



Ohio Administrative Code

Rule 1501:13-4-03 Permit applications; requirements for legal, financial, compliance and related information.

Effective: November 26, 2020

(A) Definition.

(1) For the purposes of this rule, a person "owned or controlled" or "owns or controls" a coal mining operation if, at any time:

(a) The person is the permittee of a coal mining operation;

(b) Based on instruments of legal or equitable ownership or voting securities, the person owns of record in excess of fifty per cent of an entity which conducts coal mining operations; or

(c) The person has any relationship which gives that person authority directly or indirectly to determine the manner in which an applicant, an operator, or other entity conducts coal mining operations.

(2) It will be presumed that a person "owns or controls" or "owned or controlled" a coal mining operation, unless it can be demonstrated that the person does not or did not in fact have the authority directly or indirectly to determine the manner in which the relevant coal mining operation is or was conducted if, at any time:

(a) The person is an officer or a director of an entity which conducts coal mining operations;

(b) The person is the operator of the coal mining operation;

(c) The person has the ability to commit the financial or real property assets or working resources of an entity which conducts coal mining operations;

(d) The person is a general partner in a partnership which conducts coal mining operations;



(e) Based on the instruments of legal or equitable ownership or the voting securities of a corporate entity which conducts coal mining operations, the person owns of record ten through fifty per cent of the entity; or

(f) The person owns or controls coal to be mined by another person under a lease, sublease or other contract; and

(i) Has the right to receive such coal after mining; or

(ii) Has the authority to determine the manner in which another person conducts that coal mining operation.

(B) Identification of interests.

(1) Each application shall contain the names, addresses, and telephone numbers, and either the employer identification numbers or the last four digits of the social security numbers of:

(a) The permit applicant;

(b) The operator, if the operator is a person different from the applicant; and

(c) The person who will pay the abandoned mine land reclamation fee.

(2) For a coal mining operation other than an underground mining operation, each application shall also contain the names and addresses of:

(a) Every legal or equitable owner of record of the property to be mined;

(b) The holders of record of any leasehold interest in the property to be mined; and

(c) Any purchaser of record under a real estate contract of the property to be mined.

(3) For an underground mining operation each application shall also contain the names and addresses



of:

- (a) Every legal or equitable owner of record of the areas to be affected by surface operations and facilities and every legal or equitable owner of record of the property to be mined;
 - (b) The holders of record of any leasehold interest in areas to be affected by surface operations or facilities and the holders of record of any leasehold interest in the coal to be mined; and
 - (c) Any purchaser of record under a real estate contract of areas to be affected by surface operations and facilities and any purchaser of record under a real estate contract of the coal to be mined.
- (4) Each application shall contain a statement of whether the applicant is a corporation, partnership, single proprietorship, association or other business entity. Each application other than a single proprietorship shall contain the name, address and telephone numbers of the resident agent of the applicant who will accept service of process.
- (5) For each person who owns or controls or owned or controlled the applicant according to paragraph (A) of this rule, the application shall contain the following information:
- (a) The person's name and address, and either the last four digits of his or her social security number or his or her employer identification number;
 - (b) The person's ownership or control relationship to the applicant, including percentage of ownership and location in organizational structure;
 - (c) The title of the person's position, the date that the position was assumed, and when this information is submitted under paragraph (I) of rule 1501:13-4-06 or paragraph (G)(5) of rule 1501:13-5-01 of the Administrative Code and the person is no longer employed in that position, the date of departure from the position;
 - (d) Each additional name and identifying number, including employer identification number or the last four digits of the social security number, and federal or state permit number and corresponding MSHA number, under which the person owns or controls, or previously owned or controlled, a coal



mining and reclamation operation in the United States within the five-year period preceding the date of submission of the application; and

(e) The application number or other identifier of, and the regulatory authority for, any other pending coal mining operation permit application filed by the person in any state in the United States.

(6) If any owner, holder, purchaser, or operator identified under paragraphs (B)(1) to (B)(3) of this rule is a business entity other than a single proprietorship, the application shall contain the names and street addresses of their respective principals, officers, and resident agents.

(7) For any coal mining operation owned or controlled by either the applicant or by any person who owns or controls the applicant under the definition of "owned or controlled" and "owns or controls" in paragraph (A) of this rule, the application shall include the operation's:

(a) Name, address, identifying numbers, including employer identification number, federal or state permit number and corresponding MSHA number, and the regulatory authority; and

(b) Ownership or control relationship to the applicant, including percentage of ownership and location in organizational structure.

(8) Each application shall contain the names and addresses of the owners of record of all surface and subsurface areas contiguous to any part of the proposed permit area.

(9) Each application shall contain the name of the proposed mine and the MSHA identification numbers for all mine-associated structures that require MSHA approval.

