

**Supporting Statements for Reporting and Recordkeeping  
Requirements:**

**30 CFR 778 – Permit Applications – Minimum Requirements for Legal,  
Financial, Compliance and Related Information**

**1029-0117**

Terms of Clearance: None

**General Instructions**

*A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the Federal Register, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. When Item 17 of the OMB Form 83-I is checked "Yes", Section B of the Supporting Statement must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.*

**Specific Instructions**

**A. Justification**

1. *Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.*
2. *Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. [Be specific. If this collection is a form or a questionnaire, every question needs to be justified.]*
3. *Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden [and specifically how this collection meets GPEA requirements].*
4. *Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.*

5. *If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.*
6. *Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.*
7. *Explain any special circumstances that would cause an information collection to be conducted in a manner:*
  - \* requiring respondents to report information to the agency more often than quarterly;*
  - \* requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*
  - \* requiring respondents to submit more than an original and two copies of any document;*
  - \* requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;*
  - \* in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;*
  - \* requiring the use of a statistical data classification that has not been reviewed and approved by OMB;*
  - \* that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or*
  - \* requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*
8. *If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice [and in response to the PRA statement associated with the collection over the past three years] and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.*

*Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. [Please list the names, titles, addresses, and phone numbers of persons contacted.]*

*Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years — even if the collection of information activity is the same as in prior periods. There may be*

*circumstances that may preclude consultation in a specific situation. These circumstances should be explained.*

9. *Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.*
10. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.*
11. *Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.*
12. *Provide estimates of the hour burden of the collection of information. The statement should:*
  - \* Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.*
  - \* If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.*
  - \* Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.*
13. *Provide an estimate of the total annual [non-hour] cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).*
  - \* The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information [including filing fees paid]. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s),*

*and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.*

*\* If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.*

*\* Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.*

14. *Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.*
15. *Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.*
16. *For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.*
17. *If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.*
18. *Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.*

## **Introduction**

The Office of Surface Mining Reclamation and Enforcement (OSM) submits this request for Office of Management and Budget (OMB) approval to collect information under 30 CFR Part 778, Permit Applications – Minimum Requirements for Legal, Financial, Compliance, and Related Information. This request is submitted in compliance with OMB requirements for final rulemaking. Only section 778.11 has been amended from our last collection approval on February 21, 2007.

The regulatory provisions of 30 CFR Part 778 govern the minimum requirements of information required from applicants in their applications for new permits. The requirements include identification of the applicant itself and its operator, if known at the time of application; the identity and address for the resident agent and affiliates of the applicant and operator; identity of the affiliates of the applicant and operator that meet the regulatory definitions at 30 CFR 701.5 of control or controller and own, owner, and ownership; permit history; property interests; violation information; right of entry; the status of any claims of lands unsuitable for mining and reclamation within the proposed permit area; term of the permit; required insurance; and description of any structures or facilities proposed to be used in common with other, separately permitted, surface coal mining operations. The regulatory provisions in 30 CFR Part 778 are authorized under sections 507 and 510 of the Surface Mining Control and Reclamation Act of 1977, as amended, (SMCRA or the Act), Public Law (P.L.) 95-87.

On December 19, 2000, OSM promulgated certain revisions to the regulatory requirements under CFR Part 778 in the 2000 Ownership and Control rule (65 FR 79582) (2000 final rule). The 2000 final rule added provisions requiring additional information disclosure under 30 CFR Part 778 from applicants when applying for a new permit. In doing so, new sections were added to 30 CFR Part 778 and some existing provisions were reorganized and/or redesignated.

The 2000 final rule became effective on January 18, 2001. On February 15, 2001, the National Mining Association (NMA) filed suit in United States District Court to overturn parts of the rule, including provisions adopted in 30 CFR Part 778. OSM and NMA agreed to engage in discussions in an attempt to settle the issues NMA proposed to litigate. The parties were able to settle all of the issues raised by NMA. As a condition of the settlement, OSM agreed to propose rulemaking to amend certain provisions adopted in the 2000 final rule. OSM published a proposed rulemaking that addressed the majority of the issues in the lawsuit in 2003 (68 FR 75036, December 19, 2003). However, after comments were received and additional consideration was given, OSM determined that it was best to withdraw the proposed rule and re-propose it in combination with another portion of the rule that included changes to definitions and provided commenters a better context for review. The combined proposed rule was published on October 10, 2006 (71 FR 59591). On November 22, 2006, OMB preapproved the proposed changes to the collection activities for this Part and assigned it control number 1029-0117.

On February 21, 2007, OMB approved our renewal request for continued information collection of 30 CFR Part 778.

OSM is now seeking OMB approval for this information collection request as a result of the final rulemaking. For ease of review, we are preparing this collection based on changes being made from the currently approved collection authority, approved by OMB in February 2007. Some sections of 30 CFR Part 778.11 will be removed and some existing provisions will be reorganized and/or redesignated.

The provisions under 30 CFR Part 778 that incur an information collection burden are as follows. Only section 778.11 is affected by our rulemaking.

- Section 778.9(a)(1) allows an applicant the benefit to certify by reference that all or part of the information in AVS concerning the applicant is accurate and complete;
- Section 778.9(a)(2) allows an applicant the benefit to certify by reference that part of the information in AVS concerning the applicant is accurate and complete but that part of the information is missing from or incorrect in AVS.
- Section 778.9(b) requires an applicant to swear or affirm, under oath and in writing that the information provided in an application is accurate and complete.
- Section 778.9(d) requires an applicant, before an application is approved, to update, correct, or indicate no change has occurred in the information required under 778.9, 778.11, and 778.14.
- Section 778.11(a)(1) requires applicants to disclose the legal form of the business entity applying for the permit and the legal form of the business entity proposed as the applicant's operator, if the applicant has retained an operator at the time of application. The reporting entity selects a form from the list of "corporations, partnerships, sole proprietorships, or other." OSM is adding the legal form of "associations" to the list as a choice. This change will not affect the reporting burden.
- Section 778.11(a)(2) requires an applicant to disclose the applicant and operator's tax identification number.
- Section 778.11(b)(1) requires an applicant to disclose its name, address, and telephone number.
- Section 778.11(b)(2) requires an applicant to disclose the name, address, and telephone number of its resident agent.
- Section 778.11(b)(3) requires an applicant to disclose the name, address, and telephone number of the applicant's operator.
- Section 778.11(b)(4) requires an applicant to disclose the name, address, and telephone number for the person responsible for submitting the Coal Reclamation and Fee Report (Form OSM-1) and remitting the reclamation fee payment to OSM. We are removing this reporting requirement. In the final rule, a revised requirement in this paragraph will replace current (c)(5). This paragraph now requires the identification of 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 each business entity the reporter will identify required information for every president, chief executive officer, director (or person in similar positions), and every person who owns, of record, 10 percent or more of

the entity. This requirement replaces current paragraph (c)(5) with a mere listing requirement rather than the current OSM definition based determination of Ownership or Control.

In the proposed rule, we had considered dropping the requirement to list the individuals within the organizational structures of the applicant entity up to and including the ultimate parent. We received numerous comments on this proposed change. Industry, without exception, dislikes reporting any information about their organizational structures beyond the basic structure of the applicant itself and some are of the opinion that the collection violates the Paperwork Reduction Act. In contrast, the regulatory authorities strongly voiced that they need information beyond the applicant's structure to include the individuals associated with the organizations to assure they have what is needed to perform the required regulatory checks prior to issuance or renewal of a permit. Based on these comments we have decided to adopt a compromise requirement to list certain individuals (but not all) that make up the entities in the organizational structure. Although this is more information than was required in the proposed rule, it is a decrease from the current rule.

