

Surface Mining Reclamation and Enforcement, Interior

§ 902.1

ARTICLE XII: REINSTATEMENT OF COOPERATIVE AGREEMENT

If this Agreement has been terminated in whole or in part it may be reinstated under the provisions of 30 CFR 745.16.

ARTICLE XIII: AMENDMENT OF COOPERATIVE AGREEMENT

This Agreement may be amended by mutual agreement of the Governor and the Secretary in accordance with 30 CFR 745.14.

ARTICLE XIV: CHANGES IN STATE OR FEDERAL STANDARDS

A. The Department or the State may from time to time promulgate new or revised performance or reclamation requirements or enforcement and administration procedures. Each party shall, if it determines it to be necessary to keep this Agreement in force, change or revise its regulations and request necessary legislative action. Such changes shall be made under the procedures of 30 CFR part 732 for changes to the State Program and under the procedures of section 501 of the Act for changes to the Federal lands program.

B. ASMC and the Department shall provide each other with copies of any changes to their respective laws, rules, regulations and standards pertaining to the enforcement and administration of this Agreement.

ARTICLE XV: CHANGES IN PERSONNEL AND ORGANIZATION

Each party to this Agreement shall notify the other, when necessary, of any changes in personnel, organization and funding or other changes that will affect the implementation of this Agreement to ensure coordination of responsibilities and facilitate cooperation.

ARTICLE XVI: RESERVATION OF RIGHTS

In accordance with 30 CFR 745.13, this Agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expressly addressed in this Agreement that the State or Secretary may have under other laws or regulations, including but not limited to those listed in appendix A.

Dated: July 16, 1985.

Signed:

George C. Wallace,
Governor of Alabama.

Dated: June 28, 1985.

Signed:

Ann McLaughlin,
Under Secretary of the Interior.

APPENDIX A

1. The Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.*, and implementing regulations.

2. The Mineral Leasing Act of 1920, 30 U.S.C. 181 *et seq.*, and implementing regulations including 43 CFR parts 3480-3487.

3. The National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and implementing regulations, including 40 CFR part 1500.

4. The Endangered Species Act, 16 U.S.C. 1531 *et seq.*, and implementing regulations, including 50 CFR part 402.

5. The National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, and implementing regulations, including 36 CFR part 800.

6. The Clean Air Act, 42 U.S.C. 7401 *et seq.*, and implementing regulations.

7. The Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, and implementing regulations.

8. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*, and implementing regulations.

9. The Reservoir Salvage Act of 1960, amended by the Preservation of Historical and Archaeological Data Act of 1974, 16 U.S.C. 469 *et seq.*

10. Executive Order 1593 (May 13, 1971), Cultural Resource Inventories on Federal Lands.

11. Executive Order 11988 (May 24, 1977), for flood plain protection. Executive Order 11990 (May 24, 1977), for wetlands protection.

12. The Mineral Leasing Act for Acquired Lands, 30 U.S.C. 351 *et seq.*, and implementing regulations.

13. The Stock Raising Homestead Act of 1916, 43 U.S.C. 291 *et seq.*

14. The Constitution of the United States.

15. The Constitution of the State and State Law.

[50 FR 30921, July 30, 1985]

PART 902—ALASKA

Sec.

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

§ 902.1 Scope.

This part contains all rules applicable only within Alaska that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

[48 FR 12889, Mar. 23, 1983]

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30 CFR Ch. VII (7-1-25 Edition)

§ 902.10 State regulatory program approval.

The Alaska State program as submitted on July 23, 1982, and as amended and clarified on December 13, 1982, and January 11, 1983, is approved effective May 2, 1983. Beginning on that date, the Alaska Department of Natural Resources shall be deemed the regulatory authority in Alaska for all surface coal mining and reclamation operations and all exploration operations on non-Federal and non-Indian lands. Only surface coal mining and reclamation operations on non-Federal and non-Indian lands shall be subject to the provisions of the Alaska permanent regulatory program. Copies of the approved program are available at the following addresses:

(a) Department of Natural Resources, Division of Mining and Water Management, 3601 C Street, Suite 800, Anchorage, AK 99503-5925, Telephone: (907) 762-2149.

