

SUBCHAPTER D—FEDERAL LANDS PROGRAM

PART 740—GENERAL REQUIREMENTS FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS ON FEDERAL LANDS

Sec.

740.1 Scope and purpose.

740.4 Responsibilities.

740.5 Definitions.

740.10 Information collection.

740.11 Applicability.

740.13 Permits.

740.15 Bonds on Federal lands.

740.17 Inspection, enforcement and civil penalties.

740.19 Performance standards.

AUTHORITY: 30 U.S.C. 1201 *et seq.* and 30 U.S.C. 181 *et seq.*

SOURCE: 48 FR 6935, Feb. 16, 1983, unless otherwise noted.

§ 740.1 Scope and purpose.

This part provides for the regulation of surface coal mining and reclamation operations on Federal lands.

§ 740.4 Responsibilities.

(a) The Secretary is responsible for:

(1) Approval, disapproval or conditional approval of mining plans with respect to lands containing leased Federal coal and of modifications thereto, in accordance with the Mineral Leasing Act of 1920, as amended, 30 U.S.C. 181 *et seq.*;

(2) Execution, modification or termination of State-Federal cooperative agreements in accordance with part 745 of this chapter;

(3) Designation of areas of Federal lands as unsuitable for all or certain types of surface coal mining and reclamation operations, or termination of such designations, in accordance with part 769 of this chapter;

(4) Decisions on requests to determine whether a person possesses valid existing rights to conduct surface coal mining operations on Federal lands within the areas specified in § 761.11(a) and (b) of this chapter; and

(5) Issuance of findings concerning whether there are significant recreational, timber, economic, or other values that may be incompatible with surface coal mining operations on Fed-

eral lands within a national forest, as specified in § 761.11(b) of this chapter.

(b) OSM is responsible for:

(1) Providing a decision document recommending to the Secretary approval, disapproval or conditional approval of mining plans and of modifications thereto;

(2) Approval of experimental practices on Federal lands;

(3) Inspection, enforcement and civil penalties with respect to surface coal mining and reclamation operations on Federal lands except as provided in paragraph (c)(5) of this section;

(4) Processing citizen requests for Federal inspections on Federal lands in accordance with parts 842, 843 and 845 of this chapter; and

(5) Overseeing the State regulatory authority's administration and enforcement of the State program on Federal lands pursuant to the terms of any cooperative agreement.

(c) The following responsibilities of OSM may be delegated to a State regulatory authority under a cooperative agreement:

(1) Review and approval, conditional approval of disapproval or permit applications for surface coal mining and reclamation operations on Federal lands, revisions or renewals thereof, and applications for the transfer, sale or assignment of such permits;

(2) Consultation with and obtaining the consent, as necessary, of the Federal land management agency with respect to post-mining land use and to any special requirements necessary to protect non-coal resources of the areas affected by surface coal mining and reclamation operations;

(3) Consultation with and obtaining the consent, as necessary, of the Bureau of Land Management with respect to requirements relating to the development, production and recovery of mineral resources on lands affected by surface coal mining and reclamation operations involving leased Federal coal pursuant to 43 CFR Group 3400;

(4) Approval and release of performance bonds, liability insurance and, as applicable, Federal lessee protection bonds required for surface coal mining

Surface Mining Reclamation and Enforcement, Interior

§ 740.5

and reclamation operations on Federal lands. Approval and release of Federal lessee protection bonds requires the concurrence of the Federal land management agency;

(5) Responsibilities of the regulatory authority with respect to inspection, enforcement and civil penalty activities for (i) exploration operations not subject to 43 CFR Group 3400, and (ii) surface coal mining and reclamation operations on Federal lands;

(6) Review and approval of exploration operations not subject to the requirements of 43 CFR Group 3400; and

(7) Preparation of documentation to comply with the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), except, OSM continues to be responsible for:

(i) Determining the scope, content and format and ensuring the objectivity of NEPA compliance documents;

(ii) Making the determination of whether or not the preparation of an environmental impact statement is required.

