

FEDERAL REGISTER: 45 FR 41166 (June 18, 1980)

DEPARTMENT OF THE INTERIOR

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

30 CFR Part 780

Coal Mining; Research and Demonstration of Reclamation Technology

ACTION: Consideration of Petition to Amend 30 CFR Chapter VII, Subchapter G. Permits and Coal Exploration Procedures Systems.

SUMMARY: OSM seeks public comment on whether to grant a petition for an amendment to 30 CFR 780 relating to research and demonstration of reclamation technology.

The petition proposes that a new subsection be added to the permanent program regulations at 30 CFR 780 (Reclamation Plan) which would allow the use of alternative reclamation practices for research or demonstration purposes. If OSM grants the petition, rulemaking will be initiated to consider appropriate amendments to OSM's regulations.

DATES: Comments must be received by July 11, 1980, at the address below by not later than 5:00 p.m. A public hearing will be held on July 10, 1980. Representatives of OSM will be available to meet with interested persons upon request between the date of this notice and July 11, 1980. [Page 41167]

ADDRESSES: Written comments must be mailed or hand delivered to: Administrative Record Office, Room 153, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240. The public meeting will be held in the Department of the Interior Auditorium, 18th and C Streets, N.W., Washington, D.C. 20240.

Persons wishing to testify at the hearing should contact the person listed below under "For Further Information Contact." Summaries of meetings with representatives of OSM will be prepared and made available for public review in Room 153 of the Interior South Building.

FOR FURTHER INFORMATION CONTACT: Donald F. Smith, Agricultural Engineer, Division of Research, Office of Surface Mining, U.S. Department of the Interior, Interior South Building, 1951 Constitution Ave., N.W., Washington, D.C. 20240; (202) 343-8032.

SUPPLEMENTARY INFORMATION:

On March 13, 1979, OSM issued permanent program regulations which include systems for surface coal mining and reclamation operations permits and coal exploration procedures in Subchapter G. 44 FR 15350-85, codified at 30 CFR Title VII, Chapter G.A. petition of April 17, 1980, to amend Subchapter G has been submitted to OSM, by the U.S. Department of Agriculture, Reclamation of Lands Affected by Mining (RECLAM) Coordinating Committee. [A copy of the petition is at Appendix A hereto.] The issue of enhancing the opportunities for reclamation research and demonstration or reclamation technology within permit areas has been the subject of continuing discussion between the USDA, Soil Conservation Service and Forest Service, and OSM. Other documents relating to these discussions are contained in the Administrative Record.

The petition seeks to amend 30 CFR Subchapter G by proposing a new section, Sec. 780.28 entitled Reclamation Plan: Reclamation Research and Demonstration of Reclamation Technology. Petitioners' proposed subsection would allow use of alternative reclamation practices for research and demonstration purposes.

These alternative practices would be sponsored by a State or Federal agency pursuant to a study reviewed and approved by the Director, OSM. If approved, such alternative methods for reclamation need not comply with the performance standards of 30 CFR Chapter VII, Subchapter K but would not reduce the public health and safety requirements of those regulations.

30 CFR Title VII, Subchapter J, Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations, is in the process of being amended as the result of a petition from the Mining and Reclamation Council of America (MARC), the Green Mountain Company, and the Travelers Indemnity Company. See 44 FR 28005-08, May 14, 1979; 44 FR 52098, September 6, 1979; and 45 FR 6028-42, January 24, 1980. The latter notice announces proposed amendments to 30 CFR Chapter VII, Subchapter J. Comments received by OSM from the Soil Conservation Service and the Forest Service in regard to the MARC petition and the proposed bonding regulations are being treated together with the USDA-RECLAM petition to amend because of the close relationship between the comment letters and the petition. A copy of these comment

letters are included as Appendix B and Appendix C, respectively OSM seeks public comment as to whether this petition should be granted in whole or in part, and is specifically requesting comments on the following related issues:

- a. Whether Sections 509, 515, 519 of the Act authorize the petitioners' proposed regulation.
- b. Whether Section 711 of the Act and 30 CFR 785.13 relating to experimental practices reclamation are appropriate vehicles for research.
- c. Whether existing regulations on approval of alternative postmining land uses are appropriate vehicles for reclamation research.
- d. How bond release for research and development areas should be affected.

PUBLIC COMMENT PERIOD: The comment period on the petition will extend until July 11, 1980. All written comments must be received at the address given above by 5 p.m. on July 11, 1980. Comments received after that hour will not be considered or included in the administrative record on this petition. The Office cannot insure that written comments received or delivered during the comment period to any other location than specified above will be considered and included in the administrative record on this petition.

