

Bureau of Land Management, Interior

publication of a notice of change in the FEDERAL REGISTER. Coal production regions shall be used for establishing regional leasing levels under §3420.2 of this title. Coal production regions shall be used to establish areas in which leasing shall be conducted under §3420.3 of this title and for other purposes of the coal management program.

[47 FR 33135, July 30, 1982]

§ 3400.6 Minimum comment period.

Unless otherwise required in Group 3400 of this title, a minimum period of 30 days shall be allowed for public review and comment where such review is required for Federal coal management program activities under Group 3400 of this title.

[51 FR 18887, May 23, 1986]

PART 3410—EXPLORATION LICENSES**Subpart 3410—Exploration Licenses****Sec.**

- 3410.0-1 Purpose.
- 3410.0-2 Objective.
- 3410.0-3 Authority.
- 3410.1 Exploration licenses: Generally.
- 3410.1-1 Lands subject to exploration licenses.
- 3410.1-2 When an exploration license is required.
- 3410.2 Prelicensing procedures.
- 3410.2-1 Application for an exploration license.
- 3410.2-2 Environmental analysis.
- 3410.2-3 Surface management agency.
- 3410.3 Exploration licenses.
- 3410.3-1 Issuance and termination of an exploration license.
- 3410.3-2 Limitations on exploration licenses.
- 3410.3-3 Operating regulations.
- 3410.3-4 Bonds.
- 3410.4 Collection and submission of data.
- 3410.5 Use of surface.

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

SOURCE: 44 FR 42613, July 19, 1979, unless otherwise noted.

Subpart 3410—Exploration Licenses**§ 3410.0-1 Purpose.**

This subpart provides for the issuance of licenses to explore for coal

§ 3410.1-2

deposits subject to disposal under Group 3400.

§ 3410.0-2 Objective.

The objective of this subpart is to allow private parties singularly or jointly to explore coal deposits to obtain geological, environmental, and other pertinent data concerning the coal deposits.

§ 3410.0-3 Authority.

(a) These regulations are issued under the authority of the statutes listed in §3400.0-3 of this title.

(b) These regulations primarily implement section 2(b) of the Mineral Leasing Act of 1920, as amended by section 4 of the Federal Coal Leasing Amendments Act of 1976 (30 U.S.C. 201(b)).

§ 3410.1 Exploration licenses: Generally.**§ 3410.1-1 Lands subject to exploration licenses.**

(a) Exploration licenses may be issued for:

(1) Lands administered by the Secretary that are subject to leasing, §3400.2;

(2) Lands administered by the Secretary of Agriculture through the Forest Service or other agency that are subject to leasing, §3400.2;

(3) Lands which have been conveyed by the United States subject to a reservation to the United States of the mineral or coal deposits, to the extent that those deposits are subject to leasing under §3400.2; and

(4) Acquired lands set apart for military or naval purposes.

(b) No exploration license shall be issued for lands included in an existing coal lease.

§ 3410.1-2 When an exploration license is required.

(a) No person may conduct exploration activities for commercial purposes, including sale of data acquired during exploration, on lands subject to this subpart without an exploration license.

(b) An exploration license shall not be required for casual use.

§ 3410.2

(c) Exploration activities conducted without an exploration license in violation of this section shall constitute a trespass, and shall be subject to the provisions of 43 CFR 9239.5-3(f).

[44 FR 42613, July 19, 1979, as amended at 47 FR 33135, July 30, 1982]

§ 3410.2 Prelicensing procedures.

§ 3410.2-1 Application for an exploration license.

(a) Exploration license applications shall be submitted at the Bureau of Land Management State Office having jurisdiction over the lands covered in the application (43 CFR subpart 1821). The applications shall be subject to the following requirements:

(1) No specified form of application is required.

(2) An area in a public land survey state for which an application is filed shall be described by legal description or, if on unsurveyed lands, by metes and bounds, in accordance with § 3471.1-1(d)(1) of this title. An application for an exploration license on acquired lands shall describe the area according to the description in the deed or document by which the United States acquired title in accordance with § 3471.1-1(d)(2) of this title.

(3) Each application shall contain three copies of an exploration plan which complies with the requirements of § 3482.1(a) of this title.

(4) Each application and its supporting documents shall be filed with a nonrefundable filing fee (43 CFR 3473.2).