(iii) Notifying and soliciting views of other State and Federal agencies, as appropriate, on the environmental effects of the proposed action;

(iv) Publishing and distributing draft and final NEPA compliance documents;

(v) Making policy responses to comments on draft NEPA compliance documents;

(vi) Independently evaluating NEPA compliance documents; and

(vii) Adopting NEPA compliance documents and determining Federal actions to be taken on alternatives presented in such documents.

(d) The Bureau of Land Management is responsible for:

(1) Receiving and approving exploration plans pursuant to 43 CFR Group 3400;

(2) Inspection, enforcement and civil penalties with respect to the terms and conditions of coal exploration licenses issued pursuant to 43 CFR Group 3400;

(3) Inspection, enforcement and civil penalties with respect to the terms and conditions of exploration operations subject to 43 CFR Group 3400;

(4) Reviewing the resource recovery and protection plan and modifications thereto, as required by 43 CFR Group 3400 and recommending to the Sec-

retary approval, disapproval or conditional approval of the resource recovery and protection plan;

(5) Inspection, enforcement and civil penalties with respect to the recovery and protection of the coal resource as required by 43 CFR Group 3400;

(6) Protecting mineral resources not included in the coal lease;

(7) Issuance of exploration licenses for Federal coal subject to the requirements of 43 CFR Group 3400;

(8) Issuance of leases and licenses to mine Federal coal subject to the requirements of 43 CFR Group 3400; and

(9) Issuance, readjustment, modification, termination, cancellation, and approval of transfers of Federal coal leases pursuant to the Mineral Leasing Act and the Mineral Leasing Act for Acquired Lands of 1947, as amended, 30 U.S.C. 351 *et seq.*

(e) The Federal land management agency is responsible for:

(1) Determining post-mining land uses;

(2) Protection of non-mineral resources;

(3) Requiring such conditions as may be appropriate to regulate surface coal mining and reclamation operations under other provisions of law applicable to such lands under its jurisdiction; and

(4) Where land containing leased Federal coal is under the surface jurisdiction of a Federal agency other than the Department, concur in the terms of the mining plan approval.

[48 FR 6935, Feb. 16, 1983, as amended at 48 FR 44779, Sept. 30, 1983; 55 FR 9401, Mar. 13, 1990; 64 FR 70830, Dec. 17, 1999]

§ 740.5 Definitions.

(a) As used in this subchapter, the term:

Authorized officer means any person authorized to take official action on behalf of a Federal agency that has administrative jurisdiction over Federal lands.

Coal lease means a Federal coal lease or license issued by the Bureau of Land Management pursuant to the Mineral Leasing Act and the Federal Acquired Lands Leasing Act of 1947 (30 U.S.C. 351 *et seq.*).

§ 740.10

Cooperative agreement means a cooperative agreement entered into in accordance with section 523(c) of the Act and part 745 of this chapter.

Federal land management agency means a Federal agency having administrative jurisdiction over the surface of Federal lands that are subject to these regulations.

Federal lease bond means the bond or equivalent security required by 43 CFR part 3400 to assure compliance with the terms and conditions of a Federal coal lease.

Federal lessee protection bond means a bond payable to the United States or the State, whichever is applicable, for use and benefit of a permittee or lessee of the surface lands to secure payment of any damages to crops or tangible improvements on Federal lands, pursuant to section 715 of the Act.

Lease terms, conditions and stipulations means all of the standard provisions of a Federal coal lease, including provisions relating to lease duration, fees, rentals, royalties, lease bond, production and recordkeeping requirements, and lessee rights of assignment, extension, renewal, termination and expiration, and site-specific requirements included in Federal coal leases in addition to other terms and conditions which relate to protection of the environment and of human, natural and mineral resources.

Leased Federal coal means coal leased by the United States pursuant to 43 CFR part 3400, except mineral interests in coal on Indian lands.

Mineral Leasing Act or *MLA* means the Mineral Leasing Act of 1920, as amended, 30 U.S.C. 181, *et seq.*

Mining plan means the plan for mining leased Federal coal required by the Mineral Leasing Act.

Permit application package means a proposal to conduct surface coal mining and reclamation operations on Federal lands, including an application for a permit, permit revision or permit renewal, all the information required by the Act, this subchapter, the applicable State program, any applicable cooperative agreement and all other applicable laws and regulations including, with respect to leased Federal coal, the Mineral Leasing Act and its implementing regulations.

