

Surface Mining Reclamation and Enforcement, Interior

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The final mine area shall be backfilled, graded, and contoured to the extent necessary to return the land to the use approved by the regulatory authority.

(ii) All backfilling, grading, and contouring shall be done in a manner to preserve the original drainage system or to provide substitute drainage systems approved by the regulatory authority.

(iii) Terraces or benches may be used only if it can be demonstrated that contouring methods will not provide the required results. Detailed plans of dimensions and design of the terraces or benches, check dams, erosion prevention techniques, and slopes of the terraces or benches and their intervals shall be submitted to the regulatory authority for approval before construction.

(iv) Depressions that will accumulate water shall not be allowed unless they are approved under paragraph (3).

(3) *Postmining land uses that include permanent water impoundments.* (i) The exposed mine pit area shall be sloped, graded, and contoured to blend with the topography of the surrounding terrain and to provide for access to the area. Where necessary to prevent erosion, riprap shall be used.

(ii) Under certain conditions where it can be demonstrated by the permittee that the pitwall can be stabilized by terracing or other techniques it may be permissible to leave one-half the proposed shoreline, as measured along the circumference, composed of the stabilized pitwall. The remaining part of the shoreline shall be graded and contoured to blend with the topography of the surrounding terrain and to provide access to the area. Detailed explanations of the techniques to be used to stabilize the pitwalls shall be submitted for approval to the regulatory authority. The regulatory authority may verify the effectiveness of the proposed stabilization techniques from a study made by an independent engineering company and based on this information and an onsite inspection, the regulatory authority will then determine the acceptability of the proposed stabilization techniques.

(d) In the event of an amendment or revision to the State of Wyoming's regulatory program, regulations, or deci-

sions made thereunder governing special bituminous coal mines, the Secretary shall issue such additional regulations as necessary to meet the purposes of the Act.

§716.5 Anthracite coal mines.

(a) Permittees of anthracite surface coal mining and reclamation operations in those States where the mines are regulated by State environmental protection standards shall be subject to the environmental protection standards of the State regulatory program in existence on August 3, 1977, instead of part 715 and part 717 of this chapter.

(b) The environmental protection provisions of Title 25, Rules and Regulations, part 1, Department of Environmental Resources, Commonwealth of Pennsylvania, shall apply to reclamation of anthracite surface coal mining and reclamation operations in the Commonwealth of Pennsylvania instead of part 715 and part 717 of this chapter. In addition, the regulations of the Commonwealth of Pennsylvania pertaining to standards for air and water quality shall apply instead of the regulations of part 715 and part 717 of this chapter.

(c) If a State's regulatory program or regulations for anthracite surface coal mining and reclamation operations in force at the time of this Act are amended, the Secretary, upon receipt of a notice of amendment, shall issue additional regulations as necessary to meet the purposes of this Act.

[45 FR 61259, Sept. 15, 1980]

§716.6 Coal mines in Alaska.

(a) Permittees of surface coal mining operations in Alaska from which coal has been mined on or after August 3, 1977, shall conduct operations in a manner that, at a minimum, meets the performance standards of this chapter.

(b) The Secretary, after consultation with the Governor of Alaska, may modify the applicability of any environmental protection standard to any surface coal mining operation if he determines that it is necessary to ensure the continued operation of the mine.

(c) Any person may petition the Secretary to modify the applicability of a performance standard to a coal mine in Alaska. No particular form of petition

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is required. However, the petition shall be in writing and shall identify clearly—

(1) The performance standard involved;

(2) The alternative methods to be used to protect the environment and public health and safety;

(3) The reasons why a modification is requested with full descriptions of the impacts continued requirements for compliance with the performance standard to be modified would have on mining and reclamation and of the impacts the proposed method would have on the environment and public health and safety; and

(4) The location of the mine.

(d) If the Secretary determines that the petition presents reasonable justification for modifying the performance standard, he may grant a temporary suspension of enforcement of the performance standard, and he shall publish a notice of intention to modify the applicability of the performance standard in the FEDERAL REGISTER and in a newspaper of general circulation in the area of Alaska where the affected coal mine is located. A public hearing shall be held in Alaska and any person may testify for or against the proposed modification. The Secretary, after considering the public comments, and consulting with the Governor of Alaska, shall publish his decision in the FEDERAL REGISTER and in the same newspaper in which the original notice was published.

§716.7 Prime farmland.

(a) *Applicability.* (1) Permittees of surface coal mining and reclamation operations conducted on prime farmland shall comply with the general performance standards of part 715 of this chapter in addition to the special requirements of this section.

(2) Except as otherwise provided in this paragraph, the requirements of the section are applicable to any lands covered by a permit application filed on or after August 3, 1977. This section does not apply to:

(i) Lands on which surface coal mining and reclamation operations are conducted pursuant to any permit issued prior to August 3, 1977; or

(ii) Lands on which surface coal mining and reclamation operations are conducted pursuant to any renewal or revision of a permit issued prior to August 3, 1977; or

(iii) Lands included in any existing surface coal mining operations for which a permit was issued for all or any part thereof prior to August 3, 1977, provided that:

(A) Such lands are part of a single continuous surface coal mining operation begun under a permit issued before August 3, 1977; and

(B) The permittee had a legal right to mine the lands prior to August 3, 1977, through ownership, contract, or lease but not including an option to buy, lease, or contract; and

(C) The lands contain part of a continuous recoverable coal seam that was being mined in a single continuous mining pit (or multiple pits if the lands are proven to be part of a single continuous surface coal mining operation) begun under a permit issued prior to August 3, 1977.

(3) For purposes of this section:

(i) “Renewal” of a permit shall mean a decision by the regulatory authority to extend the time by which the permittee may complete mining within the boundaries of the original permit, and “revision” of the permit shall mean a decision by the regulatory authority to allow changes in the method of mining operations within the original permit area, or the decision of the regulatory authority to allow incidental boundary changes to the original permit;

(ii) A pit shall be deemed to be a single continuous mining pit even if portions of the pit are crossed by a road, pipeline, railroad, or powerline or similar crossing;

(iii) A single continuous surface coal mining operation is presumed to consist only of a single continuous mining pit under a permit issued prior to August 3, 1977, but may include non-contiguous parcels if the operator can prove by clear and convincing evidence that, prior to August 3, 1977, the contiguous parcels were part of a single permitted operation. For the purposes of this paragraph, clear and convincing evidence includes, but is not limited to, contracts, leases, deeds or other