

## § 3436.2

(c) After the Secretary and the exchange proponent have agreed to terms pursuant to §3435.3-3 of this title, the Secretary may elect to consider the exchange proposal in conjunction with the activity planning process for the coal production region in which the lands proposed to be leased are located pursuant to §3420.3 of this title. If the Secretary elects to process the exchange proposal in this manner, the tracts identified for use in the lease exchange shall be:

(1) Delineated for analysis pursuant to §3420.3-3 of this title;

(2) Ranked as having high desirability pursuant to §3420.3-4(a) of this title; and

(3) Selected for inclusion for analysis purposes in alternative proposed lease sale schedules pursuant to §3420.3-4(c) of this title. Such tracts shall then be the subject of environmental analysis, public comment and consultation pursuant to §§3420.3 and 3420.4 of this title.

(d) If the Secretary elects to process the exchange proposal independently of the activity planning process, the Secretary shall consider the environmental and resource information acquired during the land use planning process and found in the most recent regional environmental impact statement completed under the Federal coal management program. An environmental assessment or environmental impact statement shall be prepared on the proposed exchange prior to the public hearings and consultation required by §§3435.3-5 through 3435.3-7 of this title.

(e) In determining under §3435.3-4 of this title the estimated value of the lease or preference right lease application to be relinquished, the Secretary shall proceed as though there were no prohibitions on surface mining operations on the lands covered by the lease or preference right lease application.

(f) The exchange proponent shall bear all administrative costs of the exchange, including the cost of establishing the value of each lease involved in the exchange, if the exchange is completed.

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### § 3436.2 Fee coal exchanges.

#### § 3436.2-1 Qualified exchange proponents.

(a) Fee coal exchanges under this program shall only be available to persons who:

(1) Own coal west of the 100th Meridian, west longitude, underlying or near an alluvial valley floor where surface coal mining operations are prohibited by section 510(b)(5) of the Surface Mining Control and Reclamation Act because such operations would interrupt farming or materially damage the quantity and quality of the water in surface or underground water systems that would supply the alluvial valley floor; and

(2) Are not entitled to continue any existing surface coal mining operation pursuant to the first proviso to section 510(b)(5) of the Surface Mining Control and Reclamation Act.

(b) Exchange proponents bear the burden of establishing their qualifications pursuant to paragraph (a) of this section. The Secretary shall accept a determination made pursuant to 30 CFR 785.19(c) as conclusive evidence of the existence of an alluvial valley floor.

#### § 3436.2-2 Federal coal deposits subject to disposal by exchange.

The coal deposits offered in exchange by the Secretary shall be determined to be acceptable for further consideration for coal leasing pursuant to §3420.1 of this title and shall be in the same State as the coal deposit offered in exchange by the proponent.

#### § 3436.2-3 Exchange procedures.

(a) Any person meeting the requirements of §3436.2-1(a) of this title may apply for an exchange. No special form of application is required. Any exchange proposal should be directed to the District Manager for the Bureau of Land Management district in which the Federal coal deposits are located.

(b) The Secretary shall evaluate each exchange request to determine whether the proponent is qualified.

(c) After the authorized officer and the owner of the coal deposit underlying an alluvial valley floor identify Federal coal deposits that are suitable