Dated: November 9, 1987.

T.C. Golden,

Administrator of General Services.

[FR Doc. 87-28060 Filed 12-7-87; 8:45 am]

BILLING CODE 6820-25-M

41 CFR Part 105-55

Collection of Claims Owed the United States

AGENCY: Office of the Comptroller, GSA.

ACTION: Final rule.

SUMMARY: On August 21, 1987 (52 FR 31642), GSA published for comment in the Federal Register a proposal to establish the right of the General Services Administration (GSA) to collect claims arising under contracts subject to the Contract Disputes Act of 1978, 41 U.S.C., 601 et seq. (CDA), utilizing the provisions of the Debt Collections Act of 1982 (DCA), except that the application of administrative offset procedures in the DCA would not be applied to the CDA claims. The proposed regulations also established the right of GSA to collect through administrative offset for claims arising under contracts subject to the CDA pursuant to the Government's right under common law. The amendments were designed to supplement the General Services Administration current regulations for collection of claims owed the United States as published in Title 41 of the Code of Federal Regulations, Part 105-55.

No parties submitted comments to GSA's proposal.

DATE: December 8, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald J. Dobranski, Office of Finance, Financial Information Control Division (BCD) 202-535-7620.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of E.O. 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and the consequence of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 105-55

Claims.

PART 105-55—COLLECTION OF CLAIMS OWED THE UNITED STATES

1. The authority citation for Part 105-55 continues to read as follows:

Authority: 31 U.S.C. 3701-3719; Pub. L. 97-365, 96 Stat. 1754.

2. Section 105-55.003 is amended by revising paragraph (a) to read as follows:

§ 105-55.003 Applicability.

(a) This part applies to all claims due the United States under the Federal Claims Collection Act, as amended by the Debt Collection Act, arising from activities under the jurisdiction of the General Services Administration, except for the collection by administrative offset of those claims arising out of contracts subject to the Contracts Disputes Act of 1982, 41 U.S.C. 601 et. seq. The word "claims" includes but is not limited to amounts due the United States from fees, overpayments, fines, civil penalties, damages, interest and other sources.

* * * * *

3. Section 105-55.007 is amended by revising paragraphs (a) and (d) to read as follows:

§ 105-55.007 Collection by offset.

(a) Whenever feasible, after a debtor fails to pay the claim, request a review of the claim, or make an arrangement for payment. The Comptroller or his appropriate regional designee will collect claims under this part by means of administrative offset against obligations of the United States to the debtor, pursuant to 31 U.S.C. 3716, except offset of Federal salaries and claims arising out of contracts subject to the Contract Disputes Act of 1978, 41 U.S.C. 601 et. seq.

* * * * *

(d) The offset of claims arising out of contracts subject to the Contract Disputes Act of 1978, 41 U.S.C. 601 et. seq. will be made pursuant to the Government common law right of offset.

* * * * *

Dated: November 12, 1987.

Raymond A. Fontaine,

Comptroller.

[FR Doc. 87-28058 Filed 12-7-87; 8:45 am]

BILLING CODE 6820-BN-M

41 CFR Parts 201-1, 201-2, 201-23, and 201-24

[FIRMR Temp. Reg. 13, Supp. 1]

Temporary Implementation of the Title VIII, Paperwork Reduction Reauthorization Act of 1986, Pub. L. 99-500 Regarding Automatic Data Processing Equipment

AGENCY: Information Resources Management Service, GSA.

ACTION: Temporary regulation, supplement.

SUMMARY: This supplement extends Federal Information Resources Management Temporary Regulation 13 for one additional year. Temporary Regulation 13 implemented applicable portions of the Paperwork Reduction Reauthorization Act of 1986. The statute provided a new definition of "automatic data processing equipment" under Pub. L. 89-306, as amended (Brooks Act). The intent of this extension is to permit additional comments to be incorporated into a proposed codification amendment and to continue temporary implementation of the statute.

