

Dated: March 5, 1987.

Thomas T. Demery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 87-5435 Filed 3-12-87; 8:45 am]

BILLING CODE 4210-27-M

24 CFR Part 203

[Docket No. R-87-1306; FR-2252]

Eligibility Requirements; Mortgagee Approval; Correction

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner—HUD.

ACTION: Final rule, correction.

SUMMARY: This document corrects two erroneous cross references contained in a final rule setting forth the approval requirements for mortgagees participating in HUD's mortgage insurance programs. The rule was published in the *Federal Register* on February 5, 1987 (52 FR 3606).

FOR FURTHER INFORMATION CONTACT:

Grady J. Norris, Assistant General Counsel for Regulations, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC, 20410, telephone (202) 755-7055. (This is not a toll-free number.)

Accordingly, the following correction is made in FR Doc. 87-2303 published on February 5, 1987 as follows:

§ 203.7 [Corrected]

On page 3611, in the third column, paragraph (c) of § 203.7 is corrected by changing the reference to "section 244(g)" to read "section 244(f)" and by changing the reference to "section 24" to read "section 244".

March 9, 1987.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 87-5374 Filed 3-12-87; 8:45 am]

BILLING CODE 4210-27-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2676

Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR Part 2676). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rates are changing. This amendment adds to the table the rate series for the month of April 1987.

EFFECTIVE DATE: April 1, 1987.

FOR FURTHER INFORMATION CONTACT:

Deborah C. Murphy, Attorney, Corporate Policy and Regulations Department (35400), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; 202-778-8850 (202) 778-8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as

possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (See 5 U.S.C. 533(b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of \$100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans and Pensions.

In consideration of the foregoing, Part 2676 of Subchapter H of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for Part 2676 continues to read as follows:

Authority: Secs. 4002(b)(3), 4219(c)(1)(D), and 4281(b), Pub. L. 93-406, as amended by sections 403(1) and 104(2) (respectively), Pub. L. 96-364, 94 Stat. 1302, 1237-1238, and 1261 (1980) (29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1)).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

§ 2676.15 Interest.

(c) Interest rates.

For valuation dates occurring in the month—	The values of i_t are—														
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}
April 1987	.0825	.08	.0775	.075	.0725	.07	.07	.07	.07	.07	.065	.065	.065	.065	.05875

Issued at Washington, DC, on this 4th day of March 1987.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 87-5444 Filed 3-12-87; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Surface Coal Mining and Reclamation Operations Under the Federal Lands Program; State-Federal Cooperative Agreements, Utah

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) is adopting a cooperative agreement between the Department of the Interior (Department) and the State of Utah (State) for the regulation of surface coal mining and reclamation operations on certain coal exploration operations on Federal lands in Utah. Such a cooperative agreement is provided for under section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This final rule provides the terms of the cooperative agreement.

EFFECTIVE DATE: April 13, 1987.

FOR FURTHER INFORMATION CONTACT:

Dr. Fred Block, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240, Telephone: (202) 343-5145.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Rules Adopted and Responses to Public Comments on Proposed Rule
- III. Procedural Matters

I. Background

The State of Utah's Application

Section 523(c) of SMCRA, 30 U.S.C. 1201 *et seq.*, and the implementing regulations at 30 CFR Parts 740 and 745, allow a State and the Secretary of the Interior (Secretary) to enter into a permanent program cooperative agreement if the State has an approved State program.

Permanent program cooperative agreements are authorized by section 523(c) of SMCRA, which provides that "any State with an approved State program may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation

operations on Federal lands within the State, provided the Secretary determines in writing that such State has necessary personnel and funding to fully implement such a cooperative agreement in accordance with the provisions of [SMCRA]" (30 U.S.C. 1273(c)).

On March 3, 1980, Utah submitted its proposed permanent regulatory program. The Secretary reviewed and partially approved and partially disapproved the permanent regulatory program on October 24, 1980 (45 FR 47481). Utah resubmitted its program on December 23, 1980. The Secretary conditionally approved the Utah program on January 21, 1981 (46 FR 5899).

Utah submitted a proposed permanent program cooperative agreement as part of its March 3, 1980, proposed permanent program submission. On February 3, 1982, Utah submitted a revised permanent program cooperative agreement.

OSMRE initially proposed the Utah cooperative agreement in a notice published in the *Federal Register* on March 31, 1982 (47 FR 13738). That notice announced that a public comment period would close on June 1, 1982, and tentatively scheduled a public hearing for May 13, 1982. Because no one asked to testify at the hearing, it was cancelled on May 10, 1982 (47 FR 20002).

OSMRE completed its first interim oversight report in March 1982. In October 1982, OSMRE completed a formal evaluation of the Utah program, recommending changes to improve performance of permitting, inspection, and enforcement responsibilities. OSMRE deferred further action on the cooperative agreement until those changes were implemented.

The State revised or established new procedures in implementing its program, which OSMRE reevaluated in its FY '85 State program oversight evaluation. Based on that annual report, OSMRE determined that the State had substantially resolved earlier concerns.

On April 4, 1984, the State of Utah submitted a revised permanent program cooperative agreement, which OSMRE proposed and solicited comment on in the *Federal Register* of February 19, 1986 (51 FR 6082), and which is the subject of this rulemaking.

Section 745.11(b) of OSMRE's regulations require that certain information be submitted with a request for a permanent program cooperative agreement, if not previously submitted in the State program. The State submitted an initial draft proposed permanent program cooperative agreement, and supporting information

required by 30 CFR 745.11(b), on March 3, 1980. Most of the information relating to the budget, staffing, equipment, organization and duties of the State regulatory authority, the Utah Division of Oil, Gas and Mining (DOGM), was described in Utah's Proposed Permanent Coal Program Text. Also, the Attorney General of State of Utah submitted a written certification that no State statutory, regulatory or other legal constraint exists which would limit the capability of the Department of Natural Resources, acting through DOGM, to fully comply with section 523(c) of SMCRA, as implemented by 30 CFR Parts 740 and 745.

Relation to the Federal Lands Program of SMCRA

The nature and extent of the Secretary's ability to delegate authority for surface coal mining operations on Federal lands to States through cooperative agreements was a subject of a Federal District Court opinion in *In Re: Permanent Surface Mining Regulation Litigation II*, Civil Action No. 79-1144 (D.D.C.; July 6, 1984). The Utah Cooperative Agreement (Agreement) is consistent with that opinion, and provides for Secretarial delegation of authority under SMCRA and retains the Secretary's non-delegable responsibilities under the Mineral Leasing Act (MLA).

Although OSMRE has not yet amended the scope of the Federal lands program, 30 CFR Chapter VII, Subchapter D, to be consistent with the District Court decision, this agreement encompasses the salient features of that decision. If changes to the Federal lands program are adopted which are not covered by this Agreement, OSMRE and the Secretary will promptly initiate the steps necessary to conform the Agreement.

OSMRE had proposed a cooperative agreement with the term "lands subject to the Federal lands program" in order to ensure that changes to the applicability of the Federal lands program would not require changes to this agreement. However, for clarity OSMRE has adopted the phrase "Federal lands" instead.