AVAILABILITY OF COPIES: Copies of 30 CFR Subchapters G and J and the USDA RECLAM petition, and additional information on the proposed bonding regulations, are available and may be obtained at the following offices:

OSM Headquarters, U.S. Department of the Interior, South Building, Room 153, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; (202) 343-4728.

OSM Region I, First Floor, Thomas Hill Building, 950 Kanawha Boulevard East, Charleston, West Virginia 25301; (304) 342-8125.

OSM Region II, 530 Gay Street, S.W., Suit 500, Knoxville, Tennessee 37902; (615) 637-8060.

OSM Region III, Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204; (317) 269-2609.

OSM Region IV, 818 Grand Avenue, Scarritt Building, 5th floor, Kansas City, Missouri 64106; (913) 758-2193.

OSM Region V, Brooks Tower Building 1020 15th Street, Denver, Colorado 80202; (303) 837-5511.

Walter N. Heine,
Director, Office of Surface Mining .

APPENDIX A -- PETITION OF USDA, RECLAM COORDINATING COMMITTEE

Mr. Walter N. Heine, Director,
Office of Surface Mining, Reclamation and Enforcement,
U.S. Department of the Interior,
Washington, D.C.

April 17, 1980 .

Dear Mr. Heine:

The USDA Reclamation of Land Affected by Mining (RECLAM) Coordinating Committee petitions the Office of Surface Mining (OSM) for amendment of 30 CFR 780. The enclosed rule amendment which includes suggestions for improvement added at our RECLAM meeting on April 16, 1980, covers the criteria on the needs for reclamation research and demonstration.

A draft of this petition was sent to you on March 18, 1980. The major change from the draft was an addition to (b)(g) to add the following sentence: "The plan will include bonding or alternative arrangement to bonding."

Sincerely,

Edward E. Thomas,
Alternate Chairman, USDA RECLAM Coordinating Committee .

Enclosure

Enclosure: Proposed New Section to be Used in Petition to OSM for Rule Amendment. Section 780.28 Reclamation Plan: Reclamation Research and Demonstration of Reclamation Technology.

(a) Paragraphs (b) and (c) of this Section apply to any State or Federal Agency that assumes responsibility on a designated area for the purpose of performing reclamation research and/or demonstration of reclamation technology.

The purpose of this Section is to outline provisions whereby reclamation research and demonstration of reclamation technology sponsored by State or Federal Agencies may occur after a mining permit has been issued.

This Section applies to the use of alternative reclamation practices for research or demonstration purposes. These practices need not comply with specific environmental protection performance standards of Subchapter K or a regulatory program, if approved pursuant to this Section. [Page 41168]

No person should engage in or maintain reclamation research and/or reclamation technology unless that person is sponsored by a Federal Agency with responsibility for said research activities.

Activities performed under this Section shall not reduce the protection afforded public health and safety below that provided by the requirement of Subchapter K in the Permanent Program Performance Standards and the regulatory program.

(b) The research organization shall submit for each study the following information for review and approval by the Director:

- (1) A concise statement of the problem to be analyzed.
- (2) The objective of the study.
- (3) Brief statement of methods of conduct of the study.
- (4) Map of plot location.
- (5) Mining permit number.
- (6) Copy of cooperative agreements with mining company and/or (landowners).
- (7) Expected duration of study.
- (8) Potential benefits and beneficiaries.
- (9) A plan to reclaim research areas that do not meet standards when study is completed. The plan will include bonding or alternative arrangements to bonding.

(c) Upon completion or termination of the study, a final report will be sent to the Director.

APPENDIX B -- COMMENT LETTER OF SOIL CONSERVATION SERVICE

Mr. Walter N. Heine, Director,
Office of Surface Mining, Reclamation and Enforcement,
U.S. Department of the Interior, Washington, D.C.

March 18, 1980 .

Dear Mr. Heine:

The U.S. Department of Agriculture Soil Conservation Service (SCS) has reviewed the proposed amendments to the permanent regulatory program (30 CFR Chapter VII, Subchapter J) as outlined in the Federal Register, Vol. 45, No. 17, dated January 24, 1980.

