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funding of State abandoned mine land construction grants, effective June 3, 1983. Copies of the approved plan are available at:

(a) Kansas Department of Health and Environment, Surface Mining Section, 4033 Parkview Drive, Frontenac, KS 66763.

(b) Office of Surface Mining Reclamation and Enforcement, Mid-Continent Regional Coordinating Center, Alton Federal Building, 501 Belle Street, Alton, IL 62002.

[64 FR 20167, Apr. 26, 1999]

§916.25 Approval of Kansas 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
April 29, 1988	October 5, 1988	Reorganization of the Regulatory Authority. House Bill 3009 eliminated the Kansas Mined Land Conservation and Reclamation Board and transferred its functions and staff to the Kansas Department of Health and Environment.
September 30, 1988 June 29 and July 26, 1989.	January 10, 1989 ... November 30, 1989	Approval of emergency reclamation program.
October 25, 1991	April 13, 1992	KAR 47-16-1, -16-2, -16-4 through -8; policy and procedures for project ranking and selection; organization structure; public participation.
May 7, 1997	March 3, 1998	KAR 47-16-5(b), -6.
March 17, 1998	June 8, 1998	K.A.R. 47-16-1 through 47-16-11. Section 884.13(c)(2) and (d)(3).

[62 FR 9941, Mar. 5, 1997, as amended at 63 FR 10317, Mar. 3, 1998; 63 FR 31112, June 8, 1998]

PART 917—KENTUCKY

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

§917.1 Scope.

This part contains all rules applicable only within Kentucky that have

been adopted under the Surface Mining Control and Reclamation Act of 1977.

[47 FR 21434, May 18, 1982]

§917.10 State regulatory program approval.

The Kentucky State program as re-submitted on December 30, 1981, and amended and clarified on February 22, 1982, was conditionally approved, effective May 18, 1982. Beginning on that date, the Kentucky Department for Natural Resources and Environmental Protection was deemed the regulatory authority in Kentucky for surface coal mining and reclamation operations and for coal exploration operations on non-Federal and non-Indian lands. Copies of the approved program are available for review at:

(a) Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 2675 Regency Road, Lexington, Kentucky 40503-2922.

(b) Department for Surface Mining Reclamation and Enforcement, Number

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2, Hudson Hollow Complex, Frankfort, Kentucky 40601.

[48 FR 251, Jan. 4, 1983, as amended at 59 FR 17929, Apr. 15, 1994]

§ 917.11 Conditions of State regulatory program approval.

The approval of the Kentucky State program is subject to the state revising its program to correct the deficiencies listed in this section. The program revisions may be made, as appropriate, to the statute, to the regulations, to the program narrative, or by means of a legal opinion. This section indicates, for the general guidance of the State, the component of the program to which the Secretary recommends the change be made.

(a)-(p) [Reserved]

[47 FR 21434, May 18, 1982, as amended at 49 FR 33247, Aug. 22, 1984; 49 FR 37587, Sept. 25, 1984; 50 FR 8610, Mar. 4 1985; 50 FR 23003, May 30, 1985]

§ 917.12 State regulatory program and proposed program amendment provisions not approved.

(a) The Director does not approve the following provisions of the proposed program amendment concerning permit renewals that Kentucky submitted on April 23, 1998:

(1) The phrase “* * * if a permit has expired or * * *” in KRS 350.060(16).

(2) The following sentence in KRS 350.060(16): “Upon the submittal of a permit renewal application, the operator or permittee shall be deemed to have timely filed the permit renewal application and shall be entitled to continue, under the terms of the expired permit, the surface coal mining operation, pending the issuance of the permit renewal.”

(b) Subsections (2) through (6) of the amendment submitted as House Bill 599 on May 9, 2000, are hereby not approved, effective June 20, 2001.

[65 FR 29953, May 10, 2000, as amended at 66 FR 33023, June 20, 2001]

§ 917.13 State statutory and regulatory provisions set aside.

(a) The following provision of Kentucky Revised Statute at KRS 350.060(22) is inconsistent with section 701(28) of the Surface Mining Control and Reclamation Act of 1977 and is hereby set aside effective December 1, 1985:

“(22) All operations involving the crushing, screening, or loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site, shall be exempt from the requirements of this chapter.”

(b) Reserved]

(c) The following portions of the Kentucky Revised Statute at KRS 350.060(16) are inconsistent with section 506 of SMCRA and less effective than 30 CFR 843.11 and are set aside effective September 6, 2000:

The specific wording is the phrase “if a permit has expired or . . .” and the following sentence:

Upon the submittal of a permit renewal application, the operator or permittee shall be deemed to have timely filed the permit renewal application and shall be entitled to continue, under the terms of the expired permit, the surface coal mining operation, pending the issuance of the permit renewal.

[50 FR 47728, Nov. 20, 1985, as amended at 65 FR 53911, Sept. 6, 2000]

§ 917.15 Approval of Kentucky regulatory program amendments.

(a) 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, 1982	January 4, 1983	405 KAR 1:005 § 6; 3:005 § 6; 7:020 § 1(11), (70), (117); 7:030 § 1; 7:040 § 5(1), 10(2), (7); 7:090 § 4(1), (6); § 6; 7:095, 8:010 § 6(1), (2), 13(1), 20(5), 21(2)(a)(4), (b)(1), 22(1), (2)(a), (a)(2), (2)(c)(1), (4), (5), (6); 8:020 § 2(2)(h); 8:030 § 23(4); 12:010 § 3(5)(a), (b); 16:140 § 2(1)(d); 18:140 § 2(1)(d); 24:020 § 3(5), (7), 4(6); 24:030 § 4(4), 8(7), 9.