- Section 778.11(c)(1), requires an applicant to disclose the name of every officer in the applicant's and operator's legal business form.
- Section 778.11(c)(2) requires an applicant to disclose the name of every director in the applicant's and its operator's legal business form. OSM is revising this section to add "partner" as an additional option to the existing list of titles for individuals. Our final rule re-designates the option of "director" as paragraph (c)(4).. It will not increase the burden on the reporting entity.
- Section 778.11(c)(3) requires an applicant to disclose the name of every person performing a function similar to a director of the applicant and operator. The final rule will re-designate this requirement as paragraph (c)(5). This paragraph will now require applicants to identify each member. This provides an additional option to the existing list of titles for individuals. It coincides with the change at Section 778.11(a)(1) which adds the option of identifying an organizational form as an "association." The individuals in an association are generally identified as members, as are officers in Limited Liability Companies. It will not increase the burden on the reporting entity.
- Section 778.11(c)(4) requires an applicant to disclose the name of every person who owns 10 to 50 percent of the applicant and operator. The final rule revises this requirement and re-designates it as paragraph (c)(6) This paragraph now requires the identification of directors which is a re-designation of current (c)(2) and will not create an increased burden.
- Section 778.11(c)(5) requires an applicant to disclose the name of every person who owns or controls the applicant and its operator. OSM is removing this requirement. The reporting entity no longer has the burden of applying the OSM definition of ownership or control to the list of disclosed entities and the burden of making this determination. This creates a reduction in burden on the reporting entity. In its place paragraph (c)(3) will be re-designated as (c)(5) and will require the identification of each person performing a function similar to a director. This does not increase the burden on the reporting entity.
- We are creating a new section 778.11(c)(6) which is a re-designation of paragraph (c)(4) with a change from a required disclosure of the name of persons who own 10 to 50

percent of the applicant and operator to the requirement of the name of persons who own, of record, 10 percent or more of the applicant and operator. The requirement would clarify the collection without affecting the burden to the reporting entity.

- Section 778.11(d) requires an applicant to include a certified written oath by the natural person with the greatest level of effective control over the entire proposed surface coal mining operation that he or she controls the entire proposed surface coal mining operation. We are removing this section, creating a reduction in the burden on the reporting entity.
- Section 778.11(e) requires an applicant to disclose in an application the address, telephone number, position title, relationship to the applicant and its operator, percentage of ownership, location in the organizational structure, and beginning date for every person identified in paragraph (c). OSM is re-designating this paragraph as (d). This change does not affect the burden on the reporting entity.
- Section 778.12(a) requires an applicant to disclose for itself and its operator all of the business names under which the applicant, operator, and their partners and principal shareholders currently operate or have operated a surface coal mining operation in the United States within the five-year period preceding the date of submission of an application.
- Section 778.12(b) requires an applicant to disclose for itself and its operator a list identifying any pending applications filed in the United States.
- Section 778.12(c) requires an applicant to disclose for itself and its operator in an application the name, address, taxpayer identification number, Federal and State permit number, corresponding Mine Safety and Health Administration (MSHA) identification number, regulatory authority with jurisdiction, the permittee's and operator's relationship to the operation, including the percentage of ownership and location in the organizational structure for any surface coal mining operations owned or controlled by the applicant or its operator within the five-year period preceding the date of submission of an application.
- Section 778.13(a) requires an applicant to disclose in an application the name and address for each legal or equitable owner of the surface area and mineral, the leaseholder, and purchaser(s) of record under a real estate contract.
- Section 778.13(b) requires an applicant to disclose in an application the name and address of each owner of all surface and subsurface property contiguous to any part of the proposed permit area.
- Section 778.13(c) requires an applicant to disclose in an application a statement of all interests, or pending bids the applicant holds or have made for lands contiguous to the proposed permit area.
- Section 778.13(d), requires an applicant to disclose in an application the MSHA identification numbers for all structures that require MSHA approval.
- Section 778.14(a) requires an applicant to disclose in an application whether it, its operator, or any subsidiary, affiliate, or other entity which the applicant or operator own or control or which is under common control with the applicant or operator has had a Federal or State permit for a surface coal mining operation suspended or revoked or forfeited a performance bond or similar security during the five-year period preceding the date of submission of the application.



- Section 778.14(b) requires an applicant to disclose in an application for each suspension or revocation of a permit or bond forfeiture, a brief explanation of the facts involved, including the permit number, date of suspension, or forfeiture, the regulatory authority taking the action, the current status of the permit, bond, or similar security, and the date, location, type, and current status of any judicial or administrative proceedings concerning the suspension, revocation, or forfeiture.
- Section 778.14(c) requires an applicant to disclose in an application a list of violation notices received by the applicant and its operator for any surface coal mining and reclamation operation during the three-year period preceding the date of submission of the application. In addition, an applicant is required to submit a list of all unabated or uncorrected violation notices and the associated permit number, MSHA number, issue date, current status, name of the person to whom the notice was issued, the regulatory authority that issued the violation notice, a brief description of the alleged violation, the date, location, type, and current status of any administrative or judicial proceeding concerning the violation notice, for violation notices where the abatement date has not expired, certify that the violation is being abated or corrected to the satisfaction of the regulatory authority with jurisdiction, or describe actions taken to abate or correct the violation.
- Section 778.15(a) requires an applicant to describe in an application the documents that comprise the legal right to enter and mine the permit area.
- Section 778.15(b) requires an applicant to submit a copy of the written consent of the surface owner for the extraction of coal by surface mining methods, a copy of the conveyance that expressly grants or reserves the right to extract coal by the surface mining method, or documentation that under applicable State law, the applicant has the legal authority to extract the coal using surface mining methods.
- Section 778.16(a) requires an applicant to provide in an application the available information as to whether the proposed permit area is within an area designated as unsuitable for mining or is within an area under study for such designation.
- Section 778.16(b) requires an applicant to provide in an application documents that support any claim for an exemption from an unsuitability determination, including its assertion that it has made substantial legal and financial commitments to the proposed permit area before January 4, 1977.
- Section 778.17(a) requires an applicant to provide in an application a statement as to the anticipated or actual starting and terminating dates of each phase of the surface coal mining and reclamation operation, and the anticipated number of acres that will be affected over the life of the operation.
- Section 778.17(b) requires an applicant to provide in an application reasonable justification, in writing by the applicant's proposed source of financing, if the applicant proposes to require more than five years before beginning operations.
- Section 778.22 requires an applicant to provide plans in an application when facilities or structures are proposed to be shared by two or more separately permitted surface coal mining operations.

Unique portions of each section will be separately discussed in the following justification statements. However, responses to certain questions in each section are identical. Numbered

Identical Responses to Statements have been separately prepared and are referenced in the individual sections.

Due to adjustments based upon an estimated decrease in reporting requirements, this information collection submission will result a decrease of 97 hours to the information collection burden for 30 CFR Part 778.

Summary  
Information Collection  
30 CFR Part 778

SECTION	APPLICANT RESPONSES	APPLICANT BURDEN	STATE RESPONSES	STATE BURDEN	TOTAL HOURS	CURRENTLY APPROVED HOURS	CHANGE TO BURDEN
778.9	962	1.15	0	0	1,109	1,109	0
778.11	81	12	0	0	971	1,068	(97)
778.12	81	4	0	0	324	324	0
778.13	81	4	0	0	324	324	0
778.14	81	2.4	0	0	194	194	0
778.15	326	5	316	1	1,946	1,946	0
778.16	211	8	208	1	1,896	1,896	0
778.17	326	2	316	1	968	968	0
778.22	49	2	47	1	145	145	0
TOTALS					7,877	7,974	(97)

## IDENTICAL RESPONSES TO STATEMENTS

### A. Justification

3. The required information under 30 CFR Part 778 is provided by applicants for permits. Applicants are required to disclose legal, financial, permit history, property, compliance, right of entry, status of lands unsuitable for surface coal mining, proof of publication of the required advertisement, and facilities or structures used in common with other mining operations information in an application. The legal authority for information collected under 30 CFR Part 778 from applicants and States is authorized under SMCRA, at sections 507 and 510.

Most of the information collected under 30 CFR Part 778 is conducive to electronic media and transmission. Since 1987, entity, legal, permit history, and compliance information has been maintained for permit history, active permitting, and enforcement purposes in OSM's Applicant/Violator System (AVS). OSM and 24 approved State regulatory programs maintain and use AVS for a variety of purposes, including permitting and enforcement. The industry and general public may also access AVS to view applicant, permittee, permit history, and violation information. OSM also provides business information from AVS in electronic form to applicants, operators, and AML contractors on request.

OSM adopted provisions in the 2000 final rule to enable the industry to make direct use of AVS to reduce information collection burdens under 30 CFR Part 778. Applicants with previous permits can meet the requirements of all or parts of sections 778.11, 778.12, 778.13 and 778.14 by certified reference to AVS.

Virtually all State regulatory authorities have the capability of receiving permit applications electronically, either through an ftp site or via CD-ROM. Some permit applicants use computer technology to create, store, and submit information electronically, but the percentage varies based on the size of the company and their technical abilities. Larger coal companies have in-house staff or hire engineering firms to prepare their applications. These companies use automated technology to prepare and submit the applications to State regulatory authorities. Small coal companies, which may not have the technical capability or personnel capable of preparing and submitting applications, may still submit paper forms. Once the State regulatory authorities receive paper applications, some will convert the applications to an electronic format for review and processing. The states with the greatest number of permit applications, such as Kentucky and Virginia, receive approximately 90% electronically, while some receive 0%. Nationally, OSM estimates that the State regulatory authorities receive approximately 33% of permit applications electronically.