DATES: Effective date: December 23, 1987.

Expiration date: December 23, 1988.

Comments are due: January 7, 1988.

ADDRESS: Comments should be addressed to: General Services Administration (KMPR), Project 87.16A[P], Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Phillip R. Patton or William R. Loy, Regulations Branch (KMPR), Office of Information Resources Management Policy, telephone (202) 566-0194 or FTS, 566-0194.

SUPPLEMENTARY INFORMATION: (1) Temporary Regulation 13 was published in the Federal Register on December 23, 1986 (51 FR 45887). Pursuant to 41 U.S.C. 418(d), the publication of the original rule was waived because of urgent and compelling circumstances to implement Pub. L. 99-500 which was effective as of October 18, 1986. The publication of a proposed rule is again waived because the extension of the expiration date of the original rule is of a technical or editorial nature without a change of substance. The rule itself is a solicitation for public comments while additional rulemaking is in progress.

(2) Additional comments are welcome, and all comments received during the temporary regulation supplement comment period will be considered in a proposed codification amendment.

(3) The General Services Administration (GSA) has determined

that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for and the consequences of the rule. The rule is written to ensure maximum benefits to Federal agencies. This Governmentwide management regulation will have little or no cost effect on society. The temporary rule is therefore not likely to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

List of Subjects in 41 CFR Parts 201–1, 201–2, 201–23, and 201–24

Computer technology, Government procurement, Government property management. Information resources activities, Competition.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and sec. 101(f), 100 Stat. 1783–345; 40 U.S.C. 751(f).

In 41 CFR Chapter 201, FIRMR Temporary Regulation 13, Supplement 1 is added to Appendix A at the end of the chapter.

[FIRMR Temp. Reg. 13; Supplement]

November 10, 1987

To: Heads of Federal agencies

Subject: FIRMR Implementation of the "Paperwork Reduction Reauthorization Act of 1986" (Title VIII, Public Law 99–500)

1. *Purpose.* This supplement extends the expiration date of FIRMR Temporary Regulation 13 for one additional year. Accordingly, the comment period is also extended to January 7, 1988. This extension will permit additional comments to be incorporated into a proposed codification amendment and continue temporary implementation of the subject statute.

2. *Effective date.* This regulation is effective December 23, 1987.

3. *Expiration date.* The expiration date of this temporary regulation is extended from December 23, 1987, to December 23, 1988.

T.C. Golden,

Administrator of General Services.

[FR Doc. 87–28059 Filed 12–7–87; 8:45 am]

BILLING CODE 6820–25–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3420 and 3460

[AA–650–07–4121–2410; Circular No. 2601]

Competitive Leasing and Environment; Amendments to the Federal Coal Management Program

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking is designed to clarify or modify those sections of the Federal coal management program regulations related to multiple use decisions involving coal and certain of the 20 different coal unsuitability criteria and their application during the Bureau of Land Management's land use planning process. The changes made by the final rulemaking arise from the Office of Technology Assessment's study of the Federal coal management program's treatment of environmental issues, and from the Secretary of the Interior's decisions of February 1986 on the Federal coal leasing program.

EFFECTIVE DATE: January 7, 1988.

ADDRESS: Inquiries or suggestions should be sumitted to: Director (650), Bureau of Land Management, Room 3610, Main Interior Bldg., 1800 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Carole Smith, (202) 343–6821.

SUPPLEMENTARY INFORMATION: A proposed rulemaking that would amend certain of the procedures by which land use planning is conducted for coalbearing Federal lands was published in the **Federal Register** on May 15, 1987 (52 FR 18404). During the 30-day comment period provided in the proposed rulemaking, ten comments were received: Five from Federal agencies; two from industry trade associations; one from a private advocacy group; one from an association of local governments; and one from an environmental group. The comments covered all aspects of the proposed rulemaking and are discussed below.