(b) Office of Surface Mining Reclamation and Enforcement, Western Regional Coordinating Center, Technical Library, 1999 Broadway, Suite 3320, Denver, Colorado 80202-5733.

[60 FR 33724, June 29, 1995, as amended at 60 FR 54593, Oct. 25, 1995]

§ 902.12 Regulatory program and proposed program amendments not approved.

(a) We do not approve the following provisions of the proposed program

amendment Alaska submitted on September 8, 2011, as revised on March 6, 2012:

(1) Proposed addition of the phrase “* * * conducted on or before October 24, 1992 * * *” in 11 AAC 90.321(e)(1).

(2) Proposed reduction of timeframe from 30 to 20 days to request administrative review of an agency decision regarding an incidental mining exemption under 11 AAC 90.652(g)(1),

(3) Proposed deletion of the phrase “* * * until at least three years after expiration of the period during which the subject mining area is active * * *” under 11 AAC 90.656.

(4) Proposed reduction of timeframe from 30 to 20 days to request administrative review of an agency decision to revoke an incidental mining exemption under 11 AAC 90.664(c).

(b) [Reserved]

[84 FR 66308, Dec. 4, 2019]

§ 902.15 Approval of Alaska regulatory program amendments.

The following is a list of the dates amendments were submitted to OSM, the dates when the Director’s decision approving all, or portions of these amendments, were published in the FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

| Original amendment submission date | Date of final publication | Citation/description |
|---|--|--|
| November 12, 1983 .. May 28, 1985, No- vember 16, 1986, February 24, 1987. | December 23, 1983 .. February 22, 1988 .. | Redesignation of title 11, Ch 90 of the AAC. 11 AAC 90.065(b), .077(d), .331(a)(3), .461(f), .601 (d) through (g), .625, .627(a), (b), .751(a), .907(d), (g); Articles 15 through 17. |