Original amendment submission date	Date of final publication	Citation/description
May 28, 1982	May 13, 1983	KRS 151.250(3); 350.010, .035, .062(9), .093 § 2, .425, .990; 405 KAR 16:020 § 4.
January 11, 1983	May 20, 1983	405 KAR 7:020 § 1(13), (27), (34), (57); 12:010 § 6; 16:060 §§ 1(3), 9(2), 11(1), .090 §§ 2, 5(5), .110 § 2(2), .130 § 2(2), .220 § 4; 18:060 §§ 7(3), 9(1), (3), .090 §§ 2, 5(5), .110 2(2), .130 § 2(2), .230 § 4; 24:030 § 3.
February 1, 1983	October 12, 1983 ...	Technical Reclamation Memorandum #9.
October 31, 1983	November 25, 1983	405 KAR 7:020E, .030E.
January 10, 1984	April 13, 1984	"Kentucky's Plan for Transition to Primacy".
May 1, 1984	August 22, 1984	KRS 350.010, .032, .093(2), .250(1), (3), (4); 355.060(5)(g).
October 31, 1983	September 25, 1984	405 KAR 1:030, .040, .050; 7:020, .030, .090; 8:030, .040; 16:060, .090, .140; 18:090, .140.
October 31, 1983	October 3, 1984	405 KAR 8:050 § 2; 16:190; 18:190.
October 12, 1984	March 4, 1985	405 KAR 7:020 § 1(87), (118), .030 § 3(1)(e).
August 3, 1984	May 30, 1985	KRS Chapter 350, .032, .060, .135, .990; 405 KAR 16:020.
August 29, 1985	November 20, 1985	Paragraph D of "Field Enforcement Procedures" in § II of the State program plan; 405 KAR 7:090 §§ 11(2)(a), 12(3); 24:030 defining "substantial legal and financial commitments".
December 4, 1984	December 10, 1985	405 KAR 7:070; 16:120; 18:120.
June 6, 1984, December 17, 1985.	January 24, 1986 ...	405 KAR 1:015; 3:015; 7:015.
August 13, 1985	March 3, 1986	405 KAR 7:020, .080; 8:030, .040; 12:010, .020; 16:050, .110, .130, .170; 18:050, .110, .130, .170; 20:030.
September 16, 1985, December 10, 1985.	March 17, 1986	405 KAR 7:015; 10:030.
December 10, 1985 ..	April 4, 1986	405 KAR 7:090, § 11(2)(a).
December 3, 1985	April 9, 1986	405 KAR 7:020E; 8:050E; 20:070E.
August 3, 1984	May 27, 1986	KRS 350.066 through .070; 405 KAR 10:035.
April 29, 1986	July 15, 1986	KRS Chapter 350 contained in Senate Bills 130, 374; KRS 350.470 through .550 contained in House Bill 285; KRS 350.060(22) contained in House Bill 757; KRS 350.990 contained in House Bill 839.
August 30, 1985, September 16, 1985, February 7, 1986.	August 27, 1986	405 KAR 7:020, .060; 8:030, .040, .050; 16:010, .060, .080, .190; 18:060, .080, .190; 20:040, .070; documents incorporated by reference: "Soil Conservation Service, Kentucky Standards and Specifications for Land Restoration, Currently Mined Prime Farmland;" "Kentucky Prime Farmland Revegetation and Crop Production After Mining;" "Estimated Crop Yields on Prime Farmland Soils in Western Kentucky Coalfields;" "Estimated Crop Yields on Prime Farmland Soils in Eastern Kentucky Coalfields".
September 5, 1986 ...	March 9, 1987	405 KAR 10:200.
February 27, 1987	December 31, 1987	405 KAR 16:060 § 11; 18:060 § 11, .190 § 2.
June 17, 1987	March 10, 1988	405 KAR 7:070.
April 29, 1988	October 6, 1988	405 KAR 7:090.
May 28, 1987	October 7, 1988	KRS 350.032 contained in House Bill 869.
July 5, 1989	December 15, 1989	405 KAR 8:010, .020, .030, .040; 24:040.
April 29, 1986	April 9, 1990	KRS 350.032.
April 21, 1988	August 10, 1990	KRS 350.020, .060, .064, .093, .130, .131, .151.
August 15, 1989	November 1, 1990 ..	405 KAR 8:010 § 20(3), (5).
July 15, 1988	December 31, 1990	405 KAR 7:015, .020, .030, .090; 8:010, .020, .050; 10:010, .020, .030, .040, .050; 16:010, .070, .080, .100, .110, .120, .150, .190; 18:010, .070, .080, .100, .110, .120, .150, .190; 20:010, .060; 24:020, .030, .040.
May 8, 1990	February 6, 1991	KRS chapter 350 contained in Senate Bill 255; 350.010, .053, .054, .057, .060, .070, .085, .090, .093, .110, .113, .130, .139, .151, .990; 224.083.
January 9, 1991	April 16, 1991	405 KAR 10:040 § 2(4)(b)1.
January 24, 1991	September 23, 1991	405 KAR 7:020 § 1; 8:010 §§ 13(4), (5), 18(5), 25(1) through (4), .030 §§ 1(4), 2, 3, .040 §§ 1(3), 2, 3; 12:020 § 3(6).
June 28, 1991	April 15, 1992	405 KAR 7:080.
September 18, 1989	August 18, 1992	405 KAR 10:200; KRS 350.710-710.
June 28, 1991	October 1, 1992	405 7:001, § 1, .015 § 4(6), (7), .020, .021, § 1, .030 § 3(1) through (4), .035, §§ 1 through 9; 8:001 § 1, .020 § 1, 1(1), (2)(c), 2, (1), (2)(g), 4, 4(c)(5); 10:001 § 1, .200 §§ 1, 2, 4(4), 5(3), 6(1), (2), 7(1), (d), (e), (f), (j), (2), (d), (e), (i); 12:001 § 1; 16:001 § 1, .190 § 7(2), .210 §§ 1(1), 2, 3, 4; 18:001 § 1, .190 § 5(2), .220 §§ 1(1), 2, 3, 4; 20:001 § 1, .010 §§ 2, 3, 4; 24:001 § 1.
March 13, 1992	December 9, 1992 ..	405 KAR 8:030(20), (36), .040(20), (36); 16:180(1), (2), (3); 18:180(1), (2), (3).
July 30, 1992	December 17, 1992	KRS Chapter 350 §§ 350.550, .553, .560, .597.
June 28, 1991	January 12, 1993 ...	405 KAR 8:010 §§ 5(1)(c), (d), 12(1)(a), 14(8), 20(2)(a)10, (3)(a), (d)23, (f), 20(5) through (7).
July 30, 1992	March 26, 1993	KRS Chapter 350 contained in House Bill 844 and Senate Bill 381; 350.010, .0281, .130(1), .260, .450(4)(c), .705(1) (b), (c); numerous other sections on "applicant," "permit applicant," "permittee," "person," "operator".

