

(i) The current yield records of representative local farms in the surrounding area, with concurrence by the U.S. Soil Conservation Service; or

(ii) The average county yields recognized by the U.S. Department of Agriculture, which have been adjusted by the U.S. Soil Conservation Service for local yield variation within the county that is associated with differences between nonmined prime farmland soil and all other soils that produce the reference crop.

(8) Under either procedure in paragraph (b)(7) of this section, the average reference crop yield may be adjusted, with the concurrence of the U.S. Soil Conservation Service, for—

(i) Disease, pest, and weather-induced seasonal variations; or

(ii) Differences in specific management practices where the overall management practices of the crops being compared are equivalent.

PART 824—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—MOUNTAINTOP REMOVAL

Sec.

824.1 Scope.

824.2 Objectives.

824.11 Mountaintop removal: Performance standards.

AUTHORITY: Secs. 102, 201, 501, 503, 504, 506, 508, 510, 515, 517, 701 Pub. L. 95-87, 91 Stat. 448, 449, 467, 470, 471, 474, 478, 480, 486, 498, 516 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1256, 1258, 1260, 1265, 1267, 1291).

§ 824.1 Scope.

This part sets forth special environmental protection performance, reclamation, and design standards for surface coal mining activities constituting mountaintop removal mining.

[44 FR 15452, Mar. 13, 1979]

§ 824.2 Objectives.

The objectives of this part are to—

- (a) Enhance coal recovery;
- (b) Reclaim the land to equal or higher postmining use; and
- (c) Protect and enhance environmental and other values protected under the Act and this chapter.

[44 FR 15452, Mar. 13, 1979]

§ 824.11 Mountaintop removal: Performance standards.

(a) Under an approved regulatory program, surface coal mining activities may be conducted under a variance from the requirement of this subchapter for restoring affected areas to their approximate original contour, if—

(1) The regulatory authority grants the variance under a permit, in accordance with 30 CFR 785.14;

(2) The activities involve the mining of an entire coal seam running through the upper fraction of a mountain, ridge, or hill, by removing all of the overburden and creating a level plateau or gently rolling contour with no highwalls remaining;

(3) An industrial, commercial, agricultural, residential, or public facility (including recreational facilities) use is proposed and approved for the affected land;

(4) The alternative land use requirements of § 816.133(a) through (c) of this chapter are met;

(5) All applicable requirements of this subchapter and the regulatory program, other than the requirement to restore affected areas to their approximate original contour, are met;

(6) An outcrop barrier of sufficient width, consisting of the toe of the lowest coal seam, and its associated overburden, are retained to prevent slides and erosion, except that the regulatory authority may permit an exemption to the retention of the coal barrier requirement if the following conditions are satisfied:

(i) The proposed mine site was mined prior to May 3, 1978, and the toe of the lowest seam has been removed; or

(ii) A coal barrier adjacent to a head-of-hollow fill may be removed after the elevation of a head-of-hollow fill attains the elevation of the coal barrier if the head-of-hollow fill provides the stability otherwise ensured by the retention of a coal barrier;

(7) The final graded slopes on the mined area are less than 1v:5h, so as to create a level plateau or gently rolling configuration, and the outslopes of the plateau do not exceed 1v:2h except where engineering data substantiates, and the regulatory authority finds, in writing, and includes in the permit

under 30 CFR 785.14, that a minimum static safety factor of 1.5 will be attained;

(8) The resulting level or gently rolling contour is graded to drain inward from the outslope, except at specified points where it drains over the outslope in stable and protected channels. The drainage shall not be through or over a valley or head-of-hollow fill.

(9) Natural watercourses below the lowest coal seam mined are not damaged;

(10) All waste and acid-forming or toxic-forming materials, including the strata immediately below the coal seam, are covered with non-toxic spoil to prevent pollution and achieve the approved postmining land use; and

(11) Spoil is placed on the mountaintop bench as necessary to achieve the postmining land use approved under paragraphs (a)(3) and (a)(4) of this section. All excess spoil material not retained on the mountaintop shall be placed in accordance with 30 CFR 816.41 and 816.43 and 816.71 through 816.74.

[44 FR 15452, Mar. 13, 1979; 44 FR 49687, Aug. 24, 1979, as amended at 48 FR 39905, Sept. 1, 1983; 48 FR 44781, Sept. 30, 1983]

PART 825—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—SPECIAL BITUMINOUS COAL MINES IN WYOMING

Sec.

825.1 Scope.

825.2 Special bituminous coal mines in Wyoming.

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

SOURCE: 47 FR 33432, Aug. 2, 1982, unless otherwise noted.

§ 825.1 Scope.

This part establishes requirements for certain bituminous surface coal mining activities located west of the 100th meridian west longitude in Wyoming which existed on January 1, 1972, and for surface coal mining activities immediately adjacent thereto which began development after August 3, 1977, in accordance with section 527 of the Act.

§ 825.2 Special bituminous coal mines in Wyoming.

Special bituminous coal mines in Wyoming, as specified in section 527 of the Act, shall comply with the approved State program, including Wyoming statutes and regulations, and revisions thereto.

PART 827—PERMANENT PROGRAM PERFORMANCE STANDARDS—COAL PREPARATION PLANTS NOT LOCATED WITHIN THE PERMIT AREA OF A MINE

Sec.

827.1 Scope.

827.11 General requirements.

827.12 Coal preparation plants: Performance standards.

827.13 Coal preparation plants: Interim performance standards.

AUTHORITY: 30 U.S.C. 1201 *et seq.*, and Pub. L. 100-34.

SOURCE: 48 FR 20401, May 5, 1983, unless otherwise noted.

§ 827.1 Scope.

This part sets forth requirements for coal preparation plants operated in connection with a coal mine but outside the permit area for a specific mine.

[53 FR 47391, Nov. 22, 1988]

§ 827.11 General requirements.

Each person who operates a coal preparation plant subject to this part shall obtain a permit in accordance with § 785.21 of this chapter, obtain a bond in accordance with subchapter J of this chapter, and operate that plant in accordance with the requirements of this part.

§ 827.12 Coal preparation plants: Performance standards.

Except as provided in § 827.13 of this part, the construction, operation, maintenance, modification, reclamation, and removal activities at coal preparation plants shall comply with the following:

(a) Signs and markers for the coal preparation plant, coal processing waste disposal area, and water-treatment facilities shall comply with § 816.11 of this chapter.