In making this review, we discussed our comments with Forest Service, Science and Education Administration, including Agricultural Research, Cooperative Research, and Extension. All of the agencies agree with the specific suggestions developed originally by Forest Service as follows:

1. Section 805.13, paragraph (a) would be worded as set forth below. Additional wording is underscored.

(a) Liability under performance (bonds) applicable to a permit shall continue until all reclamation, restoration and abatement work required of persons who conduct surface coal mining and reclamation operations under requirements of the Act, this Chapter, the regulatory program, and the provisions of the permit have been completed, *or responsibility is assumed by State or Federal Agencies or organizations for reclamation research activities or demonstration of reclamation technology*, and the permit terminated by release of the permittee from any further liability in accordance with 30 CFR Part 807.

2. Section 807.12, paragraph (e)(2) would be revised to include subparagraph (vi).

(vi) Responsibility for a designated area is assumed by Federal or State Agencies or organizations for reclamation research activities or demonstration of reclamation technology.

In addition we have the following general comments:

Specific reference to reclamation research and demonstration is needed. Additional technology is required to minimize adverse environmental effects of surface mining and provide for the most beneficial uses of mined lands.

To encourage research and field demonstrations in reclamation and to promote cooperation between research organizations and mine operators, we feel that it would be desirable to make some provisions for early release of reclamation performance bonds on specific delineated areas that are dedicated to reclamation research and demonstration of reclamation technology. In most cases, research areas will not include an entire increment of a permitted area. Therefore, a need exists to provide release of performance bonds on entire increments within which research plots are located provided such increments otherwise qualify for release of performance bonds.

Cooperation in reclamation research will be greatly enhanced if the entire performance bond is released at the time research or demonstration areas are delineated and responsibility assumed by the research agency or organization. It would further promote cooperation if the bond for the research area could be released even prior to release of the increment in which the plot is located.

USDA agencies already have ongoing reclamation research and demonstrations with mining companies. SCS has carried out plant materials field trials on mined lands for nearly 30 years. Cooperative Research, through State Experiment Stations, has many research projects in operation on mined lands. Forest Service and Agricultural Research also have the framework for carrying out this work and have completed much needed reclamation technology for many years. Extension is organized to provide a delivery system for research findings.

Sincerely,

David B. Unger, Acting for Norman A. Berg,
Administrator.

cc: R. Max Peterson, Chief, Forest Service
(FS).

Walter I. Thomas, Administrator, Cooperative Research, SEA.

T. B. Kinney, Jr., Acting Administrator, Agricultural Research, SEA.

Mary Nell Greenwood, Acting Administrator, SEA-Extension.

APPENDIX C: COMMENT LETTER OF FORES SERVICE

Mr. Walter Heine, Director,
USDI -- Office of Surface Mining,
1951 Constitution Avenue, N.W.,
Washington, D.C.

March 20, 1980.

Dear Mr. Heine:

We at the Forest Service have reviewed the proposed amendments to the permanent regulatory program (30 CFR Chapter VII, Subchapter J) as outlined in the Federal Register Vol. 45, No. 17, dated January 24, 1980. In the existing or proposed rules we find no specific reference to reclamation research areas.

We believe a continued effort in reclamation research and demonstration is essential to assure the least adverse environmental effects of surface mining while at the same time assuring the most productive uses of mined lands.

Rarely are reclamation research activities planned for an area at the initiation of the mining permit application stage. Rather, most research areas are selected following reclamation phase I. In order to encourage research in reclamation and to promote cooperation between research organizations and mine operators, we feel that it would be desirable to make some provisions for early release of reclamation performance bonds on specifically delineated areas that are dedicated to reclamation research and/or demonstration of reclamation technology. Seldom will research areas encompass an entire increment of a permitted area. Therefore, a need exists to provide release of performance bonds on entire increments within which research plots are located provided such increments otherwise qualify for release of performance bonds.

Cooperation in reclamation research will be greatly enhanced if the entire performance bond is released at the time research areas are delineated and responsibility assumed by the research organization.

These comments are being made under the assumption that research is being carried out by, or sponsored by, State and/or

Federal agencies.

Following are some specific suggestions for incorporating provisions that we feel are necessary:

1. Section 805.13, paragraph (a) would be worded as set forth below. Additional wording is underscored.

(a) Liability under performance (bonds) applicable to a permit shall continue until all reclamation, restoration, and abatement work required of persons who conduct surface coal mining and reclamation operations under requirements of the Act, this chapter the regulatory program, and the provisions of the permit has been completed, *or responsibility is assumed by Federal or State Agencies or organizations for reclamation research activities or demonstration of reclamation* technology, and the permit terminated by release of the permittee from any further liability in accordance with 30 CFR part 807.

2. Section 807.12, paragraph (e)(2) would be revised to include subparagraph (vi).