II. Discussion of Rules Adopted and Response to Public Comment on Proposed Rules

A summary of the final Agreement appears below. The proposed Agreement, which was published in the *Federal Register* on February 19, 1986, announced that the public comment period would close on March 21, 1986 and tentatively scheduled a public

hearing on March 13, 1986. Because no one asked to testify at the hearing, it was cancelled, as provided in the February 19, 1986 *Federal Register* notice.

The agreement has been revised and modified in response to public comments, including those submitted in response to the initially proposed rule which was published on March 31, 1982, and further discussions with the State of Utah. Other organizational and editorial changes have been made for clarity and to improve readability, logical presentation and consistency. Throughout the document the acronym "OSM" for the Office of Surface Mining Reclamation and Enforcement has been changed to "OSMRE." The acronym "SMCRA" for the Surface Mining Control and Reclamation Act" is used in place of the term "Federal Act."

Article I: Introduction, Purposes, and Responsible Agencies

Paragraph A of Article I sets forth the legal authority for the Agreement, which is provided by section 523(c) of SMCRA. This paragraph also states that the Agreement provides for State regulation of coal exploration operations not subject to 43 CFR Part 3480 and surface coal mining and reclamation operations on Federal lands in Utah.

Coal exploration prior to commencement of mining will be handled by the Bureau of Land Management (BLM) in accordance with 43 CFR Part 3480, Subparts 3480 through 3487. Background and application procedures for exploration after commencement of mining within an approved permit area will be handled by the State.

One commenter was concerned that the division of responsibility between BLM and DOGM/OSMRE on managing exploration on leased areas on and after the commencement of mining was not addressed in the agreement. This issue will be addressed within the framework of the revised Memorandum of Understanding (MOU) between BLM and OSMRE, which is undergoing revision. The revised terms of the MOU will clarify the respective agency's responsibilities in this area, which will apply nationwide.

Paragraph B sets forth the purposes of the agreement, which are to foster Federal-State cooperation in regulating surface coal mining and reclamation operations and activities, and coal exploration not subject to 43 CFR Part 3480, Subparts 3480 through 3487; minimize intergovernmental overlap and duplication, and apply the State program uniformly and effectively. One commenter noted that although one of

the stated purposes of the Agreement is to minimize intergovernmental overlap and duplication, it appears that much overlap would still occur between OSMRE and DOGM. The Agreement will eliminate overlap and duplication to the maximum extent practicable by delegating responsibilities under the Federal lands program regulations to DOGM.

These delegated responsibilities include review and approval, conditional approval or disapproval of permit applications, revisions or renewals, and applications for transfer, sale, and assignment of such permits; consultation with and obtaining the consent, as necessary, of the Federal land management agency with respect to post-mining land use and any special requirements necessary to protect non-coal resources; consultation with and obtaining the consent, as necessary, to the BLM with respect to requirements relating to development, production and recovery of mineral resources on lands affected by surface coal mining and reclamation operations and activities involving leased Federal coal; approval and release of performance bonds, liability insurance; responsibility for inspection, enforcement and civil penalty activities; review and approval of exploration operations not covered by other applicable regulations; and preparation of documentation to assist OSMRE in complying with the National Environmental Policy Act (NEPA), except for those specified non-delegable NEPA requirements.

Paragraph C names the DOGM as the agency responsible for administering the Agreement on behalf of the Governor of Utah (Governor), and OSMRE as the agency responsible for administering the Agreement on behalf of the Secretary.

Although DOGM will have the primary responsibility for review and approval of the Permit Application Package (PAP), the Secretary reviews certain portions to make his non-delegable determinations under SMCRA, MLA, and other Federal laws including NEPA. Normally all contact with the applicant on review of the PAP will be handled by DOGM.

Article II: Effective Date

Article II provides that after it has been signed by the Secretary and the Governor, the Agreement becomes effective 30 days after publication as a final rule in the *Federal Register*. It remains in effect until terminated as provided in Article XI.

Article III: Definitions

Article III provides that any terms and phrases used in the Agreement have the

same meanings as set forth in SMCRA and the State act, State regulations promulgated pursuant to those acts, 30 CFR Parts 700, 701, and 740, and the approved State program (Program). Defining terms and phrases in this manner ensures consistency between applicable regulations and the Agreement. Where there are conflicts in definitions, those included in the Program will apply. The final cooperative agreement has deleted the exception to the applicability of State Program definitions in the proposed agreement where such definitions conflicted with non-delegable responsibilities of the Secretary. OSMRE knows of no such conflicts in definitions that might occur and finds the exception to be unnecessary and confusing.

In the final Agreement, Article III has been revised slightly for the sake of clarity and to eliminate redundancy in referring to rules pursuant to various Federal and State acts.

Article IV: Applicability

Article IV states that the laws, regulations, terms, and conditions of the Program are applicable to federal lands in Utah, except as otherwise stated in the Agreement, SMCRA, 30 CFR 740.4, 740.11(a), and 745.13, and other applicable laws, Executive Orders, or regulations. This provision is consistent with the Federal lands program, which made the Program apply to Federal lands in Utah. For the sake of clarity and completeness, a statement that the State regulatory program is applicable to surface coal mining and reclamation operations on Federal lands within the State, has been added to the text of the final agreement.

The reference to the Program is intended to encompass the Program approved on January 21, 1981, and any amendments thereto which are approved in accordance with 30 CFR 732.17. Excluded from the scope of the Agreement are the authorities and responsibilities reserved to the Secretary pursuant to SMCRA, 30 CFR 740.4 and 745.13, and other applicable laws, Executive Orders, or regulations.

Article V: General Requirements

Article V mutually binds the Governor and the Secretary to the provisions of the Agreement.

Paragraph A requires DOGM to continue to have authority under State law to carry out the Agreement.

Paragraph B (Funds) provides that upon application for funds, the State shall be reimbursed by OSMRE pursuant to section 705(c) of SMCRA if

necessary funds have been appropriated to OSMRE by Congress. Section 705(c) of SMCRA provides that a State with a cooperative agreement may receive an increase in its annual grant for the development, administration and enforcement of a State program on Federal lands by an amount which the Secretary determines is approximately equal to the amount the Federal government would otherwise have expended to regulate surface coal mining and reclamation operation on the Federal lands within the State. See 30 U.S.C. 1285(c). The reference in section 705(c) to section 523(d) is obviously a typographical error; the correct reference is section 523(c). The regulations implementing section 705(c) appear at 30 CFR 735.16 through 735.26.

If, when requested by the State, adequate funds have not been appropriated, OSMRE and the DOGM will meet and decide on appropriate measures to ensure that mining operations are regulated in accordance with the approved State program. Any funds granted to the State pursuant to the Agreement will be reduced by the amount of any fees collected by the State that are attributable to the Federal lands covered by the Agreement, in accordance with the Office of Management and Budget (OMB) Circular A-102 (Uniform Requirements for Assistance to State and Local Governments), Attachment E (Program Income).

Paragraph C of Article V requires the State to make annual reports to OSMRE with respect to compliance with this Agreement. Paragraph C also provides for a general exchange of information developed under the Agreement, unless such an exchange is prohibited by Federal law. Final evaluation reports prepared by OSMRE on State administration and enforcement of this Agreement will be provided to DOGM. The Agreement requires that DOGM's comments on the report be appended before being sent to Congress and other interested parties.

Paragraph D requires DOGM to maintain the necessary personnel to fully implement this Agreement.