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| Original amendment submission date | Date of final publication | Citation/description |
|---|---------------------------|--|
| February 2, 1990 | August 19, 1992 | 11 AAC 90.021(c), .023(a)(1), (2), (3), (b)(1), (2), .025(a)(1), (2), (b), (c), .041(a), (b), .043(b), (c), .045(b)(4), .057, .071(2)(D), .077(b)(5), (11), (d), .081(a)(1), (2), (3), (b), (c), .085(a)(1), (2), (3)(A) through (E), (4), (b)(3), (4), (c)(3), (4), (5)(A) through (D), .089(a), (c), .099(a), .101(c)(1), (2)(A) through (F), (3)(A), (B), (C), (4), (5)(A), (B), (6), .119(d), (e), .121(c), .125(a)(7) through (13), .127(4), (5)(A), (B), (C), (6), .129 (a)(6), (7), (8), .141(a)(1), .163(a)(2) (A) through (G), (b)(2), (3), (c)(1), (2), (3)(A), (B), .173(a)(1), (2), (3), .175(4)(D), .181(a)(5)(A), (B), (6), .185(a)(3), (4), (5), .207(c)(5)(C), .213(g), (h), .323(a) through (d), .325(b), (c), (d)(1), (2), (3), (g)(3), .327(b)(2), .331(b)(1), (2), (3), (c), (d)(2), (3), (4), (e), (f), (g), .333, .336(a), (b)(1), (2), (c)(1) through (9), (d)(1), (2), (3), (e), (f), .337(a), (b), (c)(1) through (7), (d), (e), (g), .338(1) through (7), .343, .345(a), (b)(1) through (5), (c), (d), (e)(1) through (6), (f) through (i), .349(2)(A), .353(a)(1), (2), (3), .371(d)(1) through (4), .373(b), (c), (d), .375(b), (e) through (h), .379(b), (c), (e) through (j), .381(a), (b), .391(b), (e), (g), (i), (k), (l), (m)(1) through (6), (n), (o), (p)(3) through (7), (q), (r), .395(a)(1) through (5), (b), .397(a), (b), (c)(1) through (5), (d) through (g), .399, .401(a), (b)(1), (2), (3), (c), (d), (e), .403, .405, .407(a) through (d), (f) through (i), .409, .435, .441(a), (b), (c), .443(a), (b), (c)(1)(A) through (F), (e)(2), (3), (4), (f) through (k), .451(b)(1), (5), .455(1) through (4), .457(b), (c)(5), .635(a), (b)(1), (2), (c), (d)(1), (2), (3), (e)(1), (2), (3), (f), (g), (h), .703(e), .705(a) through (e), .901(c), .907(b), (i), .911(18) through (21), (51), (110), (118), (122). |
| January 26, 1995 | September 17, 1996 | 11 AAC 05.010(a)(11)(D), 90.002, .003, .011, .025(a), (b), (c), .045(a), .049(2), (D) through (H), .083(b)(10), (11), (12), (3), (b), (c), .097, .099, .149(d), (1), .163(a), (b), (1), (c), (3)(B), (4), (5), .207(f)(1), (2), (4) through (7), .337(f), .345(e), .375, .391(b), (h), .401(e), .407(e), .409, .423(b), (h), .443(d)(1), (k), .491(a), (1), (6), (7), (8), (c)(4) through (8), (e), (f), .901(e), .907(c) through (h), (j). |
| December 12, 1996 .. July 30, 1998 | March 31, 1997 | 11 AAC 90.207(f) (3) and (8). |
| February 22, 1999 .. | February 22, 1999 .. | 11 AAC 90.002(a), (b), and (c), and 90.011(a) concerning permitting requirements; 90.025(a), (b), and (c) concerning permit application requirements; 90.045(a), 90.049(a), 90.083(b), and 90.097 concerning environmental resource requirements; 90.149(d) concerning alluvial valley floors; 90.163(a) and (d) concerning exploration; 90.207(f) concerning self-bonding; 90.337(f) concerning impoundment inspections; 90.375(f) concerning blasting; 90.391(h) and (s), 90.401(e), and 90.407(e) concerning coal mine waste; 90.423(b) and (h) concerning fish and wildlife; 90.443(d) and (k) concerning backfilling and grading; 90.491(e) and (f) concerning roads; 90.901(e) concerning termination of jurisdiction; 90.907(c) and (j) concerning public availability of information; and 90.911(92) concerning the definition of "road." |
| May 11, 2004 | November 29, 2005 | 11 AAC 90.043(b); 90.045(a), (b), (c), (d), and (e); 90.057; 90.085(a)(5) and (c); 90.089(a)(1); 90.101(a) and (b); 90.173(a)(2), (b)(2) and (3); 90.179(a)(3), (b)(1) through (4) and (c); 90.185(a)(4) and (5); 90.201(d) and (f); 90.211(a); 90.331(d)(1); deletion of 90.311(g); 90.321(e); 90.323(a) through (c); 90.325(b) and (c); 90.327(b)(2); 90.331(e) and (h); 90.336(a), (b)(1) and (2), and (g); 90.337(a); 90.345(e); 90.349(l); 90.375(f) and (g); 90.391(b), (c), (h)(2), (l), and (n); 90.395(a); 90.397(a); 90.401(a), (d), and (e); 90.407(c) and (f); 90.443(a), (k)(2), (i), and (m); 90.447(c)(1); 90.461(b), (g), (h) and (i); 90.491(f)(1), (3) and (4); 90.601(h) and (i); 90.629(a); 90.631(a); 90.635(a) and (b); 90.637(a) and (b); 90.639(a) through (c); 90.641(a) through (d); 90.650 through 90.658; 90.701(a), (b), (c)(1) and (2), and (d)(1) and (2); 90.901(a)(2); and 90.911. |
| September 8, 2011, as revised on March 6, 2012. | December 4, 2019 .. | 11 Alaska Annotated Code (AAC) 90.043(b); 11 AAC 90.045(a), (b), (c), and (d); 11 AAC 90.057(a), (b) and (c); 11 AAC 90.085(a), (a)(5) and (e); 11 AAC 90.089(a)(1); 11 AAC 90.101(a) through (f); 11 AAC 90.173(b)(2); 11 AAC 90.179(a)(3), (a)(4) and (a)(5); 11 AAC 90.185(a) and (a)(4); 11 AAC 90.201(d); 11 AAC 90.211(a); 11 AAC 90.321(d), (e), (f), (f)(1) and (f)(2); 11 AAC 90.323(a), (b) and (c); 11 AAC 90.325(b) and (c); 11 AAC 90.327(b)(2); 11 AAC 90.331(d)(1), (e), and (h)(1) and (2); 11 AAC 90.336(a), (b)(1) and (2), (f), and (g); 11 AAC 90.337(a); 11 AAC 90.345(e); 11 AAC 90.349; 11 AAC 90.375(f) and (g); 11 AAC 90.391(n) and (t); 11 AAC 90.395(a); 11 AAC 90.397(a); 11 AAC 90.401(a)(1), (b), (d), (e), and (f); 11 AAC 90.407(c)(1) and (2) and (f); 11 AAC 90.423(h); 11 AAC 90.443(a)(2), (k)(2), (l)(2), and (m)(2); 11 AAC 90.444(a) and (b); 11 AAC 90.447(c)(1); 11 AAC 90.457(c)(3); 11 AAC 90.461; 11 AAC 90.461(b) and (b)(1) through (3), (g) and (g)(1) through (5), (h) and (h)(1) through (3), (i) and (i)(1) through (3), (j), (k), and (l)(1) through (3); 11 AAC 90.491(f)(1), (f)(2)(E), (f)(2)(E), (f)(3), (f)(4), and (f)(2)(E) and (E)(iii); 11 AAC 90.601(h), (i) and (j); 11 AAC 90.629(a); 11 AAC 90.631(a); 11 AAC 90.635(a) and (b); 11 AAC 90.639(a), (b), and (c); 11 AAC 90.641(a), (b), (c), and (d); 11 AAC 90.652 through 11 AAC 90.669; 11 AAC 90.701(a), (b), and (c); 11 AAC 90.901(a); and 11 AAC 90.911(125), (126), (128), (129), (130), (133), (134) and (135). |