It must be noted that the vast majority of permit applications are received by States where OSM does not have the authority to require electronic submissions of permit

applications. OSM can only recommend using electronic methods to improve efficiency.

4. The required information under 30 CFR Part 778 is unique to each surface coal mining operation. No other source of the information is available. Respondents are companies in the coal mining business who apply for new permits and other permitting actions. Applicants must comply with the statutory information disclosure requirements for applications. OSM has not yet required State regulatory authorities to adopt counterpart regulations to the provisions adopted in the 2000 final rule. However, some States have voluntarily adopted procedures similar to those in the 2000 final rule in order to eliminate duplicate information requirements.
5. There are no special provisions for small businesses or other small entities under these regulations. However, OSM does have a small operator assistance program, regulated under 30 CFR Part 795, which has a separately approved information collection clearance number.
6. Respondents provide information required under 30 CFR Part 778 only at the time of application for a new permit, when changes occur requiring information updates or other permitting actions. Less frequent collection of the information would compromise the accuracy and completeness of information required for nationwide permitting and enforcement purposes and would not be in compliance with the Act.
7. The information collection under 30 CFR Part 778 is consistent with 5 CFR 1320(d)(2), except the number of applications requested by the State regulatory authorities. States will require from one to five copies of permit applications depending on the State and whether they receive electronic or paper copies. OSM is currently preparing regulations to require a maximum of one original and two copies of each permit application where they are the regulator authority, and informing the State regulatory authority that this is the appropriate number where they are the regulatory authority for Federal lands.
8. As a result of the litigation and settlement negotiations with NMA, OSM has delayed notifying approved State programs of their statutory obligation to adopt counterpart regulations that are no less effective than the Federal rules. At the time of this request for information collection approval, only OSM, in regions where it is the regulatory authority, is required to implement the regulatory changes adopted in the 2000 final rule. Therefore, only Federal officials and an industry official familiar with Federal permitting requirements have been contacted concerning the changes in the information collection burden shown in this renewal package.

Federal Regulatory Authority Officials Contacted as part of the renewal request in January of 2007:

Debbie Effler  
Office of Surface Mining Reclamation and Enforcement

Knoxville, Tennessee Field Office  
865.545.4103, extension 144

Carl Johnston  
Office of Surface Mining Reclamation and Enforcement  
Western Region  
Denver, Colorado  
303.844.1400, extension 1500

Coal Mining Industry Official Contacted:

Phil Boggs, Consultant  
Mark V Mining and Engineering, Inc.  
353 North Cullum Street  
Clinton, Tennessee 37716  
865.457.1664

The Federal and industry officials agree that the current information collection requirements in 30 CFR Part 778 for industry respondents are somewhat burdensome. However, they also agree information required under 30 CFR Part 778 is required under the Act and is necessary for the permitting process. As indicated above, State implementation of revisions adopted in their counterparts to 30 CFR Part 778 is voluntary.

9. Not applicable. OSM does not provide payments or gifts to respondents.
10. No confidential information is solicited or required under the information collection requirements for 30 CFR Part 778. If an applicant identifies information in an application it wants to remain confidential, regulatory authorities rely upon the regulatory provisions at 30 CFR 773.6(d) to ensure confidentiality of qualified information. There are limitations to information that may qualify for confidentiality.
11. Not applicable. No sensitive information is solicited or required under the information collection requirements for 30 CFR Part 778.
16. Not applicable. OSM has no plans to publish the information collected under 30 CFR Part 778. However, public information disclosed under 30 CFR Part 778 is entered and maintained in AVS.
17. Not applicable. OSM does not seek a waiver from the requirement to display the expiration date of the OMB approval of the information collection under 30 CFR Part 778. The OMB control number is 1029-0117 for 30 CFR Part 778 and is found in section 778.8.
18. Not applicable. There are no exceptions to the certification statement in Item 19 of OMB Form 83 - I.

## **Supporting Statement for Reporting and Recordkeeping Requirements for Section 778.9**

### **A. Justification**

1. Section 778.9 allows applicants for permits to disclose all or part of specific application information by certified reference to OSM's Applicant/Violator System (AVS); swear or affirm that submitted application information is accurate and complete; and update or correct information before an application can be approved. Section 778.9 also requires that applicants that cannot use the benefit of certified reference to AVS must provide all application information required under sections 778.11, 778.12, 778.13, and 778.14. The information collected from applicants under section 778.9 ensures compliance with the statutory requirements for application information under sections 507 and 510 of the Act.
2. The respondents in section 778.9 are industry applicants for new permits. The regulatory authority review of the information provided by applicants under section 778.9 occurs under section 773.12. Section 778.9 allows applicants to reduce the time spent in completing an application by incorporating, by reference, information in AVS that is already known to the regulatory authority. Seventy-five percent of applicants will be able to certify that the relevant information in AVS is accurate and complete. Twenty percent of applicants will be able to certify that part of the information in AVS is accurate and complete but part of the information in AVS is missing or incorrect. Five percent of applicants will be unable to use the certification benefit in section 778.9 and must provide complete application information under sections 778.11, 778.12, 778.13, 778.14. In addition, section 778.9 requires an applicant to swear or affirm, under oath and in writing, that the information provided in an application is accurate and complete. Finally, and before an application is approved, an applicant is required to update, correct, or indicate no change has occurred in the information provided in an application by way of sections 778.9(a) or (b) or provided under sections 778.11 through 778.14.
3. See Identical Responses to Statements.
4. See Identical Responses to Statements.
5. See Identical Responses to Statements.
6. See Identical Responses to Statements.
7. See Identical Responses to Statements.
8. See Identical Responses to Statements.
9. See Identical Responses to Statements.

- 10. See Identical Responses to Statements.
- 11. See Identical Responses to Statements.
- 12. Estimated Information Collection Burden

a. Burden Hour Estimates for Respondents

The total annual number of applicants is estimated to be 326. This estimate is based upon data collected for the 2005 evaluation year. The following table shows the estimated burden hours for respondents (Federal and State applicants) under section 778.9. Data in the table is discussed below. Some calculations have been rounded.

Section	Applicant Responses	Hours per Response	Total Hours
778.9(a)(1), 100 percent certification by reference to AVS.	245	2	490
778.9(a)(2), partial certification by reference to AVS.	65	2	130
778.9(b), written affirmation that the application is accurate and complete.	326	.5	163
778.9(d), update or correct application information before an application for a permit is approved.	326	1	326
<b>TOTALS</b>	<b>962</b>		<b>1,109</b>

We estimate 75 percent of all 326 industry responses, or 245 Federal and State applications, will be able to certify under section 778.9(a)(1) that the relevant information already in AVS concerning the applicant is accurate and complete. This certification is estimated to require 2 hours per respondent. This estimate of hours per response is unchanged from our previous request.

We estimate 20 percent of all 326 industry responses, or 65 Federal and State applicants, will be able to certify under section 778.9(a)(2) that part of the relevant information in AVS concerning the applicant is correct, but that part of the information is missing or incorrect. We estimate the certification that part of the information already in AVS accurate and complete will require 2 hours per respondent. This estimate of hours per response is unchanged from our previous request.



The remaining 5 percent, or 16 industry responses, who are unable to benefit from the certification provisions in section 778.9 because there is no information in AVS for them at the time of application, must comply with all information collection requirements under sections 778.11, 778.12, 778.13, and 778.14. The estimated information collection burden for applicants for whom there is no information in AVS at the time of application is separately addressed in sections 778.11, 778.12, 778.13, and 778.14.

All of the estimated 326 industry applications are required to include a written sworn statement, under section 778.9(b), that all information provided in an application is accurate and complete. We estimate the burden hours to comply with section 778.9(b) will be .5 hour.

All of the estimated 326 industry applications will require, under section 778.9(d), an update, correction, or will indicate that no change has occurred to the information previously submitted in the application under sections 778.9(a) or (b) and sections 778.11 through 778.14 before an application is approved. We estimate the burden hours to comply with section 778.9(d) will require 1 hour.