Paragraph E requires that DOGM avail itself of the facilities necessary to carry out the requirements of the Agreement. This provision ensures that the State has access to and will utilize any resources necessary to conduct inspections, investigations, studies, tests, and analyses required to fulfill the requirements of this Agreement.

Paragraph F of Article V concerns permit application fees and civil penalties. Permit fees will be determined according to 40-10-6(5), Utah Code

Annotated 1953 as amended, UMC/SMC 771.25 of the State regulations, and the applicable provisions of the Program and Federal law. Permit fees will be considered program income and the State would retain all fees from operations on Federal lands and deposit them with the State Treasurer. The State will report the amount of these fees in the financial status report required under 30 CFR 735.26. State funding (under paragraph B of Article V) will be reduced by the amount collected from mining on Federal lands. Civil penalties or fines collected by the State will not be considered Program income and will be deposited into a State abandoned mine fund.

OSMRE has proposed rules governing the collection of fees for certain activities related to the review of permits and mining plans. (50 FR 7522; February 22, 1985). As proposed, the permit fee rule would involve recovery by the Department of costs incurred by the State. Should the final permit fee rule require modification of any cooperative agreement, OSMRE will propose appropriate changes in the Federal Register.

Article VI: Review of a Permit Application Package

Paragraphs A through C of Article VI generally describe the procedures that the State and OSMRE will follow in the review and analysis of permit application packages (PAP) for operations on Federal lands.

"Permit application package" is a term adopted by OSMRE in the Federal lands program (48 FR 6912, February 16, 1983). It is the material submitted by an applicant proposing to mine on Federal lands, including applications for permit revisions and renewals. OSMRE adopted the term because there are requirements for mining on Federal lands in addition to those required by a permit application under the approved State program for non-Federal lands. For example, operations on Federal lands may be subject to requirements of the Federal land management agency under Federal laws other than SMCRA. The package concept allows for such information to be included with the permit application required by the approved State program. See the definition of "permit application package" under 30 CFR 740.5.

OSMRE is delegating to DOGM responsibilities with regard to review of the PAP delegable under the Federal lands program regulations implementing SMCRA. These include review and approval, conditional approval or disapproval of permit applications,

revisions or renewals, and applications for transfer, sale and assignment of such permits; consultation with and obtaining the consent, as necessary, of the Federal land management agency with respect to post-mining land use and any special requirements necessary to protect non-coal resources; consultation with and obtaining the consent, as necessary, of the BLM with respect to requirements relating to development, production and recovery of mineral resources on lands affected by surface coal mining and reclamation activities involving leased Federal coal; review and approval of exploration operations not covered by other applicable regulations; and preparation of documentation to comply with the NEPA, except for those specified non-delegable NEPA requirements.

Proposed paragraph A required an applicant proposing to conduct surface coal mining and reclamation operations and activities on Federal lands to submit copies of the PAP to both DOGM and the Secretary. For consistency with 30 CFR 740.13(b), and the purposes of this agreement that DOGM be the primary contact with the applicant, final paragraph A requires the applicant to submit the required copies of the PAP to DOGM. DOGM will provide OSMRE and other Federal agencies with an appropriate number of copies of the PAP.

The requirement in proposed paragraph A that DOGM require the applicant to include supplemental information required by the Federal land management agency has been expanded. Where section 522(e)(3) of SMCRA applies, DOGM will work with the agency with jurisdiction over any publicly owned park or historic property included in the National Register of Historic Places (NRHP) that will be adversely affected by the operation to determine whether additional information is required. This addition assures consideration of the concerns of Federal agencies who do not have jurisdiction over the area to be mined, but whose land, protected by section 522(e)(3), will be affected. In accordance with the decision of the District Court for the District of Columbia in *In Re: Permanent Surface Mining Regulation Litigation (II)* (July 15, 1985) P. 73-76, these protections apply to privately owned places listed in the NRHP, as well as publicly owned ones.

At a minimum, the PAP must satisfy the requirements of 30 CFR Part 740 and must include the information necessary for DOGM to make a determination of compliance with the approved State Program, and for appropriate Federal

agencies to make determinations of compliance with applicable requirements of Federal laws and regulations for which they are responsible. Proposed paragraph A did not specifically address OSMRE information needs; for clarity, final paragraph A states that any information necessary for OSMRE to determine compliance with SMCRA and other Federal laws, executive orders, and regulations for which OSMRE is responsible, must be included in the PAP.

Paragraph B of Article VI describes the procedures that DOGM and OSMRE will follow in review of a PAP where leased Federal coal is not involved.

Paragraph B.1. has been revised to delegate responsibilities to DOGM to the extent authorized in 30 CFR 740.4(c) (1), (2), (4), (6) and (7). The phrase "to the extent authorized" means that the exceptions to delegable responsibilities identified in 30 CFR 740.4(c) cannot be removed from OSMRE responsibility. The final rule adds 740.4(c)(2) which was not included in the proposed rule. The responsibilities, delegated to DOGM, under 30 CFR 740.4(c)(2), provide for consultation with and obtaining the consent of the Federal land management agency with respect to post-mining land use and special requirements necessary to protect non-coal resources. These responsibilities are delegated to DOGM in the final cooperative agreement to assure a more efficient administrative approach when DOGM is the sole decisionmaker (i.e. no Secretarial mining plan need be approved) and to minimize governmental overlap and duplication. In such cases DOGM will coordinate its action directly with Federal agencies.

Also, to assure a more efficient administrative approach, DOGM, rather than OSMRE as proposed under paragraph B.3, has been delegated the responsibility for obtaining, except for non-significant revisions or amendments, the comments and determinations of other Federal agencies with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP. The exception for non-significant revisions or amendments has been added for clarity and for consistency with SMC/UMC Part 788, but does not restrict DOGM from consulting with such other agencies. For organizational purposes, these provisions are included under final paragraph B.1, rather than under paragraph B.3, as proposed.

For consistency with the review procedures under paragraph C of Article VI, the following provisions have been

added to final paragraph VI.B.1: other Federal agencies will be requested to furnish their findings or requests for additional information to DOGM within 45 working days of the date of receipt of the PAP; OSMRE will assist DOGM in obtaining this information, upon request; and responsibilities and decisions delegable to DOGM may be specified in working agreements with OSMRE with the concurrence of any involved Federal agency.

Proposed paragraph VI B.1 included delegation to DOGM of the inspection and enforcement activities identified in 30 CFR 740.4(c)(5); because that regulation refers to procedures that are addressed in Article VII and VIII, it has been deleted here.

Paragraph B.2. assigns to DOGM the primary responsibility for the analysis, review, and approval or disapproval of the permit application component of the PAP. For clarity, the provision in proposed paragraph B.5 of this Article that DOGM will review the PAP for compliance with the Program and State law and regulations has been included here. DOGM will also be the principal contact for the applicant on issues concerned with the development, review and approval of the PAP or an application for permit revision or renewal for mining on Federal lands in Utah not requiring a mining plan pursuant to the MLA. DOGM will be responsible for informing applicants of determinations.