30 CFR Ch. VII (7–1–23 Edition)

Regulatory authority means the State regulatory authority pursuant to a cooperative agreement approved under part 745 of this chapter or, in the absence of a cooperative agreement, OSM.

TVA-owned lands means land owned by the United States and entrusted to or managed by the Tennessee Valley Authority.

(b) The following terms shall have meanings as set forth in 43 CFR parts 3400: Exploration; exploration plan; maximum economic recovery; method of operation; mine; and resource recovery and protection plan.

[48 FR 6935, Feb. 16, 1983, as amended at 48 FR 44779, Sept. 30, 1983]

§ 740.10 Information collection.

(a) In accordance with 44 U.S.C. 3501 *et seq.*, the Office of Management and Budget (OMB) has approved the information collection requirements of this part. The OMB clearance number is 1029-0027. This information is needed to implement section 523 of the Act, which governs surface coal mining operations on Federal lands. Persons intending to conduct such operations must respond to obtain a benefit.

(b) OSM estimates that the public reporting burden for this part will average 26 hours per respondent, including time spent reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of these information collection requirements, including suggestions for reducing the burden, to the Office of Surface Mining Reclamation and Enforcement, Information Collection Clearance Officer, 1951 Constitution Avenue, NW, Washington, DC 20240; and the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Interior Desk Officer, 725 17th Street, N.W., Washington, DC 20503. Please refer to OMB Control Number 1029-0027 in any correspondence.

[64 FR 70831, Dec. 17, 1999]

Surface Mining Reclamation and Enforcement, Interior

§ 740.13

§ 740.11 Applicability.

(a) Except as provided in paragraph (g) of this section, both this subchapter and the pertinent State or Federal regulatory program in subchapter T of this chapter apply to:

(1) Coal exploration operations on Federal lands not subject to 43 CFR part 3400, and

(2) Surface coal mining and reclamation operations taking place on any Federal lands as defined in §700.5 of this chapter, and lands (except Indian lands) over leased or unleased Federal minerals.

(b) Where OSM is the regulatory authority, references in the State program to the State or an agency or official of the State (with respect to functions of the State acting as regulatory authority) shall be construed as referring to OSM.

(c) Where the Secretary and a State have entered into a cooperative agreement, the cooperative agreement shall delineate the responsibilities of the Secretary and the State with respect to the administration of the regulatory program and this subchapter.

(d) Nothing in this subchapter shall affect in any way the authority of the Secretary or any Federal land management agency to include in any lease, license, permit, contract, or other instrument such conditions as may be appropriate to regulate surface coal mining and reclamation operations under provisions of law other than the Act on land under their jurisdiction.

(e) This subchapter shall not apply to surface coal mining and reclamation operations within a State prior to approval or promulgation of a regulatory program for the State.

(f) Where coal exploration or surface coal mining and reclamation operations within a State are on Federal lands and where no State or Federal program has been approved for the State, this subchapter shall apply in that State upon the effective date of these regulations.

(g) The definition of valid existing rights in §761.5 of this chapter applies to any decision on a request for a determination of valid existing rights to conduct surface coal mining operations

on the lands specified in §761.11(a) and (b) of this chapter.

[48 FR 6935, Feb. 16, 1983; 48 FR 13985, Apr. 1, 1983, as amended at 48 FR 44779, Sept. 30, 1983; 55 FR 9402, Mar. 13, 1990; 64 FR 70831, Dec. 17, 1999; 75 FR 60275, Sept. 29, 2010]

§ 740.13 Permits.

(a) *General requirements.* (1) No person shall conduct surface coal mining operations on lands subject to this part unless that person has first obtained a permit issued pursuant to the regulatory program and this part.

(2) Every person conducting surface coal mining and reclamation operations on lands subject to this part shall comply with the terms and conditions of the permit and the lease or license, the Act, this subchapter, the regulatory program and all other applicable State and Federal laws and regulations.

