

**FEDERAL REGISTER: 43 FR 5000 (February 7, 1978)**

DEPARTMENT OF THE INTERIOR

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM)

30 CFR Parts 710, 715, 716, 717, 718, 720, 725, 740, 795, 837  
Collection, Submission or Retention of Information

ACTION: Final rules.

SUMMARY: These regulations confirm clearance by the General Accounting Office of surface mining reclamation and enforcement regulations requiring collection, submission or retention of information. Filing deadlines for submission of plans for the reconstruction of pre-existing, nonconforming structures and for applications for the small operator exemption are extended to March 1, 1978. In addition, the information to be filed by March 1, 1978, for pre-existing, nonconforming structures has been changed to require a written statement rather than a professionally engineered plan.

EFFECTIVE DATE: February 7, 1978.

ADDRESSES: Director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240, 202-343-4237. Assistant Director, Regulatory Reports review, U.S. General Accounting Office, Room 5033, 441 G Street, NW., Washington, D.C. 20548.

FOR FURTHER INFORMATION CONTACT: Peter Kelsey, 202-343-2107.

**SUPPLEMENTARY INFORMATION:**

On December 13, 1977, the Secretary of the Interior promulgated regulations at Title 30, Code of Federal Regulations Chapter VII (42 FR 62639-62716) under the Surface Mining Control and Reclamation Act of 1977, Pub.L. 95-87. A number of the regulations requiring collection, submission or retention of information were adopted subject only to review by the General Accounting Office (GAO) pursuant to 44 U.S.C. 3512. The General Accounting Office solicited public comments on these regulations by public notice in the FEDERAL REGISTER on December 23, 1977 (42 FR 64436). GAO clearance of each of the regulations listed at 42 FR 62675 and 62714 except as noted below and of Sections 715.15(a)(9) and 715.15(b)(12) was given on February 3, 1978. Accordingly, these regulations are effective immediately. {5001}

Two of the provisions which were subject to GAO review, Sections 710.11(d)(2)(ii) and 710.12(d), contained filing dates of February 3, 1978. In view of the delayed effective date of these sections required by GAO review and clearance procedures pursuant to 44 U.S.C. 3512, it is necessary to revise the filing dates so as to allow reasonable notice and time for operators to avail themselves of these provisions. Therefore, the deadline for submission of a plan to the regulatory authority for the reconstruction of pre-existing, non-conforming structures is extended to March 1, 1978. Similarly, the deadline for submission of an application to the Director for a special exemption for small operators is extended to March 1, 1978.

As a result of the review process the reporting requirements under Section 710.11(d)(2) for pre-existing nonconforming structures are being revised. The revision lessens the reporting burden while maintaining the obligation to provide justification for nonconforming structures which cannot physically be brought into conformance with applicable standards by May 4, 1978.

The reporting requirements contained in 30 CFR Sections 710.4(b), 710.11(d)(2)(ii), and 710.12(e) have been approved by the U.S. General Accounting Office under number B-190462 (R0493).

The reporting and recordkeeping requirements contained in 30 CFR Sections 715.11(c), 715.13(d), 715.15(a)(9), 715.15(b)(12), 715.17(j)(3), 715.18(b)(2) and (6), 715.19(b), (c), (d), and (e)(4) have been approved by the U.S. General Accounting Office under number B-190462 (R0494).

The reporting requirements contained in 30 CFR 716.7(c), (d) and (e) have been approved by the U.S. General Accounting Office under number B-190462 (R0495).

The reporting requirements contained in 30 CFR 717.18(b)(2) and (6) have been approved by the U.S. General Accounting Office under Number B-190462 (R0496).

The reporting requirements contained in 30 CFR 718.1(b) have been approved by the U.S. General Accounting Office under number B-190462 (R0497).

The reporting requirements contained in 30 CFR 720.13 have been approved by the U.S. General Accounting Office Number B-190462 (R0498).

The reporting and recordkeeping requirements contained in 30 CFR 725.15, 725.23(a) and 725.24 have been approved by the U.S. General Accounting Office under number B-190462 (R0499).

The reporting and recordkeeping requirements contained in 30 CFR 740.13(a) and (b), 740.16(e), 740.18, 740.26, and 740.27 have been approved by the U.S. General Accounting Office under number B-190462 (R0500).

The reporting requirements contained in 30 CFR 795.11(a) and (b), 795.12, 795.14, 795.16, and 795.17 have been approved by the U.S. General Accounting Office under number B-190462 (R0501).

The recordkeeping requirement contained in 30 CFR 837.16 has been approved by the U.S. General Accounting Office under number B-190462 (R0502).

This rulemaking includes amendments to the appropriate parts of 30 CFR Chapter VII to note that GAO clearance has been received as noted above for the identified recordkeeping and reporting requirements.

In keeping with GAO review and clearance procedures, the Office of Surface Mining will amend 30 CFR 715.17(b)(v) and 717.17(b)(v) to make the reporting time period consistent with EPA reporting periods under the NPDES system. The amendment will also provide the option to operators or submitting a copy of the report, or notification of where the report has been filed under NPDES requirements, if the report contains the same information and is filed at the same reporting intervals. This amendment will be published as soon as EPA's written concurrence is obtained as required by section 501(a) of the Surface Mining Control and Reclamation Act of 1977. GAO has indicated it will clear these sections as soon as EPA concurrence of the amendment is received.