General Comments

Four comments were received that covered what they perceived as the overall effect of the proposed rulemaking. Three of these four comments expressed the view that the proposed rulemaking did not provide adequate protection for sensitive resources and their environmental values and uses, such as wetlands and units of the National Park System and failed to ensure reclaimability for sensitive areas. These comments requested that the final rulemaking include additional unsuitability criteria covering wetlands, units of the National Park System and reclaimability. The fourth comment on the proposed rulemaking expressed the view that the existing regulations unduly restricted coal development on the public lands and that this restriction endangered the United States economy, national security, and the national energy program. This comment requested that the final rulemaking provide a process for the reinstatement of coalbearing lands later in the coal leasing process if dropping them from further consideration for coal leasing during land use planning was later found to be unjustified. This comment also requested that coal lessees be guaranteed the right to develop a lease which had been finalized through the complex and lengthy regional coal leasing process mandated by the existing regulations.

The final rulemaking does not add any new coal unsuitability criteria. The Secretary of the Interior reviewed the arguments in favor of establishing new criteria during the decision process and decided against the addition of any new criteria. No new reasons were presented in the comments on the proposed rulemaking that would justify having the Secretary revisit the decision not to add any new criteria. Thus, the final rulemaking reflects the Secretary's February 1986 decision on this issue.

The final rulemaking has not adopted the request in one of the comments that a process be added to the existing regulations under which coalbearing lands dropped from further consideration for coal leasing during land use planning could later be reinstated during regional coal activity planning. A similar comment was considered in connection with the discussion of whether or not to reinstate thresholds in the Federal coal management regulations (See Appendix IV of the Secretarial Issue Document—Federal Coal Management Program, February 1986 and 51 FR 18884). The comment presented no evidence that the U.S. economy was being harmed by the current level of coal leasing, nor has the Department of the Interior received any evidence that the current land use planning process is unnecessarily restricting the amount of Federal coal available for lease.

The reasons that the Department of the Interior cannot guarantee Federal coal lessees the right to develop their leases have been fully discussed in previous rulemaking documents (See 51 FR 18884, 18885–18886) and no purpose would be served to discuss this issue again.

One other general comment on the proposed rulemaking was received. The comment was concerned about what it believed was the Department of the Interior's superficial and inadequate analysis of valid criticisms of the way in which the unsuitability criteria in the existing regulations are being applied.

The comment suggested that an environmental impact statement should be prepared to analyze the revisions made by the proposed rulemaking before those changes are adopted in a final rulemaking.

The analyses upon which the proposed rulemaking is based are adequate for the publication of this final rulemaking. These analyses include the Final Supplement to the Federal Coal Management Program Environmental Impact Statement (October 1985) and the Secretarial Issue Document (February 1986). The Department of the Interior is of the view that these analyses are an adequate basis for the Secretary's decisions of February 1986. Implementation of the criteria is being addressed in the supplemental program guidance for land use planning. If, in the future, it is determined that further revisions of the regulations concerning the unsuitability criteria are needed, the Department will propose them for public review and comment. Any future changes in the regulations will be based on the experience gained in implementing the revised regulations, just as the proposed rulemaking that is the basis of this final rulemaking was issued after a study of the application of the unsuitability criteria contained in the coal management regulations of 1979 and 1982.

Multiple Use Screen (43 CFR 3420.1–4(e))

In accordance with the February 1986 decisions of the Secretary of the Interior, the proposed rulemaking would modify section 3420.1–4(e) of the existing regulations to increase the number of factors receiving increased emphasis during the multiple use tradeoff screen of land use planning. Two comments on this section of the proposed rulemaking suggested that the list of areas that are to receive increased emphasis be increased by the final rulemaking to include municipal watersheds, fragile and historic lands, renewable resource lands, and natural hazard lands. The final rulemaking has not adopted this suggested change. Municipal watersheds are already protected by criterion number 17 (See 43 CFR 3461.1(q)(1)), and adding this item to those areas that are to receive increased emphasis during the multiple use tradeoff screen would be redundant and confusing. Further, fragile, historic, renewable resource, and natural hazard lands are already considered as part of the multiple use tradeoff screen at a level commensurate with their significance in each case.