(3) Surface coal mining operations authorized under the initial regulatory program or 43 CFR parts 3400, as applicable, may be conducted beyond the eight-month period prescribed in the applicable regulatory program if all of the following conditions are present:

(i) A timely and administratively complete application for a permit to conduct those operations under this part has been made to the regulatory authority in accordance with the provisions of this part and the applicable regulatory program;

(ii) The regulatory authority has not yet rendered a final decision with respect to the permit application; and

(iii) Those operations are conducted in compliance with all terms and conditions of the initial regulatory program approval or permit, the requirements of the Act, 30 CFR chapter VII, subchapter B or 43 CFR parts 3400, as applicable, applicable State laws and regulations, and the requirements of the applicable lease or license.

(b) *Permit application package.* (1) Each application for a permit, or permit revision or renewal thereof to conduct surface coal mining and reclamation operations on lands subject to this part shall be accompanied by a fee

made payable to the regulatory authority. The amount of the fee shall be determined in accordance with the permit fee criteria of the applicable regulatory program.

(2) Unless specified otherwise by the regulatory authority, seven copies of the complete permit application package shall be filed with the regulatory authority.

(3) Each permit application package shall include:

(i) The information required for a permit application or for an application for revision or renewal of a permit under the applicable regulatory program;

(ii) The resource recovery and protection plan required by 43 CFR parts 3400 for operations on lands containing leased Federal coal; and

(iii) Where OSM is the regulatory authority or where the proposed operations are on lands containing leased Federal coal, the following supplemental information to ensure compliance with Federal laws and regulations other than the Act:

(A) A description of the affected area of the proposed surface coal mining and reclamation operation with respect to: (1) Increases in employment, population and revenues to public and private entities, and (2) the ability of public and private entities to provide goods and services necessary to support surface coal mining and reclamation operations.

(B) An evaluation of impacts to the scenic and aesthetic resources, including noise on the surrounding area, due to the proposed surface coal mining and reclamation operation.

(C) A statement, including maps and ownership data as appropriate, of any cultural or historical sites listed on the National Register of Historic Places within the affected area of the proposed surface coal mining and reclamation operation.

(D) A statement of the classes of properties of potential significance within the disturbed area, and a plan for the identification and treatment, in accordance with 36 CFR part 800, of properties significant and listed or eligible for listing on the National Register of Historic Places within the disturbed area of the proposed surface

coal mining and reclamation operation.

(E) A description of the probable changes in air quality resulting from the mining operation and any necessary measures to comply with prevention of significant deterioration limitations, State Implementation Plans, or other Federal or State laws for air quality protection.

(F) A description of the location, acreage and condition of important habitats of selected indicator species located within the affected area of the proposed surface coal mining and reclamation operation.

(G) A description of active and inactive nests and prey areas of any Bald or Golden eagles located within the affected area of the proposed surface coal mining and reclamation operations.

(H) A description of all threatened and endangered species and their critical habitats located within the affected area of the proposed surface coal mining and reclamation operations.

(4) Where the surface of the Federal lands is subject to a lease or permit issued by the Federal government to a person other than the applicant, the permit application package shall contain information sufficient to demonstrate compliance with the requirements of § 740.15(c)(1). This requirement shall not apply to TVA-owned lands.

(c) *Permit review and processing.* Applications for permits, permit revisions or renewals thereof to conduct surface coal mining and reclamation operations on lands subject to this part shall be reviewed and processed in accordance with the requirements of the applicable regulatory program, subject to the following additional requirements:

(1) *Permit terms and conditions.* Permits shall include, as applicable, terms and conditions required by the lease issued pursuant to the Mineral Leasing Act and by other applicable Federal laws and regulations.

(2) *Criteria for permit approval or denial.* The regulatory authority shall not approve an application for a permit, or permit revision or renewal thereof for surface coal mining and reclamation operations on lands subject to this part unless the application is in accordance with the requirements of

the applicable regulatory program and this part or a cooperative agreement, as applicable.

(3) *Public participation in permit review process.* Where public hearings were held and determinations made under section 2(a)(3) (A), (B) and (C) of the Mineral Leasing Act (30 U.S.C. 201(a)(3) (A), (B) and (C)), such hearings may be made a part of the record of each public hearing on a permit application held pursuant to the requirements of the applicable regulatory program and this part. Matters covered at such hearings and determinations made at such hearings need not be readdressed.