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Original amendment submission date	Date of final publication	Citation/description
June 28, 1991	June 8, 1993	405 KAR 16:200, 18:200, TRM No. 19 (Field Sampling Techniques for Determining Ground Cover, Productivity, and Stocking Success of Reclaimed Surface Mined Lands), the use of average county yield data found in Kentucky Agricultural Statistics, a report published annually by the Kentucky Agricultural Statistics Service.
July 28, 1992	August 6, 1993	KRS 350 contained in Senate Bill 318; 405 KAR 7:001, 7:090, .091, .092; 8:001; 12:020.
July 21, 1992	October 1, 1993	405 KAR 1:007, 3:007, 7:030 § 4.
May 21, 1993	February 24, 1994 ..	405 KAR 10:050 Statutory and regulatory citations, sections Necessity and Function, 1(1), 2(4), (5); 12:001 section Necessity and Function, (29), (30); 12:010 Statutory and regulatory citations, sections Necessity and Function, 3(2), (5)(a), (b), 4(1), (3).
June 28, 1991	May 26, 1994	405 KAR 8:030 §§ 1(4)(a), (b), 2(3), (4), (5)(a), (11), (12), 3(5), 4(2), 5(4), 10, 37-MRP, 38-MRP; 8:040 §§ 1(3)(a), (b), 2(3), (4), (11), (12), 3(5), 4(2), 5(4), 10, 37-MRP, 38-MRP.
April 26, 1994	September 1, 1994	405 KAR 7:080 sections Necessity and Function, 1, 3, 4, 5, 6(4), (5), (8)(b), 7(1)(b), (3), 8, 10(2) (a), (b), 11(1), (d), (e).
April 18, 1994	September 16, 1994	KRS 350.010, 350(1) through (32).
October 3, 1994	February 15, 1995 ..	405 KAR 7:080 §§ 5(2), (a), (b), 6, 8(2)(a)(11), (b)(11), 11(1), (e).
April 29, 1994	June 27, 1995	KRS 42.470(1)(c); 132; 136; 138; 139; 177.977; 211.390(1), .392(1), (2), (5), (6), (8); 350.010 (1), (2), (9), (16), (22), (23), .0285, .0301(1), (4), .0305, .032(2), (4), .070(1), .085(1), (7), .095(1), (2), .421, (1), (2), .560(1); 351.070(13), (14); 352.420(3).
August 2, 1994	December 7, 1995 ..	405 KAR 16:010 §§ 1, 6, 7, 8; 18:010 §§ 4, 5, 6.
August 15, 1996	August 29, 1997	KRS 350.131(3), 350.150(1), Chapter 350 Section 3, KRS 350.0301(1), 350.990(1).
November 3, 1997	July 31, 1998	Staffing and budget levels.
June 28, 1991	August 4, 1998	405 KAR 16:200 § 1(7)(b) and 18:200 § 1(7)(b).
April 23, 1998	May 10, 2000	KRS 350.060(16) [partial approval]; 350.131(2); 350.139(1); 350.990 (1), (3), (4), (9), and (11).
May 9, 2000	June 20, 2001	House Bill 599, subsection (1).

(b) The Director is deferring his decision on the enforcement provisions of section 720 of the Act from its effective date (October 24, 1992), to the effective date of KRS 350.421(1) and (2) (July 15, 1994).

[62 FR 9942, Mar. 5, 1997, as amended at 62 FR 45717, Aug. 29, 1997; 63 FR 40827, July 31, 1998; 63 FR 41427, Aug. 4, 1998; 65 FR 29953, May 10, 2000; 66 FR 33023, June 20, 2001]

§ 917.16 Required regulatory program amendments.

(a)-(b) [Reserved]

(c) Pursuant to 30 CFR 732.17, Kentucky is required, prior to implementation of the following statutory amendments, to submit to the Director proposed regulations to implement the amendments, and to receive the Director's approval of the regulations:

(1) [Reserved]

(2) Statutory amendments contained in Senate Bill 374, submitted to OSMRE on April 29, 1986.

(3) Statutory amendments contained in House Bill 839, submitted to OSMRE on April 29, 1986.

(d) Pursuant to 30 CFR 732.17, Kentucky is required to submit for OSM's

approval the following proposed amendments by the dates specified:

(1) By January 30, 1991, Kentucky shall submit a proposed amendment to 405 KAR 7:090 section 3(4)(a) to remove the word "abated" or otherwise propose to amend its program to clarify that the rule applies to abated and unabated violations.

(2) By January 30, 1991, Kentucky shall submit a proposed amendment to 405 KAR 8:010 section 8(2) or otherwise propose to amend its program to require that public notice shall not be initiated until the cabinet has determined that an application is administratively complete.