There is no information collection burden for State governments under section 778.9.

b. Estimated Wage Cost to Respondents

Using U.S. Department of Labor’s Bureau of Labor statistics ([http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm)) we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.3 of hourly wages):

Industry Wage Cost				
Position	Hour Burden per Response	Total Hours	Cost Per Hour (\$)	Total Wage Burden (\$)
Clerical	.5	163	20	3,260
Operations Manager	4.5	636	59	37,524
Chief Executive	.5	163	83	13,529
Total	5.5	962		54,313

Therefore, the estimated total annual cost for industry respondents for section 778.9 is \$54,313.

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annual Capital and Start-up Costs

The information collection requirements of section 778.9 do not involve any capital or start-up costs apart from expenditures associated with customary business practices.

b. Operation and Maintenance Costs

There are no significant or distinct non-wage operations or maintenance costs associated with compliance with the information collection requirements for this section.

14. Estimate of Cost to the Federal Government

Oversight. In keeping with the current guidance concerning oversight of State program implementation, OSM does not anticipate significant oversight review of State compliance with section 778.9 in the absence of indication of problems. OSM estimates it will conduct an oversight review of this section in one State per year. OSM estimates the oversight review will require 40 hours. This estimate is unchanged from our previous request. The annual average salary used to estimate the wage cost to the Federal Government is \$45 per hour for a GS 13 step 4 technician (including benefits and rounded). Therefore, OSM estimates the cost to the Federal government for oversight of section 778.9 will be \$1,800 (40 hours x \$45 per hour).

Federal Programs. There is no information collection burden or costs to OSM where it is the regulatory authority under section 778.9.

Therefore, the cost to the Federal government is estimated to be \$1,800 (\$1,800 for oversight + \$0 for Federal programs).

15. This information collection request does not change the 1,109 hours currently approved for section 778.9.
16. See Identical Responses to Statements.
17. See Identical Responses to Statements.
18. See Identical Responses to Statements.

## **Supporting Statement for Reporting and Recordkeeping Requirements for Section 778.11**

### **A. Justification**

1. Section 778.11 requires an applicant to disclose specific legal business and affiliation information concerning itself and its operator in an application for a surface coal mining permit, if an operator is known at the time of application. Applicants who are unable to use the benefit of disclosing specific information by certified reference to AVS must disclose all information concerning itself and its operator under sections 778.11, 778.12, 778.13, and 778.14. Under the current regulations, an applicant provides information for itself and its operator concerning: the legal identity and business form of the applicant, the resident agent; the person responsible for reporting and paying reclamation fees; officers; directors; persons performing a function similar to a director; their association to the applicant or operator and the date the person began functioning in the position; the location of each in the business organizational structure, persons who own 10 to 50 percent of the applicant or operator, and the identity of persons who meet the regulatory definitions of control or controller and own, owner, or ownership with respect to the applicant and the proposed mining operation. The required information also includes the certified oath by the natural person with the greatest level of effective control over the entire proposed surface coal mining operation. The proposed rule would remove the requirement to identify the person responsible for reporting and paying reclamation fees; change identifying the person who owns 10 to 50 percent of the applicant or operator to one who owns of record 10 percent or greater; remove the requirement to identify owners and controllers as defined by OSM; and remove the requirement to identify the natural person with the greatest level of effective control over the entire proposed surface coal mining operation. We had proposed to remove the requirement to list individuals who comprise the organizational structure of an entity up to the ultimate parent. However, numerous comments have convinced us to adopt a lesser change from the current requirement. In the final rule we are adopting a requirement to report certain higher level individuals who make up the organization's structure up to the ultimate parent. This creates a lesser burden than the current rule. The legal authority for section 778.11 is found in section 507 of the Act.
  
2. The respondents in section 778.11 are industry applicants for new surface coal mining permits. The regulatory authority review of the information provided under section 778.11 occurs under section 773.12. Applicants are able to reduce the time spent in completing an application by incorporating information that is already known to the regulatory authority by certified reference to AVS under section 778.9. Section 778.11 requires applicants that provide only partial information by certified reference to AVS under section 778.9 must provide the missing or inaccurate information under section 778.11. It further requires applicants unable to benefit from the certified reference to the AVS provisions in section 778.9 to provide all required information under section 778.11. The information collected at section 778.11 is used by the regulatory authority with jurisdiction over the mining application or permit in

determining the identity of the applicant or permittee for the purposes of eligibility decision making.

3. See Identical Responses to Statements.
4. See Identical Responses to Statements.
5. See Identical Responses to Statements.
6. See Identical Responses to Statements.
7. See Identical Responses to Statements.
8. See Identical Responses to Statements.
9. See Identical Responses to Statements.
10. See Identical Responses to Statements.
11. See Identical Responses to Statements.
12. Estimated Information Collection Burden

a. Burden Hour Estimates for Respondents

Section 778.11 applies to all industry respondents. However, the information collection burden for respondents depends on whether an applicant is able to benefit from certified reference to AVS under section 778.9. We estimate the total annual number of industry responses will be 326 (Federal and State applicants). This estimate is based upon data collected for the 2005 evaluation year and remains the same as our last approved renewal.

The following table shows the burden hour estimates for all industry respondents required for section 778.11. Some calculations have been rounded.

Section	Applicant Responses	Hours Per Response	Total Hours
778.11, as amended (a) through (d); partial information.	65	11	715
778.11, as amended (a) through (d); complete information.	16	16	256
<b>TOTALS</b>			<b>971</b>

We estimate 20 percent, or 65, of the 326 total applications must provide partial (missing or inaccurate) information under section 778.11, paragraphs (a) through (d), if information is missing from or is inaccurate in AVS. We estimate it will require 11 hours for each applicant to provide the missing or incorrect information. Therefore, the estimated burden for these applicants is 715 hours (65 responses x 11 hours per response).

We estimate 5 percent, or 16, of the total 326 applications must provide complete information under section 778.11, paragraphs (a) through (d) because there is no information in AVS for them at the time of their application for a permit. We estimate it will require 16 hours for each of the applicants to provide all of the required information under section 778.11. Therefore, the estimated burden for these applicants is 256 hours (16 responses x 16 hours per response).

Therefore, the total burden to industry respondents to comply with section 778.11 is 971 hours (715 hours for partial information + 256 hours for complete information).

There is no information collection burden for State governments under section 778.11.

b. Estimated Wage Cost to Respondents

Using U.S. Department of Labor’s Bureau of Labor statistics ([http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm)) we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.3 of hourly wages):

Industry Wage Cost				
Position	Hour Burden per Response	Total Hours	Cost Per Hour (\$)	Total Wage Burden (\$)
Clerical	5	178	20	3,560
Operations Manager	20	712	59	42,008
Chief Executive	2	81	83	6,723
Total	27	971		52,291

Therefore, the estimated total annual cost for industry respondents for section 778.9 is \$52,291.

There is no information collection burden for State governments under section 778.11.

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annual Capital and Start-up Costs

The information collection requirements of section 778.11 do not involve any capital or start-up costs apart from expenditures associated with customary business practices.

b. Operation and Maintenance Costs

There are no significant or distinct non-wage operations or maintenance costs associated with compliance with the information collection requirements for this section.

14. Estimate of Cost to the Federal Government

Oversight. In keeping with the current guidance concerning oversight of State program implementation, OSM does not anticipate significant oversight review of State compliance with section 778.11 in the absence of indication of problems. OSM estimates it will conduct an oversight review of this section in one State per year. OSM estimates the oversight review will require 40 hours. This estimate is unchanged from our previous request. The annual average salary used to estimate the wage cost to the Federal Government is \$45 per hour for a GS 13 step 4 technician (including benefits and rounded). Therefore, OSM estimates the cost to the Federal government for oversight of section 778.11 will be \$1,800 (40 hours x \$45 per hour).

Federal Programs. There is no information collection burden or costs to OSM where it is the regulatory authority under section 778.11.

Therefore, the cost to the Federal government is estimated to be \$1,800 (\$1,800 for oversight + \$0 for Federal programs).

15. This information collection request decreases the estimated burden for industry respondents under section 778.11 by 97 hours as shown below. The decrease is the result of removal of three reporting requirements and a reduction in the scope of disclosures required.

1,068 hours currently approved
- 97 hours due to programmatic changes in paragraphs (b)(4), (c)(5), and (d).
971 hours requested

16. See Identical Responses to Statements.
17. See Identical Responses to Statements.
18. See Identical Responses to Statements.

