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(ii) The productivity of the proposed permit area before mining, expressed as average yield of food, fiber, forage, or wood products from such lands obtained under high levels of management. The productivity shall be determined by yield data or estimates for similar sites based on current data from the U.S. Department of Agriculture, State agricultural universities, or appropriate State natural resource or agricultural agencies.

(b) Each plan shall contain a detailed description of the proposed use, following reclamation, of the land within the proposed permit area, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses, and the relationship of the proposed use of existing land use policies and plans. This description shall explain:

(1) How the proposed post mining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use; and

(2) Where a land use different from the premining land use is proposed, all materials needed for approval of the alternative use under 30 CFR 816.133.

(3) The consideration which has been given to making all of the proposed surface mining activities consistent with surface owner plans and applicable State and local land use plans and programs.

(c) The description shall be accompanied by a copy of the comments concerning the proposed use by the legal or equitable owner of record of the surface of the proposed permit area and the State and local government agencies which would have to initiate, implement, approve, or authorize the proposed use of the land following reclamation.

[59 FR 27937, May 27, 1994, as amended at 81 FR 93330, Dec. 20, 2016; 82 FR 54949, Nov. 17, 2017]

§ 780.25 Reclamation plan: Siltation structures, impoundments, banks, dams, and embankments.

(a) *General.* Each application shall include a general plan and a detailed design plan for each proposed siltation structure, water impoundment, and coal processing waste bank, dam, or embankment within the proposed permit area.

(1) Each general plan shall—(i) Be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, a professional geologist, or in any State which authorizes land surveyors to prepare and certify such plans, a qualified, registered, professional, land surveyor, with assistance from experts in related fields such as landscape architecture;

(ii) Contain a description, map, and cross section of the structure and its location;

(iii) Contain preliminary hydrologic and geologic information required to assess the hydrologic impact of the structure;

(iv) Contain a survey describing the potential effect on the structure from subsidence of the subsurface strata resulting from past underground mining operations if underground mining has occurred; and

(v) Contain a certification statement which includes a schedule setting forth the dates that any detailed design plans for structures that are not submitted with the general plan will be submitted to the regulatory authority. The regulatory authority shall have approved, in writing, the detailed design plan for a structure before construction of the structure begins.

(2) Impoundments meeting the Class B or C criteria for dams in the U.S. Department of Agriculture, Soil Conservation Service Technical Release No. 60 (210–VI–TR60, Oct. 1985), ''Earth Dams and Reservoirs,'' Technical Release No. 60 (TR–60) shall comply with the requirements of this section for structures that meet or exceed the size of other criteria of the Mine Safety and Health Administration (MSHA). The technical release is hereby incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. TR–60 may be viewed and downloaded from OSM's Web site at *http://www.osmre.gov/programs/TDT/damsafety.shtm.* It also is available for inspection at the OSM Headquarters

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Office, Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 252, 1951 Constitution Ave. NW., Washington, DC or 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*. Each detailed design plan for a structure that meets or exceeds the size or other criteria of MSHA, §77.216(a) of this chapter shall:

(i) Be prepared by, or under the direction of, and certified by a qualified registered professional engineer with assistance from experts in related fields such as geology, land surveying, and landscape architecture;

(ii) Include any geotechnical investigation, design, and construction requirements for the structure;

(iii) Describe the operation and maintenance requirements for each structure; and

(iv) Describe the timetable and plans to remove each structure, if appropriate.

(3) Each detailed design plan for structures not included in paragraph (a)(2) of this section shall:

(i) Be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, or in any State which authorizes land surveyors to prepare and certify such plans, a qualified, registered, professional land surveyor, except that all coal processing waste dams and embankments covered by §§816.81–816.84 of this chapter shall be certified by a qualified, registered, professional engineer;

(ii) Include any design and construction requirements for the structure, including any required geotechnical information;

(iii) Describe the operation and maintenance requirements for each structure; and

(iv) Describe the timetable and plans to remove each structure, if appropriate.

(b) *Siltation structures.* Siltation structures shall be designed in compliance with the requirements of §816.46 of this chapter.

(c) *Permanent and temporary impoundments.* (1) Permanent and temporary impoundments shall be designed to comply with the requirements of §816.49 of this chapter.

(2) Each plan for an impoundment meeting the size or other criteria of the Mine Safety and Health Administration shall comply with the requirements of §§77.216–1 and 77.216–2 of this title. The plan required to be submitted to the District Manager of MSHA under §77.216 of this title shall be submitted to the regulatory authority as part of the permit application in accordance with paragraph (a) of this section.

(3) For impoundments not included in paragraph (a)(2) of this section, the regulatory authority may establish through the State program approval process, engineering design standards that ensure stability comparable to a 1.3 minimum static safety factor in lieu of engineering tests to establish compliance with the minimum static safety factor of 1.3 specified in §816.49(a)(4)(ii) of this chapter.