The areas suggested in the comment have not been added to the list by the final rulemaking because these areas also can be protected at later stages in the coal leasing process as well as during land use planning. It is not clear that the only way to mitigate impacts to these areas is not to lease them in the first place. During the preparation of regional coal leasing environmental impact statements, mitigating measures may be developed which would allow these areas to be further considered for leasing without sacrificing inherent values in the lands.

One comment on this section was of the view that the adding of factors for increased emphasis during the multiple use tradeoff screen had the effect of adding new unsuitability criteria to the regulations. The final rulemaking adopts the provision of the proposed rulemaking that adds factors for increased emphasis during the multiple use tradeoff screen because the tradeoff screen preserves the discretion of the authorized officer to balance the competing resources. If these had been added as unsuitability criteria, the authorized officer's discretion would have been significantly limited.

Joint Determination (43 CFR 3420.1–6)

The proposed rulemaking would require the Bureau of Land Management to jointly determine with other affected surface management agencies the acceptability of the Bureau's lands for further consideration for coal leasing if mining on those lands could affect the other agency's lands. The proposed rulemaking also requested public comments on the feasibility of implementing the joint determination process through memoranda of understanding. Five comments were submitted on this proposal.

One comment supported using memoranda of understanding to implement the joint determination process, with the other four comments opposed to this concept. Two of the four opposing comments expressed the view that the joint determination process did not go far enough because it did not provide special protection for lands in the National Park System. One of these two comments suggested that the final rulemaking should describe the procedures by which the joint determination process would be conducted. The two other comments that opposed the use of memoranda of understanding did so for different reasons, with one of them suggesting that it was a violation of the multiple use management mandate of the Federal Land Policy and Management Act of 1976. The other comment expressed the view that the proposal was not needed because other surface management agencies were adequately consulted during land use planning when their lands were affected.

The final rulemaking has not adopted any of the suggested changes and retains the language of the proposed rulemaking in § 3420.1–6. The Bureau of Land Management will work closely with the other affected surface management agency or agencies in an effort to resolve differences. If, after thorough negotiations, the issues cannot be resolved between the agencies, they will be resolved through the established issue resolution mechanism of the Department of the Interior.

The proposed joint determination requirement set forth in the proposed rulemaking provides adequate protection for lands in the National Park System and for other sensitive lands. Both the proposed and final rulemakings reflect one of the decisions of the Secretary of the Interior (Number 3), which was designed to protect sensitive environmental values and lands, such as lands in the National Park System, from the adverse effects of coal leasing. The comments on this provision of the proposed rulemaking did not give examples of any instance in which lands in the National Park System have been damaged by the Bureau of Land Management's existing land use planning procedures. Adding the provision for joint determination to the coal leasing regulations will provide an additional step that will be used to protect sensitive lands such as those in the National Park System.

The joint determination provision of the proposed rulemaking does not violate the multiple use mandate of the Federal Land Policy and Management Act. While the Federal Land Policy and Management Act gives the Bureau of Land Management the statutory basis under which it carries out its responsibilities and programs, it is only one of many statutes with which the Bureau must comply. In meeting its responsibilities, the Bureau of Land Management also must comply with the provisions of the clean air and water quality statutes and the National Environmental Policy Act. The Bureau also must consult with other surface management agencies to determine that its activities harmonize, insofar as possible, with the activities of these agencies. The joint determination provision was designed to assist the Bureau in fulfilling these other responsibilities. Even though one of the surface management agencies with whom the Bureau consults in carrying out its responsibilities continues to express concern about being left out of the process that leads to the decision of

how much coal and which coal tracts should be offered for lease, the Secretary of the Interior has determined that the joint determination provision contained in the proposed rulemaking adequately mitigates this concern, and the final rulemaking has adopted the provision without change.