**Supporting Statement for Reporting and Recordkeeping  
Requirements for Section 778.12**

**A. Justification**

1. Section 778.12 requires applicants for surface coal mining permits to disclose the permit history of the applicant and persons affiliated with the applicant. The required information includes the names under which the applicant, its partners or principal shareholders and its operator, the operator's partners or principal shareholders, have operated a surface coal mining operation in the United States in the five-year period preceding the date an application is submitted to a regulatory authority. It also includes disclosure of the identity, permit, jurisdiction, MSHA identification number, and relationship to the operation for any surface coal mining operation conducted in the five-year period preceding the date an application is submitted to a regulatory authority. The legal authority for requiring permit history information from applicants is found in sections 507(b)(1), (b)(3), and (b)(4) of SMCRA.
2. The respondents under section 778.12 are industry applicants for surface coal mining permits. The regulatory authority review of the information provided under section 778.12 occurs under section 773.12. Applicants are able to reduce the time spent in completing an application by incorporating information already known to the regulatory authority by certified reference to AVS under section 778.9. Section 778.12 requires applicants that provide only partial information by certified reference to AVS in section 778.9 to provide the missing or inaccurate information under section 778.12. It further requires that applicants unable to benefit from the certification by reference to AVS provisions in section 778.9 must provide all required information under section 778.12.
3. See Identical Responses to Statements.
4. See Identical Responses to Statements.
5. See Identical Responses to Statements.
6. See Identical Responses to Statements.
7. See Identical Responses to Statements.
8. See Identical Responses to Statements.
9. See Identical Responses to Statements.
10. See Identical Responses to Statements.
11. See Identical Responses to Statements.

12. Estimated Information Collection Burden

a. Burden Hour Estimates for Respondents

Section 778.12 applies to all industry respondents. However, the information collection burden for respondents depends on whether an applicant is able to benefit from certified reference to AVS under section 778.9. We estimate the total annual number of industry responses will be 326 industry respondents (Federal and State applications). This estimate is based upon data collected on the 2005 evaluation year and remains the same as our previous request.

The following table shows the burden hour estimates for all industry responses required under section 778.12. Data in the table is discussed below. Some calculations have been rounded.

Section	Applicant Responses	Hours Per Response	Total Hours
778.12 (partial information)	65	4	260
778.12 (complete information)	16	4	64
TOTALS			324

We estimate 20 percent, or 65, of the estimated 326 total applicants must provide partial information under section 778.12. We estimate it will require 4 hours for each applicant to provide the missing or inaccurate information. This estimate of hours per response is unchanged from our previous request. Therefore, we estimate the burden for these applicants will be 260 hours (65 applications x 4 hours per response).

We estimate 5 percent, or 16, of the 326 total applications must provide complete information under section 778.12. We estimate it will require 4 hours for each of the applicants to provide complete information. This estimate of hours per response is unchanged from our previous request. Therefore, we estimate the burden for these applicants will be 64 hours (16 applications x 4 hours per response).

Therefore, we estimate the total burden to the 81 industry responses to comply with section 778.12 will be 324 hours (260 hours for partial information + 64 hours for complete information).

There is no information collection burden for State governments under section 778.12.

b. Estimated Wage Cost to Respondents



Using U.S. Department of Labor’s Bureau of Labor statistics ([http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm)) we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.3 of hourly wages).:

Industry Wage Cost				
Position	Hour Burden per Response	Total Hours	Cost Per Hour (\$)	Total Wage Burden (\$)
Clerical	1	81	20	1,620
Operations Manager	3	243	59	14,337
Total	4	324		15,957

Therefore, the estimated total annual cost for industry respondents for section 778.9 is \$15,957.

There is no information collection burden for State governments under section 778.12.

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annual Capital and Start-up Costs

The information collection requirements of section 778.12 do not involve any capital or start-up costs apart from expenditures associated with customary business practices.

b. Operation and Maintenance Costs

There are no significant or distinct non-wage operations or maintenance costs associated with compliance with the information collection requirements for this section.

14. Estimate of Cost to the Federal Government

Oversight. In keeping with the current guidance concerning oversight of State program implementation, OSM does not anticipate significant oversight review of State compliance with section 778.12 in the absence of indication of problems. OSM estimates it will conduct an oversight review of this section in one State per year. OSM estimates the oversight review will require 40 hours. This estimate is unchanged from our previous request. The annual average salary used to estimate the wage cost to the Federal Government is \$45 per hour for a GS 13 step 4 technician (including benefits and rounded). Therefore, OSM estimates the cost to the Federal government for oversight of section 778.12 will be \$1,800 (40 hours x \$45 per hour).

Federal Programs. There is no information collection burden or costs to OSM where it is the regulatory authority under section 778.12.

Therefore, the total cost to the Federal government under section 778.12 is estimated to be \$1,800 (\$1,800 for oversight + \$0 for Federal programs).

15. This information collection request is estimated to remain the same as our previous request of 324 hours.
16. See Identical Responses to Statements.
17. See Identical Responses to Statements.
18. See Identical Responses to Statements.

## **Supporting Statement for Reporting and Recordkeeping Requirements for Section 778.13**

### **A. Justification**

1. Section 778.13 requires disclosure of property interest information by applicants for permits. The information required from applicants in this section include the names and addresses of the surface and mineral owners, any leaseholders, the names and addresses of owners of the property contiguous to the area proposed to be mined, a statement from the applicants concerning all interests, options, or pending bids held or made on lands contiguous to the area proposed to be mined, and the MSHA identification numbers for all structures that require MSHA approval. Applicants may use the benefit of certified reference to AVS under section 778.9 to provide complete or partial information under section 778.13. The legal authority for requiring property interest information from applicants is found in sections 507(b)(1), (b)(2), and (b)(3) of SMCRA.
2. The respondents in section 778.13 are industry applicants for surface coal mining permits. The regulatory authority review of the information an applicant provides under section 778.13 occurs in section 773.12. Under section 778.13, applicants are able to reduce the time spent in completing an application by incorporating information already known to a regulatory authority by certified reference to AVS under section 778.9. Section 778.13 requires that applicants, able to certify that part of the information in AVS is accurate and complete but part of the information is missing or inaccurate, must provide the missing or inaccurate information under section 778.13. It further requires that applicants unable to use the certification by reference to AVS benefit in section 778.9 must provide complete application information under section 778.13.
3. See Identical Responses to Statements.
4. See Identical Responses to Statements.
5. See Identical Responses to Statements.
6. See Identical Responses to Statements.
7. See Identical Responses to Statements.
8. See Identical Responses to Statements.
9. See Identical Responses to Statements.
10. See Identical Responses to Statements.
11. See Identical Responses to Statements.

12. Estimated Information Collection Burden

a. Burden Hour Estimates for Respondents

Section 778.13 applies to all industry respondents. However, the information collection burden for respondents depends on whether an applicant is able to benefit from certified reference to AVS under section 778.9. We estimate the total annual number of industry responses will be 326 Federal and State applications. This estimate is based upon data collected for the 2005 evaluation year and remains the same as our previous request.

The following table shows the burden hour estimates for all industry responses required under section 778.13. Data in the table is discussed below. Some calculations have been rounded.

Section	Applicant Responses	Hours Per Response	Total Hours
778.13 (partial information)	65	4	260
778.13 (complete information)	16	4	64
TOTALS			324

We estimate 20 percent, or 65, of the estimated 326 total applications must provide partial information under section 778.13. We estimate that it will require 4 hours for each applicant to provide the missing or inaccurate information. This estimate of hours per response is unchanged from our previous request. Therefore, the estimated burden for these applicants is 260 hours (65 applications x 4 hours per response).

We estimate 5 percent, 16, of the 326 total applications must provide complete information under section 778.13. We estimate it will require 4 hours for each applicant to provide the complete information. This estimate of hours per response is unchanged from our previous request. Therefore, the estimated burden for these applicants is 64 hours (16 applications x 4 hours per response).

Therefore, the total burden for the 81 industry responses to comply with section 778.13 is 324 hours (260 hours for partial information + 64 hours for complete information).

There is no information collection burden for State governments under section 778.13.

b. Estimated Wage Cost to Respondents

Using U.S. Department of Labor’s Bureau of Labor statistics ([http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm)) we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.3 of hourly wages):

Industry Wage Cost				
Position	Hour Burden per Response	Total Hours	Cost Per Hour (\$)	Total Wage Burden (\$)
Clerical	1	81	20	1,620
Operations Manager	3	243	59	14,337
Total	4	324		15,957

Therefore, the estimated total annual cost for industry respondents for section 778.13 is \$15,957.

There is no information collection burden for State governments under section 778.13.