[62 FR 9934, Mar. 5, 1997, as amended at 62 FR 15117, Mar. 31, 1997; 64 FR 8514, Feb. 22, 1999; 70 FR 71394, Nov. 29, 2005; 84 FR 66308, Dec. 4, 2019]

§ 902.16 Required program amendments.

Pursuant to 30 CFR 732.17(f)(1), Alaska is required to submit to OSM by the specified date the following written, proposed program amendments, or a description of an amendment to be proposed that meets the requirements of SMCRA and 30 CFR Chapter VII and a timetable for enactment that is consistent with Alaska's established administrative or legislative procedures.

(a) By October 19, 1992, Alaska shall amend its program as follows:

(1) At 11 AAC 90.023(f)(3) by providing ownership and control regulations to meet the requirements of OSM's May 11, 1989, 30 CFR 732 notification.

(2)–(17) [Reserved]

(b) [Reserved]

(c) By February 3, 2020, Alaska must amend its program as follows:

(1) At 11 AAC 90.101(e), in accordance with the requirements at 30 CFR 784.20(b)(7), Alaska must submit a program amendment (or description of the amendment with a timetable for submission) to adopt subsidence control plan requirements at 11 AAC 90.101(e) for planned subsidence scenarios. Such plans must describe the methods to be employed to minimize damage to non-commercial buildings and occupied residential dwellings and related structures or written consent from the owner of the structure or facility that minimization measures not be taken, or unless the damage would constitute a threat to health or safety, a demonstration that the costs of minimizing damage exceed anticipated costs of repair.