Three comments were received in response to the request in the proposed rulemaking for comments on using memoranda of understanding in lieu of the joint determination provision. One of the comments supported the use of memoranda of understanding, but cautioned that effective implementation was necessary for this process to be effective. The other two comments did not support the use of memoranda of understanding because of their view that an existing memorandum of understanding between the Bureau of Land Management and the National Park Service was vague and non-specific as to details of how the unsuitability determinations would be made. These comments were of the view that the only way to truly protect the interest of another surface management agency was to include the determination process in the regulations.

After carefully reviewing the comments on the issue of memoranda of understanding, the Department of the Interior decided to implement the determination process through inclusion of its provision in the final rulemaking. This decision does not change the Bureau's position that memoranda of understanding are useful in providing guidelines for consultation and cooperation among surface management agencies, and the Bureau will continue to use them in carrying out its programs.

General Comments on Proposed Revisions to the Unsuitability Criteria

Two comments raised concerns about the Bureau of Land Management's use of exceptions and exemptions to the unsuitability criteria, with one of the comments expressing the view that the Bureau uses the exceptions and exemptions to allow far too much acreage to be given further consideration for coal leasing. This comment went on to suggest changing the existing practice of considering those lands suitable pending further study to a practice of considering such lands unsuitable pending further study. The other comment supported the use of the exceptions and exemptions because the land use planning process dropped out too much land for consideration for further leasing with no opportunity for reinstating those lands until the next round of regional activity planning, usually about 4 years later.

The Department of the Interior continues to support the use of exceptions and exemptions to specific unsuitability criteria. Exemptions, where they apply to specific unsuitability criteria, are granted by statute and constitute valid existing rights. Exceptions are applied to unsuitability criteria in cases where inadequate data exist to determine what impacts might occur if general areas of lands containing coal deposits were leased. During the environmental analysis process, when specific parcels of coalbearing lands are analyzed, impacts to the resource covered by the unsuitability criteria can be studied. If the studies show that the impacts to the resources cannot be mitigated acceptably, the lands will be dropped from further consideration for leasing. While the Department does not condone the indiscriminate use of exceptions during land use planning, there are many opportunities later in the coal leasing process to eliminate lands which are not acceptable for leasing. Finally, this comment is factually incorrect in one respect. Lands which have been dropped from further consideration for leasing under the Federal coal management program are dropped from further consideration not just for one round of regional activity planning but until the land use plan itself is reviewed and updated.

Criterion 2 (43 CFR 3461.1(b))

One comment supported the change made by the proposed rulemaking to criterion 2, while another comment disagreed with the proposed revision which would add an exception to criterion 2 making rights-of-way and easements granted after a land use plan was approved subject to being moved in order to facilitate the mining of coal. The comment that opposed the change was of the view that rights-of-way and easements were property rights that should be protected from later activities, such as coal mining. Even if it is assumed that a right-of-way or easement across public lands are property rights, the "right" would be defined according to the limitations or qualifications places on the right-of-way or easement when it is issued. Nevertheless, the holders of those rights-of-way and easements may have spent considerable sums of money in exercising their rights under the right-of-way or easement. Nevertheless, upon careful consideration of this issue, the Department has determined that the final rulemaking will not adopt this provision of the proposed rulemaking. Current land use plans identify several categories of lands for right-of-way purposes, among them lands preferred for right-of-way corridors, areas where rights-of-way are excluded as a use, and areas where rights-of-way would be granted only if there were no alternative. Land managers can work within these categories and notify right-of-way and easement holders of any possible uses that might interfere with the lands being used for a right-of-way or easement. If Federal coal leasing becomes feasible for an area containing a right-of-way or easement, the situation will be worked out on a case-by-case basis, taking into account the requirements of the resource management plan and other relevant factors.