Proposed paragraph B.3 stated that OSMRE will make its non-delegable determinations under SMCRA. Final paragraph B.3. states that the Secretary will make his determinations, which cannot be delegated to the State, under SMCRA; most of these have been delegated to OSMRE, some to BLM, and some remain with the Secretary. OSMRE also has non-delegable responsibility for the exceptions under 30 CFR 740.4(c)(7). The provision in proposed paragraph B.3, which would have required OSMRE to obtain the views and determinations of other Federal agencies that would be affected by operations proposed under the PAP has been changed by delegating that responsibility to DOGM. This provision is now included under final paragraph B.1. of Article VI.

The provision in proposed paragraph B.3, which dealt with the prohibitions or limitations of section 522(e) of SMCRA has been revised and expanded, and included under new paragraph B.1. of Article X of the Agreement.

Final paragraph B.4 retains most of the original provisions of proposed paragraph B.4. OSMRE will provide technical assistance to DOGM when

requested, if available resources allow. OSMRE will be responsible for ensuring that any information OSMRE receives from an applicant is promptly sent to DOGM. OSMRE will have access to DOGM files concerning operations on Federal lands. The Secretary reserves the right to act independently of DOGM and to carry out responsibilities under laws other than SMCRA. OSMRE will send to DOGM copies of all resulting correspondence that may have a bearing on decisions regarding the PAP.

For consistency with the review procedures in paragraph C of this Article, final paragraph B.4. also includes provisions for coordination between OSMRE and DOGM during the review process, for OSMRE to provide assistance to DOGM in resolving conflicts with land management agencies, and for DOGM to inform OSMRE of findings made during the review process which bear on the responsibilities of OSMRE or other Federal agencies.

The provision in proposed paragraph B.4, which dealt with determinations of valid existing rights (VER) has been revised and expanded and included under new paragraph B of Article X. Compatibility determinations have also been moved to paragraph B of Article X.

The provision in proposed paragraph VI.B.5. that DOGM review the PAP for compliance with the Program and State law and regulations has been incorporated into final paragraph VI.B.2. Proposed paragraph B.6 has been renumbered as final paragraph B.5; it states that the permit issued by DOGM on Federal lands will include terms or conditions imposed by the Federal land management agency. For clarity, a statement has been added that DOGM will work with the National Park Service (NPS) to develop mutually agreed upon terms and conditions for inclusion in the permit where a proposed operation on Federal lands has valid existing rights and will adversely affect such areas. DOGM will also include in a permit the terms and conditions required by other applicable Federal laws and regulations. DOGM will give written notification to any involved land management agency, the applicant, and OSMRE of DOGM decisions and findings on the PAP. The proposed rule required that a copy of the written findings and the permit will also be submitted to OSMRE; however, in the final rule these documents will be provided to OSMRE upon request.

Paragraph C of Article VI discusses review procedures for PAPs where leased Federal coal is involved and, consequently, where the Secretary must make a decision on a mining plan.

Under final paragraph C, DOGM has assumed additional responsibilities that in the proposed Agreement were to be performed by OSMRE under 30 CFR 740.4(c) (2) and (3). Paragraph C has been revised and reorganized accordingly to reflect these changes in delegated authority.

Under final paragraph C.1., DOGM will assume the responsibilities listed in 30 CFR 740.4(c) (1), (2), (3), (4), (6), and (7), to the extent authorized.

As proposed, DOGM will, to the extent authorized, take on the delegable responsibilities for review and approval, disapproval or conditional approval of permit applications, revisions or renewals thereof, and applications for transfer, sale and assignment of such permits under 30 CFR 740.4(c)(1). OSMRE will assist DOGM in this review, upon request, to the extent possible. The Secretary retains those responsibilities that cannot be delegated to DOGM including those under the Federal lands program, MLA, NEPA, this agreement, and other applicable Federal laws. The Secretary will consider the information in the PAP and, where appropriate, make decisions required by SMCRA, MLA, NEPA, and other Federal laws. The Secretary will carry out his responsibilities in a timely manner and avoid, to the extent possible, duplication of those responsibilities delegated to the State in this Agreement and the Program. Responsibilities and decisions which can be delegated to the State under other applicable Federal laws may be specified in working agreements between OSMRE and DOGM, with concurrence of any Federal agency involved, and without amendment to this Agreement.

As proposed, paragraph C.2. designates DOGM as the primary contact for applicants in matters regarding review of the PAP. As such, DOGM will inform the applicant of all joint State-Federal determinations. DOGM will provide OSMRE with copies of correspondence with the applicant and any information received from the applicant regarding the PAP. OSMRE will provide DOGM with copies of all correspondence with the applicant which may have a bearing on the PAP. OSMRE will not ordinarily contact the applicant regarding the PAP, although OSMRE is not prevented from doing so. On matters concerned exclusively with 43 CFR Part 3480, Subparts 3480 through 3487, BLM will be the primary contact with the applicant.

For clarity, final paragraph C.2. also recognizes the role of BLM in reviewing the resource recovery and protection plan and other MLA-related components of a mining plan, and recommending

Secretarial approval of the MLA-related components of the mining plan.

To ensure that DOGM and OSMRE carry out their respective responsibilities for permit approval and mining plan approval, final paragraph C.2 states that BLM and other Federal agencies will provide DOGM, and OSMRE as necessary, with their comments and concurrences on the operation proposed in the PAP.

The Secretary reserves the right to act independently of DOGM to carry out departmental responsibilities under laws other than SMCRA or provisions of SMCRA not covered by the Program, and in instances of disagreement over SMCRA and the Federal lands program.

Under final paragraph C.2, additional responsibilities have been delegated to DOGM, to the extent authorized, that were not in the proposed agreement. Pursuant to 30 CFR 740.4(c)(2), DOGM will consult with and obtain the consent of the Federal land management agency concerning post-mining land use and protection of non-coal resources.

Under 30 CFR 740.4(c)(3), DOGM will consult with and obtain the consent of the BLM with respect to development, production, and recovery of mineral resources where operations involve leased Federal coal. These responsibilities are delegated to DOGM in the final cooperative agreement to assure more efficient administration and to minimize governmental overlap and duplication. DOGM will coordinate its actions directly with Federal agencies. In addition to DOGM's coordination with Federal agencies, there will be a certain amount of necessary coordination between OSMRE and other Federal agencies pursuant to OSMRE's requirement to recommend Secretarial approval of the mining plan. Where necessary, OSMRE will coordinate directly with BLM and other Federal agencies.

DOGM will also obtain the comments and determinations of other Federal agencies with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP.

DOGM will request that the involved Federal agencies submit their findings or any requests for additional data to DOGM and when necessary to OSMRE within 45 days of receiving the PAP.

The review of the PAP will be done to ensure timely identification, communication and resolution of issues relating to statutory requirements of Federal agencies. DOGM will request that other Federal agencies inform DOGM and OSMRE of their analyses and conclusions.

Two commenters noted that 45 days may not be adequate time for Federal agencies to review a PAP in all cases, and one suggested that an extension be provided. OSMRE believes that a reasonable time period needs to be established for the processing of a PAP, and based on previous experience a 45 day time requirement seems to be adequate. OSMRE believes that in most cases, involved agencies should be able to meet this deadline, but if a problem should arise, DOGM and the agency involved should be able to work out an acceptable solution.

