

TITLE 62: MINING
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1778
PERMIT APPLICATIONS--MINIMUM REQUIREMENTS
FOR LEGAL, FINANCIAL, COMPLIANCE, AND RELATED INFORMATION

Section

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AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 9348; amended at 11 Ill. Reg. 8368, effective July 1, 1987; amended at 14 Ill. Reg. 11873, effective January 1, 1991; amended at 15 Ill. Reg. 17265, effective January 1, 1992; amended at 17 Ill. Reg. 11027, effective July 1, 1993; amended at 20 Ill. Reg. 2080, effective January 19, 1996; amended at 22 Ill. Reg. 20260, effective November 5, 1998; amended at 26 Ill. Reg. 4267, effective March 6, 2002; amended at 27 Ill. Reg. 4668, effective February 26, 2003.

Section 1778.4 Responsibility (Repealed)

(Source: Repealed at 11 Ill. Reg. 8368, effective July 1, 1987)

Section 1778.11 Applicability (Repealed)

(Source: Repealed at 11 Ill. Reg. 8368, effective July 1, 1987)

Section 1778.13 Identification of Interests

An application to conduct surface coal mining and reclamation operations shall contain the following information, except that the submission of a social security number is voluntary:

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- a) A statement as to whether the applicant is a corporation, partnership, single proprietorship, association, or other business entity.
 - b) Names, addresses, and telephone numbers and, as applicable, social security and federal employer identification number of the applicant, the operator (if different from the applicant), the person who will pay the abandoned mine land reclamation fee, and the applicant's resident agent who will accept service of process.
 - c) For each person who owns or controls the applicant under the definition of "owned or controlled" and "owns or controls" in 62 Ill. Adm. Code 1773.5, as applicable.
 - 1) The person's name, address, social security number and employer identification number.
 - 2) The person's ownership or control relationship to the applicant, including percentage of ownership and location in organizational structure;
 - 3) The title of the person's position, date position was assumed, and when submitted under 62 Ill. Adm. Code 1773.17(h), date of departure from the position;
 - 4) Each additional name and identifying number, including employer identification number, Federal or State permit number, and MSHA number with date of issuance, under which the person owns or controls, or previously owned or controlled, a surface coal mining and reclamation operation in the United States within the five (5) years preceding the date of the application; and
 - 5) The application number or other state or federal identifier of, and the regulatory authority for, any other pending surface coal mining operation permit application filed by the person in any State in the United States.
 - d) For any surface coal mining operation owned or controlled by either the applicant or by any person who owns or controls the applicant under the definition of "owned or controlled" and "owns or controls" in 62 Ill. Adm. Code 1773.5, the operation's:
 - 1) Name, address, identifying numbers, including employer identification number, Federal or State permit number and MSHA number, the date of issuance of the MSHA number, and the regulatory authority; and
 - 2) Ownership or control relationship to the applicant, including percentage of ownership and location in organizational structure.

- e) The name and address of each legal or equitable owner of record of the surface and mineral property to be mined, each holder of record of any leasehold interest in the property to be mined, and any purchaser of record under a real estate contract for the property to be mined.
- f) The name and address of each owner of record of all property (surface and subsurface) contiguous to any part of the proposed permit area.
- g) The Mine Safety and Health Administration (MSHA) numbers for all mine-associated structures that require MSHA approval, pursuant to 30 CFR 77 (1986).
- h) A statement of all lands, interest in lands, options, or pending bids on interests held or made by the applicant for lands contiguous to the area described in the permit application. If requested by the applicant, any information required by this section which is not on public file pursuant to State law shall be held in confidence by the Department, as provided under 62 Ill. Adm. Code 1773.13(d)(3)(B).
- i) After an applicant is notified that his or her application is approved, but before the permit is issued, the applicant shall, as applicable, update, correct or indicate that no change has occurred in the information previously submitted under subsections (a) through (d). Information submitted as a change shall be evaluated in the same manner as the original application.
- j) The applicant shall submit the information required by Sections 1778.13 and 1778.14 in the format prescribed and issued by the Department and the federal Office of Surface Mining Reclamation and Enforcement.

(Source: Amended at 14 Ill. Reg. 11873, effective January 1, 1991)

Section 1778.14 Violation Information

An application shall contain the following:

- a) A statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant has:
 - 1) Had a Federal or State coal mining permit suspended or revoked in the last five years preceding the date of submission of the application; or
 - 2) Forfeited a performance bond or similar security deposited in lieu of bond.

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- b) If any such suspension, revocation, or forfeiture has occurred, a statement of the facts involved, including:
- 1) Identification number and date of issuance of the permit and the date and amount of bond or similar security;
 - 2) Identification of the authority that suspended or revoked a permit or forfeited a bond and the stated reasons for that action;
 - 3) The current status of the permit, bond, or similar security involved;
 - 4) The date, location, and type of any administrative or judicial proceedings initiated concerning the suspension, revocation, or forfeiture; and
 - 5) The current status of these proceedings.
- c) A list of all violation notices received by the applicant during the three-year period preceding the application date, and a list of all outstanding violation notices received prior to the date of the application by any surface coal mining operation that is deemed or presumed to be owned or controlled by the applicant under the definition of “owned or controlled” and “owns or controls” in 62 Ill. Adm. Code 1773.5. For each notice of violation issued pursuant to 62 Ill. Adm. Code 1843.12 or under a Federal or State program for which the abatement period has not expired, the applicant shall certify that such notice of violation is in the process of being corrected to the satisfaction of the agency with jurisdiction over the violation. For each violation notice reported, the list shall include the following information as applicable:
- 1) Any identifying numbers for the operation, including the Federal or State permit number and MSHA number, the dates of issuance of the violation notice and MSHA number, the name of the person to whom the violation notice was issued, and the name of the issuing regulatory authority, department or agency;
 - 2) A brief description of the violation alleged in the notice;
 - 3) The date, location, and type of any administrative or judicial proceedings initiated concerning the violation, including, but not limited to, proceedings initiated by any person identified in subsection (c) to obtain administrative or judicial review of the violations;
 - 4) The current status of the proceedings and of the violation notice; and

