporary relief is granted in accordance with 43 CFR 4.1376 or the State program equivalent.

[62 FR 19459, Apr. 21, 1997]

§ 773.21 Improvidently issued permits: Rescission procedures.

A regulatory authority which, under § 773.20(c)(1)(iv) of this part, elects to rescind an improvidently issued permit must serve on the permittee a notice of proposed suspension and rescission which includes the reasons for the find-

30 CFR Ch. VII (7-1-00 Edition)

ing of the regulatory authority under § 773.20(b) of this part and states that:

(a) *Automatic suspension and rescission.* After a specified period of time not to exceed 90 days, the permit automatically will become suspended, and not to exceed 90 days thereafter rescinded, unless within those periods the permittee submits proof, and the regulatory authority finds, consistent with the provisions of § 773.25 of this part, that:

(1) The finding of the regulatory authority under § 773.20(b) of this part was erroneous;

(2) The violation has been abated, or the penalty or fee paid, to the satisfaction of the responsible agency;

(3) The violation, penalty, or fee is the subject of a good faith appeal, or of an abatement plan or payment schedule that is being met to the satisfaction of the responsible agency; or

(4) The permittee and all persons owned or controlled by the permittee are no longer responsible for the violation, penalty, or fee.

(b) *Cessation of operations.* After permit suspension or rescission, the permittee must cease all surface coal mining and reclamation operations under the permit, except for violation abatement and for reclamation and other environmental protection measures as required by the regulatory authority.

[62 FR 19459, Apr. 21, 1997]

§ 773.22 Verification of ownership or control application information.

(a) In accordance with § 773.15(c)(1) of this part, prior to the issuance of a permit, the regulatory authority shall review the information in the application provided pursuant to § 778.13 of this chapter to determine that such information, including the identification of the operator and all owners and controllers of the operator, is complete and accurate. In making such determination, the regulatory authority shall compare the information provided in the application with information from other reasonably available sources, including—

(1) Manual data sources within the State in which the regulatory authority exercises jurisdiction, including: (i) The regulatory authority's inspection and enforcement records and (ii) State