Under final paragraph C.3, DOGM will, to the extent authorized, take on the delegable responsibilities for approval and release of performance bonds, liability insurance (30 CFR 740.4(c)(4)); review and approval of exploration operations not subject to 43 CFR Part 3480 (30 CFR 740.4(c)(6)); and preparation of documentation to comply with the requirements of NEPA (30 CFR 740.4(c)(7)). Under paragraph C.3, OSMRE will retain the non-delegable responsibilities for NEPA Documents Under 30 CFR 740.4(a)(7)(i)-(vii). Proposed paragraph VI C.3 included delegation of 30 CFR 740.4(c)(5), which has been deleted from paragraph VI C.3 because that regulation deals with regulation and enforcement procedures that are addressed under articles VII and VIII.

OSMRE will assist DOGM upon request, by coordinating resolution of conflicts with the involved Federal agencies and by helping to schedule meetings between the agencies and DOGM.

OSMRE will exercise its responsibilities in a timely manner and will provide DOGM with a work product within 50 days of receiving DOGM's request for assistance in reviewing the permit application unless a different time is agreed upon.

OSMRE will be responsible for Federal lessee protection bond requirements under 30 CFR 740.15(c).

Paragraph C.4 describes the procedures that OSMRE and DOGM will follow in reviewing the PAP. OSMRE and DOGM will coordinate their activities and exchange information during the review process. DOGM will review the PAP to ensure compliance with the Program and State law and regulations. OSMRE will review the operation and reclamation plan portion of the PAP to ensure compliance with the non-delegable responsibilities of SMCRA and for compliance with other Federal laws and regulations. OSMRE and DOGM will plan and schedule PAP review and each will choose a project

leader to serve as the primary points of contact for both during the review process. OSMRE will provide the State with its review comments within 50 days of receiving the PAP. A provision has been added to final paragraph C.4 that allows DOGM and OSMRE to agree on a different time frame when necessary. OSMRE will specify any requirements for additional data. To the extent practical DOGM will provide OSMRE with all available information that may aid OSMRE in preparing any findings.

The State will prepare a State decision package indicating whether the PAP complies with the Program. The review and finalization of the State's decision package will be conducted in accordance with procedures agreed upon by DOGM and OSMRE for processing PAPs.

DOGM may issue a permit pursuant to SMCRA on Federal lands before the necessary Secretarial approval of the mining plan. However, DOGM must advise the operator that Secretarial approval of the mining plan must be obtained before the operator may conduct coal development or mining operations on the Federal lease. Further, when issuing a permit prior to mining plan approval, DOGM will reserve the right to amend or rescind any requirements of the permit to conform with any terms or conditions of the Secretarial mining plan approval.

One commenter recommended that the permit not be issued prior to the Secretarial decision on the mining plan on the basis that it may cause confusion for the operator and may not be beneficial to the overall recovery of the coal resource on Federal as well as non-Federal lands. OSMRE does not agree. Subchapter D of 30 CFR Chapter VII does not require the Secretary to approve the mining plan prior to approval of the permit application. This is consistent with the intended purpose of a cooperative agreement, to provide States with an independent role in the approval of permit applications under SMCRA, even though mining of Federal coal is precluded until the mining plan is approved.

The permit issued by the DOGM will be required to include the terms and conditions required by the lease and other applicable Federal laws and regulations. For completeness, and for consistency with paragraph B of this Article, final paragraph C.4 states that the permit will include any conditions required by applicable laws and regulations of the land management agencies relating to post mining land use as well as those of other affected

agencies with jurisdiction over the area of the proposed operation.

For completeness, the provisions found under final paragraph VI.B.5.(c) that were not in proposed paragraph VI.C.4 have been added as paragraphs IV.C.4 (h) and (i). Final paragraph 4(h) states that where a proposed operation on Federal lands has valid existing rights and will adversely affect an NPS unit, DOGM will also work with the NPS to develop mutually agreed upon terms and conditions for the permit for protection of the NPS unit. Article X of this agreement specifies procedures to be followed for determining whether exceptions to the prohibitions or limitations of section 522(e) of SMCRA may be granted based on the possession of valid existing rights for such areas.

Paragraph (i) states that DOGM will send a notice to the applicant, the land management agency and any agency with jurisdiction over the public park or historic property included in the NRHP affected by a decision under section 522(e)(3), and OSMRE. OSMRE will also receive a copy of the written findings and the permit.

Paragraph C.5. has been added for consistency; it contains general provisions under paragraph B.4 of Article VI not included in proposed paragraph C.4 of Article VI. Final paragraph C.5. states that OSMRE will provide technical assistance to DOGM upon request and that OSMRE will have access to DOGM files concerning operations on Federal lands.

Paragraph D of Article VI addresses review procedures for permit revisions, amendments, or renewals.

Paragraph D.1 assigns to DOGM the authority to review, approve or disapprove permit revisions, amendments or renewals. DOGM must consult with OSMRE on whether any permit revision, amendment, or renewal involving Federal lands constitutes a mining plan modification. OSMRE will inform DOGM within 30 days of receiving a copy of the proposed permit revision, renewal, or amendment as to whether it constitutes a mining plan modification. Where approval of a mining plan modification is required, OSMRE and DOGM will follow the procedures outlined in paragraph C of Article VI.

Under paragraph D.2, OSMRE may establish criteria to determine which permit revisions, amendments, or renewals clearly do not constitute mining plan modifications. Those meeting the criteria may be approved or disapproved by DOGM prior to contacting OSMRE.

Under Paragraph D.3., permit revisions, renewals, or amendments not constituting mining plan modifications and meeting the criteria outlined in paragraph D.2. would be reviewed and approved or disapproved by the State following the procedures outlined in paragraph B of this Article.

One commenter suggested that "minor" modifications to a mining plan dealing strictly with coal recovery under 43 CFR Part 3480 be approved by BLM prior to OSMRE/DOGM review and concurrence. These minor modifications are described as day-by-day operational matters needing immediate attention. OSMRE disagrees because 30 CFR 746.18 requires that any revision, amendment or renewal of a mining operation on Federal lands be reviewed by OSMRE to determine whether it meets the criteria for a mining plan modification requiring Secretarial approval. The Program also requires that DOGM review permit revisions and renewals, including those which involve coal recovery (UMC/SMC 778.12; 778.13). Under paragraph D.2 of Article VI of the Agreement, criteria may be established for revisions, amendments, or renewals which clearly do not constitute mining plan modifications. If the criteria are adopted, DOGM may issue approval prior to contacting OSMRE for concurrence in the determination.

Article VII: Inspections

Paragraphs A and B of Article VII specify that DOGM must conduct inspections on lands covered by this Agreement in accordance with 30 CFR 740.4(c)(5) and prepare and file State inspection reports in accordance with the Program.

Paragraph C designates DOGM as the point of contact and primary inspection authority in dealing with the operator. However, the Secretary retains the right to conduct inspections of surface coal mining and reclamation operations covered on Federal lands without prior notice to DOGM, for the purposes of evaluating the manner in which the Agreement is being carried out and insuring that performance and reclamation standards are being met.

Paragraph D states that when OSMRE intends to conduct an inspection under 30 CFR 842.11, DOGM will ordinarily be given reasonable notice of such an inspection to provide an opportunity for State inspectors to join in the inspection. When a Federal inspection is in response to a citizen complaint, such as the threat of imminent harm to the public or the environment, OSMRE would give DOGM at least 24 hours

notice, if practical. All citizen complaints not involving an imminent harm to the public or the environment will be referred to DOGM for action.