(5) Exploration license applications shall normally cover no more than 25,000 acres in a reasonably compact area and entirely within one state. An application for an exploration license covering more than 25,000 acres must include a justification for an exception to the normal acreage limitation.

(b) Nothing in this subpart shall preclude the authorized officer from issuing a call for expressions of leasing interest in an area containing exploration licenses or applications for exploration licenses.

(c) Applicants for exploration licenses shall be required to provide an opportunity for other parties to participate in exploration under the license on a pro rata cost sharing basis.

43 CFR Ch. II (10-1-24 Edition)

(1) Immediately upon the filing of an application for an exploration license the applicant shall publish a "Notice of Invitation," approved by the authorized officer, once every week for 2 consecutive weeks in at least one newspaper of general circulation in the area where the lands covered by the license application are situated. This notice shall contain an invitation to the public to participate in the exploration under the license and shall contain the location of the Bureau of Land Management office in which the application shall be available for inspection. Copies of the Notice of Invitation shall be filed with the authorized officer at the time of publication by the applicant, for posting in the proper Bureau of Land Management Office and for Bureau of Land Management's publication of the Notice of Invitation in the *FEDERAL REGISTER*.

(2) Any person who seeks to participate in the exploration program contained in the application shall notify the authorized officer and the applicant in writing within 30 days after the publication in the *FEDERAL REGISTER*. The authorized officer may require modification of the original exploration plan to accommodate the legitimate exploration needs of persons seeking to participate, and to avoid the duplication of exploration activities in the same area, or may notify the person seeking to participate that the person should file a separate application for an exploration license.

(d) An application to conduct exploration which could have been conducted as a part of exploration under an existing or recent coal exploration license may be rejected.

[44 FR 42613, July 19, 1979, as amended at 47 FR 33135, July 30, 1982; 50 FR 8626, Mar. 4, 1985]

§ 3410.2-2 Environmental analysis.

(a) Before an exploration license may be issued, the authorized officer shall prepare an environmental assessment or environmental impact statement, if necessary, of the potential effects of the proposed exploration on the natural and socio-economic environment of the affected area. No exploration license shall be issued if the exploration would:

Bureau of Land Management, Interior**§ 3410.3-1**

(1) Result in disturbance that would cause significant and lasting degradation to the lands or injury to improvements, or in any disturbance other than that necessary to determine the nature of the overlying strata and the depth, thickness, shape, grade, quantity, quality or hydrologic conditions of the coal deposits; or

(2) Jeopardize the continued existence of a threatened or endangered species of fauna or flora or destroy or cause adverse modification to its critical habitat. No exploration license shall be issued until after compliance with sections 105 and 106 of the National Historic Preservation Act (16 U.S.C. 470(f)) with respect to any cultural resources which might be affected by any activity under the exploration license.

(b) The authorized officer shall include in each exploration license requirements and stipulations to protect the environment and associated natural resources and to ensure reclamation of the lands disturbed by the exploration.

[47 FR 33135, July 30, 1982, as amended at 50 FR 8626, Mar. 4, 1985]

§ 3410.2-3 Surface management agency.

The authorized officer may issue an exploration license covering lands the surface of which is under the jurisdiction of any Federal agency other than the Bureau of Land Management only in accordance with those conditions prescribed by the surface management agency concerning the use and protection of the nonmineral interests in those lands.

[44 FR 42613, July 19, 1979. Redesignated at 47 FR 33135, July 30, 1982]

§ 3410.3 Exploration licenses.**§ 3410.3-1 Issuance and termination of an exploration license.**

(a) The authorized officer has the discretion to issue an exploration license or to reject the application therefor under this subpart.

(b) An exploration license shall become effective on the date specified by the authorized officer as the date when exploration activities may begin. An exploration license shall not be valid

for more than two years from its effective date.

(c) The approved exploration plan shall be attached and made a part of each exploration license.

(d) Subject to the continued obligation of the licensee and the surety company to comply with the terms and conditions of the exploration license, the exploration plan, and the regulations, a licensee may relinquish an exploration license for all or any portion of the lands covered by it. A relinquishment shall be filed in the Bureau of Land Management State Office in which the original application was filed. See 43 CFR subpart 1821.