Criterion 9 (43 CFR 3461.1(i))

One comment raised questions concerning the legality of the provision in the proposed rulemaking that would have changed this criterion, while another comment stated that the existing criterion gave adequate protection to threatened and endangered species and their critical habitat. The change would add species proposed as threatened or endangered species and their proposed critical habitats to those threatened and endangered species and designated critical habitats already covered by the criterion. The comment that raised questions concerning the legality of the proposed change also expressed the view that the proposed change was arbitrary and capricious. The proposed change to criterion 9 is not arbitrary, capricious, or illegal. The proposed change arose from concerns about the length of the process by which threatened and endangered species are designated and their habitats determined to be critical. The designation process is managed by the U.S. Fish and Wildlife Service. During the study process, which may take several years, other Federal agencies are proceeding with their mandated programs, some of which may affect the animal and plant species under study. The change in the proposed rulemaking was designed to protect these "study" species and their habitats. Although the Bureau of Land Management consults with the Fish and Wildlife Service during land use planning, the task group studying the application of this unsuitability criterion recommended that the criterion be amended as provided in the proposed rulemaking. The final rulemaking has adopted the provision of the proposed rulemaking without change.

Criterion 15 (43 CFR 3461.1(o))

Two comments were received on the change made by the proposed rulemaking to criterion 15. The change would expand the criterion to include sensitive plant species and would give examples of the types of plant species that might qualify as "sensitive." One comment took issue with the example provided in the proposed rulemaking, that of extreme range. The comment expressed the view that the inclusion of sensitive plants and the example given went beyond the mandate of the Endangered Species Act and would have adverse impacts on coal leasing. The second comment expressed the view that the change contained in the proposed rulemaking was not needed and that the concerns addressed by the proposed rulemaking could be resolved through mitigation measures later in the process.

The change made by the proposed rulemaking was not intended to conform to the requirements of the Endangered Species Act, but to respond to a desire on the part of some conservation groups to recognize certain plant species that did not qualify as either threatened or endangered but, nevertheless, were unique or sensitive in portions of their range because of location, local conditions, or other factors. The term "extremes of range" was meant to describe the condition of a plant species being at the limit of its growing conditions. Such a plant species would be "sensitive" to changes in the environment, whether those changes were natural or man-made. Further, the application of the revised criterion would not necessarily exclude the lands containing the plant species from further consideration for coal leasing, as impacts to the sensitive species might be mitigated. The final rulemaking has adopted the change to criterion 15 made by the proposed rulemaking.

Criterion 20 (43 CFR 3461.1(t)(1))

Three comments objected to the change made by the proposed rulemaking to criterion 20 which allow Indian tribes to recommend new unsuitability criteria to the Secretary of the Interior. Two comments were of the view that the change was not necessary because the Bureau of Land Management consulted with Indian tribes when those tribes were affected by Federal coal leasing activities. The other comment was concerned that the Secretary would adopt unsuitability criteria recommended by an Indian tribe without providing an opportunity for public review and comment.

All groups and individuals, including Indian tribes, are provided the opportunity to recommend unsuitability criteria to the Secretary of the Interior under the Special Rulemaking provision in 43 CFR Part 14. These provisions allow the Secretary to accept petitions from the public for new regulatory provisions, waivers of regulations, or modifications of existing regulations. The change made by the proposed rulemaking merely recognizes this opportunity in the context of the coal management program. The existing regulations require that a recommendation by the State may be adopted only through the rulemaking process. Thus, the change by the proposed rulemaking is adopted and if an Indian tribe recommends new unsuitability criteria to the Secretary, the Secretary must seek public comment on the recommendation as part of the rulemaking process before deciding whether to adopt or reject it. The final rulemaking has adopted this provision of the proposed rulemaking.