(2) At 11 AAC 90.321(e)(1), in accordance with 30 CFR 816.41(h), Alaska must submit a program amendment (or description of the amendment with a timetable for submission) to revise 11 AAC 90.321(e)(1) to ensure protection of water supplies affected by surface coal mining activities conducted on or before October 24, 1992.

(3) At 11 AAC 90.652(g)(1) and 11 AAC 90.664(c), in accordance with the requirements at 30 CFR 702.11(f)(1) and 702.17(c)(2), Alaska must submit a pro-

gram amendment (or description of the amendment with a timetable for submission) to restore the 30-day time frames under 11 AAC 90.652(g)(1) and 11 AAC 90.664(c) for an adversely affected person to request administrative review of the agency's decisions regarding incidental mining exemptions.

(4) At 11 AAC 90.656, in accordance with the requirements at 30 CFR 702.13(a), Alaska must submit a program amendment (or description of the amendment with a timetable for submission) to revise 11 AAC 90.656, concerning public availability of information in an application for an exemption of coal incidental to the extraction of other minerals. The amendment or its description must include the requirement that the information, unless approved as confidential, will be made available for public inspection and copying until at least three years after expiration of the period during which the subject mining area is active.

(5) At AS 27.21.220, in accordance with the October 24, 1992, Energy Policy Act, Alaska must submit a statutory revision requiring prompt repair or compensation for material damage resulting from subsidence, and prompt replacement of water supplies affected by underground mining operations.

(6) At 11 AAC 90.457(d), in accordance with the requirements at 30 CFR 816.116(a)(1) and 817.116(a)(1), Alaska must submit a program amendment (or description of the amendment with a timetable for submission) to clarify its program by revising 11 AAC 90.457 to indicate that all selected revegetation success standards and sampling techniques which may be incorporated into individual permits will be put in writing and made available to the public. If Alaska will allow for any normal husbandry practices to be used during the period required for demonstration of revegetation success, in accordance with 30 CFR 816.116(c)(4), Alaska must submit an amendment of its program to demonstrate that each practice is one that is customarily performed on

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similar un-mined lands and list, at 11 AAC 90.457(d), the acceptable practices.

[57 FR 37423, Aug. 19, 1992, as amended at 61 FR 48842, Sept. 17, 1996; 62 FR 15117, Mar. 31, 1997; 64 FR 8514, Feb. 22, 1999; 70 FR 71394, Nov. 29, 2005; 84 FR 66308, Dec. 4, 2019]

§ 902.20 Approval of Alaska abandoned mine land reclamation plan.

The Alaska Reclamation Plan, as submitted on August 17, 1983, is approved effective December 23, 1983. Copies of the approved plan are available at:

(a) Department of Natural Resources, Division of Mining and Water Management, 3601 C Street, Suite 800, Anchorage, AK 99503-5925, Telephone: (907)762-2149.

(b) Office of Surface Mining Reclamation and Enforcement, Western Re-

gional Coordinating Center, Technical Library, 1999 Broadway, Suite 3320, Denver, Colorado 80202-5733.

[60 FR 33724, June 29, 1995, as amended at 60 FR 54593, Oct. 25, 1995]

§ 902.25 Approval of Alaska abandoned mine land reclamation plan amendments.

The following is a list of the dates amendments were submitted to OSM, the dates when the Director's decision approving all, or portions of these amendments, were published in the FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

| Original Amendment submission date | Date of final publication | Citation/description |
|------------------------------------|---------------------------|---|
| May 28, 1992 | November 16, 1992 | Emergency response reclamation program. |

[62 FR 9935, Mar. 5, 1997]

PART 903—ARIZONA

Sec.

903.700 Arizona Federal program.

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903.775 Administrative and judicial review of decisions.

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903.823 Special performance standards—Operations on prime farmland.

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