(e) An exploration license may be cancelled by the authorized officer for noncompliance with its terms and conditions, the exploration plan, or the regulations, after the authorized officer has notified the licensee of the violation(s) in writing and the licensee has failed to correct the violation(s) within the period prescribed in the notice.

(f) Should a licensee request a modification to the exploration plan, the authorized officer may approve the modification if geologic or other conditions warrant.

(g) When unforeseen conditions that could result in substantial disturbance to the natural land surface or damage to the environment or improvements are encountered, or when geologic or other physical conditions warrant a modification in the approved exploration plan:

(1) The authorized officer may adjust the terms and conditions of the exploration license, or

(2) The authorized officer may direct adjustment in or approve modification of the exploration plan. If the licensee does not concur in the adjustment of the terms and conditions of the exploration license and exploration plan, he/she may, under 43 CFR part 4, appeal the decision modifying the license, or he/she may relinquish the exploration license.

(h) Exploration licenses shall not be extended. Exploration operations may not be conducted after the exploration license has expired. The licensee may apply for a new exploration license as

§ 3410.3-2

described in this section. A new exploration license may be issued simultaneously with the termination of the existing exploration license.

[44 FR 42613, July 19, 1979, as amended at 47 FR 33135, July 30, 1982; 47 FR 38131, Aug. 30, 1982; 50 FR 8626, Mar. 4, 1985]

§ 3410.3-2 Limitations on exploration licenses.

The issuance of exploration licenses for an area shall not preclude the issuance of a Federal coal lease under applicable regulations for that area. If such a lease is issued for lands included in an exploration license, the authorized officer shall cancel the exploration license on the effective date of the lease for those lands which are common to both.

[44 FR 42613, July 19, 1979, as amended at 47 FR 33135, July 30, 1982]

§ 3410.3-3 Operating regulations.

The licensee shall comply with the provisions of the operating regulations of the Bureau of Land Management (43 CFR part 3480). Copies of the operating regulations may be obtained from the authorized officer. Authorized representatives of the Secretary and, where appropriate the surface management agency shall be permitted to inspect the premises and operations. The licensee shall allow the free ingress and egress of Government officers and other persons using the land under authority of the United States.

[44 FR 42613, July 19, 1979, as amended at 47 FR 33135, July 30, 1982; 50 FR 8626, Mar. 4, 1985]

§ 3410.3-4 Bonds.

(a) Bonding provisions in subpart 3474 of this chapter apply to this subpart.

(b) Prior to issuing an exploration license, the authorized officer shall ensure that the amount of the bond to be furnished is sufficient:

(1) To assure compliance with the terms and conditions of the exploration license and exploration plan; and

(2) In the absence of an agreement between the exploration licensee and the surface owner so providing, to assure compensation for damages to surface improvements made by surface owners where an exploration license embraces

43 CFR Ch. II (10-1-24 Edition)

such lands. In no event shall the amount of such bond be less than \$5,000.

(c) Upon completion of exploration and reclamation activities that are in compliance with the terms and conditions of the exploration license, the exploration plan and the regulations, or upon discontinuance of exploration operations and completion of needed reclamation to the satisfaction of the authorized officer, and where appropriate, the surface management agency, the authorized officer shall terminate the period of liability of the bond.

(d) Where the surface of the land being explored is privately owned, the authorized officer shall have the authority to terminate or adjust the period of liability and/or the amount of liability under the bond. The authorized officer shall provide, 30 days prior to the effective date of termination of the period of liability under the bond, a notice of termination to enable the surface owner to inspect the property and notify the authorized officer, in writing, of any deficiencies in reclamation. Should the licensee and any surface owner be unable to agree on the adequacy of the reclamation, the authorized officer shall make the final determination.

[44 FR 42613, July 19, 1979, as amended at 47 FR 33135, July 30, 1982; 48 FR 37655, Aug. 19, 1983; 50 FR 8626, Mar. 4, 1985]

§ 3410.4 Collection and submission of data.

(a) The authorized officer may require the applicant to collect ground and surface water data that are available to the licensee in the conduct of the approved exploration plan.

