

(a) When you challenge a listing of ownership or control or a *prima facie* finding of ownership or control made under § 774.11(f) of this subchapter, you must prove by a preponderance of the evidence that you either—

(1) Do not own or control the entire surface coal mining operation or relevant portion or aspect thereof; or

(2) Did not own or control the entire surface coal mining operation or relevant portion or aspect thereof during the relevant time period.

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14. In § 773.28, revise paragraph (d) to read as follows:

§ 773.28 Written agency decision on challenges to ownership or control listings or findings.

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(d) We will post all decisions made under this section on AVS.

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PART 774—REVISION; RENEWAL; TRANSFER, ASSIGNMENT, OR SALE OF PERMIT RIGHTS; POST-PERMIT ISSUANCE REQUIREMENTS; AND OTHER ACTIONS BASED ON OWNERSHIP, CONTROL, AND VIOLATION INFORMATION

15. The authority citation for part 774 continues to read as follows:

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

16. In § 774.11, revise paragraphs (a)(3), (e), (f), redesignate paragraph (g) as paragraph (i), add new paragraphs (g) and (h), and revise newly designated paragraph (i) to read as follows:

§ 774.11 Post-permit issuance requirements for regulatory authorities and other actions based on ownership, control, and violation information.

(a) * * *

We must enter into AVS all . . .	within 30 days after . . .
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(3) Changes to information initially required to be provided by the applicant under 30 CFR 778.11.	receiving notice of a change.

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(e) *Entry into AVS.* (1) If you do not request a hearing, and the time for seeking a hearing has expired, we will enter our finding into AVS.

(2) If you request a hearing, we will enter our finding into AVS only if that finding is upheld by the Office of Hearings and Appeals.

(f) At any time, we may identify any person who owns or controls an entire operation or any relevant portion or aspect thereof. If we identify such a person, we must issue a written finding to the person and the applicant or permittee describing the nature and extent of ownership or control; our written finding must be based on reliable, credible, and substantial evidence and establish a *prima facie* case of ownership or control.

(g) After we issue a written finding under paragraph (f) of this section, we will allow you, the person subject to the finding, 30 days in which to submit any information tending to demonstrate your lack of ownership or control. If, after reviewing any information you submit, we are persuaded that you are not an owner or controller, we will serve you a written notice to that effect. If, after reviewing any information you submit, we still find that you are an owner or controller or if you do not submit any information within the 30-day period, we must—

(1) Enter our finding under paragraph (f) of this section into AVS; and

(2) Require you to satisfy the requirements of § 778.11(d) of this subchapter, if appropriate.

(h) We need not make a finding as provided for under paragraph (f) of this section before entering into AVS the information required to be disclosed under §§ 778.11(b) and (c) of this subchapter; however, the mere listing of a person in the AVS pursuant to §§ 778.11(b) or (c) does not create a presumption or constitute a determination that such person owns or controls a surface coal mining operation.

(i) If we identify you as an owner or controller under paragraph (f) of this section, you may challenge the finding using the provisions of §§ 773.25, 773.26 and 773.27 of this subchapter.

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

17. The authority citation for part 778 continues to read as follows:

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

18. In § 778.11, revise the section heading and paragraphs (a)(1), (c)(2), (c)(3), (c)(4), (c)(5) and (d) to read as follows:

§ 778.11 Providing applicant and operator information.

(a) * * *

(1) A statement indicating whether you and your operator are corporations, partnerships, associations, sole

proprietorships, or other business entities;

* * * * *

(c) * * *

(2) Partner.

(3) Director.

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

(5) Person who owns 10 percent or more of the applicant or the operator.

(d) In the permit application, you must designate the natural person expected to have the greatest level of control over the entire proposed surface coal mining operation. That person must also sign the permit application, acknowledging the designation. Such designation will not, by itself, be sufficient evidence on which to base the imposition of an individual civil penalty under §§ 724.12 or 846.12 or an alternative enforcement action under §§ 847.11 or 847.16 of this chapter.

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PART 843—FEDERAL ENFORCEMENT

19. The authority citation for part 843 continues to read as follows:

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

20. In § 843.21, revise paragraphs (a) and (d), remove paragraph (c)(2), redesignate paragraph (c)(3) as paragraph (c)(2), to read as follows:

§ 843.21 Procedures for improvidently issued State permits.

(a) *Initial notice.* If we, OSM, on the basis of any reliable and credible information available to us, including any such information submitted by any person, have reason to believe that a State-issued permit meets the criteria for an improvidently issued permit under § 773.21 of this chapter, or the State regulatory program equivalent, and the State has failed to take appropriate action on the permit under the State regulatory program equivalents of §§ 773.21 through 773.23 of this chapter, we must issue a notice, by certified mail, to the State, to you, the permittee, and to any person providing information under paragraph (a) of this section. The notice will state in writing the reasons for our belief that your permit was improvidently issued. The notice also will request the State to take the appropriate action, as specified in paragraph (b) of this section, within 10 days.

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(d) *Federal inspection and written finding.* No less than 10 days but no more than 30 days after providing notice under paragraph (c) of this section, we will conduct an inspection and make a written finding as to whether your