

## SUBCHAPTER R—ABANDONED MINE LAND RECLAMATION

### PART 870—ABANDONED MINE RECLAMATION FUND—FEE COLLECTION AND COAL PRODUCTION REPORTING

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AUTHORITY: 28 U.S.C. 1746, 30 U.S.C. 1201 *et seq.*, and Pub. L. 105-277.

SOURCE: 47 FR 28593, June 30, 1982, unless otherwise noted.

#### § 870.1 Scope.

This part sets out our procedures to collect fees for the Fund and to report coal production.

[73 FR 67631, Nov. 14, 2008]

#### § 870.5 Definitions.

As used in this Part—

*Anthracite, bituminous and subbituminous coal* means all coals other than lignite coal.

*Calendar quarter* means a 3-month period within a calendar year. The first calendar quarter begins on January 1 of the calendar year and ends on the last day of March. The second calendar quarter begins on the first day of April and ends on the last day of June. The third calendar quarter begins on the first day of July and ends on the last day of September. The fourth calendar quarter begins on the first day of October and ends on the last day of December.

*Excess moisture* means the difference between total moisture and inherent moisture, calculated according to § 870.19 for high-rank coals or the difference between total moisture and inherent moisture calculated according to § 870.20 for low-rank coals.

*Expended* means that moneys have been obligated, encumbered, or committed for reclamation by contract by the OSM, State, or Tribe for work to be accomplished or services to be rendered.

*Fee compliance officer* means any person authorized by the Secretary to exercise authority in matters relating to this part.

*In situ coal mining* means activities conducted on the surface or underground in connection with in-place distillation, retorting, leaching or other chemical or physical processing of coal. The term includes, but is not limited to, in situ gasification, in situ leaching, slurry mining, solution mining, bore hole mining, and fluid recovery mining. At this time, part 870 considers only in situ gasification.

*Inherent moisture* means moisture that exists as an integral part of the coal seam in its natural state, including water in pores, but excluding that present in macroscopically visible fractures, as determined according to § 870.19(a) or § 870.20(a).

*Lignite coal* means consolidated lignite coal having less than 8,300 British thermal units per pound, moist and mineral-matter-free. Moist, mineral-matter free British thermal units per pound are determined by Parr's formula, equation 3, on page 222 of "Standard Specification for Classification of Coals by Rank," in American Society for Testing and Materials ASTM D 388-77 (Philadelphia, 1977). Parr's formula follows:

$$\text{Moist, Mn-Free Btu} = (\text{Bu} - 50\text{S}) / [100 - (1.08\text{A} + 0.55\text{S})] \times 100$$

where:

Mn = Mineral matter

Btu = British thermal units per pound (calorific value)

A = percentage of ash, and

S = percentage of sulfur

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“Moist” refers to coal containing its natural inherent or bed moisture, but not including water adhering to the surface of the coal.

*Mineral owner* means any person or entity owning 10 percent or more of the mineral estate for a permit. If no single mineral owner meets the 10 percent rule, then the largest single mineral owner shall be considered to be the mineral owner. If there are several persons who have successively transferred the mineral rights, information shall be provided on the last owner(s) in the chain prior to the permittee, i.e. the person or persons who have granted the permittee the right to extract the coal.

*Reclaimed coal* means coal recovered from a deposit that is not in its original geological location, such as refuse piles or culm banks or retaining dams and ponds that are or have been used during the mining or preparation process, and stream coal deposits. Reclaimed coal operations are considered to be surface coal mining operations for fee liability and calculation purposes.

*Surface coal mining* means the extraction of coal from the earth by removing the materials over the coal seam before recovering the coal and includes auger coal mining. For purposes of subchapter R, reclaiming coal operations are considered surface coal mining.

*Ton* means 2,000 pounds avoirdupois (0.90718 metric ton).

*Total moisture* means the measure of weight loss in an air atmosphere under rigidly controlled conditions of temperature, time and air flow, as determined according to either § 870.19(a) or § 870.20(a).

*Underground coal mining* means the extraction of coal from the earth by developing entries from the surface to the coal seam before recovering the coal by underground extraction methods, and includes in situ mining.

*Value* means gross value at the time of initial bona fide sale, transfer of ownership, or use by the operator, but does not include the reclamation fee required by this part.

[47 FR 28593, June 30, 1982, as amended at 53 FR 19726, May 27, 1988; 59 FR 28168, May 31, 1994; 60 FR 9980, Feb. 22, 1995; 62 FR 60142, Nov. 6, 1997; 73 FR 67631, Nov. 14, 2008]

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### § 870.10 Information collection.

In accordance with 44 U.S.C. 3501 *et seq.*, the Office of Management and Budget (OMB) has approved the information collection requirements of part 870 and the OSM-1 Form and assigned control number 1029-0063. The information is used to maintain a record of coal produced nationwide each calendar quarter, the method of coal removal, the type of coal, and the basis for coal tonnage reporting. Persons must respond to meet the requirements of SMCRA. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

[73 FR 67631, Nov. 14, 2008]

### § 870.11 Applicability.

The regulations in this part apply to all surface and underground coal mining operations except—

(a) The extraction of coal by a landowner for his own noncommercial use from land owned or leased by him;

(b) The extraction of coal as an incidental part of Federal, State, or local government-financed highway or other construction;

(c) The extraction of coal incidental to the extraction of other minerals where coal does not exceed 16 $\frac{2}{3}$  percent of the total tonnage of coal and other minerals removed for commercial use or sale

(1) In accordance with part 702 of this chapter for Federal program States and on Indian lands or

(2) In any twelve consecutive months in a State with an approved State program until counterpart regulations pursuant to part 702 of this chapter have been incorporated into the State program and in accordance with such counterpart regulations, thereafter; and

(d) The extraction of less than 250 tons of coal within twelve consecutive months.

[47 FR 28593, June 30, 1982, as amended at 54 FR 52123, Dec. 20, 1989; 54 FR 52123, Dec. 20, 1989; 73 FR 67631, Nov. 14, 2008]

### § 870.12 Reclamation fee.

(a) The operator shall pay a reclamation fee on each ton of coal produced