(b) The licensee shall furnish the authorized officer copies of all data (including, but not limited to, geological, geophysical and core drilling analyses) obtained during exploration in a form requested by the authorized officer. All data shall be considered confidential and not made public until the areas involved have been leased or until the authorized officer determines that public access to the data would not damage

Bureau of Land Management, Interior

§ 3420.0-1

the competitive position of the licensee, whichever comes first. (43 CFR 2.20 and 3481.3)

[44 FR 42613, July 19, 1979, as amended at 47 FR 33136, July 30, 1982; 50 FR 8626, Mar. 4, 1985]

§ 3410.5 Use of surface.

(a) Operations under these regulations shall not unreasonably interfere with or endanger operations authorized under any other Act or regulation.

(b) The licensee shall comply with all applicable Federal, state and local laws and regulations, including the regulations.

[44 FR 42613, July 19, 1979, as amended at 47 FR 33136, July 30, 1982]

PART 3420—COMPETITIVE LEASING

Subpart 3420—Competitive Leasing

Sec.

- 3420.0-1 Purpose.
- 3420.0-2 Objectives.
- 3420.0-3 Authority.
- 3420.1 Procedures.
 - 3420.1-1 Lands subject to evaluation for leasing.
 - 3420.1-2 Call for coal resource and other resource information.
 - 3420.1-3 Special leasing opportunities.
 - 3420.1-4 General requirements for land use planning.
 - 3420.1-5 Hearing requirements.
 - 3420.1-6 Consultation with Federal surface management agencies.
 - 3420.1-7 Consultation with states and Indian tribes.
 - 3420.1-8 Identification of lands as acceptable for further consideration.
 - 3420.2 Regional leasing levels.
 - 3420.3 Activity planning: The leasing process.
 - 3420.3-1 Area identification process.
 - 3420.3-2 Expressions of leasing interest.
 - 3420.3-3 Preliminary tract delineation.
 - 3420.3-4 Regional tract ranking, selection, environmental analysis and scheduling.
 - 3420.4 Final consultations.
 - 3420.4-1 Timing of consultation.
 - 3420.4-2 Consultation with surface management agencies.
 - 3420.4-3 Consultation with Governors.
 - 3420.4-4 Consultation with Indian tribes.
 - 3420.4-5 Consultation with the Attorney General.
 - 3420.5 Adoption of final regional lease sale schedule.
 - 3420.5-1 Announcement.
 - 3420.5-2 Revision.
 - 3420.6 Reoffer of tracts not sold in previous regional lease sales.

Subpart 3422—Lease Sales

- 3422.1 Fair market value and maximum economic recovery.
- 3422.2 Notice of sale and detailed statement.
- 3422.3 Sale procedures.
 - 3422.3-1 Bidding systems.
 - 3422.3-2 Conduct of sale.
 - 3422.3-3 Unsurveyed lands.
 - 3422.3-4 Consultation with the Attorney General.
- 3422.4 Award of lease.

Subpart 3425—Leasing on Application

- 3425.0-1 Purpose.
- 3425.0-2 Objective.
- 3425.1 Application for lease.
 - 3425.1-1 Where filed.
 - 3425.1-2 Contents of application.
 - 3425.1-3 Qualifications of the applicant.
 - 3425.1-4 Emergency leasing.
 - 3425.1-5 Leasing outside coal production regions.
 - 3425.1-6 Hardship leases.
 - 3425.1-7 Preliminary data.
 - 3425.1-8 Rejection of applications.
 - 3425.1-9 Modification of application area.
- 3425.2 Land use plans.
- 3425.3 Environmental analysis.
- 3425.4 Consultation and sale procedures.
- 3425.5 Lease terms.

Subpart 3427—Split Estate Leasing

- 3427.0-1 Purpose.
- 3427.0-3 Authority.
- 3427.0-7 Scope.
- 3427.1 Deposits subject to consent.
- 3427.2 Procedures.
- 3427.3 Validation of information.
- 3427.4 Pre-existing consents.
- 3427.5 Unqualified surface owners.

AUTHORITY: The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359), the Multiple Mineral Development Act of 1954 (30 U.S.C. 521-531 *et seq.*), the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*), the Department of Energy Organization Act of 1977 (42 U.S.C. 7101 *et seq.*), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*) and the Small Business Act of 1953, as amended (15 U.S.C. 631 *et seq.*).

SOURCE: 44 FR 42615, July 19, 1979, unless otherwise noted.

Subpart 3420—Competitive Leasing

§ 3420.0-1 Purpose.

This subpart sets forth how the Department will conduct competitive