The principal author of this final rulemaking is Carole Smith, Division of Solid Mineral Leasing, Bureau of Land Management, assisted by the staff of the Division of Legislation and Regulatory Management, Bureau of Land Management, and the staff of the Office of the Solicitor, Department of the Interior.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The changes made by this final rulemaking will not affect small entities to any greater or lesser extent than any other entities interested in obtaining Federal coal leases. The changes affect the Federal government by imposing higher standards for use in determining whether coalbearing public lands clear the land use planning process. The changes ideally will result in making coal that can be mined economically and in an environmentally safe manner available to individuals and groups interested in obtaining Federal coal leases and to the public which consumes the coal in meeting its energy needs.

The information collection requirements for 43 CFR Group 3400 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned approval number 1004–0073.

List of Subjects

43 CFR Part 3420

Administrative practice and procedure, Coal, Government contracts, Intergovernmental relations, Mines, Public lands—mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 3460

Coal, Environmental protection, Government contracts, Mines, Public lands—mineral resources.

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), the Surface Mining Control and Reclamation Act (30 U.S.C. 1201 *et seq.*), the Multiple Mineral Development Act (30 U.S.C. 521–531), the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), the Federal Coal Leasing Amendments Act, as amended (90 Stat. 1983–1092), and the Act of October 30, 1978 (92 Stat. 2073–2075), Parts 3420 and 3460, Group 3400, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

J. Steven Griles,

Assistant Secretary of the Interior.

September 30, 1987.

PART 3420—[AMENDED]

1. The authority citation for Part 3420 continues to read:

Authority: 30 U.S.C. 181 et seq., 30 U.S.C. 351–359; 30 U.S.C. 521–531; 30 U.S.C. 1201 et seq.; 42 U.S.C. 1701 et seq.; 43 U.S.C. 1701 et seq.; 15 U.S.C. 631–644.

§ 3420.1–4 [Amended]

2. Section 3420.1–4(e) is amended by revising paragraph (3) to read:

(3) Multiple land use decisions shall be made which may eliminate additional coal deposits from further consideration for leasing to protect other resource values and land uses that are locally, regionally or nationally important or unique and that are not included in the unsuitability criteria discussed in paragraph (e) of this section. Such values and uses include, but are not limited to, those identified in section 522(a)(3) of the Surface Mining Reclamation and Control Act of 1977 and as defined in 30 CFR 762.5. In making these multiple use decisions, the Bureau of Land Management or the

surface management agency conducting the land use planning shall place particular emphasis on protecting the following: Air and water quality; wetlands, riparian areas and sole-source aquifers; the Federal lands which, if leased, would adversely impact units of the National Park System, the National Wildlife Refuge System, the National System of Trails, and the National Wild and Scenic Rivers System.

3. Section 3420.1–6 is revised to read:

§ 3420.1-6 Consultation with Federal surface management agencies.

Where a Federal surface management agency other than the Bureau of Land Management administers limited areas overlying Federal coal within the boundaries of a comprehensive land use plan or land use analysis being prepared by the Bureau of Land Management, or where the Bureau of Land Management manages lands on which coal development may impact land units of other Federal agencies, the Bureau of Land Management shall consult with the other agency to jointly determine the acceptability for further consideration for leasing of the potentially impacted lands the other agency administers or lands managed by the Bureau of Land Management that may impact lands of another agency.

PART 3460—[AMENDED]

4. The authority citation for Part 3460 continues to read:

Authority: 30 U.S.C. 181 et seq.; 30 U.S.C. 351–359; 40 U.S.C. 521–531; 30 U.S.C. 1201 et seq.; 43 U.S.C. 1701 et seq.; unless otherwise noted.