(3) [Reserved]

(4) By January 30, 1991, Kentucky shall submit a proposed amendment to 405 KAR 16:100 section 1(3)(a) and 405 KAR 18:100 section 1(3)(a) or otherwise propose to amend its program to require that all C class impoundments shall have a minimum static safety factor of 1.5 since, as defined at 405 KAR 7:040 section 5(2)(c), such impoundments could cause loss of life or serious property damage and to require that all other impoundments have a

minimum static safety factor of 1.3 or meet specific design criteria no less effective than that standard.

(5) By January 30, 1991, Kentucky shall submit a proposed amendment to 405 KAR 20.060 section 3(3)(b) or otherwise propose to amend its program to clarify that the total volume of flow from the proposed permit area, during every season of the year, will not vary in a way that adversely affects the ecology of any surface water or any existing or planned use of surface or ground water; and to require the appropriate state environmental agency to approve the plan.

(e) By March 23, 1992, Kentucky shall amend its rules at 405 KAR 8:010 section 13(4)(c) to include violations of Federal regulatory programs and other State regulatory programs, not just violations of KRS chapter 350 and regulations adopted pursuant thereto.

(f) By July 25, 1994 Kentucky shall submit either an amendment or a description of a proposed amendment with a timetable for adoption, that would amend its rules at 405 KAR 8:010 section 5(1) (c) and (d) to require that information required by sections 2 and 3 of 405 KAR 8:030 and 8:040 shall be submitted on any format prescribed by OSM as well as any format prescribed by the Cabinet.

(g) By April 1, 1993, Kentucky shall submit proposed revisions to its regulations at 405 KAR 16:210/18:220 Section 2(1) to provide that in determining premining uses of land not previously mined, the land must have been properly managed.

(h) By June 14, 1993, Kentucky shall amend its rules at 405 KAR 8:010 section 20(6)(h) by including OSM as one of the parties to be notified of the cabinet's decision to approve or deny the application for an operator change and to require that the regulatory authority be notified when the approved change is consummated.

(i) By December 17, 1996, Kentucky shall submit to the Director either a proposed written amendment or a description of an amendment to be proposed which revises 405 KAR 16:200 and 405 KAR 18:200, sections 1(7)(a) 1 through 5, 1(7)(b) and 1(7)(d), in accordance with the Director's findings published in the June 9, 1993, FEDERAL

REGISTER (58 FR 32283), and a timetable for enactment which is consistent with established administrative and legislative procedures in the State.

(j) [Reserved]

(k) By October 1, 1993, Kentucky shall submit to OSM either proposed amendments or a schedule for the submission of proposed amendments to Kentucky Administrative Regulations to require that the assessment conference officer's report mentioned in 405 KAR 7:092 section 4(5) be served in a manner consistent with 405 KAR 7:091 section 5, and to specify that the time allowed under 405 KAR 7:092 section 6(1)(b) to file a petition for administrative review of the proposed penalty set forth in the conference officer's report does not begin to run until service is obtained in this manner.

(l) [Reserved]

(m) By August 28, 1995, Kentucky shall submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption of proposed revisions to its program to specify that Kentucky's program provide for the prompt replacement of water supplies.

(n) By October 5, 1998, Kentucky shall amend the Kentucky program, or provide a written description of an amendment together with a timetable for enactment which is consistent with established administrative or legislative procedures in the State, to delete the term "haul roads" at sections 1(7)(b) of 405 KAR 16:200 and 18:200.

(o) By July 10, 2000, Kentucky must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to:

(1) Clarify that a person may not continue to conduct surface coal mining operations under an expired permit unless the permittee filed a complete application for renewal at least 120 days before the permit expired and the regulatory authority had not yet approved or disapproved the application when the permit expired.

(2) Require the issuance of an imminent harm cessation order to any person conducting surface coal mining operations under an expired permit unless the permittee filed a complete application for renewal at least 120 days

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before the permit expired and the regulatory authority had not yet approved or disapproved the application when the permit expired.

[50 FR 23687, June 5, 1985, as amended at 52 FR 7136, Mar. 9, 1987; 55 FR 13133, Apr. 9, 1990; 55 FR 53510, Dec. 31, 1990; 56 FR 47911, Sept. 23, 1991; 57 FR 45307, Oct. 1, 1992; 58 FR 3838, Jan. 12, 1993; 58 FR 32291, June 9, 1993; 58 FR 42012, Aug. 6, 1993; 59 FR 27238, May 26, 1994; 60 FR 33115, June 27, 1995; 61 FR 66224, Dec. 17, 1996; 63 FR 40827, July 31, 1998; 63 FR 41427, Aug. 4, 1998; 65 FR 29953, May 10, 2000]

§ 917.17 State regulatory program amendments disapproved.

(a) [Reserved]

(b) The amendment at Kentucky Revised Statute 350.060(22) submitted by Kentucky on May 26, 1982, and the legal opinion (insofar as it relates to this amendment) and Reclamation Advisory Memorandum No. 33 submitted by Kentucky on October 28, 1983, are hereby disapproved effective September 17, 1985.

(c) [Reserved]

(d) The addition of the word “abated” to modify the term “violation” in paragraph (4)(a) of section 3 of Chapter 7:090 of Title 405 of the Kentucky Administrative Regulations, as submitted to OSMRE by letter dated April 27, 1988, is hereby disapproved. The effect of the disapproval is to continue the requirement that any person who chooses not to contest the fact of violation (whether abated or not) or the assessment shall pay the assessment in full within 30 days of the date the final assessment order was mailed.

