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demonstrate that the amount of coal to be removed is not the total reserve, but is a sampling of a larger reserve.

(4) An explanation as to why other means of exploration, such as core drilling, are not adequate to determine the quality of the coal and/or the feasibility of developing a surface coal mining operation.

[53 FR 52949, Dec. 29, 1988]

§ 772.15 Public availability of information.

(a) Except as provided in paragraph (b) of this section, all information submitted to the regulatory authority under this part shall be made available for public inspection and copying at the local offices of the regulatory authority closest to the exploration area.

(b) The regulatory authority shall keep information confidential if the person submitting it requests in writing, at the time of submission, that it be kept confidential and the information concerns trade secrets or is privileged commercial or financial information relating to the competitive rights of the persons intending to conduct coal exploration.

(c) Information requested to be held as confidential under paragraph (b) of this section shall not be made publicly available until after notice and opportunity to be heard is afforded persons both seeking and opposing disclosure of the information.

PART 773—REQUIREMENTS FOR PERMITS AND PERMIT PROCESSING

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773.24 Procedures for challenging ownership or control links shown in AVS.

773.25 Standards for challenging ownership or control links and the status of violations.

AUTHORITY: 30 U.S.C. 1201 *et seq.*, 16 U.S.C. 470 *et seq.*, 16 U.S.C. 661 *et seq.*, 16 U.S.C. 703 *et seq.*, 16 U.S.C. 668a *et seq.*, 16 U.S.C. 469 *et seq.*, and 16 U.S.C. 1531 *et seq.*

SOURCE: 48 FR 44391, Sept. 28, 1983, unless otherwise noted.

§ 773.1 Scope and purpose.

This part provides minimum requirements for permits and permit processing and covers obtaining and reviewing permits; coordinating with other laws; public participation; permit decision and notification; permit conditions; and permit term and right of renewal.

§ 773.5 Definitions.

For purposes of this subchapter:

Applicant/Violator System or *AVS* means the computer system maintained by OSM to identify ownership or control links involving permit applicants, permittees, and persons cited in violation notices.

Federal violation notice means a violation notice issued by OSM or by another agency or instrumentality of the United States.

Owned or controlled and *owns or controls* mean any one or a combination of the relationships specified in paragraphs (a) and (b) of this definition:

(a)(1) Being a permittee of a surface coal mining operation;

(2) Based on instrument of ownership or voting securities, owning of record in excess of 50 percent of an entity; or

(3) Having any other relationship which gives one person authority directly or indirectly to determine the manner in which an applicant, an operator, or other entity conducts surface coal mining operations.

(b) The following relationships are presumed to constitute ownership or control unless a person can demonstrate that the person subject to the presumption does not in fact have the authority directly or indirectly to determine the manner in which the relevant surface coal mining operation is conducted:

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(1) Being an officer or director of an entity;

(2) Being the operator of a surface coal mining operation;

(3) Having the ability to commit the financial or real property assets or working resources of an entity;

(4) Being a general partner in a partnership;

(5) Based on the instruments of ownership or the voting securities of a corporate entity, owning of record 10 through 50 percent of the entity; or

(6) Owning or controlling coal to be mined by another person under a lease, sublease or other contract and having the right to receive such coal after mining or having authority to determine the manner in which that person or another person conducts a surface coal mining operation.

Ownership or control link means any relationship included in the definition of *Owned or controlled* or *Owns or controls* in this section or in the violations review provisions of § 773.15(b) of this part. It includes any relationship presumed to constitute ownership or control under the definition of *Owned or controlled* or *Owns or controls* in this section, unless such presumption has been successfully rebutted under the provisions of §§ 773.24 and 773.25 of this part or under the provisions of part 775 of this chapter and § 773.25.

State violation notice means a violation notice issued by a State regulatory authority or by another agency or instrumentality of State government.

Violation notice means any written notification from a governmental entity, whether by letter, memorandum, judicial or administrative pleading, or other written communication, of a violation of the Act; any Federal rule or regulation promulgated pursuant thereto; a State program; or any Federal or State law, rule, or regulation pertaining to air or water environmental protection in connection with a surface coal mining operation. It includes, but is not limited to, a notice of violation; an imminent harm cessation order; a failure-to-abate cessation order; a final order, bill, or demand letter pertaining to a delinquent civil penalty; a bill or demand letter pertaining to delinquent abandoned mine

reclamation fees; and a notice of bond forfeiture, where one or more violations upon which the forfeiture was based have not been corrected.

[53 FR 38890, Oct. 3, 1988 as amended at 53 FR 44145, Nov. 1, 1988; 53 FR 44694, Nov. 4, 1988; 59 FR 54352, Oct. 28, 1994; 62 FR 19458, Apr. 21, 1997]

§ 773.10 Information collection.

(a) The collections of information contained in 30 CFR part 773 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029-0041. The information will be used by the regulatory authorities in processing applications. Response is required to obtain a benefit in accordance with 30 U.S.C. 1201 *et seq.*

(b) Public reporting burden for this collection of information is estimated to average four and one-half hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate to OSM Information Collection Clearance Officer, Room 640 NC, 1951 Constitution Ave., Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1029-0041), Washington, DC 20503.

[59 FR 54352, Oct. 28, 1994]

§ 773.11 Requirements to obtain permits.

(a) *All operations.* On and after 8 months from the effective date of a permanent regulatory program within a State, no person shall engage in or carry out any surface coal mining operations, unless such person has first obtained a permit issued by the regulatory authority except as provided for in paragraph (b) of this section. A permittee need not renew the permit if no surface coal mining operations will be conducted under the permit and solely reclamation activities remain to be done. Obligations established under a permit continue until completion of surface coal mining and reclamation operations, regardless of whether the authorization to conduct surface coal mining operations has expired or has