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annual Capital and Start-up Costs

The information collection requirements of section 778.13 do not involve any capital or start-up costs apart from expenditures associated with customary business practices.

b. Operation and Maintenance Costs

There are no significant or distinct non-wage operations or maintenance costs associated with compliance with the information collection requirements for this section.

14. Estimate of Cost to the Federal Government

Oversight. In keeping with the current guidance concerning oversight of State program implementation, OSM does not anticipate significant oversight review of State compliance with section 778.13 in the absence of indication of problems. OSM estimates it will conduct an oversight review of this section in one State per year. OSM estimates the oversight review will require 40 hours. This estimate is unchanged from our previous request. The annual average salary used to estimate the wage cost to the Federal Government is \$45 per hour for a GS 13 step 4 technician (including benefits and rounded). Therefore, OSM estimates the cost to the Federal government for oversight of section 778.13 will be \$1,800 (40 hours x \$45 per hour).

Federal Programs. There is no information collection burden or costs to OSM where it is the regulatory authority under section 778.13.

Therefore, the total cost to the Federal government under section 778.13 is estimated to be \$1,800 (\$1,800 for oversight + \$0 for Federal programs).

15. This information collection request remains the same as our previous request. The estimated burden for section 778.13 is 324 hours.
16. See Identical Responses to Statements.
17. See Identical Responses to Statements.
18. See Identical Responses to Statements.

**Supporting Statement for Reporting and Recordkeeping  
Requirements for Section 778.14**

**A. Justification**

1. Section 778.14 requires disclosure of violation information by applicants for permits. Applicants are required to provide a statement whether it, its operator, or any subsidiary, affiliate, or entity own or control or under common control by the applicant or operator has or had suspended or revoked permits or bond forfeitures during the 5-year period preceding the date of application. In addition, an applicant is required to provide a list of all violation notices cited to the applicant or its operator during the 3-year period preceding the date of the application. Violations cited in violation notices include, but are not limited to, notices of violation, cessation orders, and final orders, bills, or demand letters. Applicants may use the benefit of certified reference to AVS under section 778.9 to provide complete or partial information required under section 778.14. The legal authority for violation information is found in sections 507(b)(5) and 510(c) of SMCRA.
2. The respondents under section 778.14 are industry applicants for surface coal mining permits. The regulatory authority review of the information disclosed in an application for section 778.14 occurs under section 773.12. Under section 778.14, applicants are able to reduce the time spent in completing an application by incorporating information already known to the regulatory authority by certified reference to AVS under section 778.9. Section 778.14 requires that applicants, for which part of the information in AVS is accurate and complete but part of the information is missing or inaccurate, must provide the missing or inaccurate information under section 778.14. It further requires that applicants unable to use the certification by reference to AVS benefit in section 778.9 and must provide complete violation information under section 778.14.
3. See Identical Responses to Statements.
4. See Identical Responses to Statements.
5. See Identical Responses to Statements.
6. See Identical Responses to Statements.
7. See Identical Responses to Statements.
8. See Identical Responses to Statements.
9. See Identical Responses to Statements.
10. See Identical Responses to Statements.

11. See Identical Responses to Statements.
12. Estimated Information Collection Burden

- a. Burden Hour Estimates for Respondents

Section 778.14 applies to all industry respondents. However, the information collection burden for respondents depends on whether an applicant is able to benefit from certified reference to AVS under section 778.9. We estimate the total annual number of industry responses will be 326 Federal and State applications. This estimate is based upon data collected for the 2005 evaluation year and remains the same as our previous request.

The following table shows the burden hour estimates for all industry responses required under section 778.14. Data in the table is discussed below. Some calculations have been rounded.

Section	Applicant Responses	Hours Per Response	Total Hours
778.14 (partial information)	65	2	130
778.14 (complete information)	16	4	64
TOTALS			194

We estimate 20 percent, or 65, of the 326 total applications must provide partial information under section 778.14. We estimate it will require 2 hours for each of the 65 applicants to provide the missing or inaccurate information. This estimate of hours per response is unchanged from our previous request. Therefore, the estimated burden for these applicants is 130 hours (65 applications x 2 hours per response).

We estimate 5 percent, or 16, of the estimated 326 total applicants must provide complete violation information under section 778.14. We estimate it will require 4 hours for each of the 16 applicants to supply the complete information. This estimate of hours per response is unchanged from our previous request for information collection approval. Therefore, the estimated burden for these applicants is 64 hours (16 applications x 4 hours per response).

Therefore, the total burden to the 81 industry respondents to comply with section 778.14 is 194 hours (130 hours for partial information + 64 hours for complete information).

There is no information collection burden for State governments under section 778.14.



b. Estimated Wage Cost to Respondents

Using U.S. Department of Labor’s Bureau of Labor statistics ([http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm)) we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.3 of hourly wages).:

Industry Wage Cost				
Position	Hour Burden per Response	Total Hours	Cost Per Hour (\$)	Total Wage Burden (\$)
Clerical	1	48.5	20	970
Operations Manager	5	145.5	59	8,585
Total	6	194		9,555

Therefore, the estimated total annual cost for industry respondents for section 778.13 is \$9,555.

There is no information collection burden for State governments under section 778.14.

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annual Capital and Start-up Costs

The information collection requirements of section 778.14 do not involve any capital or start-up costs apart from expenditures associated with customary business practices.

b. Operation and Maintenance Costs

There are no significant or distinct non-wage operations or maintenance costs associated with compliance with the information collection requirements for this section.

14. Estimate of Cost to the Federal Government

Oversight. In keeping with the current guidance concerning oversight of State program implementation, OSM does not anticipate significant oversight review of State compliance with section 778.13 in the absence of indication of problems. OSM estimates it will conduct an oversight review of this section in one State per year. OSM estimates the oversight review will require 40 hours. This estimate is unchanged from our previous request. The annual average salary used to estimate the wage cost to the Federal Government is \$45 per hour for a GS 13 step 4 technician (including benefits and rounded). Therefore, OSM estimates the cost to the Federal government for oversight of section 778.13 will be \$1,800 (40 hours x \$45 per hour).

Federal Programs. There is no information collection burden or costs to OSM where it is the regulatory authority under section 778.13.

Therefore, the total cost to the Federal government under section 778.13 is estimated to be \$1,800 (\$1,800 for oversight + \$0 for Federal programs).

15. This information collection request for section 778.14 remains the same as our previous request of 194 hours.
16. See Identical Responses to Statements.
17. See Identical Responses to Statements.
18. See Identical Responses to Statements.

**Supporting Statement for Reporting and Recordkeeping  
Requirements for Section 778.15**

**A. Justification**

1. Section 778.15 requires an applicant to disclose right-of-entry information in an application. An applicant is required to provide a written description of the documents upon which the applicant bases its legal right to enter and begin surface coal mining and reclamation operation in the permit area. Applicants are also required to provide a statement as to whether right-of-entry to the proposed permit area is the subject of pending litigation. The legal authority for right-of-entry information is found in section 507(b)(9) of SMCRA.
2. The respondents in section 778.15 are industry applicants for surface coal mining permits and State regulatory authorities. Applicants must provide right-of-entry information in an application for a permit. State regulatory authorities are required to review the right-of-entry information for compliance with application requirements.
3. See Identical Responses to Statements.
4. See Identical Responses to Statements.
5. See Identical Responses to Statements.
6. See Identical Responses to Statements.
7. See Identical Responses to Statements.
8. See Identical Responses to Statements.
9. See Identical Responses to Statements.
10. See Identical Responses to Statements.
11. See Identical Responses to Statements.
12. Estimated Information Collection Burden

a. Burden Hour Estimates for Respondents

Each of the total 326 annual industry Federal and State applications will be required to disclose right-of-entry information in an application. The estimated number of responses is based upon data collected for the 2005 evaluation year and remains the same as on our previous request for approval.

We estimate that providing right-of-entry information will require 5 hours per industry response. This estimate of hours per response is unchanged from our previous request for approval. Therefore, the total burden for industry respondents under section 778.15 is estimated to be 1,630 hours (326 responses x 5 hours per response).

We estimate the State regulatory authorities will require an average of 1 hour to review an applicant’s right-of-entry information under section 778.15. We estimate 316 of the total 326 applications will be State applications. Therefore, the total burden for State governments is estimated to be 316 hours (316 reviews x 1 hour per review).

Therefore, the burden hours for all respondents under section 778.15 is estimated to be 1,946 hours (326 industry responses x 5 hours per response + 316 reviews by State regulatory authorities x 1 hour per review).