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- 5) The actions, if any, taken by any person identified in subsection (c) to abate the violation.
 - d) Information about the applicant's present financial condition which would provide assurance to the Department that no further forfeiture would be expected.
 - e) After an applicant is notified that his or her application is approved, but before the permit is issued, the applicant shall, as applicable, update, correct or indicate that no change has occurred in the information previously submitted under this Section. Information submitted as a change shall be evaluated in the same manner as the original application.

(Source: Amended at 22 Ill. Reg. 20260, effective November 5, 1998)

Section 1778.15 Right of Entry Information

- a) An application shall contain a description of the documents upon which the applicant bases his or her 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 those 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. The Department will not be liable in any way if the claimed right to enter and begin surface mining activities has been, or is later, adjudicated invalid by a court of competent jurisdiction. Documents shall not be submitted to the Department in lieu of the description identified in this subsection; however, the Department may subsequently require the applicant to provide such information during the permitting process.
- b) For surface mining activities where the private mineral estate to be mined has been severed from the private surface estate, the application shall also provide for lands within the permit area:
 - 1) A copy of the written consent of the surface owner to the extraction of coal by surface mining methods;
 - 2) A copy of the conveyance that expressly grants or reserves the right to extract the 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 the 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 afford the Department the authority to adjudicate property title disputes.
- d) In satisfaction of the requirements of this Section the Department may accept, as part of a permit application, a statement, notarized and attested to the truth of the statement, signed by an attorney licensed to practice law in the State of Illinois, the applicant has the legal right to enter and commence the surface coal mining and reclamation operations proposed in the application. The statement shall identify the documents upon which it is based by type and date of execution, identify the specific lands to which each document pertains, and explain the legal rights claimed by the applicant. If subsection (b) applies, such statement shall also include copies of the documents as required in subsections (b)(1) through (3).
- e) An application in which the applicant claims to have valid existing rights to conduct surface coal mining operations in an area where mining is prohibited or limited under 62 Ill. Adm. Code 1761.11 shall contain the necessary information and meet the requirements of Section 1778.16 and the applicable portions of 62 Ill. Adm. Code 1761.14 through 1761.17.
- f) All applications for shadow area shall contain a notarized statement by a responsible official of the applicant attesting that all necessary mining rights, including the right to subside, if applicable, have been or will be obtained prior to mining.

(Source: Amended at 27 Ill. Reg. 4668, effective February 26, 2003)

Section 1778.16 Relationship to Areas Designated Unsuitable for Mining

- a) An application shall contain a statement of available information on whether the proposed permit and shadow areas are within an area designated unsuitable for surface coal mining and reclamation operations or under study for designation in an administrative proceeding under 62 Ill. Adm. Code 1762 and 1764.
- b) If an applicant claims the exemption in 62 Ill. Adm. Code 1762.13(c), the application shall contain information supporting the applicant's assertion that it made substantial legal and financial commitments before January 4, 1977, concerning the proposed surface coal mining and reclamation operations.
- c) An application in which the applicant proposes to conduct surface coal mining operations within 300 feet of an occupied dwelling or within 100 feet of a public road must meet the requirements of 62 Ill. Adm. Code 1761.15 or 1761.14, respectively.

(Source: Amended at 27 Ill. Reg. 4668, effective February 26, 2003)

Section 1778.17 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 and over the life of the mine.
- b) If the applicant requires an initial permit term in excess of five (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 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.

(Source: Amended at 11 Ill. Reg. 8368, effective July 1, 1987)

Section 1778.18 Insurance

An application shall contain a certificate of liability insurance issued in compliance with 62 Ill. Adm. Code 1800.60.

(Source: Amended at 11 Ill. Reg. 8368, effective July 1, 1987)

Section 1778.20 Identification of Location of Public Office for Filing of Application (Repealed)

(Source: Repealed at 11 Ill. Reg. 8368, effective July 1, 1987)

Section 1778.21 Proof of Publication

A copy of the newspaper advertisement of the application for a permit, significant revision of a permit or renewal of a permit and proof of publication of the advertisement shall be filed with the Department and made a part of the complete application, not later than four (4) weeks after the last date of publication required under 62 Ill. Adm. Code 1773.13(a)(1).

(Source: Amended at 11 Ill. Reg. 8368, effective July 1, 1987)

Section 1778.22 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 (1) permit application and referenced in the other applications. In accordance with 62 Ill. Adm. Code 1800, 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 be approved by the Department if it demonstrates that all responsibilities under the regulatory program for the facility or structure will be met.

(Source: Added at 11 Ill. Reg. 8368, effective July 1, 1987)