Article VII preserves OSMRE's obligation and authority to conduct inspections pursuant to 30 CFR Parts 842 and 843. The right of Federal and State agencies to conduct inspections for purposes outside the scope of the proposed cooperative agreement will not be affected.

Article VIII: Enforcement

Article VIII sets forth the enforcement obligations and authorities of OSMRE and DOGM in accordance with 30 CFR 740.4(c)(5).

Under paragraph A, DOGM has primary enforcement authority on Federal lands in accordance with the requirements of the cooperative agreement and the program. Enforcement authority given to the Secretary under other laws and orders is reserved by the Secretary.

Under paragraph B, DOGM has primary responsibility for enforcement during joint inspections with OSMRE. Paragraph B also includes the requirement that DOGM notify OSMRE prior to suspending or revoking a permit.

Paragraph C preserves OSMRE's authority to take enforcement action to comply with 30 CFR Parts 843 and 845, where OSMRE conducts an inspection or where, during a joint inspection with DOGM, the two do not agree on a particular enforcement action. Such action will be based upon SMCRA or the substantive provisions contained in the Program, but will use the Federal procedures and penalty system.

Paragraph D provides that OSMRE and DOGM notify each other of all violations of applicable regulations and all actions taken on the violations. Paragraph E provides that personnel of DOGM and OSMRE be mutually available to serve as witnesses in enforcement actions taken by either party. Finally, paragraph F specifies that this Agreement does not limit the Department's authority to enforce Federal laws other than SMCRA.

Article IX: Bonds

Under paragraph A, DOGM and the Secretary will require each operator conducting operations on Federal lands to submit a single performance bond payable to both the State and the United States. DOGM will advise OSMRE of any annual bond adjustments that may be made. All applicable State and Federal requirements must be fulfilled prior to releasing an operator from any obligation covered by the performance bond. If the Agreement is terminated,

paragraph A requires that the portion of the bond covering Federal lands reverts to being payable solely to the United States. Under paragraph B, DOGM will advise OSMRE of annual adjustments to the bond and release a bond only after OSMRE concurrence. Such concurrence would include coordination with other Federal agencies having jurisdiction over the Federal lands involved. Under Paragraph C, bonds are subject to forfeiture with the concurrence of OSMRE and in accordance with the State program.

Paragraph D clarifies that the performance bond does not satisfy the obligation for a Federal lease bond under 43 CFR Subpart 3474, or for the lessee protection bond required in certain circumstances by section 715 of the Act.

Article X: Designating Land Areas Unsuitable for All or Certain Types of Surface Coal Mining and Reclamation Operations and Activities and Valid Existing Rights and Compatibility Determinations

Paragraph A.1 of Article X reserves to the Secretary authority to designate Federal lands as unsuitable for surface coal mining and reclamation operations and activities. The reference in the proposed rule to DOGM's authority to designate non-Federal lands as unsuitable for surface coal mining and reclamation operations and activities has been deleted because it is not relevant to this agreement.

Paragraph A.2 states that DOGM and OSMRE will notify each other of any petition to designate lands as unsuitable that could impact adjacent Federal and non-Federal lands, and solicit and consider each other's views on a petition. OSMRE will coordinate with the Federal land management agency with jurisdiction over the area covered by the petition, and will solicit comments.

The proposed Agreement addressed valid existing rights (VER) only in the most general sense. Concerns about the lack of specificity in proposed paragraphs VI. B.3. and B.4., dealing with determining the applicability of the prohibitions or limitations of section 522(e) of SMCRA, and determinations of VER for such areas, were raised by the National Park Service. The discussion of this topic has been expanded in the final Agreement to specify the responsibilities of OSMRE and DOGM for determining whether proposed mining on Federal lands would be subject to the prohibitions or limitations of section 522(e) of SMCRA, and determinations of whether VER exists for such areas.

An expanded discussion of VER in the final cooperative agreement is found in new section B of Article X, which also includes provisions for compatibility determinations pursuant to section 522(e)(2) of SMCRA.

New paragraph B.1. of Article X states that OSMRE has responsibility for processing requests for VER determinations within the boundaries of areas where mining is prohibited by section 522(e)(1) of SMCRA on all Federal lands and on non-Federal lands where mining affects Federal lands. OSMRE has the responsibility for processing requests for VER determinations on non-Federal lands within the boundaries of the National Park System where mining affects the Federal interest. "Federal interest" means: park resources, values, purposes, management objectives, or visitor experience. The Secretary will determine whether VER exists on non-Federal lands where the proposed surface coal mining operation would affect the Federal interest within section 522(e)(1) areas within the boundaries on the National Park System.

Under new paragraph X.B.2., OSMRE is responsible for processing requests for determinations of VER for proposed operations on Federal lands within the boundaries of any national forest, as identified in section 522(e)(2) of SMCRA. This authority is reserved by the Secretary in accordance with 30 CFR 745.13(o).

OSMRE will process compatibility determinations on Federal lands pursuant to section 522(e)(2) of SMCRA.

New paragraph X.B.3. states that for Federal lands, DOGM will determine, with the consultation and concurrence of OSMRE, whether the prohibitions or limitations of section 522(e)(3) of SMCRA for proposed mining operations will adversely affect units of the National Park System. Where such proposed operations on Federal lands will adversely affect units of the National Park System, DOGM will make the VER determination with the consultation and concurrence of OSMRE.

For Federal lands, DOGM will determine whether the prohibitions or limitations of section 522(e)(3) of SMCRA are applicable to proposed mining operations which will adversely affect all other public parks and historic properties listed in the NRHP in consultation with the State Historic Preservation Officer. DOGM will also make the VER determination for such lands.

Procedures are also included to consider the concerns of affected land

management agencies and for DOGM to work with the land management agency in mitigating environmental impacts.

New paragraph X.B.4. states that DOGM will process VER determinations on Federal lands for all areas limited or prohibited by sections 522(e) (4) and (5) of SMCRA as unsuitable for mining. For such operations on Federal lands, DOGM will coordinate with the affected agency and agency with jurisdiction over the proposed operation. Any Federal lands determined to be within 300 feet of the boundaries of a national park under section 522(e)(5) could also be addressed under the procedures outlined in this agreement for section 522(e)(3) areas with respect to adverse impacts on NPS units.

Article XI: Termination of Cooperative Agreement

Article XI specifies that this Agreement may be terminated as specified under 30 CFR 745.15.

Article XII: Reinstatement of Cooperative Agreement

Article XII provides that, if terminated, a cooperative agreement may be reinstated under 30 CFR 745.16. That provision allows for reinstatement of a cooperative agreement upon application by the State after remedying the defects for which the cooperative agreement was terminated and the submission of evidence to the Secretary that the State can and will comply with all of the provisions of the cooperative agreement.

Article XIII: Amendment of Cooperative Agreement

Article XIII provides that the Agreement may be amended by mutual agreement of the Governor and Secretary in accordance with 30 CFR 745.14.

Article XIV: Changes in State or Federal Standards

Paragraph A of Article XIV recognizes that the Department or the State may, from time to time, promulgate new or revised performance or reclamation requirements, or enforcement and administration procedures. If it is determined to be necessary to keep the Agreement in force, the State may request necessary legislative action and either the State or OSMRE would change or revise its regulations or promulgate new regulations, as applicable. Such changes will be made in accordance with 30 CFR Part 732 for changes to the Program and section 501 of the Act for changes to the Federal lands program.

