

Surface Mining Reclamation and Enforcement, Interior

§ 700.5

agencies and Federal agencies with responsibility for natural and historic resources on Federal lands on actions which may have an effect on their responsibilities.

(c) The States are responsible for the regulation of surface coal mining and reclamation operations under the initial regulatory program and surface coal mining and reclamation operations and coal exploration under an approved State program and the reclamation of abandoned mine lands under an approved State Reclamation Plan on non-Federal and non-Indian lands in accordance with procedures in this chapter.

(d) The Secretary may delegate to a State through a cooperative agreement certain authority relating to the regulation of surface coal mining and reclamation operations on Federal lands in accordance with 30 CFR part 745.

(e) The Director, Office of Hearings and Appeals, U.S. Department of the Interior, is responsible for the administration of administrative hearings and appeals required or authorized by the Act pursuant to the regulations in 43 CFR part 4.

[44 FR 15313, Mar. 13, 1979; 44 FR 49684, Aug. 24, 1979]

§ 700.5 Definitions.

As used throughout this chapter, the following terms have the specified meaning except where otherwise indicated—

Act means the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87).

AML means abandoned mine land(s).

AML inventory means OSM's listing of abandoned mine land problems eligible to be reclaimed using moneys from the Abandoned Mine Reclamation Fund or the Treasury as appropriate.

Anthracite means coal classified as anthracite in ASTM Standard D 388-77. Coal classifications are published by the American Society of Testing and Materials under the title, *Standard Specification for Classification of Coals by Rank*, ASTM D 388-77, on pages 220 through 224. Table 1 which classifies the coals by rank is presented on page 223. This publication is hereby incorporated by reference as it exists on the date of adoption of these regulations.

Notices of changes made to this publication will be periodically published by the Office of Surface Mining in the FEDERAL REGISTER. This ASTM Standard is on file and available for inspection at the OSM Office, U.S. Department of the Interior, South Interior Building, Washington, DC 20240, at each OSM Regional Office, District Office and Field Office, and at the central office of the applicable State Regulatory Authority, if any. Copies of this publication may also be obtained by writing to the above locations. A copy of this publication will also be on file for public inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. Incorporation by reference provisions approved by the Director of the Federal Register February 7, 1979. The Director's approval of this incorporation by reference expires on July 1, 1981.

Coal means combustible carbonaceous rock, classified as anthracite, bituminous, subbituminous, or lignite by ASTM Standard D 388-77, referred to and incorporated by reference in the definition of *Anthracite* immediately above.

Department means the Department of the Interior.

Director means the Director, Office of Surface Mining Reclamation and Enforcement, or the Director's representative.

Eligible lands and water means lands and water eligible for expenditures under title IV of SMCRA and this chapter. Eligible lands and water for reclamation or drainage abatement expenditures under the Abandoned Mine Land program contained in this chapter are those which were mined for coal or which were affected by such mining, wastebanks, coal processing, or other coal mining processes and left or abandoned in either an unreclaimed or inadequately reclaimed condition prior to August 3, 1977, and for which there is no continuing reclamation responsibility. However, lands and water damaged by coal mining operations after that date and on or before November 5,

§ 700.5

30 CFR Ch. VII (7–1–23 Edition)

1990, may also be eligible for reclamation if they meet the requirements specified in § 874.12(d) and (e) of this chapter. Following certification of the completion of all known coal problems, eligible lands and water for noncoal reclamation purposes are those sites that meet the eligibility requirements specified in § 875.14 of this chapter. For additional eligibility requirements for water projects, see § 874.14 of this chapter, and for lands affected by remining operations, see section 404 of SMCRA.

Emergency means a sudden danger or impairment that presents a high probability of substantial physical harm to the health, safety, or general welfare of people before the danger can be abated under normal program operation procedures.

Expended means that moneys have been obligated, encumbered, or committed by contract by the State, Tribe, or us for work to be accomplished or services to be rendered.

Extreme danger means a condition that could reasonably be expected to cause substantial physical harm to persons, property, or the environment and to which persons or improvements on real property are currently exposed.

