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consultation with the State, with written findings indicating that each permit application is in compliance with the terms of the regulatory program and a technical analysis of each permit application to assist OSM in meeting its responsibilities under other applicable Federal laws and regulations.

§ 745.13 Authority reserved by the Secretary.

The Secretary shall not delegate to any State, nor shall any cooperative agreement under this part be construed to delegate to any State, authority to—

(a) Designate Federal lands as unsuitable for surface coal mining under subchapter F of this chapter or terminate such designations;

(b) Comply with the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*, and Federal laws and regulations other than SMCRA;

(c) Develop land use management plans for Federal lands where the surface estate is federally-owned;

(d) Regulate non-coal mining activities on Federal lands;

(e) Determine when, where, and how to lease Federal coal and how much to lease;

(f) Develop terms for Federal coal leases, including any special terms relating to mining and reclamation procedures;

(g) Evaluate Federal coal resources;

(h) Establish royalties, rents, and bonuses charged in connection with Federal coal leases;

(i) Approve mining plans or modifications thereto;

(j) Enforce Federal lease terms, including diligent development and maximum economic recovery requirements;

(k) Approve or determine post-mining land uses for Federal lands where the surface estate is federally-owned;

(l) Release Federal lease bonds;

(m) Evaluate the State's administration and enforcement of the approved State program and implementation of the cooperative agreement on Federal lands;

(n) Comply with the inspection, enforcement and civil penalties requirements of parts 842 and 843 of this chap-

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ter except as provided under § 740.4(c)(5) of this chapter;

(o) Determine whether a person has 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; or

(p) Issue findings on whether there are significant recreational, timber, economic, or other values that may be incompatible with surface coal mining operations on Federal lands within a national forest, as specified in § 761.11(b) of this chapter.

[48 FR 6939, Feb. 16, 1983, as amended at 64 FR 70831, Dec. 17, 1999]

§ 745.14 Amendments.

A cooperative agreement which has been approved pursuant to § 745.11 may be amended by mutual agreement of the Secretary and the Governor of a State. Amendments shall be adopted by Federal rulemaking, in accordance with § 745.11.

§ 745.15 Termination.

(a) A cooperative agreement may be terminated by the State upon written notice to the Secretary, specifying the date upon which the cooperative agreement shall be terminated. The date of termination shall not be less than 90 days from the date of the notice.

(b) A cooperative agreement may be terminated by the Secretary after giving notice to the State regulatory authority and affording the State regulatory authority and the public an opportunity for a public hearing and comment period, in accordance with the cooperative agreement, if the Secretary finds that:

(1) The State regulatory authority has substantially failed to comply with the requirements of this subchapter, the State program, or the cooperative agreement, or

(2) The State regulatory authority has failed to comply with any undertaking by the State in the cooperative agreement upon which approval of the State program, cooperative agreement, or grant by OSM for administration or enforcement of the State program or cooperative agreement was based.

(c) A cooperative agreement shall terminate—

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(1) When no longer authorized by Federal law or the applicable State laws and regulations; or

(2) Upon termination or withdrawal of the Secretary's approval of the applicable State program.

§ 745.16 Reinstatement.

(a) A State may apply for reinstatement of the cooperative agreement by providing written evidence to OSM that the State has remedied all defects for which the agreement was terminated and is fully capable of carrying out the cooperative agreement. Any reinstatement shall be by Federal rule-making in accordance with § 745.11.

(b) OSM may recommend approval of the reinstatement to the Secretary if it finds that the State meets all the requirements for the initial approval of a cooperative agreement under this subchapter.

(c) The Secretary may approve reinstatement of a cooperative agreement if the Secretary concurs in findings of OSM which recommended that approval.

PART 746—REVIEW AND APPROVAL OF MINING PLANS

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

SOURCE: 48 FR 6941, Feb. 16, 1983, unless otherwise noted.

§ 746.1 Scope.

This part provides the process and requirements for the review and approval, disapproval or conditional approval of mining plans on lands containing leased Federal coal.

§ 746.10 Information collection.

The information collection requirements contained in this section have been approved by OSM of Management and Budget under 44 U.S.C. 3507 and as-

signed clearance number 1029-0026. The information is being collected to determine compliance with section 523 of the Act (30 U.S.C. 1273) and this part. The obligation to respond to the information collection requirements of this part is mandatory.

§ 746.11 General requirements.

(a) No person shall conduct surface coal mining and reclamation operations on lands containing leased Federal coal until the Secretary has approved the mining plan.

(b) Surface coal mining and reclamation operations on lands containing leased Federal coal shall be conducted in accordance with a permit issued in accordance with this subchapter, any lease terms and conditions, and the approved mining plan.

§ 746.13 Decision document and recommendation on mining plan.

OSM shall prepare and submit to the Secretary a decision document recommending approval, disapproval or conditional approval of the mining plan to the Secretary. The recommendation shall be based, at a minimum, upon:

(a) The permit application package, including the resource recovery and protection plan;

(b) Information prepared in compliance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*;

(c) Documentation assuring compliance with the applicable requirements of other Federal laws, regulations and executive orders other than the Act;

(d) Comments and recommendations or concurrence of other Federal agencies, as applicable, and the public;

(e) The findings and recommendations of the Bureau of Land Management with respect to the resource recovery and protection plan and other requirements of the lease and the Mineral Leasing Act;

(f) The findings and recommendations of the regulatory authority with respect to the permit application and the State program; and

(g) The findings and recommendations of OSM with respect to the additional requirements of this subchapter.