

## Surface Mining Reclamation and Enforcement, Interior

## § 707.11

in accordance with the established procedures of their employing agency.

### PART 707—EXEMPTION FOR COAL EXTRACTION INCIDENTAL TO GOVERNMENT-FINANCED HIGHWAY OR OTHER CONSTRUCTION

Sec.

707.1 Scope.

707.4 Responsibility.

707.5 Definitions.

707.10 Information collection.

707.11 Applicability.

707.12 Information to be maintained on site.

AUTHORITY: Secs. 102, 201, 501, and 528 of Pub. L. 95-87, 91 Stat. 448, 449, 467, and 514 (30 U.S.C. 1202, 1211, 1251, 1278).

SOURCE: 44 FR 15322, Mar. 13, 1979, unless otherwise noted.

#### § 707.1 Scope.

(a) This part establishes the procedures for determining those surface coal mining and reclamation operations which are exempt from the Act and this chapter because the extraction of coal is an incidental part of Federal, State, or local government-financed highway or other construction.

(b) This part exempts the extraction of coal which is incidental to government-financed construction from the requirements of the Act and this Chapter, if that extraction meets specified criteria which ensure that the construction is government-financed and that the extraction of coal is incidental to it.

#### § 707.4 Responsibility.

(a) The regulatory authority is responsible for enforcing the requirements of this part.

(b) Any person conducting coal extraction as an incidental part of government-financed construction is responsible for possessing, on the site of the extraction operation, the documentation required by 30 CFR 707.12.

#### § 707.5 Definitions.

As used in this part, the following terms have the specified meaning:

*Extraction of coal as an incidental part* means the extraction of coal which is necessary to enable the construction to be accomplished. For purposes of this part, only that coal extracted from

within the right-of-way, in the case of a road, railroad, utility line or other such construction, or within the boundaries of the area directly affected by other types of government-financed construction, may be considered incidental to that construction. Extraction of coal outside the right-of-way or boundary of the area directly affected by the construction shall be subject to the requirements of the Act and this chapter.

*Government financing agency* means a Federal, State, county, municipal, or local unit of government, or a department, bureau, agency or office of the unit which, directly or through another unit of government, finances construction.

*Government-financed construction* means construction funded at 50 percent or more by funds appropriated from a government financing agency's budget or obtained from general revenue bonds. Government financing at less than 50 percent may qualify if the construction is undertaken as an approved reclamation project under Title IV of the Act. Construction funded through government financing agency guarantees, insurance, loans, funds obtained through industrial revenue bonds or their equivalent, or in-kind payments does not qualify as government-financed construction.

[44 FR 15322, Mar. 13, 1979, as amended at 64 FR 7482, Feb. 12, 1999; 68 FR 65625, Nov. 20, 2003]

#### § 707.10 Information collection.

Since the information collection requirement contained in 30 CFR 707.12 consists only of expenditures on information collection activities that would be incurred by persons in the normal course of their activities, it is exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and does not require clearance by OMB.

[64 FR 7482, Feb. 12, 1999]

#### § 707.11 Applicability.

(a) Coal extraction which is an incidental part of government-financed construction is exempt from the Act and this chapter.

**§ 707.12**

(b) Any person who conducts or intends to conduct coal extraction which does not satisfy paragraph (a) of this section shall not proceed until a permit has been obtained from the regulatory authority under a State, Federal or Federal lands program.

**§ 707.12 Information to be maintained on site.**

Any person extracting coal incident to government-financed highway or other construction who extracts more than 250 tons of coal or affects more than two acres shall maintain, on the

**30 CFR Ch. VII (7-1-09 Edition)**

site of the extraction operation and available for inspection, documents which show—

(a) A description of the construction project;

(b) The exact location of the construction, right-of-way or the boundaries of the area which will be directly affected by the construction; and

(c) The government agency which is providing the financing and the kind and amount of public financing, including the percentage of the entire construction costs represented by the government financing.