

Surface Mining Reclamation and Enforcement, Interior

§ 705.11

or duty under the Act from having a direct or indirect financial interest in any underground or surface coal mining operation. The Act provides that whoever knowingly violates the provisions of section 517(g) shall, upon conviction, be punished by a fine of not more than \$2,500, or by imprisonment of not more than one year, or by both.

(b) Regulatory penalties are imposed by this part. The provisions in section 517(g) of the Act make compliance with the financial interest requirements a condition of employment for employees of the State Regulatory Authority who perform any functions or duties under the Act. Accordingly, an employee who fails to file the required statement will be considered in violation of the intended employment provisions of section 517(g) and will be subject to removal from his or her position.

§ 705.10 Information collection.

The collections of information contained in §§ 705.11 and 705.17 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029-0067. The information is being collected on OSM Form 23 and will be used to meet the requirements of section 517(g) of the Surface Mining Control and Reclamation Act of 1977, which provides that no employee of the State regulatory authority shall have direct or indirect financial interests in any underground or surface coal mining operation. This information will be used by officials of the state regulatory authority to determine whether each State employee complies with the financial interest provisions of section 517(g). The obligation to respond is mandatory in accordance with section 517(g). Public reporting burden for this information is estimated to average 20 minutes per response per state employee and 30 minutes per response per State regulatory authority, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Information Collection

Clearance Officer, Office of Surface Mining, 1951 Constitution Avenue NW., room 5415-L, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project 1029-0067, Washington, DC 20503.

[56 FR 46988, Sept. 17, 1991]

§ 705.11 Who shall file.

(a) Any employee who performs any function or duty under the Act is required to file a statement of employment and financial interests. Members of advisory boards and commissions established in accordance with State laws or regulations to represent multiple interests, who perform a function or duty under the Act, must file a statement of employment and financial interests. An employee who occupies a position which has been determined by the Head of the State Regulatory Authority not to involve performance of any function or duty under the Act or who is no longer employed by the State Regulatory Authority at the time a filing is due, is not required to file a statement.

(b) The Head of each State Regulatory Authority shall prepare a list of those positions within the State Regulatory Authority that do not involve performance of any functions or duties under the Act. State Regulatory Authorities may be organized to include more activities than are covered by the Act. For example, if a State has identified its Department of Natural Resources as the State Regulatory Authority there may be only one or two offices within that Department which have employees who perform any functions, or duties under the Act. In those cases, the Head of the State Regulatory Authority shall list the title of boards, offices, bureaus or divisions within the State Regulatory Authority which do not perform any functions or duties under the Act and list the positions not performing functions or duties under the Act for only those boards, offices, bureaus or divisions that do have some employees performing functions or duties under the Act. Only those employees who are employed in a listed organizational unit or who occupy a listed position will be exempted from the filing requirements of section 517(g) of the Act.

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(c) The Head of each State Regulatory Authority shall prepare and submit to the director, an initial listing of positions that do not involve performance of any functions or duties under the Act within 60 days of the effective date of these regulations.

(d) The Head of each State Regulatory Authority shall annually review and update this listing. For monitoring and reporting reasons, the listing must be submitted to the Director and must contain a written justification for inclusion of the positions listed. Proposed revisions or a certification that revision is not required shall be submitted to the Director by no later than September 30 of each year. The Head of each State Regulatory Authority may revise the listing by the addition or deletion of positions at any time he or she determines such revisions are required to carry out the purpose of the law or the regulations of this part. Additions to and deletions from the listing of positions are effective upon notification to the incumbents of the positions added or deleted.

(e) The Secretary or the Director may modify the listing at any time one or both of them determines that the listing submitted by the Head of a State Regulatory Authority indicates that coverage is not sufficient to carry out the purpose of the law or the regulations of this part.

[42 FR 56060, Oct. 20, 1977, as amended at 51 FR 37122, Oct. 17, 1986]

§ 705.13 When to file.

(a) Employees and members of advisory boards and commissions representing multiple interests performing functions or duties under the Act shall file:

(1) Within 120 days of the effective date of these regulations; and

(2) Annually on February 1 of each year, or at such other date as may be agreed to by the Director, provided that such alternative date will allow sufficient time to obtain information needed by the Director for his or her annual report to the Congress.

(b) New employees and new members of advisory boards and commissions representing multiple interest hired, appointed, or transferred to perform functions or duties under the Act will

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be required to file at the time of entrance to duty.

(c) New employees and new members of advisory boards and commissions representing multiple interests are not required to file an annual statement on the subsequent annual filing date if this date occurs within two months after their initial statement was filed. For example, an employee entering duty on December 2, 1986 would file a statement on that date. Because December 2 is within two months of February 1 the employee would not be required to file his or her next annual statement until February 1, 1988.

[51 FR 37122, Oct. 17, 1986]

§ 705.15 Where to file.

The head of the State Regulatory Authority shall file his or her statement with the Director. All other employees and members of advisory boards and commissions representing multiple interests, as provided in § 705.11, shall file their statements with the head of the State Regulatory Authority or such other official as may be designated by State law or regulation.

[51 FR 37122, Oct. 17, 1986]

§ 705.17 What to report.

(a) Each employee shall report all information required on the statement of employment and financial interests of the employee, his or her spouse, minor children, or other relatives who are fulltime residents of the employee's home. The report shall be on OSM Form 23 as provided by the Office. The statement consists of three major parts, (1) a listing of all financial interests, including employment, security, real property, creditor and other financial interests held during the course of the preceding year, (2) a certification that none of the listed financial interests represent a direct or indirect financial interest in an underground or surface coal mining operation except as specifically identified and described by the employee as part of the certificate and (3) a certification by the reviewer that the form was reviewed, that prohibited interests have been resolved, and that no other prohibited interests have been identified from the statement.