(10) Each application shall contain a statement of all lands, interests in lands, options, or pending bids on interests held or made by the applicant for lands which are contiguous to the area to be covered by the permit. If requested by the applicant, any information required by this paragraph which is not on public file pursuant to Ohio law shall be held in confidence by the chief as provided under rule 1501:13-1-10 of the Administrative Code.

(11) After the applicant is notified that his or her application is approved, but before the permit is



issued, the applicant shall, as applicable, update, correct, or indicate that no change has occurred in the information previously submitted under paragraphs (B)(1), (B)(4), (B)(5), (B)(7), and (J) of this rule.

(12) The applicant shall submit the information required by paragraphs (B) and (C) of this rule on a form prescribed by the chief.

(C) Violation information. Each application shall contain:

(1) A statement of whether the applicant or operator, or any subsidiary, affiliate, or persons controlled by or under common control with the applicant or operator has:

(a) Had a federal or state coal mining permit suspended or revoked during the five-year period preceding the date of submission of the application; or

(b) Forfeited a mining bond, performance security, or similar security deposited in lieu of bond.

(2) If any such suspension, revocation, or forfeiture has occurred, a statement of the facts involved, including:

(a) Identification number of the permit;

(b) Date of suspension, revocation, or forfeiture, and, when applicable, the amount of bond, performance security, or similar security forfeited;

(c) Identification of the regulatory authority that suspended or revoked the permit or forfeited the bond, performance security, or similar security, and the stated reasons for that action;

(d) The current status of the permit, or of the bond, performance security, or similar security involved; and

(e) The date, location, and type of any administrative or judicial proceedings initiated concerning the suspension, revocation or forfeiture, and the current status of these proceedings.



(3) The applicant shall submit a listing of:

(a) Each violation notice, as that term is defined in rule 1501:13-1-02 of the Administrative Code, received by the applicant or operator in connection with any coal mining and reclamation operation during the three-year period preceding the date of submission of the application for violations of Chapter 1513. of the Revised Code or these rules, or of any law, rule, or regulation of the United States, or of any state law, rule, or regulation enacted pursuant to federal law, rule, or regulation, pertaining to air or water environmental protection; and

(b) All unabated violation notices received prior to the date of submission of the application incurred in connection with any coal mining and reclamation operation owned or controlled by either the applicant or the operator or by any person who owns or controls the applicant.

(4) For each violation notice reported under paragraph (C)(3)(a) or (C)(3)(b) of this rule, the application shall also contain:

(a) Any identifying numbers for the operation, including the federal or state permit number and associated MSHA number, the date of issuance and identification number of the violation notice, the name of the person to whom the violation notice was issued, and the name of the issuing regulatory authority, department, or agency;

(b) A brief description of the violation alleged in the violation notice;

(c) The date, location, and type of any administrative or judicial proceedings initiated concerning the violation notice, including, but not limited to, proceedings initiated by the applicant to obtain administrative or judicial review of the violations;

(d) The current status of the proceedings and of the violation notice;

(e) If the abatement period for a violation in a notice of violation issued under paragraph (B) of rule 1501:13-14-02 of the Administrative Code, or its equivalent for the federal or another state regulatory program, has not expired, certification that the violation is being abated or corrected to the



satisfaction of the agency with jurisdiction over the violation; and

(f) For all violations not covered under paragraph (C)(4)(e) of this rule, the actions taken to abate or correct the violation.

(5) After the applicant is notified that his or her application is approved, but before the permit is issued, the applicant shall, as applicable, update, correct, or indicate that no change has occurred in the information previously submitted under paragraph (C) of this rule.

(D) Right of entry and operation information.

(1) Each application shall contain a notarized statement describing the documents upon which the applicant bases his or her legal right to enter and begin coal mining in the permit area, for surface mining operations, or in the permit and shadow areas, for underground mining operations, and whether that right is the subject of pending litigation. The notarized statement shall identify those documents by type and date of execution, identify the specific lands to which the document pertains, and explain the legal rights claimed by the applicant.

(2) Each application shall contain a notarized statement identifying the specific land for which the applicant is negotiating to acquire the legal right to enter and begin coal mining in the permit area, for surface mining operations, or in the permit and shadow areas, for underground mining operations, during the term of the permit and, when requested by the chief, signed statements from each landowner and mineral owner granting authorized representatives of the chief a right of entry to, upon, and through the areas of land upon which coal mining and reclamation operations are proposed.

