

FEDERAL REGISTER: 45 FR 51240 (August 1, 1980)

DEPARTMENT OF THE INTERIOR

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

30 CFR Parts 784 and 817

Surface Coal Mining and Reclamation Operations: Permanent Regulatory Program; Proposed Interpretive Rules

ACTION: Proposed Interpretive Rules.

SUMMARY: The Office of Surface Mining is providing an interpretation of 30 CFR 784.15 and 817.133 to clarify OSM's position that an operator of a long duration underground coal mining operation may apply for approval of an alternative postmining land use through the permit revision procedures of 30 CFR 788.12 towards the end of the mine life rather than in the initial permit application.

DATES: Comments on this interpretive rule must be submitted to the address listed below, by the close of business, September 2, 1980.

ADDRESSES: Written comments must be mailed or hand-delivered to: Office of Surface Mining, U.S. Department of the Interior, Room 153 South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Ray Aufmuth, Division of Applied Research, Technical Services and Research, (202) 343-4022.

SUPPLEMENTARY INFORMATION:

The present regulations (30 CFR 784.15 and 817.133) require underground mining operation applicants to demonstrate, in the permit application, the postmining land use of the area to be affected by surface operations or facilities. The regulations also include requirements for approval by the regulatory authority of an alternative postmining land use.

The plaintiffs in the permanent program litigation (D.C., D.C. No. 79-1144) complained that these sections fail to take into account the long duration of underground mines and that the regulations are impracticable because underground mine operators will have to predict and account for events far in the future by providing detailed, definite plans far in advance of actual implementation. Notice of intent to publish these interpretive rules was published in the Federal Register on December 31, 1979 (44 FR 77454).

The criteria for alternative postmining land use approval and their application to underground mining operations are extensively discussed in the preamble to the permanent program regulations at 44 FR 15242-15245 and 44 FR 15277, March 13, 1979. While OSM believes that the regulations pertaining to postmining land use are sound, it believes that this interpretation will clarify when an underground coal mine operator may apply for an alternative postmining land use. The Office interprets 30 CFR 784.15 and 817.133 to allow an operator to apply for an alternative postmining land use towards the end of the mine life rather than with the initial permit application, if the original permit demonstrates that the land will be returned to its premining land use capability as required by 30 CFR 817.133(a). The application for an alternative postmining land use may be submitted through the permit revision procedures 30 CFR 788.12 in accordance with the permit revisions filing deadlines of 30 CFR 771.21(b)(3) and the public participation requirements 30 CFR Part 786. See 30 CFR 788.12 (b) and (c).

A permit revision to change the postmining land use described in the original application and approved under the original permit to an alternative postmining land use shall constitute a significant alteration from the mining operation contemplated by the original permit. See 30 CFR 788.12(b)(2). If an application for an underground coal mine operation involves Federal lands then the approval for such a permit revision to facilitate an alternative postmining land use must be processed in accordance with the responsibilities assigned to the Director, OSM, in 30 CFR Chapter VII, Subchapter D.

Operators should be aware of the provisions of 30 CFR 805.14. This section provides for the adjustment of the performance bond amount under certain circumstances, including a change in standards of reclamation, methods of mining, or the cost of future reclamation or restoration. Operators are encouraged to coordinate permit revision applications with the regulatory authority to ensure there is no delay in processing the application for revision.

Dated: July 26, 1980.

Walter N. Heine,

Director, Office of Surface Mining and Reclamation.

INTERPRETATIVE RULE:

784.200 - INTERPRETATIVE RULES RELATED TO GENERAL PERFORMANCE STANDARDS

(a) The following interpretation of rules promulgated in Part 784 of this chapter has been adopted by the Office of Surface Mining Reclamation and Enforcement.

(a) *INTERPRETATION OF SEC. 784.15: RECLAMATION PLAN: POSTMINING LAND USES.* (1) The requirements of 30 CFR 784.15(a)(2), for approval of an alternative postmining land use, may be met by requesting approval through the permit revision procedures of 30 CFR 788.12 rather than requesting such approval in the original permit application. The original permit application, however, must demonstrate that the land will be returned to its premining land use capability as required by 30 CFR 817.133(a).

An application for a permit revision of this type, (1) must be submitted in accordance with the filing deadlines of 30 CFR 771.21(b)(3), (2), shall constitute a significant alteration from the mining operations contemplated by the original permit, and (3) shall constitute a significant alteration from the mining operations contemplated by the original permit, and (3) shall be subject to the requirements of 30 CFR Parts 786 and 787.

Interpretative Rule 817.200: Interpretative Rules Related to General Performance Standards

The following interpretation of rules promulgated in Part 817 of this chapter has been adopted by the Office of Surface Mining Reclamation and Enforcement.

(d) *INTERPRETATION OF SEC. 817.133: POSTMINING LAND USE.* (1) The requirements of 30 CFR 784.15(a)(2), for approval of an alternative postmining land use, may be met by requesting approval through the permit revision procedures of 30 CFR 788.12 rather than requesting such approval in the original permit application. The original permit application, however, must demonstrate that the land will be returned to its premining land use capability as required by 30 CFR 817.133(a).

An application for a permit revision of this type, (1) must be submitted in accordance with the filing deadlines of 30 CFR 771.21(b)(3), (2) shall constitute a significant alteration from the mining operations contemplated by the original permit, and (3) shall be subject to the requirements of 30 CFR Parts 786 and 787.

[FR Doc. 80-23147 Filed 7-31-80; 8:45 am]

BILLING CODE 4310-05-M