

(n) Comply with the inspection, enforcement and civil penalties requirements of parts 842 and 843 of this chapter except as provided under § 740.4(c)(5) of this chapter;

(o) Determine valid existing rights for surface coal mining and reclamation operations on Federal lands within the boundaries of any areas specified under section 522(e) (1) or (2) of the Act; or

(p) Determine that there are no significant recreational, timber, economic, or other values which may be incompatible with surface coal mining and reclamation operations on any Federal lands within the boundaries of any national forest under section 522(e)(2) of the Act.

§ 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—

(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 rulemaking 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 assigned 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.

§ 746.14 Approval, disapproval or conditional approval, of mining plan.

The Secretary shall approve, disapprove or conditionally approve the mining plan in accordance with this part.

§ 746.17 Term of approval.

(a) Each mining plan approval shall cover the operations for which a complete permit application package was submitted, unless otherwise indicated in the approval.

(b) An approved mining plan shall remain in effect until modified, cancelled or withdrawn and shall be binding on any person conducting mining under the approved mining plan.

§ 746.18 Mining plan modification.

(a) Mining plan modifications shall be approved by the Secretary.

(b) The approval of mining plan modifications shall be in accordance with the procedures of this part for mining plan approval.

(c) Surface coal mining and reclamation operations on lands containing leased Federal coal pursuant to a permit revision issued by the regulatory authority shall not commence until—

(1) OSM determines that the permit revision does not constitute a mining plan modification under this section, or

(2) If the permit revision constitutes a mining plan modification under this section, such modification has been approved by the Secretary.

(d) Permit revisions constitute mining plan modifications if they meet any of the following criteria:

(1) Any change in the mining plan which would affect the conditions of its approval pursuant to Federal law or regulation other than the Act;

(2) Any change which would adversely affect the level of protection afforded any land, facility or place designated unsuitable for mining;

(3) Any change in the location or amount of coal to be mined, except where such change is the result of:

(i) A minor change in the amount of coal actually available for mining from the amount estimated; or

(ii) An incidental boundary change;

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(4) Any change which would extend coal mining and reclamation operations onto leased Federal coal lands for the first time;

(5) Any change which requires the preparation of an environmental impact statement under the National En-

vironmental Policy Act or 1969, 42 U.S.C. 4321 *et seq.*;

(6) Any change in the mining operations and reclamation plan that would result in a change in the postmining land use where the surface is federally-owned.