[49 FR 50720, Dec. 31, 1984, as amended at 50 FR 37659, Sept. 17, 1985; 51 FR 29919, Aug. 21, 1986; 53 FR 39261, Oct. 6, 1988; 53 FR 39473, Oct. 7, 1988; 63 FR 40827, July 31, 1998]

§ 917.20 Approval of the Kentucky abandoned mine reclamation plan.

The Kentucky Abandoned Mine Reclamation Plan as submitted on June 4,

1981, is approved. Copies of the approved program are available at the following locations:

(a) Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 2675 Regency Road, Lexington, Kentucky 40503-2922.

(b) Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet, Division of Abandoned Lands, 618 Teton Trail, Frankfort, Kentucky 40601.

[59 FR 17929, Apr. 15, 1994; 59 FR 27239, May 26, 1994]

§ 917.21 Approval of Kentucky abandoned mine land reclamation plan amendments.

(a) The Kentucky Amendment, submitted to OSM on December 8, 1982, is approved. You may receive a copy from:

(1) Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet, Division of Abandoned Lands, 618 Teton Trail, Frankfort, Kentucky 40601; or

(2) Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 2675 Regency Road, Lexington, Kentucky 40503-2922.

(b) The Kentucky Abandoned Mine Reclamation Amendment, submitted to OSM on March 25, 1985, is approved. Copies may be obtained at the addresses listed in paragraph (a) of this section.

(c) 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
June 24, 1992	December 17, 1992	Chapter 3—Goals and Obligations, Chapter 15—Maps of Eligible Lands and Waters.
May 5, 1994	July 29, 1994	Chapter 5—Coordination with Ramp, Indian, and Other Reclamation Programs.

[62 FR 9943, Mar. 5, 1997]

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§917.30 State-Federal cooperative agreement.

COOPERATIVE AGREEMENT

The Governor of the Commonwealth of Kentucky (the Governor) and the Secretary of the Department of the Interior (the Secretary) enter into a Cooperative Agreement (Agreement) to read as follows:

ARTICLE I: INTRODUCTION, PURPOSE, AND RESPONSIBLE AGENCIES

A. Authority

This Agreement is authorized by Section 523(c) of the Surface Mining Control and Reclamation Act (Act), 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program approved by the Secretary under 30 U.S.C. 1253, to elect to enter into an Agreement for the regulation and control of coal exploration operations not subject to 43 CFR Group 3400 and surface coal mining and reclamation operations on Federal lands. This Agreement provides for State regulation consistent with the Act, the Federal lands program (30 CFR Chapter VII, Subchapter D) and the approved Kentucky State Program (Program) for surface coal mining and reclamation operations on Federal lands.

B. Purposes

The purposes of this Agreement are to (a) foster Federal-State cooperation on the regulation of surface coal mining and reclamation operations and coal exploration operations not subject to 43 CFR Group 3400, (b) minimize intergovernmental duplication of effort, and (c) provide for uniform and effective application of the Program on all lands in Kentucky in accordance with the Act and the Program.

C. Responsible Administrative Agencies

The Kentucky Natural Resources and Environmental Protection Cabinet (NREPC), acting through the Department for Surface Mining Reclamation and Enforcement (DSMRE), shall be responsible for administering this Agreement on behalf of the Governor. The Office of Surface Mining Reclamation and Enforcement (OSM) shall administer this Agreement on behalf of the Secretary.

ARTICLE II: EFFECTIVE DATE

After being signed by the Secretary and the Governor, this Agreement shall be effective on October 1, 1998. This Agreement shall remain in effect until terminated as provided for in Article XI.

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ARTICLE III: DEFINITIONS

The terms and phrases used in this Agreement, which are defined in the Act, 30 CFR Parts 700, 701 and 740 and defined in the KRS 350 and the rules and regulations promulgated pursuant to that Act, shall have the same meanings as set forth in said definitions. Where there is a conflict between the above referenced State and Federal definitions, the definitions used in the approved State Program will apply except in the case of a term which defines the Secretary's continuing responsibilities under the Act or other laws.

ARTICLE IV: APPLICABILITY

In accordance with the Federal lands program, the laws, regulations, terms and provisions of the Program are applicable to Federal lands in Kentucky except as otherwise stated in this Agreement, The Act, 30 CFR 740.4 and 745.13 or other applicable Federal laws, Executive Orders or regulations.

Orders and decisions issued by the NREPC in accordance with the Program that are appealable shall be appealed to the reviewing authority in accordance with the Program. Orders and decisions issued by the Secretary or his authorized agents that are appealable shall be appealed to the Department of the Interior's Office of Hearings and Appeals.

ARTICLE V: GENERAL REQUIREMENTS

The Governor and the Secretary affirm that they will comply with all provisions of this Agreement.

A. Authority of State Agency

NREPC has and shall continue to have the authority under State law to carry out this agreement.

B. Funding

Upon application by NREPC, and subject to appropriations, OSM will provide the State with funds to defray the costs associated with carrying out its responsibilities under this Agreement as provided in Section 705(c) of the Act and 30 CFR Part 735. Such funds will cover the full cost incurred by NREPC in carrying out those responsibilities. The amount of the grant will be determined using the procedures specified in the Federal Assistance Manual Chapter 3-10 and Appendix III.

For purposes of this agreement, actual costs of NREPC's administration of its approved program on Federal lands in accordance with this agreement shall be that percentage of NREPC's total program expenditures during any specific grant period that equals the percentage of Federal lands within all lands under permit in the State of Kentucky for that specific grant period.

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If NREPC applies for a grant but sufficient funds have not been appropriated to OSM, OSM and NREPC will meet to decide upon appropriate measures that will insure that mining operations on Federal lands located in Kentucky are regulated in accordance with the approved Program. The NREPC also reserves the right to terminate this agreement should OSM be unable to adequately fund this program.