§§ 3461.2—3461.5 [Redesignated as §§ 3461.1—3461.4]

5. Sections 3461.2 through 3461.5 are renumbered §§ 3461.1 through 3461.4 and § 3461.1 is renumbered § 3461.5 and is amended by:

§ 3461.1 [Redesignated as 3461.5 and Amended]

A. Amending paragraph (a)(3) by removing the last sentence of that paragraph in its entirety;

B. Amending paragraph (c)(1) by adding immediately after the phrase *"Criterion Number 3."* the sentence "The terms used in this criterion have the meaning set out in the Office of Surface Mining Reclamation and Enforcement regulations at Chapter VII of Title 30 of the Code of Federal Regulations.";

C. Revising paragraph (e) to read:

(e)(1) *Criterion Number 5.* Scenic Federal lands designated by visual resource management analysis as Class I (an areas of outstanding scenic quality or high vessel sensitivity) but not currently on the National Register of Natural Landmarks shall be considered unsuitable.

(2) *Exception.* A lease may be issued if the surface management agency determines that surface coal mining operations will not significantly diminish or adversely affect the scenic quality of the designated area.

(3) *Exemptions.* This criterion does not apply to lands: to which the operator has made substantial legal and financial commitments prior to January 4, 1977; on which surface coal mining operations were being conducted on August 3, 1977, or which include operations on which a permit has been issued.

D. Amending paragraph (g)(1) by removing from where it appears the phrase "All publicly owned places on Federal lands which are included" and replacing it with the phrase "All publicly or privately owned places which are included";

E. Amending paragraph (h)(2) by removing paragraph (i) in its entirety and by renumbering paragraphs (ii) and (iii) as paragraphs (i) and (ii), respectively;

F. Amending paragraph (i)(1) by removing from where it appears the phrase "Federally designated critical habitat for threatened or endangered animal and plant species, and habitat" and replacing it with the phrase "Federally designated critical habitat for listed threatened or endangered plant and animal species, and habitat proposed to be designated as critical for listed threatened or endangered plant and animal species or species proposed for listing, and habitat";

G. Revising paragraph (o)(1) to read:

(o)(1) *Criteron Number 15.* Federal lands which the surface management agency and the state jointly agree are habitat for resident species of fish, wildlife and plants of high interest to the state and which are essential for maintaining these priority wildlife and plant species shall be considered unsuitable. Examples of such lands which serve a critical function for the species involved include:

(i) Active dancing and strutting grounds for sage grouse, sharp-tailed grouse, and prairie chicken;

(ii) Winter ranges crucial for deer, antelope, and elk;

(iii) Migration corridor for elk; and

(iv) Extremes of range for plant species; and

H. Amending paragraph (t) by:

(1) Revising paragraph (1)(i) to read:

(i) Proposed by the State or Indian tribe located in the planning area, and; and

(2) Amending paragraph (2)(ii) by removing from where is appears the phrase "the state, the surface management agency" and replacing it with the phrase "the State or affected Indian tribe, the surface management agency".

§ 3461.2-1 [Amended]

6. Section 3461.2–1(b)(1), formerly § 2461.3–1, is revised to read:

(b)(1) The authorized officer shall make his/her assessment on the best available data that can be obtained given the time and resources available to prepare the plan. The comprehensive land use plan or land use analysis shall include an indication of the adequacy and reliability of the data involved. Where either a criterion or exception (when under paragraph (a) of this section the authorized officer decides that application of an exception is appropriate) cannot be applied during the land use planning process because of inadequate or unreliable data, the plan or analysis shall discuss the reasons therefor and disclose when the data needed to make an assessment with reasonable certainty would be generated. It the case of Criterion 19, application shall be made before approval of the mining permit. In the case of other deferred criteria, application shall be made prior to finalizing the environmental analysis for the area being studied for coal leasing. The authorized officer shall make every effort within the time and resources available to collect adequate and reliable data which would permit the application of Criterion 19 in the land use or activity planning process. When those data are obtained, the authorized officer shall make public his/her assessment on the application of the criterion or, if appropriate, the exception and the reasons therefor and allow opportunity for public comment on the adequacy of the application as required by paragraph (a)(2) of this section.

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations; Arkansas et al.

AGENCY: Federal Insurance Administration, Federal Emergency Management Agency.

ACTION: Final rule.