**b. Estimated Wage Cost to Respondents**

Using U.S. Department of Labor’s Bureau of Labor statistics ([http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm)) we estimate the following wage costs (rounded) required to complete the collection for this section (wage costs include benefits calculated at 1.3 of hourly wages):

Industry Wage Cost				
Position	Hour Burden per Response	Total Hours	Cost Per Hour (\$)	Total Wage Burden (\$)
Clerical	1	326	20	6,520
Operations Manager	4	1,304	59	76,936
Total	5	1,630		83,456

Therefore, the estimated total annual cost for industry respondents for section 778.15 is \$83,456.

Using U.S. Department of Labor’s Bureau of Labor statistics ([http://www.bls.gov/oes/current/naics4\\_999200.htm#b00-0000](http://www.bls.gov/oes/current/naics4_999200.htm#b00-0000)) we estimate that the wage cost to physical scientists at the State regulatory authorities is \$32 per hour (including benefits). We estimate State regulatory authorities will require one hour to review an application’s right-of-entry. The estimated annual cost to State regulatory authorities is estimated to be \$13,588 (316 applications x 1 hour per review x \$43 per hour).

Therefore, the total cost to all respondents under section 774.15 is estimated to be \$97,044 (\$83,456 for permittee applications for permit revisions + \$13,588 for State regulatory authority review of applications).

**13. Total Annual Non-Wage Cost Burden to Respondents**

a. Annual Capital and Start-up Costs

The information collection requirements of section 778.15 do not involve any capital or start-up costs apart from expenditures associated with customary business practices.

b. Operation and Maintenance Costs

There are no significant or distinct non-wage operations or maintenance costs associated with compliance with the information collection requirements for this section.

14. Estimate of Cost to the Federal Government

Oversight. In keeping with the current guidance concerning oversight of State program implementation, OSM does not anticipate significant oversight review of State compliance with section 778.15 in the absence of indication of problems. OSM estimates it will conduct an oversight review of this section in one State per year. OSM estimates the oversight review will require 8 hours. This estimate is unchanged from our previous request. The annual average salary used to estimate the wage cost to the Federal Government is \$45 per hour for a GS 13 step 4 technician (including benefits and rounded). Therefore, OSM estimates the cost to the Federal government for oversight of section 778.15 will be \$360 (8 hours x \$45 per hour).

Federal Programs. We estimate where OSM is the regulatory authority, 1 hour will be required to review the estimated 10 Federal applications for right-of-entry information in an application. This estimate of time required for review is unchanged from our previous request. Therefore, for Federal lands and Federal programs, we estimate the cost to be \$450 (10 applications x 1 hour per review x \$45 per hour).

Therefore, the total cost to the Federal government under section 778.15 is estimated to be \$810 (\$360 for oversight + \$450 for Federal programs).

- 15. This information collection request remains the same as our previously approved request of 1,946 hours as requested on OMB 83-I.
- 16. See Identical Responses to Statements.
- 17. See Identical Responses to Statements.
- 18. See Identical Responses to Statements.

## **Supporting Statement for Reporting and Recordkeeping Requirements for Section 778.16**

### **A. Justification**

1. Section 778.16 requires an applicant to disclose information concerning the status of unsuitability claims in an application. An applicant is required to provide the 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 such a designation. The legal authority for information concerning the status of unsuitability claims is found in sections 522(e) (in general), (e)(4), and (e)(5) of SMCRA.
2. The respondents under section 778.16 are industry applicants for surface coal mining permits and State regulatory authorities. Applicants must provide all available information concerning the status of unsuitability claims in an application. State regulatory authorities are required to review the information concerning the status of unsuitability claims for compliance with application requirements.
3. See Identical Responses to Statements.
4. See Identical Responses to Statements.
5. See Identical Responses to Statements.
6. See Identical Responses to Statements.
7. See Identical Responses to Statements.
8. See Identical Responses to Statements.
9. See Identical Responses to Statements.
10. See Identical Responses to Statements.
11. See Identical Responses to Statements.
12. Estimated Information Collection Burden
  - a. Burden Hour Estimates for Respondents

We estimate 326 respondents (Federal and State applicants) will submit applications for permits per year. This estimate is based upon data collected for the 2005 evaluation year and remains the same as our previously approved request.

Of the 326 applications, we estimate that 211 applications will require status of unsuitability claims information under section 778.16. We estimate the 211 applications will require 8 hours each to provide the information on the status of unsuitability claims. The estimated hours per respondent is unchanged from our previous request. Therefore, we estimate the burden hours for industry respondents will be 1,688 hours (211 applications x 8 hours per response).

We estimate State regulatory authorities will require 1 hour to review the 208 State applications they receive concerning the status of unsuitability claims. Therefore, we estimate the burden for State governments under section 778.16 will be 208 hours (208 applications x 1 hour per review).

Therefore, we estimate the total burden hours for all respondents under section 778.16 will be 1,896 hours (1,688 hours for industry respondents + 208 hours for State respondents).

b. Estimated Wage Cost to Respondents

OSM estimates that an operations manager will prepare this information, at \$59 per hour based on U.S. Department of Labor's Bureau of Labor statistics ([http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm)). Therefore, the annual cost to industry respondents for sections 778.16 is estimated to be \$99,592 (1,688 hours x \$59 per hour).

The annual average salary use to estimate the wage cost to State governments is \$32 per hour based on U.S. Department of Labor's Bureau of Labor statistics ([http://www.bls.gov/oes/current/naics4\\_999200.htm#b00-0000](http://www.bls.gov/oes/current/naics4_999200.htm#b00-0000)) for a physical scientist at the State regulatory authority (including benefits). Therefore, the annual cost to State governments for section 778.16 is estimated to be \$6,656 (208 reviews x \$32 per hour).

Therefore, the total estimated cost to all respondents under section 778.16 is \$106,248 (\$99,592 for industry respondents + \$6,656 for State governments).

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annual Capital and Start-up Costs

The information collection requirements of section 778.16 do not involve any capital or start-up costs apart from expenditures associated with customary business practices.

b. Operation and Maintenance Costs

There are no significant or distinct non-wage operations or maintenance costs associated with compliance with the information collection requirements for this section.

14. Estimate of Cost to the Federal Government

Oversight. In keeping with the current guidance concerning oversight of State program implementation, OSM does not anticipate significant oversight review of State compliance with section 778.16 in the absence of indication of problems. OSM estimates it will conduct an oversight review of this section in one State per year. OSM estimates the oversight review will require 4 hours. This estimate is unchanged from our previous request. The annual average salary used to estimate the wage cost to the Federal Government is \$45 per hour for a GS 13 step 4 technician (including benefits and rounded). Therefore, OSM estimates the cost to the Federal government for oversight of section 778.16 will be \$180 (4 hours x \$45 per hour).

Federal Programs. We estimate where OSM is the regulatory authority, 1 hour will be required to review the estimated 3 Federal applications on the status of unsuitability claims. This estimate of time is unchanged from our previous request. Therefore, for Federal programs, we estimate the cost to be \$135 (3 applications x 1 hour per review x \$45 per hour).

Therefore, the total cost to the Federal government under section 778.16 is estimated to be \$315 (\$180 for oversight + \$135 for Federal programs).

- 15. This information collection request remains the same as our previously approved request for section 778.16 of 1,896 hours as requested on OMB 83-I.
- 16. See Identical Responses to Statements.
- 17. See Identical Responses to Statements.
- 18. See Identical Responses to Statements.



**Supporting Statement for Reporting and Recordkeeping  
Requirements for Section 778.17**

**A. Justification**

1. Section 778.17 requires an applicant to provide information concerning the term of a permit, and the anticipated or actual starting and ending date of each phase of the surface coal mining and reclamation operation. If the applicant anticipates the initial permit term to be longer than 5 years in order to obtain the necessary financing of the operation, then the applicant is also required to provide in an application a complete and accurate statement concerning the longer permit term and a written statement from the applicant's proposed source of financing. The legal authority for information concerning the permit term is found in sections 506(b) and 507(b)(8) of SMCRA.
2. The respondents under section 778.17 are industry applicants for surface coal mining permits and State regulatory authorities. Applicants are required to include permit term information in an application. State regulatory authorities are required to review the information for compliance with application requirements.
3. See Identical Responses to Statements.
4. See Identical Responses to Statements.
5. See Identical Responses to Statements.
6. See Identical Responses to Statements.
7. See Identical Responses to Statements.
8. See Identical Responses to Statements.
9. See Identical Responses to Statements.
10. See Identical Responses to Statements.
11. See Identical Responses to Statements.
12. Estimated Information Collection Burden
  - a. Burden Hour Estimates for Respondents

We estimate 326 industry respondents (Federal and State applicants) annually will submit applications for permits. This estimate is based upon data collected for the 2005 evaluation year and remains the same as our previously approved request.