Federal lands means any land, including mineral interests, owned by the United States, without regard to how the United States acquired ownership of the lands or which agency manages the lands. It does not include Indian lands. However, lands or mineral interests east of the 100th meridian west longitude owned by the United States and entrusted to or managed by the Tennessee Valley Authority are not subject to sections 714 (surface owner protection) and 715 (Federal lessee protection) of the Act.

Federal lands program means a program established by the Secretary pursuant to section 523 of the Act to regulate surface coal mining and reclamation operations on Federal lands.

Fund means the Abandoned Mine Reclamation Fund established on the books of the U.S. Treasury for the purpose of accumulating revenues designated for reclamation of abandoned mine lands and other activities authorized by section 401 of SMCRA.

Indian lands means all lands, including mineral interests, within the exte-

rior boundaries of any Federal Indian reservation, notwithstanding the issuance of any patent, and including rights-of-way, and all lands including mineral interests held in trust for or supervised by an Indian tribe.

Indian tribe means any Indian tribe, band, group, or community having a governing body recognized by the Secretary.

Office means the Office of Surface Mining Reclamation and Enforcement established under title II of the Act.

Left or abandoned in either an unreclaimed or inadequately reclaimed condition means, for Abandoned Mine Land programs, lands and water:

(1) Which were mined or which were affected by such mining, wastebanks, processing or other mining processes prior to August 3, 1977, or between August 3, 1977, and November 5, 1990, as authorized pursuant to section 402(g)(4) of SMCRA, and on which all mining has ceased;

(2) Which continue, in their present condition, to degrade substantially the quality of the environment, prevent or damage the beneficial use of land or water resources, or endanger the health and safety of the public; and

(3) For which there is no continuing reclamation responsibility under State or Federal laws, except as provided in sections 402(g)(4) and 403(b)(2) of SMCRA.

OSM and *OSMRE* mean the Office of Surface Mining Reclamation and Enforcement established under title II of the Act.

Person means an individual, Indian tribe when conducting surface coal mining and reclamation operations on non-Indian lands, partnership, association, society, joint venture, joint stock company, firm, company, corporation, cooperative or other business organization and any agency, unit, or instrumentality of Federal, State or local government including any publicly owned utility or publicly owned corporation of Federal State or local government.

Person having an interest which is or may be adversely affected or *person with a valid legal interest* shall include any person—

Surface Mining Reclamation and Enforcement, Interior

§ 700.5

(a) Who uses any resource of economic, recreational, esthetic, or environmental value that may be adversely affected by coal exploration or surface coal mining and reclamation operations or any related action of the Secretary or the State regulatory authority; or

(b) Whose property is or may be adversely affected by coal exploration or surface coal mining and reclamation operations or any related action of the Secretary or the State regulatory authority.

Project means a delineated area containing one or more abandoned mine land problems. A project may be a group of related reclamation activities with a common objective within a political subdivision of a State or within a logical, geographically defined area, such as a watershed, conservation district, or county planning area.

Public office means a facility under the direction and control of a governmental entity which is open to public access on a regular basis during reasonable business hours.

Reclamation activity means the reclamation, abatement, control, or prevention of adverse effects of past mining by an Abandoned Mine Land program.

Reclamation program means a program established by a State or an Indian tribe in accordance with Title IV of SMCRA for reclamation of lands and water adversely affected by past mining, including the reclamation plan and annual applications for grants under the plan.

Regional Director means a Regional Director of the Office or a Regional Director's representative.

Regulatory authority means the department or agency in each State which has primary responsibility at the State level for administering the Act in the initial program, or the State regulatory authority where the State is administering the Act under a State regulatory program, or the Secretary in the initial or permanent program where the Secretary is administering the Act, or the Secretary when administering a Federal program or Federal lands program or when enforcing a State program pursuant to section 521(b) of the Act.

Regulatory program means any approved State or Federal program or, in a State with no approved State or Federal program and coal exploration and surface coal mining and reclamation operations are on Federal lands, the requirements of subchapters A, F, G, J, K, L, M, and P of this chapter.

Secretary means the Secretary of the Interior or the Secretary's representative.

SMCRA means the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*, as amended.