The written comments received by the General Accounting Office and a letter responding to the comments from the Director, Office of Surface Mining Reclamation and Enforcement are available for public inspection at the Office of the Assistant Director, Regulatory Reports Review, U.S. General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

#### DRAFTING INFORMATION

Principal authors of these regulations are William A. Gershuny and Peter B. Kelsey, Office of the Solicitor, Division of Surface Mining.

Dated: February 3, 1978.

WALTER N. HEINE, Director, Office of Surface Mining Reclamation and Enforcement.

Chapter VII of Title 30 of the Code of Federal Regulations is amended as follows:

#### **PARTS 710, 715, 716, 717, 718, 720, 725, 740, 795, 837 [Amended]**

1. 30 CFR Sections 710.4(b)8, 710.11(d)(2)(ii), 710.12(e), 715.11(c), 715.13(d), 715.15(a)(9), 715.15(b)(12), 715.17(j)(3) and (5), 715.18(b)(2) and (6), 715.19 (b), (c), (d), and (e)(4), 716.7(c), (d), and (e), 717.18(b)(2) and (6), 718.1(b), 720.13, 725.15, 725.23(a), 725.24, 740.13(a) and (b), 740.16(e), 740.18, 740.26, 740.27, 795.11(a) and (b), 795.12(a) and (b), 795.14, 795.16, 795.17(a)(3) and (b), and 837.16 are effective on (date of publication)
2. In 30 CFR 710.11 paragraph (d)(2) is revised to read as follows:

## **SECTION 710.11 - APPLICABILITY**

(d) \* \* \*

(2) Any pre-existing, nonconforming structure or facility which is used in connection with or to facilitate mining after the effective date of these regulations shall comply with the requirements of the regulations, unless -

(i) The permittee submits to the regulatory authority by March 1, 1978, a statement in writing demonstrating that it is physically impossible to bring the structure or facility into compliance by May 4, 1978. The statement shall include the steps to be taken to reconstruct the structure or facility in conformance with applicable performance standards and a schedule for reconstruction including the estimated date of completion;

(ii) The regulatory authority finds in writing that it is physically impossible to bring the structure or facility into compliance by May 4, 1978;

(iii) The construction work is to be performed in accordance with plans designed by a professional engineer; and

(iv) the construction work is to be started and completed as soon as possible and in no event is to be started later than May 4, 1978 and completed later than November 4, 1978.

## **SECTION 710.12 [Amended]**

3. In 30 CFR 710.12 paragraph (d) is revised to read as follows:

(d) Application for an exemption under this section shall be submitted to the Director of the Office by March 1, 1978 with a copy to the State regulatory authority.

4. Included after Section 710.12 in Part 710 is the following note:

NOTE. - The reporting requirements contained in 30 CFR Sections 710.4(b), 710.11(d)(2)(ii), and 710.12(e) have been approved by the U.S. General Accounting Office under number B-190462 (R0493). {5002}

## **SECTION 715.20 [Amended]**

5. Included after Section 715.20 in Part 715 is the following note:

NOTE. - The reporting and recordkeeping requirements contained in 30 CFR Sections 715.11(c), 715.13(d), 715.15(a)(9), 715.15(b)(12), 715.17(j)(3), 715.18(b)(2) and (6), 715.19(b), (c), (d) and (e)(4) have been approved by the U.S. General Accounting Office under number B-190462 (R0494).

## **SECTION 716.7 [Amended]**

6. Included after Section 716.7 in Part 716 is the following note:

NOTE. - The reporting requirements contained in 30 CFR 716.7(c), (d) and (e) have been approved by the U.S. General Accounting Office under number B-190462 (R0495).

## **SECTION 717.20 [Amended]**

7. Included after Section 717.20 in Part 717 is the following note:

NOTE. - The reporting requirements contained in 30 CFR 717.18(b)(2) and (6) have been approved by the U.S. General Accounting Office under B-190462 (R0496).

**SECTION 718.1 [Amended]**

8. Included after Section 718.1 in Part 718 is the following note:

NOTE. - The reporting requirements contained in 30 CFR 718.1(b) have been approved by the U.S. General Accounting Office under number B-190462 (R0497).

**SECTION 720.13 [Amended]**

9. Included after Section 720.13 in Part 720 is the following note:

NOTE. - The reporting requirements contained in 30 CFR 720.13 have been approved by the U.S. General Accounting Office under number B-190462 (R0498).

**SECTION 725.25 [Amended]**

10. Included after Section 725.25 in Part 725 is the following note:

NOTE. - The reporting and recordkeeping requirements contained in 30 CFR 725.15, 725.23(a) and 725.24 have been approved by the U.S. General Accounting Office under number B-190462 (R0499).

**SECTION 740.28 [Amended]**

11. Included after Section 740.28 in Part 740 is the following note:

NOTE. - The reporting and recordkeeping requirements contained in 30 CFR 740.13(a) and (b), 740.16(e), 740.18, 740.26, and 740.27 have been approved by the U.S. General Accounting Office under number B-190462 (R0500)

**SECTION 795.19 [Amended]**

12. Included after Section 795.19 in Part 795 is the following note:

NOTE. - The reporting requirements contained in 30 CFR 795.11(a) and (b), 795.12, 795.14, 795.16 and 795.17 have been approved by the U.S. General Accounting Office under number B-190462 (R0501).

**SECTION 837.16 [Amended]**

13. Included after Section 837.16 in Part 837 is the following note:

NOTE. - The recordkeeping requirement contained in 30 CFR 837.16 has been approved by the U.S. General Accounting Office under number B-190462 (R0502).

(Sections 201 and 501, Pub.L. 95-87, 91 Stat. 445 (30 U.S.C. 1201).)

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