Paragraph B requires the State and OSMRE to provide each other with copies of changes in their respective law and regulations.

Article XV: Changes in Personnel and Organization

Article XV requires DOGM and OSMRE to advise each other of substantial changes in organization, funding, staff, or other changes which could affect administration or enforcement of the Agreement.

Article XVI: Reservation of Rights

Article XVI recognizes that SMCRA, 30 CFR 745.13, and other legal authorities prohibit the Secretary from delegating certain authorities to the State. In the final Agreement, Article XVI has been revised at the request of DOGM to apply more generally to both the State and the Secretary. Article XVI states that this Agreement will not be construed as waiving or preventing the assertion of any rights in the agreement that the State or the Secretary may have under laws other than SMCRA, or their regulations, including those listed in Appendix A of this Agreement.

III. Procedural Matters

1. E.O. 12291 and Regulatory Flexibility Act

On October 21, 1982, the Department of the Interior received from the Office of Management and Budget an exemption for Federal/State cooperative agreements from the requirements of sections 3 and 7 of Executive Order 12291.

The Department has reviewed this Agreement in light of the Regulatory Flexibility Act (Pub. L. 96-354). Having conducted this review, the Department has determined that this document will not have a significant economic effect on a substantial number of small entities because no significant departure from either the State or Federal requirements already in effect will occur and no new or additional information will be required by the Agreement.

2. Paperwork Reduction Act of 1980

There are recordkeeping and reporting requirements in the Agreement which are the same as and required by the permanent program regulations. Those regulations required clearance from the Office of Management and Budget under 44 U.S.C. 3507 and were assigned the following clearance numbers:

Location of requirement	OMB clearance No.
Article VI.A. (Required by 30 CFR Part 773).....	1029-0041
Article VII.A. (Required by 30 CFR Part 840).....	1029-0051
Article IX.A. (Required by 30 CFR Part 800).....	1029-0043

3. National Environmental Policy Act

Proceedings relating to adoption of a permanent program cooperative agreement are part of the Secretary's implementation of the Federal lands program pursuant to section 523 of the Act. Such proceedings are exempt under section 702(d) of the Act from the requirements to prepare a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Author

The author of this regulation is Dr. Fred Block, Division of Permit and Environmental Analysis, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240; telephone: (202) 343-5145.

List of Subjects in 30 CFR Part 944

Coal mining; Intergovernmental relations; Surface mining; Underground mining.

For the reasons set forth herein, 30 CFR Part 944 is amended as follows.

Dated: March 5, 1987.

J. Steven Griles,
Assistant Secretary for Land and Minerals Management.

PART 944—[AMENDED]

1. The authority citation for 30 CFR Part 944 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.* Pub. L. 95-87.

2. Section 944.30 is added to read as follows:

§ 944.30 State-Federal Cooperative Agreement.

The Governor of the State of Utah (Governor) and the Secretary of the Department of the Interior (Secretary) enter into a Cooperative Agreement (Agreement) to read as follows:

Article I: Introduction, Purposes and Responsible Agencies

A. Authority: This Agreement is authorized by section 523(c) of the Surface Mining Control and Reclamation Act (SMCRA), 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program approved by the Secretary of the Interior under 30 U.S.C. 1253, to elect to enter into an agreement for State regulation of surface coal mining and reclamation operations on Federal lands. This Agreement provides for State regulation

of coal exploration operations not subject to 43 CFR Part 3480 through 3487, and surface coal mining and reclamation operations and activities in Utah on Federal lands (30 CFR Chapter VII Subchapter D), consistent with SMCRA and the Utah Code Annotated (State Act) governing such activities and the Utah State Program (Program).

B. Purposes: The purposes of this Agreement are to (a) foster Federal-State cooperation in the regulation of surface coal mining and reclamation operations and activities and coal exploration operations not subject to 43 CFR Part 3480, Subparts 3480 through 3487; (b) minimize intergovernmental overlap and duplication; and (c) provide uniform and effective application of the Program on all lands in Utah in accordance with SMCRA, the Program, and this Agreement.

C. Responsible Administrative Agencies: The Utah Division of Oil, Gas, and Mining (DOGM) will be responsible for administering this Agreement on behalf of the Governor. The Office of Surface Mining Reclamation and Enforcement (OSMRE) will administer this Agreement on behalf of the Secretary.

Article II: Effective Date

After being signed by the Secretary and the Governor, this Agreement will take effect 30 days after publication in the Federal Register as a final rule. This agreement will remain in effect until terminated as provided in Article XI.

Article III: Definitions

The terms and phrases used in this Agreement which are defined in SMCRA 30 CFR Parts 700, 701 and 740, the Program, including the State Act, and the rules and regulations promulgated pursuant to that Act, will be given the meanings set forth in said definitions.

Where there is a conflict between the above referenced State and Federal definitions, the definitions used in the Program will apply.

Article IV: Applicability

In accordance with the Federal lands program, the laws, regulations, terms and conditions of the Program are applicable to Federal lands in Utah except as otherwise stated in this Agreement, SMCRA 30 CFR 740.4, 740.11(a) and 745.13, and other applicable Federal laws, Executive Orders, or regulations.

Article V: General Requirements

The Governor and the Secretary affirm that they will comply with all the provisions of this Agreement.

A. Authority of State Agency: DOGM has and will continue to have the authority under State law to carry out this Agreement.

B. Funds: 1. Upon application by DOGM and subject to appropriations, OSMRE will provide the State with the funds to defray the costs associated with carrying out its responsibilities under this Agreement as provided in section 705(c) of the Federal Act, the grant agreement, and 30 CFR 735.16. Such funds will cover the full cost incurred by DOGM in carrying out these responsibilities, provided that such cost does not exceed the

estimated cost the Federal government would have expended on such responsibilities in the absence of this Agreement; and provided that such State-incurred cost per permitted acre of Federal lands does not exceed the per permitted area costs for similar administration and enforcement activities of the Program on non-Federal and non-Indian lands during the same time period.

2. The ratio or cost split of Federal to non-Federal dollars allocated under the cooperative agreement will be determined by OSMRE and DOGM based on the projected costs for regulation of mines within Federal lands, in consideration of the relative amounts of Federal and non-Federal land involved. The designation of mines, based on Federal and non-Federal land, will be prepared by DOGM and submitted to OSMRE's Albuquerque Field Office. OSMRE's Albuquerque Field Office and OSMRE's Western Field Operations office will work with DOGM to estimate the amount the Federal government would have expended for regulation of Federal lands in Utah in the absence of this Agreement.

3. OSMRE and the State will discuss the OSMRE Federal lands cost estimate, the DOGM-prepared list of acres by mine, and the State's overall cost estimate. After resolution of any issues, DOGM will submit its grant application to OSMRE's Albuquerque Field Office. The Federal lands/non-Federal lands ratio will be applied to the final eligible total State expenditures to arrive at the total Federal reimbursement due the State. Assuming timely submission, this ratio or cost split will be agreed upon by July of the year preceding the applicable fiscal year in order to enable the State to budget funds for the Program.

The State may use the existing year's budget totals, adjusted for inflation and workload considerations in estimating the regulatory costs for the following grant year. OSMRE will notify DOGM as soon as possible if such projections are unrealistic.