C. Reports and Records

NREPC will make annual reports to OSM containing information with respect to compliance with terms of this Agreement pursuant to 30 CFR 745.12(d).

Upon request, NREPC and OSM will exchange information generated under this Agreement, except where prohibited by Federal or State law.

OSM will provide NREPC with a copy of any final evaluation reports prepared concerning State administration and enforcement of this Agreement. NREPC comments on the report will be attached before being sent to the Congress or other interested parties.

D. Personnel

NREPC shall have the personnel necessary to fully implement this Agreement in accordance with the provision of the Act, applicable regulations, the Federal lands program and the approved Program.

E. Equipment and Facilities

NREPC will assure itself access to equipment, laboratories and facilities to perform all inspections, investigations, studies, tests and analyses that are necessary to carry out the requirements of this Agreement.

F. Permit Application Fees and Civil Penalties

The amount of the fee accompanying an application for a permit for operations on Federal lands in Kentucky shall be determined in accordance with KRS 350.060 and Federal law. All permit fees and civil penalties collected from operations on Federal lands will be retained by the State. Permit fees shall be considered Program income. Civil penalties shall not be considered Program income. The financial status report submitted to OSM pursuant to 30 CFR 735.26 shall include the amount of fees and civil penalties collected and attributable to Federal lands during the prior State fiscal year.

ARTICLE VI: REVIEW OF PERMIT APPLICATION PACKAGE

A. Responsibilities

NREPC will assume primary responsibility for the analysis, review, and approval, disapproval, or conditional approval of the permit application component of the permit ap-

plication package (PAP) required by 30 CFR 740.13 for surface coal mining and reclamation operations in Kentucky on Federal lands. NREPC will assume the responsibilities for review of permit applications to the extent authorized in 30 CFR 740.4(c)(1), (2), (3), (4), (6), and (7).

For proposals to conduct surface coal mining operations involving leased Federal coal, OSM is responsible for preparing a mining plan decision document in accordance with 30 CFR 746.13 and obtaining the Secretary's approval.

The Bureau of Land Management (BLM) is responsible for matters concerned exclusively with regulations under 43 CFR Group 3400.

The Secretary reserves the right to act independently of NREPC to carry out responsibilities under laws other than the Act or provisions of the Act not covered by the Program, and in instances of disagreement over the Act and the Federal lands program. The Secretary will make determinations under the Act that cannot be delegated to the State, some of which have been delegated to OSM.

Responsibilities and decisions which can be delegated to NREPC under other applicable Federal laws may be specified in working agreements between OSM and the State with the concurrence of any Federal agency involved and without amendment to this agreement.

B. Permit Application Package

NREPC shall require an applicant proposing to conduct surface coal mining and reclamation operations on Federal lands to submit a PAP with an appropriate number of copies to NREPC. NREPC will furnish OSM, the Federal land management agency, and any other agency with jurisdiction or responsibility over Federal lands affected by operations proposed in the PAP with an appropriate number of copies of the PAP. The PAP will be in the form required by NREPC and will include any supplemental information required by OSM, the Federal land management agency, and any other agency with jurisdiction or responsibility over Federal lands affected by operations proposed in the PAP.

At a minimum, the PAP will satisfy the requirements of 30 CFR 740.13(b) and include the information necessary for NREPC to make a determination of compliance with the Program, and for OSM, the appropriate Federal land management agencies, and any other agencies with jurisdiction or responsibilities over Federal lands affected by operations proposed in the PAP to make determinations of compliance with applicable requirements of the Act, the Federal lands program, other Federal laws, Executive Orders, and regulations for which they are responsible.

C. Review Procedures

NREPC will be the primary point of contact for applicants regarding the review of the PAP for compliance with the Program and State laws and regulations. OSM will review the applicable portions of the PAP for compliance with the non-delegated responsibilities of the Act and for compliance with the requirements of other Federal laws, Executive Orders, and regulations.

OSM and NREPC will develop a work plan and schedule for PAP reviews that comply with the time limitations established by the approved State program, and each agency will designate a person as the Federal lands liaison. The Federal lands liaisons will serve as the primary points of contact between OSM and NREPC throughout the review process. Not later than 45 calendar days after receipt of an administratively complete PAP, unless a different schedule is agreed upon, OSM will furnish NREPC with its review comments on the PAP and specify any requirements for additional data.

OSM and NREPC will coordinate with each other during the review process as needed. NREPC will send to OSM copies of any correspondence with the applicant and any information received from the applicant regarding the PAP.

OSM will send to NREPC copies of all OSM correspondence which may have a bearing on the PAP.

OSM will provide technical assistance to NREPC when requested, and will have access to NREPC files concerning operations on Federal lands. NREPC will keep OSM informed of findings made during the review process which bear on the responsibilities of OSM or other Federal agencies.

D. Coordination Between NREPC, OSM, and Other Federal Agencies

NREPC will, to the extent authorized, consult with the Federal land management agency and BLM pursuant to 30 CFR 740.4(c)(2) and (3), respectively. NREPC will also be responsible for obtaining the comments and determinations of other agencies with jurisdiction or responsibility over the Federal lands affected by the operations proposed in the PAP. NREPC will request all Federal agencies to furnish their findings or any request for additional information to NREPC within 45 calendar days of the date of receipt of the PAP. OSM will, upon request, assist NREPC in obtaining such information.

In accordance with 30 CFR 745.12(g)(2), where lands containing leased Federal coal are involved, NREPC will provide OSM, in the form specified by OSM in consultation with NREPC, 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.

Where leased Federal coal is involved, OSM will consult with and obtain the concurrences of BLM, the Federal land management agency, and any other agency with jurisdiction or responsibility over the Federal lands affected by the operations proposed in the PAP as required to make its recommendation for the Secretary's decision on the mining plan.

