

FEDERAL REGISTER: 44 FR 6682 (February 1, 1979)

DEPARTMENT OF THE INTERIOR

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

30 CFR Part 715

General Performance Standards; Supplemental Mine Map Required for Small Operators

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement ("OSM") amends 30 CFR 715.11(c) to require additional information in mine maps submitted by small operators. The amendment requires small operators to submit mine maps by March 15, 1979, showing the furthest extent of areas mined as of the termination date of a small operator's exemption, which would have occurred before January 1, 1979. This regulation is necessary both to protect the small operators and to enforce the Act.

EFFECTIVE DATE: March 5, 1979.

FOR FURTHER INFORMATION CONTACT: Harriet B. Marple, Office of Surface Mining, Department of the Interior, Washington, D.C., 20240, (202) 343-5384.

SUPPLEMENTARY INFORMATION:

This regulation is necessary both to protect the small operators and to enforce the Act. The added mine map feature is necessary to avoid penalizing small operators for noncompliance with the full interim regulatory program on those areas mined during the period of the exemption. Secondly, effective enforcement of the Act requires the regulatory authority to know exactly which mining operations are not covered by the small operator's exemption. The present mine map required in Section 715.11(c) does not provide the needed delineation of areas mined during the period of a small operator's exemption.

Notice of the proposed rulemaking was published in 43 FR 56425 (December 1, 1978), which provided for a thirty-day comment period. Opportunity for a hearing was provided if one was requested, but no person requested a hearing. Three written comments were received, which are responded to below.

1. Two comments requested clarification of the date when the new or revised mine map must be submitted. Since the rule will not be promulgated until after January 2, 1979, the commenters questioned how OSM could mandate submission of mine maps prior to January 1, 1979.

The regulation was clarified in response to these comments. Where a new or revised mine map is required of a small operator, it is to be submitted before March 15, 1979.

2. One commenter suggested that this regulation may cause duplication since certain states require a mine map as part of a permit application. If also part of an approved plan, a mine map would be required to be kept by the permittee "at or near the minesite" under 30 CFR 715.11(b). Also, for initial permits issued on or after February 4, 1978, and renewed permits issued on or after May 4, 1978, a state regulatory authority is to send a copy of the permit application directly to OSM pursuant to 30 CFR 720.13(b). The commenter requested that no new mine map be required when the information was already provided to the states and available to OSM under either of the regulations referred to above.

The regulation was modified in response to the comment. Where the information required under the regulation is already contained in a duplicate of a mine map submitted to the State and made available to OSM under 30 CFR 720.13(b), no new map will be required. However, in most cases the previous mine maps do not show the area used or disturbed to facilitate mining as of the date the small operator's exemption expired. Furthermore, mine maps generally cannot be copied on a photocopying machine, and thus a State cannot make an operator's map available to OSM unless the operator has furnished the State with an extra copy. Therefore, in most cases the operator will need to furnish to the State and OSM either new maps or duplicates of maps previously submitted that comply with 30 CFR 715.11(c) as previously in effect; if duplicates are resubmitted, they must be marked with the additional information required by the new Section 715.11(c)(2).

The commenter's suggestion that mine maps contained in approved plans located "at or near the minesite" pursuant to Section 715.11(b) may be adequate for the purposes of the present regulation was rejected. To determine which areas of

the minesite are exempted, the inspector needs to carry the mine map on the inspection. Also the Office may need the mine map as evidence of a violation. Neither of these needs would be met if the operator refused to let a duplicate of the map be taken to the minesite by the inspector or if the operator's office happened to be closed.

3. The Virginia Division of Mined Land Reclamation submitted written comments supporting the mine map requirement as necessary both to protect the small operator and to enforce the Act. It proposed five requirements for such maps. The first proposed requirement was already contained verbatim in the proposed regulations and no change was made. The second was that the scale of the map should be 1 inch -400 feet, and that three copies should be submitted: one for OSM, one for the office file and one for the inspector. A map of the scale of 1 inch-400 feet is larger than one of 1:6000. Since a map on a scale larger than 1:6000 would meet the requirements of the proposed regulation, no change was made. Also, no change was made in the number of copies required to be furnished to OSM because only one copy was required of operators who had no exemption and in any event one is adequate. The third proposed requirement was that the color code and legend required on Virginia maps be used. The map may use any color code and legend so long as the required information is clearly shown. Therefore, no change was made. The fourth proposed requirement was that on multiseam operations a series of overlays be used to delineate the lands from which coal has not yet been removed for each coal seam being mined. While this would be a good way of showing the required information, it is not necessary if the required information can be clearly shown without overlays. The fifth proposed requirement was that the maps should be submitted before March 1, 1979. OSM feels that small operators should have approximately the same time to prepare and submit these maps as was provided with respect to the maps required under redesignated paragraph (c)(1). The revised regulation so provides.

The reporting requirement contained in 30 CFR 715.11(c)(2) has been approved by the U.S. General Accounting Office under No. B-190462 (R 0494).

In Section 715.11(c), the existing paragraph is redesignated (1), and a new paragraph (2) is added. As revised, Section 715.11(c) reads as follows:

SECTION 715.11 - GENERAL OBLIGATIONS.

* * *

(c) *Mine maps.*

(1) * * *

(2) In addition to the requirements of paragraph (c)(1) of this section, any person who conducted surface coal mining and reclamation operations pursuant to a small operator's exemption shall submit before March 15, 1979, two copies of an accurate map of each mine showing the permit area at a scale of 1:6000 or larger. One copy shall be submitted to the state regulatory authority and one copy to the appropriate Regional Director, OSM. The map shall show as of December 31, 1978 or the expiration date of the exemption (whichever is earlier) the lands from which coal had not yet been removed, the lands and structures which had been used or disturbed to facilitate mining, and the lands which had not been disturbed. The map need not be submitted if these areas have already been shown on mine maps submitted to the state regulatory authority, if a copy is available to the appropriate Regional Director pursuant to paragraph (c)(1) of this section or 30 CFR 720.13(b).

Dated: January 29, 1979.

HOPE M. BABCOCK, *Deputy Assistant Secretary for Energy and Minerals* .

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