(4) *Permit review processing for operations on lands administered by a Federal land management agency.* Upon receipt of a permit application package or a proposed revision or renewal of an approved permit that involves surface coal mining and reclamation operations on lands administered by an agency of the Federal Government, the regulatory authority shall transmit a copy of the complete permit application package, or proposed revision or renewal thereof, to the Federal land management agency, with a request for review and comment.

(5) *Consultation with other Federal agencies.* Prior to approving or disapproving a permit, permit revision or renewal thereof, the regulatory authority shall consider the comments of the Federal land management agency and include these comments in the record of permit decisions.

(6) *Permit processing schedule.* The regulatory authority shall process the permit application package within the time schedule established by the applicable regulatory program, except that the schedule may be extended if necessary to ensure compliance with Federal laws and regulations other than the Act.

(7) *Determination of operator compliance with the Act.* Where OSM is the regulatory authority, it shall afford the applicant or operator an opportunity for an adjudicatory hearing as provided in 43 CFR part 4 prior to a final determination on whether the applicant, or the operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violations of the Act

of such nature and duration and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of the Act.

(8) *Administrative review of decisions on permit applications.* Where OSM is the regulatory authority, the final decision on a permit application is subject to an appeal to the Department's Office of Hearings and Appeals as provided in part 775 of this chapter. Where the State is the regulatory authority under a cooperative agreement, the final decision on a permit application is subject to administrative review as provided under the approved State program.

(9) *Bonds and insurance required for issuance of permits.* After the approval of an application for a new or revised permit or for renewal of an existing permit, but prior to issuance of such permit, the applicant/permittee shall file with the regulatory authority: (i) A performance bond which meets the requirements of the applicable regulatory program; (ii) proof of liability insurance in accordance with the applicable regulatory program; and (iii) where required, evidence of the execution of a Federal lessee protection bond. Bonds required to be filed with OSM shall be in a form required by OSM and made payable to the United States.

(d) *Review of permit revisions.* (1) Where the State is the regulatory authority for surface coal mining and reclamation operations on lands subject to this subchapter, it shall inform OSM of each request for a permit revision with respect to operations on lands containing leased Federal coal.

(2) OSM shall review each permit revision in consultation with the Bureau of Land Management and the appropriate Federal land management agency to determine whether the permit revision constitutes a mining plan modification requiring the Secretary's approval under § 746.18 of this chapter.

(3) The regulatory authority shall consult with the Federal land management agency to determine whether any permit revision will adversely affect Federal resources other than coal and whether the revision is consistent with that agency's land use plans for other

§ 740.15

30 CFR Ch. VII (7–1–23 Edition)

Federal laws, regulations and executive orders for which it is responsible.

(e) *Transfer, assignment or sale of rights.* (1) The regulatory authority, before approving or disapproving an application for transfer, assignment or sale of rights granted under a permit issued pursuant to this subchapter, shall consult with the appropriate Federal land management agency and the Bureau of Land Management, as applicable.

(2) Approval of a transfer, assignment or sale of rights granted under a permit issued pursuant to this subchapter shall not be construed to constitute a transfer or assignment of leasehold interests. Leasehold interests may be transferred or assigned only in accordance with 43 CFR part 3453.

(f) *Suspension or revocation of permits.* (1) A permit to conduct surface coal mining and reclamation operations on Federal lands may be suspended or revoked by the regulatory authority in accordance with part 843 of this chapter and the applicable regulatory program.

(2) If a permit to conduct surface coal mining and reclamation operations on lands containing leased Federal coal is suspended or revoked, the regulatory authority shall notify the Bureau of Land Management so that the Bureau of Land Management can determine whether action should be taken to cancel the Federal lease. This section does not release the Federal lessee from the diligent development or continued operation requirements of 43 CFR parts 3400.

[48 FR 6935, Feb. 16, 1983, as amended at 48 FR 44779, Sept. 30, 1983; 54 FR 13822, Apr. 5, 1989]

§ 740.15 Bonds on Federal lands.

(a) *Federal lease bonds.* (1) Each holder of a Federal coal lease that is covered by a Federal lease bond required under 43 CFR part 3474 may apply to the authorized officer for release of liability for that portion of the Federal lease bond that covers reclamation requirements.