(d) *Coal processing waste banks.* Coal processing waste banks shall be designed to comply with the requirements of 30 CFR 816.81–816.84.

(e) *Coal processing waste dams and embankments.* Coal processing waste dams and embankments shall be designed to comply with the requirements of 30 CFR 816.81–816.84. Each plan shall comply with the requirements of the Mine Safety and Health Administration, 30 CFR 77.216–1 and 77.216–2, and shall contain the results of a geotechnical investigation of the proposed dam or embankment foundation area, to determine the structural competence of the foundation which will support the proposed dam or embankment structure and the impounded material. The geotechnical investigation shall be planned and supervised by an engineer or engineering geologist, according to the following:

(1) The number, location, and depth of borings and test pits shall be determined using current prudent engineering practice for the size of the dam or embankment, quantity of material to be impounded, and subsurface conditions.

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(2) The character of the overburden and bedrock, the proposed abutment sites, and any adverse geotechnical conditions which may affect the particular dam, embankment, or reservoir site shall be considered.

(3) All springs, seepage, and ground water flow observed or anticipated during wet periods in the area of the proposed dam or embankment shall be identified on each plan.

(4) Consideration shall be given to the possibility of mudflows, rock-debris falls, or other landslides into the dam, embankment, or impounded material.

(f) If the structure meets the Class B or C criteria for dams in TR–60 or meets the size or other criteria of § 77.216(a) of this chapter, each plan under paragraphs (b), (c), and (e) of this section shall include a stability analysis of the structure. The stability analysis shall include, but not be limited to, strength parameters, pore pressures, and long-term seepage conditions. The plan shall also contain a description of each engineering design assumption and calculation with a discussion of each alternative considered in selecting the specific design parameters and construction methods.

[44 FR 15357, Mar. 13, 1979, as amended at 48 FR 44780, Sept. 30, 1983; 50 FR 16199, Apr. 24, 1985; 53 FR 43605, Oct. 27, 1988; 59 FR 53028, Oct. 20, 1994; 73 FR 75876, Dec. 12, 2008; 79 FR 76228, Dec. 22, 2014; 81 FR 93330, Dec. 20, 2016; 82 FR 54949, Nov. 17, 2017]

§ 780.27 Reclamation plan: Surface mining near underground mining.

For surface mining activities within the proposed permit area to be conducted within 500 feet of an underground mine, the application shall describe the measures to be used to comply with 30 CFR 816.79.

[44 FR 15357, Mar. 13, 1979, as amended at 81 FR 93330, Dec. 20, 2016; 82 FR 54949, Nov. 17, 2017]

§ 780.28 [Reserved]

§ 780.29 Diversions.

Each application shall contain descriptions, including maps and cross sections, of stream channel diversions and other diversions to be constructed within the proposed permit area to achieve compliance with 30 CFR 816.43 of this chapter.

[44 FR 15357, Mar. 13, 1979, as amended at 48 FR 43987, Sept. 26, 1983; 81 FR 93330, Dec. 20, 2016; 82 FR 54949, Nov. 17, 2017]

§ 780.31 Protection of publicly owned parks and historic places.

(a) For any publicly owned parks or any places listed on the National Register of Historic Places that may be adversely affected by the proposed operation, each plan shall describe the measures to be used—

(1) To prevent adverse impacts, or

(2) If a person has valid existing rights, as determined under § 761.16 of this chapter, or if joint agency approval is to be obtained under § 761.17(d) of this chapter, to minimize adverse impacts.

(b) The regulatory authority may require the applicant to protect historic or archeological properties listed on or eligible for listing on the National Register of Historic Places through appropriate mitigation and treatment measures. Appropriate mitigation and treatment measures may be required to be taken after permit issuance provided that the required measures are completed before the properties are affected by any mining operation.

[52 FR 4262, Feb. 10, 1987; 64 FR 70838, Dec. 17, 1999; 81 FR 93330, Dec. 20, 2016; 82 FR 54949, Nov. 17, 2017]

§ 780.33 Relocation or use of public roads.

Each application shall describe, with appropriate maps and cross-sections, the measures to be used to ensure that the interests of the public and landowners affected are protected if, under § 761.14 of this chapter, the applicant seeks to have the regulatory authority approve—

(a) Conducting the proposed surface mining activities within 100 feet of the right-of-way line of any public road, except where mine access or haul roads join that right-of-way; or

(b) Relocating a public road.

[44 FR 15357, Mar. 13, 1979, as amended at 64 FR 70838, Dec. 17, 1999; 81 FR 93330, Dec. 20, 2016; 82 FR 54949, Nov. 17, 2017]

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