State regulatory authority means the department or agency in each State which has primary responsibility at the State level for administering the initial or permanent State regulatory program.

Surface coal mining operations mean—

(a) Activities conducted on the surface of lands in connection with a surface coal mine or, subject to the requirements of section 516 of the Act, surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountain top removal, box cut, open pit, and area mining; the use of explosives and blasting; in situ distillation or retorting; leaching or other chemical or physical processing; and the cleaning, concentrating, or other processing or preparation of coal. Such activities also include the loading of coal for interstate commerce at or near the mine site. *Provided*, these activities do not include the extraction of coal incidental to the extraction of other minerals, where coal does not exceed 16½ percent of the tonnage of minerals removed for purposes of commercial use or sale, or coal exploration subject to section 512 of the Act; and, *Provided further*, that excavation for the purpose of obtaining coal includes extraction of coal from coal refuse piles; and

(b) The areas upon which the activities described in paragraph (a) of this definition occur or where such activities disturb the natural land surface.

§ 700.10

These areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of those activities and for haulage and excavation, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or material on the surface, resulting from or incident to those activities.

Surface coal mining and reclamation operations means surface coal mining operations and all activities necessary or incidental to the reclamation of such operations. This term includes the term surface coal mining operations.

Ton means 2000 pounds avoirdupois (.90718 metric ton).

[44 FR 15313, Mar. 13, 1979; 44 FR 49684, Aug. 24, 1979, as amended at 45 FR 54753, Aug. 18, 1980; 48 FR 6934, Feb. 16, 1983; 48 FR 20400, May 5, 1983; 50 FR 28189, July 10, 1985; 52 FR 17729, May 11, 1987; 52 FR 39407, Oct. 21, 1987; 73 FR 67629, Nov. 14, 2008; 80 FR 6446, Feb. 5, 2015]

§ 700.10 Information collection.

The collection of information, and recordkeeping requirements, contained in 30 CFR 700.11(d), 700.12(b) and 700.13 has approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029-0094. The information collected in § 700.11(d) is used by OSMRE and States to establish standards for determining when a mine site is no longer a surface coal mining and reclamation operation and thereby when regulatory jurisdiction may end. The information collection under § 700.12(b) is used by OSMRE to consider need, costs, and benefits of a proposed regulatory change in order to grant or deny a petition that has been submitted. Information collected in § 700.13 identifies the person and nature of a citizen's suit, so that OSMRE or a state can respond appropriately.

[53 FR 44363, Nov. 2, 1988]

30 CFR Ch. VII (7-1-23 Edition)

§ 700.11 Applicability.

(a) Except as provided in paragraph (b) of this section, this chapter applies to all coal exploration and surface coal mining and reclamation operations, except:

(1) The extraction of coal by a landowner for his or her own noncommercial use from land owned or leased by him or her. Noncommercial use does not include the extraction of coal by one unit of an integrated company or other business or nonprofit entity which uses the coal in its own manufacturing or power plants;

(2) The extraction of 250 tons of coal or less by a person conducting a surface coal mining and reclamation operation. A person who intends to remove more than 250 tons is not exempted;

(3) The extraction of coal as an incidental part of Federal, State or local government-financed highway or other construction in accordance with part 707 of this chapter;

(4) The extraction of coal incidental to the extraction of other minerals where coal does not exceed 16 $\frac{2}{3}$ percent of the total tonnage of coal and other minerals removed for purposes of commercial use or sale in accordance with part 702 of this chapter.

(5) Coal exploration on lands subject to the requirement of 43 CFR parts 3480-3487.

(b) This chapter does not apply to the extraction of coal for commercial purposes where the surface coal mining and reclamation operation, together with any related operations, has or will have an affected area of two acres or less. For purposes of this paragraph:

(1) Where a segment of a road is used for access or coal haulage by more than one surface coal mining operation, the entire segment shall be included in the affected area of each of those operations; provided, that two or more operations which are deemed related pursuant to paragraph (b)(2) of this section shall be considered as one operation for purposes of this paragraph.

(2) Except as provided in paragraph (b)(3) of this section, surface coal mining operations shall be deemed related if they occur within twelve months of each other, are physically related, and are under common ownership or control.