

#### **§ 3420.4-2**

statement, and prior to adopting a regional lease sale schedule, the Secretary shall engage in formal consultation as specified in §§3420.4-2 through 3420.4-5 of this title.

[44 FR 42615, July 19, 1979. Redesignated and amended at 47 FR 33139, July 30, 1982]

#### **§ 3420.4-2 Consultation with surface management agencies.**

(a) The Secretary, for any proposed lease tract containing lands the surface of which is under the jurisdiction of any agency other than the Department, shall request that the agency: (1) Consent, if it has not already done so, to the issuance of the lease (43 CFR 3400.3-1), and (2) if it consents, prescribe the terms and conditions the Secretary will impose in any lease which the head of the agency requires for the use and protection of the non-mineral interests in those lands.

(b) The Secretary may prescribe additional terms and conditions that are consistent with the terms proposed by the surface management agency to protect the interest of the United States and to safeguard the public welfare.

[44 FR 42615, July 19, 1979. Redesignated at 47 FR 33139, July 30, 1982]

#### **§ 3420.4-3 Consultation with Governors.**

(a) The Secretary shall consult the Governor of the state in which any tract proposed for sale is located. The Secretary shall give the Governor 30 days to comment before adopting a regional lease sale schedule or, for lease applications, before publishing a notice of sale for any tract within the State.

(b) When a tract proposed for lease sale within the boundaries of a National Forest would, if leased, be mined by surface mining methods, the Governor of the state in which the land to be leased is located shall be so notified by the Secretary. If the Governor fails to object to the lease sale proposal in 60 days, the Secretary may publish a notice of sale, including that tract. If, within the 60 day period, the Governor, in writing, objects to the lease sale proposal, the Secretary may not publish a notice of sale for that tract. Publication of the notice of sale shall be held in abeyance for 6 months from the date that the Governor objects. The

#### **43 CFR Ch. II (10-1-12 Edition)**

Governor may, during this six-month period, submit a written statement of reasons why the tract should not be proposed for lease sale, and the Secretary shall, on the basis of this statement, reconsider the lease sale proposal.

(c) Before determining whether to conduct a lease sale, the Secretary shall seek the recommendation of the Governor of the State(s) in which the lands proposed to be offered for lease are located as to whether or not to lease such lands and what alternative actions are available and what special conditions could be added to the proposed lease(s) to mitigate impacts. The Secretary shall accept the recommendations of the Governor(s) if he determines that they provide for a reasonable balance between the national interest and the State's interests. The Secretary shall communicate to the Governor(s) in writing and publish in the FEDERAL REGISTER the reasons for his determination to accept or reject such Governor's recommendations.

[44 FR 42615, July 19, 1979. Redesignated and amended at 47 FR 33139, July 30, 1982; 48 FR 37655, Aug. 19, 1983]

#### **§ 3420.4-4 Consultation with Indian tribes.**

The Secretary shall consult with any Indian tribe which may be affected by the adoption of the proposed regional lease sale schedule. The Secretary shall give the tribe 30 days in which to comment prior to adopting a lease sale schedule.

[44 FR 42615, July 19, 1979. Redesignated and amended at 47 FR 33139, July 30, 1982]

#### **§ 3420.4-5 Consultation with the Attorney General.**

The Secretary shall consult with and give due consideration to the advice of the Attorney General before the adoption of the proposed regional lease sale schedule. The Secretary shall provide 30 days in which the Attorney General may advise the Secretary prior to adopting a lease schedule.

[44 FR 42615, July 19, 1979. Redesignated and amended at 47 FR 33139, July 30, 1982]