(2) The authorized officer may release the liability for that portion of the Federal lease bond that covers reclamation requirements if:

(i) The lessee has secured a suitable performance bond covering the permit area under this part;

(ii) There are no pending actions or unresolved claims against existing bonds; and

(iii) The authorized officer has received concurrence from OSM and the Bureau of Land Management.

(b) *Performance bonds.* Where the State is the regulatory authority under a cooperative agreement, the performance bonds required for operations on Federal lands shall be made payable to the United States and the State. Where OSM is the regulatory authority, such bonds shall be payable only to the United States.

(c) *Federal lessee protection bonds.* (1) Where leased Federal coal is to be mined and the surface of the land is subject to a lease or permit issued by the United States for purposes other than surface coal mining, the applicant for a mining permit, if unable to obtain the written consent of the permittee or lessee of the surface to enter and commence surface coal mining operations, shall submit to the regulatory authority with his application evidence of execution of a bond or undertaking which meets the requirements of this section. The Federal lessee protection bond is in addition to the performance bond required by a regulatory program. This section does not apply to permits or licenses for the use of the surface that do not convey to the permittee or licensee the right of transfer, sale or consent to other uses.

(2) The bond shall be payable to the United States and, as applicable, the State for the use and benefit of the permittee or lessee of the surface lands involved.

(3) The bond shall secure payment to the surface estate for any damage which the surface coal mining and reclamation operation causes to the crops or tangible improvements of the permittee or lessee of the surface lands.

(4) The amount of the bond shall be determined either by the applicant and the Federal lessee or permittee or as determined in an action brought against the person conducting surface coal mining and reclamation operations or upon the bond in a court of competent jurisdiction.

Surface Mining Reclamation and Enforcement, Interior

§ 740.19

(d) *Release of bonds.* (1) A Federal lease bond may be released upon satisfactory compliance with all applicable requirements of 43 CFR Group 3400 and after the release is concurred in by the Bureau of Land Management.

(2) A Federal lessee protection bond shall be released upon the written consent of the permittee or lessee.

(3) Where surface coal mining and reclamation operations are subject to an approved mining plan, a performance bond shall be released by the State after the release is concurred in by OSM.

[48 FR 6935, Feb. 16, 1983; 48 FR 13985, Apr. 1, 1983, as amended at 48 FR 44779, Sept. 30, 1983; 55 FR 9402, Mar. 13, 1990]

§ 740.17 Inspection, enforcement and civil penalties.

(a) *General requirements.* (1) Where OSM is the regulatory authority, parts 840, 842, 843 and 845 of this chapter shall govern its inspection, enforcement and civil penalty activities with respect to surface coal mining and reclamation operations on Federal lands.

(2) Where the State is the regulatory authority under a cooperative agreement, the State program shall govern inspection, enforcement and civil penalty activities by the regulatory authority with respect to surface coal mining and reclamation operations on Federal lands, while the requirements of part 842, 843 and 845 of this chapter shall govern OSM inspection, enforcement and civil penalty activities conducted in oversight of the State program.

(3) The requirements of this section shall not apply to coal exploration on Federal lands subject to the requirements of 43 CFR parts 3400.

(b) *Right of entry.* (1) Persons engaging in coal exploration or surface coal mining and reclamation operations on Federal lands shall provide access for any authorized officer of OSM, the regulatory authority, and, as applicable, the Bureau of Land Management or the appropriate Federal land management agency to inspect the operations, without advance notice or a search warrant and upon presentation of appropriate credentials, to determine whether the operations are in compliance with all applicable laws, regulations, notices

and orders, and terms and conditions of the permit.

(2) Any authorized representative of the regulatory authority and, as applicable, the Bureau of Land Management may, at reasonable times and without delay, have access to and copy any records and inspect any monitoring equipment or method of operation required under the Act, this subchapter and the permit, lease, license or mining plan in accordance with paragraph (a) of this section.

(3) No search warrant shall be required with respect to any activity under paragraph (a) or (b) of this section, except entry into a building without consent of the person in control of the building.