Where BLM contacts the applicant in carrying out its responsibilities under 43 CFR Group 3400, BLM will immediately inform NREPC of its actions and provide NREPC with a copy of documentation of all decisions within 5 calendar days.

E. Permit Application Decision and Permit Issuance

NREPC will prepare a State decision package, including written findings and supporting documentation, indicating whether the PAP is in compliance with the Program. NREPC will make the decision on approval, disapproval, or conditional approval of the permit on Federal lands.

Any permit issued by NREPC will incorporate any lawful terms or conditions imposed by the Federal land management agency, including conditions relating to post-mining land use, and will be conditioned upon compliance with the requirements of the Federal land management agency.

NREPC may make a decision on approval, disapproval, or conditional approval of the permit on Federal lands in accordance with the Program prior to the necessary Secretarial decision on the mining plan when leased Federal coal is involved, provided that NREPC advises the operator in the permit that Secretarial approval of the mining plan must be obtained before the operator may conduct surface coal mining operations on the Federal lease. NREPC will reserve the right to amend or rescind any requirements of the permit to conform with any terms or conditions imposed by the Secretary in the approval of the mining plan.

After making its decision on the PAP, NREPC will send a notice to the applicant, OSM, the Federal land management agencies, and any other agency with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP. A copy of the permit and written findings will be provided to OSM upon request.

F. Review Procedures for Permit Revisions; Renewals; and Transfer, Assignment, or Sale of Permit Rights

Any permit revision or renewal for a surface coal mining and reclamation operation

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on Federal lands will be reviewed and approved, or disapproved, by NREPC after consultation with OSM on whether such revision or renewal constitutes a mining plan modification pursuant to 30 CFR 746.18. OSM will inform NREPC within 10 calendar days of receiving a copy of a proposed permit revision or renewal, whether the permit revision or renewal constitutes a mining plan modification.

Transfer, assignment, or sale of permit rights on Federal lands shall be processed in accordance with the Program and 30 CFR 740.13(e).

ARTICLE VII: INSPECTIONS

NREPC will conduct inspections of all surface coal mining and reclamation operations on Federal lands, in accordance with 30 CFR 740.4(c)(5) and the Program and prepare and file inspection reports in accordance with the Program. NREPC, subsequent to conducting any inspection pursuant to 30 CFR 740.4(c)(5), and in a timely fashion which will not exceed 45 calendar days, will file with OSM's Lexington Field Office a legible copy of the completed State inspection report.

NREPC will be the point of contact and primary inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by this Agreement, except as described herein-after. Nothing in this Agreement will prevent inspections by authorized Federal or State land management agencies for purposes other than those covered by this Agreement. The Department of the Interior acting through OSM, the Federal land management agency or any other agency with jurisdiction or responsibility over Federal lands to be affected under the proposed PAP, may conduct any inspections necessary to comply with obligations under 30 CFR Parts 842 and 843 and any laws other than the Act.

OSM will give NREPC reasonable notice of its intent to conduct an inspection under 30 CFR 842.11 in order to provide NREPC inspectors with an opportunity to accompany OSM inspectors. When OSM is responding to a citizen complaint of an imminent danger to the public health and safety, or of significant, imminent environmental harm to land, air or water resources pursuant to 30 CFR 842.11(b)(1)(ii)(c), it will contact NREPC and provide the opportunity for a joint Federal/State inspection. Inability of NREPC to make an immediate joint inspection will not be cause for OSM to delay a Federal inspection where a citizen has alleged, and OSM has reason to believe, that an imminent danger to the public health and safety, or significant, imminent environmental harm to land, air or water resources exists. All citizen complaints which do not involve an imminent danger or significant, imminent environmental harm will be referred to NREPC

for action in accordance with OSM regulations, policies, and procedures.

ARTICLE VIII: ENFORCEMENT

NREPC will have primary enforcement authority under the Act concerning compliance with the requirements of this Agreement and the Program in accordance with 30 CFR 740.4(c)(5). Enforcement authority given to the Secretary under other Federal laws and Executive Orders including, but not limited to, those listed in Appendix A (attached) is reserved to the Secretary.

During any joint inspections by OSM and NREPC, NREPC will have primary responsibility for enforcement procedures including issuance of orders of cessation, notices of violation, and assessment of penalties. NREPC will inform OSM prior to issuance of any decision to suspend or revoke a permit on Federal lands.

During any inspection made solely by OSM or any joint inspection where NREPC and OSM fail to agree regarding the propriety of any particular enforcement action, OSM may take any enforcement action necessary to comply with 30 CFR Parts 843, 845, and 846. Such enforcement action will be based on the standards in the Program, the Act, or both, and will be taken using the procedures and penalty system contained in 30 CFR Parts 843, 845, and 846.

NREPC and OSM will within 5 calendar days notify each other of all violations of applicable laws, regulations, orders, or approved mining permits subject to this Agreement, and of all actions taken with respect to such violations.

Personnel of NREPC and OSM will be mutually available to serve as witnesses in enforcement actions taken by either party.

This Agreement does not affect or limit the Secretary's authority to enforce violations of Federal laws other than the Act.

ARTICLE IX: BONDS

NREPC and the Secretary will require each permittee who conducts operations on Federal lands to submit a performance bond payable to the State of Kentucky for an amount adequate to cover the operator's responsibilities under the Act and Program. Such performance bond will be conditioned upon compliance with all requirements of the Act, the Program, State rules and regulations, and any other requirements imposed by the Department of the Interior. Such bond will state on its face that in the event the Federal Lands Cooperative Agreement between Kentucky and the U.S. Department of the Interior is terminated, the portion of the bond covering the Federal lands increment(s) shall be assigned to the United States. The bond shall also state that if subsequent to the forfeiture of the bond, the Cooperative

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Agreement is terminated, any unspent or uncommitted proceeds of the portion of the bond covering the Federal lands increment(s) shall be assigned to and forwarded to the United States. NREPC will advise OSM within 30 calendar days of any adjustments to the performance bond made pursuant to the Program.

