

FEDERAL REGISTER: 45 FR 34879 (May 23, 1980)

DEPARTMENT OF THE INTERIOR

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

30 CFR Part 725

Reimbursement to States for Purchase of Aircraft

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Final Rules.

SUMMARY: Policies and procedure providing for financial assistance to the States for administration and enforcement of the initial regulatory program were promulgated in December of 1977. The use of funds for the purchase of aircraft was excluded because there was insufficient time for budget planning that is necessary to cover such purchases. Section 725.12(h)(2) of the Office of Surface Mining permanent rules are amended to eliminate the exclusion from funding the purchase of aircraft during the initial regulatory program.

EFFECTIVE DATE: May 20, 1980.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, Room 224, South Interior Building, 1951 Constitution Avenue NW., Washington, D.C. 20240, telephone (202) 343-4221.

SUPPLEMENTARY INFORMATION:

On December 13, 1977, the Secretary of the Interior promulgated the final rules for reimbursement to States for activities performed under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 et seq. (the Act). These regulations established the Office's policies and procedures for providing financial assistance for the administration and enforcement of the initial regulatory program, the development and implementation of permanent State regulatory programs and the administration of cooperative agreements for State regulation of surface coal mining and reclamation operations on Federal lands.

Part 725 sets forth requirements for grant reimbursement under the initial regulatory program. Section 725.12, "Coverage of Grants," identifies items eligible for reimbursement during the initial regulatory program. It explicitly prohibits the use of Federal funds for the purchase of aircraft at Section 725.12(h)(2). The preamble to this section (42 FR 62673) explains that the purchase of aircraft was thought to require more advance budget planning than would be possible during the interim regulatory phase. Funding for aircraft purchase under the permanent program administrative and enforcement grants is authorized under Section 735.14 of the final grant regulations. {34880}

Since promulgation of these regulations, the Office's original June 3, 1980, date for termination of the initial regulatory program was extended seven months. The revised initial regulatory program deadline is January 3, 1981.

In view of the expanded initial regulatory program and corresponding budget planning experience gained by the States since the initial program's inception, OSM no longer believes the rationale for prohibiting the use of federal funds for the purchase of aircraft during the interim program to be valid. Accordingly, 30 CFR 725.12(h)(2) is amended to allow the purchase of aircraft under the initial regulatory program where cost recovery through use charges is prohibited, made impractical or more costly than purchase by existing State laws or procedures. States requesting financial assistance for such purchases will also be required to detail fully conditions making aircraft utilization particularly suited to program implementation and information concerning the projected or, if previously employed, established effectiveness of such use, as compared with any alternative approach.

This amendment is being promulgated today without having been initially proposed since notice and public comment are deemed unnecessary. Use of grant funds for aircraft was discussed in the public comment period on the initial regulations, and with States prior to publication of the proposed regulations. Comments received at both points consistently favored allowing aircraft purchase with grant funds. The only reason cited for not allowing aircraft purchase was that there was insufficient time for the advance budget planning that would be necessary to cover such purchases. This objection is no longer valid. Consequently, the Department has determined that the limitation should be removed.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14, 43 FR 58292, et seq. (December 12, 1978).

The Department of the Interior has determined that this action will not have a significant effect on the human environment and an environmental impact statement will therefore not be prepared.

Primary author of this document is David Halpern, State Programs Division, Office of Surface Mining.

Dated May 19, 1980.

Joan M. Davenport, Assistant Secretary, Energy and Minerals .

TEXT OF AMENDMENT

SECTION 725.12 [Amended]

30 CFR 725.12(h)(2) is amended by deleting the words "excluding aircraft."

(Section 501 and 502, Pub. L. 95-87)

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