(c) *Inspections.* Inspections shall, to the extent practical, be conducted jointly if more than one government agency is involved. The regulatory authority shall coordinate inspections by Federal agencies and may request the participation of representatives from other Federal agencies when necessary to ensure compliance with this subchapter and other applicable Federal laws, regulations and orders.

[48 FR 6935, Feb. 16, 1983, as amended at 48 FR 44779, Sept. 30, 1983]

§ 740.19 Performance standards.

(a) *Operations and reclamation.* (1) Surface coal mining and reclamation operations on lands subject to this part shall be conducted in accordance with the performance standards of the applicable regulatory program.

(2) Surface coal mining and reclamation operations on lands containing leased Federal coal shall be conducted in accordance with the requirements of the terms, conditions and stipulations of the lease issued under the Mineral Leasing Act and its implementing regulations in 43 CFR parts 3400, as applicable, and the mining plan.

(b) *Completion of operations and abandonment.* (1) Upon completion of operations, bonds shall be released in accordance with § 740.15(d) of this chapter.

(2) Where there is a Federal lease bond:

(i) Not less than 30 days prior to permanent cessation or abandonment of surface coal mining and reclamation

operations, the person conducting those operations shall submit to OSM, in duplicate, a notice of intention to cease or abandon those operations, with a statement of the number of acres affected by the operations, the extent and kind of reclamation accomplished and the structures and other facilities that are to be removed from or remain on the permit area.

(ii) Upon receipt of this notice, the Bureau of Land Management and the appropriate Federal land management agency shall promptly make joint inspections to determine whether all operations have been completed in accordance with the requirements of 43 CFR parts 3400, the lease or licenses and the mining plan. Where all of these requirements have been complied with, the liability under the lease bond of the person conducting surface coal mining and reclamation operations shall be terminated.

(3) Where OSM is the regulatory authority, public hearings held with respect to final abandonment and releases of the performance bonds shall be in accordance with 5 U.S.C. 554 and 43 CFR part 4.

[48 FR 6935, Feb. 16, 1983, as amended at 48 FR 44779, Sept. 30, 1983]

PART 745—STATE-FEDERAL COOPERATIVE AGREEMENTS

Sec.

745.1 Scope.

745.10 Information collection.

745.11 Application and agreement.

745.12 Terms.

745.13 Authority reserved by the Secretary.

745.14 Amendments.

745.15 Termination.

745.16 Reinstatement.

AUTHORITY: 30 U.S.C. 1201 *et seq.* and 30 U.S.C. 181 *et seq.*

SOURCE: 48 FR 6939, Feb. 16, 1983, unless otherwise noted.

§ 745.1 Scope.

This part sets forth requirements for the development, approval and administration of cooperative agreements under section 523(c) of the Act.

§ 745.10 Information collection.

(a) In accordance with 44 U.S.C. 3501 *et seq.*, the Office of Management and

Budget (OMB) has approved the information collection requirements of this part. The OMB clearance number is 1029-0092. This information is needed to implement section 523(c) of the Act, which allows States to regulate surface coal mining operations on Federal lands under certain conditions. States that desire to enter into cooperative agreements to do so must respond to obtain a benefit.

(b) OSM estimates that the public reporting burden for this part will average 1,364 hours per respondent, including time spent reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of these information collection requirements, including suggestions for reducing the burden, to the Office of Surface Mining Reclamation and Enforcement, Information Collection Clearance Officer, 1951 Constitution Avenue, N.W., Washington, DC 20240; and the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Interior Desk Officer, 725 17th Street, N.W., Washington, DC 20503. Please refer to OMB Control Number 1029-0092 in any correspondence.

[64 FR 70831, Dec. 17, 1999]

§ 745.11 Application and agreement.

(a) The Governor of any State may request that the Secretary enter into a cooperative agreement with the State, provided the State has an approved State regulatory program or has submitted a regulatory program for approval under part 731 of this chapter, and has or may have within the State surface coal mining and reclamation operations on Federal lands.

(b) A request for a cooperative agreement shall be submitted in writing and, except to the extent previously submitted in the State program, shall include the following information:

(1) Information sufficient for OSM to make findings in accordance with paragraph (f) of this section;

(2) A proposed agreement consistent with the requirements of this part; and

(3) A certification by the Attorney General or the chief legal officer of the