Prior to releasing the permittee from any obligation under such bond for surface coal mining operations involving leased Federal coal, NREPC will obtain the concurrence of OSM. OSM concurrence will include coordination with the Federal land management agency and any other agency with jurisdiction or responsibility over Federal lands affected by the surface coal mining and reclamation operation.

Submission of a performance bond does not satisfy the requirements for a Federal lease bond required by 43 CFR Subpart 3474 or lessee protection bond required in addition to a performance bond, in certain circumstances, by Section 715 of the Act. Where Federal lease bonds or protections are required, OSM or the appropriate Federal agency is responsible for the collection and maintenance of such bonds.

ARTICLE X: DESIGNATING AREAS UNSUITABLE FOR ALL OR CERTAIN TYPES OF SURFACE COAL MINING AND RECLAMATION OPERATIONS AND ACTIVITIES, VALID EXISTING RIGHTS (VER), AND COMPATIBILITY DETERMINATIONS

A. Unsuitability Petitions

1. Authority to designate Federal lands as unsuitable for mining pursuant to a petition is reserved to the Secretary.

2. When either NREPC or OSM receives a petition to designate land areas unsuitable for all or certain types of surface coal mining operations that could impact adjacent Federal or non-Federal lands pursuant to Section 522(c) of the Act, the agency receiving the petition will notify the other agency of receipt within 5 calendar days and of the anticipated schedule for reaching a decision, and request and fully consider data, information and recommendations of the other agency. OSM will coordinate with the Federal land management agency and any other agency with jurisdiction or responsibility over Federal lands within or adjacent to the petition area and will solicit comments from these agencies.

B. VER and Compatibility Determinations

The following actions will be taken when requests for determinations of VER pursuant to Section 522(e)(1) or (2) of the Act or for determinations of compatibility pursuant to Section 522(e)(2) of the Act are received:

1. For Federal lands where proposed operations are prohibited or limited by Section 522(e)(1) or (2) of the Act and 30 CFR 761.11(a)

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or (b), OSM will make the VER determination.

2. OSM will process requests for determinations of compatibility under Section 522(e)(2) of the Act and 30 CFR 761.11(b) and 761.12(c).

ARTICLE XI: TERMINATION OF COOPERATIVE AGREEMENT

This Agreement may be terminated by the Governor or the Secretary under the provisions of 30 CFR 745.15.

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. The Secretary reserves the powers and authority specified in 30 CFR 745.13.

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

The Secretary or NREPC may, from time to time, promulgate new or revised performance or reclamation requirements or enforcement and administrative procedures. Each party will, if it determines it to be necessary to keep this Agreement in force, change or revise its regulations or request necessary legislative action.

Such changes will be made under the procedures of 30 CFR Part 732 for changes to the Program and under the procedures of Section 501 of the Act for changes to the Federal lands program.

NREPC and OSM will provide each other with copies of any changes to their respective laws, rules, regulations, policy statements, guidelines or standards pertaining to the enforcement and administration of this Agreement.

ARTICLE XV: CHANGES IN PERSONNEL AND ORGANIZATION

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

ARTICLE XVI: RESERVATION OF RIGHTS

This Agreement will not be construed as waiving or preventing the assertion of any rights in this Agreement that the State or the Secretary may have under laws other than the Act or their regulations, including but not limited to those listed in Appendix A.

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Dated: August 18, 1998.

Paul E. Patton,
Commonwealth of Kentucky.

Dated: September 24, 1998.

Bruce Babbitt,
Secretary of the Interior.

22. The Constitution of the Commonwealth of Kentucky and State Law.

[63 FR 53257, Oct. 2, 1998]

PART 918—LOUISIANA

Sec.

918.1 Scope.

918.10 State regulatory program approval.

918.15 Approval of Louisiana regulatory program amendments.

918.16 Required program amendments.

918.20 Approval of Louisiana abandoned mine land reclamation plan.

918.25 Approval of Louisiana abandoned mine land reclamation plan amendments.

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

§ 918.1 Scope.

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

[45 FR 67343, Oct. 10, 1980]

§ 918.10 State regulatory program approval.

The Secretary approved the Louisiana regulatory program, as submitted on January 3, 1980, and resubmitted on September 4, 1980, effective October 10, 1980. Copies of the approved program are available at:

(a) Louisiana Department of Natural Resources, Office of Conservation, Injection and Mining Division, 625 N. 4th Street, P.O. Box 94275, Baton Rouge, LA 70804-9275.

(b) Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office, 5100 East Skelly Drive, Suite 470, Tulsa, OK 74135-6548.

[64 FR 20167, Apr. 26, 1999]

§ 918.15 Approval of Louisiana 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.

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 Part 3480.

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 Fish and Wildlife Coordination Act, as amended, 16 U.S.C. 661 *et seq.*, 48 Stat. 401.

6. The Bald and Golden Eagle Protection Act of 1940, as amended, 16 U.S.C. 668-668d, and implementing regulations.

7. The Migratory Bird Treaty Act, as amended, 16 U.S.C. 701-718h *et seq.*

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

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

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

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

12. 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.*

13. Executive Order 11593 (May 13, 1971), Cultural Resource Inventories on Federal Lands.

14. Executive Order 11988 (May 24, 1977), for flood plain protection.

15. Executive Order 11990 (May 24, 1977), for wetlands protection.

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

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

18. The Archaeological Resources Protection Act of 1979, 16 U.S.C. 470aa *et seq.*, as amended.

19. The Constitution of the United States.

20. The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*

21. 30 CFR Chapter VII.