Information concerning the term of the proposed permit is required from every applicant for a permit.

We estimate industry respondents will require 2 hours per application to provide permit term information. This estimate of hours per response is unchanged from our previous request. Therefore, we estimate the burden hours for industry respondents will be 652 hours (326 applications x 2 hours per response).

We estimate the State regulatory authorities will require 1 hour to review information concerning the permit term in each application. This estimate of hours per response is unchanged from our previous request for information collection approval under section 778.17. We estimate 316 of the total 326 applications will be for State permits. Therefore, we estimate the burden for State governments under section 778.17 will be 316 hours (316 applications x 1 hour per review).

Therefore, we estimate the total burden hours for all respondents under section 778.17 will be 968 hours (652 hours for industry respondents + 316 hours for State governments).

b. Estimated Wage Cost to Respondents

OSM estimates that an operations manager will prepare this information, at \$59 per hour based on U.S. Department of Labor's Bureau of Labor statistics ([http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm)). Therefore, the annual cost to industry respondents for sections 778.17 is estimated to be \$38,468 (652 hours x \$59 per hour).

The annual average salary use to estimate the wage cost to State governments is \$32 per hour based on U.S. Department of Labor's Bureau of Labor statistics ([http://www.bls.gov/oes/current/naics4\\_999200.htm#b00-0000](http://www.bls.gov/oes/current/naics4_999200.htm#b00-0000)) for a physical scientist at the State regulatory authority (including benefits). Therefore, the annual cost to State governments for section 778.17 is estimated to be \$10,112 (316 reviews x \$32 per hour).

Therefore, the total estimated cost to all respondents under section 778.17 is \$48,580 (\$38,468 for industry respondents + \$10,112 for State governments).

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annual Capital and Start-up Costs

The information collection requirements of section 778.17 do not involve any capital or start-up costs apart from expenditures associated with customary business practices.

b. Operation and Maintenance Costs

There are no significant or distinct non-wage operations or maintenance costs associated with compliance with the information collection requirements for this section.

14. Estimate of Cost to the Federal Government

Oversight. In keeping with the current guidance concerning oversight of State program implementation, OSM does not anticipate significant oversight review of State compliance with section 778.17 in the absence of indication of problems. OSM estimates it will conduct an oversight review of this section in one State per year. OSM estimates the oversight review will require 8 hours. This estimate is unchanged from our previous request. The annual average salary used to estimate the wage cost to the Federal Government is \$45 per hour for a GS 13 step 4 technician (including benefits and rounded). Therefore, OSM estimates the cost to the Federal government for oversight of section 778.17 will be \$360 (8 hours x \$45 per hour).

Federal Programs. We estimate where OSM is the regulatory authority, 1 hour will be required to review the estimated 10 applications where OSM is the regulatory authority. Therefore, for Federal programs, we estimate the cost to be \$450 (10 applications x 1 hour per review x \$45 per hour).

Therefore, the total cost to the Federal government under section 778.17 is estimated to be \$810 (\$360 for oversight + \$450 for Federal programs).

15. This information collection request remains the same as our previously approved request. The estimated burden for section 778.17 is 968 hours as previously requested on OMB 83-I.
16. See Identical Responses to Statements.
17. See Identical Responses to Statements.
18. See Identical Responses to Statements.

**Supporting Statement for Reporting and Recordkeeping  
Requirements for Section 778.22**

**A. Justification**

1. Section 778.22 concerns how the plans of a facility or structure that will be shared by two or more separately permitted mining operations may be documented in an application. Such plans may be documented in one application and referenced in the other applications. Each permittee is required to bond the facility or structure unless other agreements have been made. Any such agreement must demonstrate to the satisfaction of the regulatory authority that all responsibilities for the facility or structure will be met. If such agreement has been made, a copy of the agreement between or among the parties must be provided in each affected application. The legal authority for information concerning facilities or structures used in common is found in sections 507(b) and 509(a) of SMCRA.
2. The respondents under section 778.22 are industry applicants for surface coal mining permits and State regulatory authorities. Applicants must provide either an original or copy of any agreement documenting facilities or structures proposed to be used in common with other, separately permitted, surface coal mining operations. State regulatory authorities are required to review the documentation for facilities or structures proposed to be used in common for compliance with application requirements.
3. See Identical Responses to Statements.
4. See Identical Responses to Statements.
5. See Identical Responses to Statements.
6. See Identical Responses to Statements.
7. See Identical Responses to Statements.
8. See Identical Responses to Statements.
9. See Identical Responses to Statements.
10. See Identical Responses to Statements.
11. See Identical Responses to Statements.
12. Estimated Information Collection Burden
  - a. Burden Hour Estimates for Respondents

We estimate 326 industry respondents (State and Federal applicants) will submit applications for permits per year. This estimate is based upon data collected for the 2005 evaluation year and remains the same as our previously approved request.

We estimate 15 percent, or 49 (rounded) applications will require statements or agreements concerning facilities or structures used in common with other mining operations. We estimate applicants will require 2 hours per application to provide shared facilities information. The estimates for the number applicants and the time required are unchanged from our previous request for information collection approval. Therefore, we estimate industry respondents will require 98 hours (49 applications x 2 hours per response) for responses under section 778.22.

We estimate State regulatory authorities will require 1 hour to review the required information concerning facilities and structures used in common in each application. We estimate there will be 47 State applications per year for which State review is required. Therefore, we estimate the burden for State governments under section 778.22 will be 47 hours (47 applications x 1 hour per review).

Therefore, we estimate the total burden hours for all respondents under section 778.22 will be 145 hours (98 hours for industry respondents + 47 hours for State government review).

b. Estimated Wage Cost to Respondents

OSM estimates that an operations manager will prepare this information, at \$59 per hour based on U.S. Department of Labor's Bureau of Labor statistics ([http://www.bls.gov/oes/current/naics4\\_212100.htm](http://www.bls.gov/oes/current/naics4_212100.htm)). Therefore, the annual cost to industry respondents for sections 778.22 is estimated to be \$5,782 (98 hours x \$59 per hour).

The annual average salary use to estimate the wage cost to State governments is \$32 per hour based on U.S. Department of Labor's Bureau of Labor statistics ([http://www.bls.gov/oes/current/naics4\\_999200.htm#b00-0000](http://www.bls.gov/oes/current/naics4_999200.htm#b00-0000)) for a physical scientist at the State regulatory authority (including benefits). Therefore, the annual cost to State governments for section 778.22 is estimated to be \$1,504 (47 reviews x \$32 per hour).

Therefore, the total estimated cost to all respondents under section 778.22 is \$7,286 (\$5,782 for industry respondents + \$1,504 for State governments).

13. Total Annual Non-Wage Cost Burden to Respondents

a. Annual Capital and Start-up Costs

The information collection requirements of section 778.22 do not involve any capital or start-up costs apart from expenditures associated with customary business practices.

b. Operation and Maintenance Costs

There are no significant or distinct non-wage operations or maintenance costs associated with compliance with the information collection requirements for this section.

14. Estimate of Cost to the Federal Government

Oversight. In keeping with the current guidance concerning oversight of State program implementation, OSM does not anticipate significant oversight review of State compliance with section 778.22 in the absence of indication of problems. OSM estimates it will conduct an oversight review of this section in one State per year. OSM estimates the oversight review will require 2 hours. This estimate is unchanged from our previous request. The annual average salary used to estimate the wage cost to the Federal Government is \$45 per hour for a GS 13 step 4 technician (including benefits and rounded). Therefore, OSM estimates the cost to the Federal government for oversight of section 778.22 will be \$90 (2 hours x \$45 per hour).

Federal Programs. We estimate where OSM is the regulatory authority, 1 hour will be required to review the estimated 2 applications where OSM is the regulatory authority. Therefore, for Federal programs, we estimate the cost to be \$90 (2 applications x 1 hour per review x \$45 per hour).

Therefore, the total cost to the Federal government under section 778.22 is estimated to be \$180 (\$90 for oversight + \$90 for Federal programs).

15. This information collection request for section 778.22 remains the same as our previously approved request for 145 hours as requested on OMB 83-I.
16. See Identical Responses to Statements.
17. See Identical Responses to Statements.
18. See Identical Responses to Statements.