(3) Where the private mineral estate to be mined has been severed from the private surface estate and surface disturbance will result from the applicant's proposed use of a surface mining method, the application shall also provide for lands within the permit area:

(a) A copy of the written consent of the surface owner to the surface disturbance that will result from the extraction of coal by the applicant's proposed surface mining method;



(b) A copy of the document of conveyance that expressly grants or reserves the right to extract the coal by surface mining methods that cause surface disturbance; or

(c) If the conveyance does not expressly grant the right to extract the coal by surface mining methods that cause disturbance, documentation that under state law, the applicant has the legal authority to extract the coal by those methods.

(4) Nothing in this rule shall be construed to afford the chief the authority to adjudicate property rights disputes.

(E) Relationship to areas designated unsuitable for mining.

(1) Each application shall contain a statement of available information on whether the proposed permit area is within an area designated unsuitable for coal mining operations under rule 1501:13-3-07 of the Administrative Code or under study for designation in an administrative proceeding under such rule.

(2) If an applicant claims the exemption provided in paragraph (B)(3) of rule 1501:13-3-05 of the Administrative Code, the application shall contain information supporting the applicant's assertion that it made substantial legal and financial commitments before January 4, 1977, concerning the proposed coal mining operations.

(3) If an applicant proposes to conduct coal mining operations within three hundred feet, measured horizontally, of an occupied dwelling, the application shall contain the waiver of the owner of the dwelling as required in paragraph (D) of rule 1501:13-3-04 of the Administrative Code.

(4) If an applicant proposes to conduct coal mining operations within one hundred feet, measured horizontally, of a public road, the application shall contain the road permit as required under paragraph (C) of rule 1501:13-3-04 of the Administrative Code.

(F) Permit term information.

(1) Each application shall state the anticipated or actual starting and termination date of each phase



of the coal mining and the anticipated number of acres of land to be affected during the first year of mining and over the total life of the permit.

(2) Each application to conduct an underground mining operation shall also state the horizontal extent of proposed underground mine workings over the total life of the permit.

(3) If an applicant proposes a permit term in excess of five years, the application shall:

(a) Be complete and accurate covering the specified longer term; and

(b) Show that the proposed longer term is reasonably needed to allow the applicant to obtain financing for equipment and for the opening of the operation with the need confirmed, in writing, by the applicant's proposed source of financing.

(G) Identification of location of public office for filing of application. Each application shall identify, by name and address, the public office where the applicant will simultaneously file a copy of the application for public inspection as required by these rules.

(H) Newspaper advertisement and proof of publication. A copy of the newspaper advertisement of the application for a permit or renewal of a permit, or for revision of a permit if notice is required under paragraph (E) of rule 1501:13-4-06 of the Administrative Code, shall be filed with the chief and made a part of the complete application. A proof of publication shall be filed with the chief prior to approval of the permit application.

(I) Facilities or structures used in common.

The plans of a facility or structure that is to be shared by two or more separately permitted mining operations may be included in one permit application and referenced in the other applications. In accordance with Chapter 1501:13-7 of the Administrative Code, each permittee shall provide performance security for the facility or structure unless the permittees sharing it agree to another arrangement for assuming their respective responsibilities. If such agreement is reached, then the application shall include a copy of the agreement between or among the parties setting forth the respective performance security responsibilities of each party for the facility or structure. The



agreement shall demonstrate to the satisfaction of the chief that all responsibilities under this chapter for the facility or structure will be met.

(J) Central file for identity information.

(1) The chief shall allow an applicant or permittee to meet the information submittal requirements of paragraph (B) of this rule, paragraph (I) of rule 1501:13-4-06, and paragraph (G)(5) of rule 1501:13-5-01 of the Administrative Code, by submitting the required information to the chief, on a form provided by the chief, with an indication that the information in the form applies to all permits held by the applicant or permittee. The applicant or permittee shall swear or affirm, under oath and in writing, that all information provided pursuant to paragraph (J) of this rule is accurate and complete.

(2) The chief shall establish a central file to house the information submitted pursuant to paragraph (J) of this rule, rather than placing duplicate information in each application file for a permittee. The chief shall make the information in this central file available to the public upon request.

(3) Permittees shall update information in this central file according to the following:

(a) If the information already submitted to the chief under paragraph (B) of this rule, paragraph (I) of rule 1501:13-4-06 and paragraph (G)(5) of rule 1501:13-5-01 of the Administrative Code is accurate and complete, the permittee shall certify to the chief, on a form provided by the chief, by swearing or affirming, under oath and in writing, that the information is accurate, complete, and up to date; or

(b) If part of the information already submitted to the chief under paragraph (B) of this rule, paragraph (I) of rule 1501:13-4-06 and paragraph (G)(5) of rule 1501:13-5-01 of the Administrative Code is missing or incorrect, the permittee shall submit to the chief, on a form provided by the chief, the necessary information or corrections and swear or affirm, under oath and in writing, that the information is accurate and complete.