4. If DOGM applies for a grant but sufficient funds have not been appropriated to OSMRE, OSMRE and DOGM will promptly meet to decide on appropriate measures that will insure that mining operations on Federal lands in Utah are regulated in accordance with the Program.

5. Funds provided to the DOGM under this Agreement will be adjusted in accordance with Office of Management and Budget Circular A-102, Attachment E.

C. Reports and Records: DOGM will make annual reports to OSMRE containing information with respect to compliance with the terms of this Agreement pursuant to 30 CFR 745.12(d). DOGM and OSMRE will exchange, upon request, except where prohibited by Federal or State law, information developed under this Agreement.

OSMRE will provide DOGM with a copy of any final evaluation report prepared concerning State administration and enforcement of this Agreement. DOGM comments on the report will be appended before transmission to the Congress or other interested parties.

D. Personnel: DOGM will maintain the necessary personnel to fully implement this Agreement in accordance with the provisions

of SMCRA the Federal lands program, and the Program.

E. Equipment and Laboratories: DOGM will assure itself access to equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses can be performed which are necessary to carry out the requirements of the Agreement.

F. Permit Application Fees and Civil Penalties: The amount of the fee accompanying an application for a permit for operations on Federal lands in Utah will be determined in accordance with 40-10-6(5), Utah Code Annotated 1953 as amended and UMC/SMC 771.25 of the State regulations, and the applicable provisions of the Program and Federal law. All permit fees and civil penalty fines collected from operations on Federal lands will be retained by the State and will be deposited with the State Treasurer. Permit fees will be considered program income. Civil penalty fines will not be considered program income and will be deposited in an account for use in reclaiming abandoned mine sites. The financial status report submitted pursuant to 30 CFR 735.26 will include a report of the amount of fees collected during the State's prior fiscal year.

Article VI: Review of Permit Application Package

A. Submission of Permit Application Package: DOGM and the Secretary require an applicant proposing to conduct surface coal mining and reclamation operations and activities on Federal lands to submit a permit application package (PAP) in an appropriate number of copies to DOGM. DOGM will furnish OSMRE and other Federal agencies with an appropriate number of copies of the PAP. The PAP will be in the form required by DOGM and will include any supplemental information required by OSMRE and the Federal land management agency. Where section 522(e)(3) of SMCRA applies, DOGM will work with the agency with jurisdiction over the publicly owned park, including units of the National Park System, or historic property included in the National Register of Historic Places (NRHP) to determine what supplemental information will be required.

At a minimum, the PAP will satisfy the requirements of 30 CFR Part 740 and include the information necessary for DOGM to make a determination of compliance with the Program and for OSMRE and the appropriate Federal agencies to make determinations of compliance with applicable requirements of SMCRA, the Federal lands program, and other Federal laws, Executive Orders, and regulations for which they are responsible.

B. Review Procedures Where There is No Leased Federal Coal Involved: 1. DOGM will assume the responsibilities for review of permit applications where there is no leased Federal coal to the extent authorized in 30 CFR 740.4(c) (1), (2), (4), (6) and (7). In addition to consultation with the Federal land management agency pursuant to 30 CFR 740.4 (c)(2), DOGM will be responsible for obtaining, except for non-significant revisions or amendments, the comments and determinations of other Federal agencies with jurisdiction or responsibility over

Federal lands affected by the operations proposed in the PAP. DOGM will request such Federal agencies to furnish their findings or any requests for additional information to DOGM within 45 calendar days of the date of receipt of the PAP. OSMRE will assist DOGM in obtaining this information, upon request.

Responsibilities and decisions which can be delegated to DOGM under other applicable Federal laws may be specified in working agreements between OSMRE and the State, with the concurrence of any Federal agency involved, and without amendment to this agreement.

2. DOGM will assume primary responsibility for the analysis, review and approval or disapproval of the permit application component of the PAP required by 30 CFR 740.13 for surface coal mining and reclamation operations and activities in Utah on Federal lands not requiring a mining plan pursuant to the Mineral Leasing Act (MLA). DOGM will review the PAP for compliance with the Program and State Act and regulations. DOGM will be the primary point of contact for applicants regarding decisions on the PAP and will be responsible for informing the applicant of determinations.

3. The Secretary will make his non-delegable determinations under SMCRA, some of which have been delegated to OSMRE.

4. OSMRE and DOGM will coordinate with each other during the review process as needed. OSMRE will provide technical assistance to DOGM when requested, if available resources allow. DOGM will keep OSMRE informed of findings made during the review process which bear on the responsibilities of OSMRE or other Federal agencies. OSMRE may provide assistance to DOGM in resolving conflicts with Federal land management agencies. OSMRE will be responsible for ensuring that any information OSMRE receives from an applicant is promptly sent to DOGM. OSMRE will have access to DOGM files concerning operations on Federal lands. OSMRE will send to DOGM copies of all resulting correspondence between OSMRE and the applicant that may have a bearing on decisions regarding the PAP. The Secretary reserves the right to act independently of DOGM to carry out his responsibilities under laws other than SMCRA.

5. DOGM will make a decision on approval or disapproval of the permit on Federal lands.

(a) Any permit issued by DOGM will incorporate any terms or conditions imposed by the Federal land management agency, including conditions relating to post-mining land use, and will be conditioned on compliance with the requirements of the Federal land management agency. In the case that VER is determined to exist on Federal lands under section 522(e)(3) of SMCRA where the proposed operation will adversely affect a unit of the National Park System (NPS), DOGM will work with the NPS to develop mutually agreed upon terms and conditions for incorporation into the permit to mitigate environmental impact as set forth under Article X of this agreement.

(b) The permit will include terms and conditions required by other applicable Federal laws and regulations.

(c) After making its decision on the PAP, DOGM will send a notice to the applicant, OSMRE, the Federal land management agency, and any agency with jurisdiction over a publicly owned park or historic property included in the NRHP which would be affected by a design under section 522(e)(3) of SMCRA. A copy of the permit and written findings will be submitted to OSMRE if requested.

C. Review Procedures Where Leased Federal Coal is Involved: 1. DOGM will assume the responsibilities listed in 30 CFR 740.4(c) (1), (2), (3), (4), (6) and (7), to the extent authorized.

In accordance with 30 CFR 740.4(c)(1), DOGM will assume primary responsibility for the analysis, review and approval or disapproval of the permit application component of the PAP for surface coal mining and reclamation operations and activities in Utah where a mining plan is required. OSMRE will, at the request of the State, assist to the extent possible in this analysis and review.

The Secretary will concurrently carry out his responsibilities that cannot be delegated to DOGM under the Federal lands program, MLA, the National Environmental Policy Act (NEPA), this Agreement, and other applicable Federal laws. The Secretary will carry out these responsibilities in a timely manner and will avoid, to the extent possible, duplication of the responsibilities of the State as set forth in this Agreement and the Program. The Secretary will consider the information in the PAP and, where appropriate, make decisions required by SMCRA, MLA, NEPA, and other Federal laws.

Responsibilities and decisions which can be delegated to the State under other applicable Federal laws may be specified in working agreements between OSMRE, and DOGM, with concurrence of any Federal agency involved, and without amendment to this Agreement.

2. DOGM will be the primary point of contact for applicants regarding the review of the PAP for compliance with the Program and State law and regulations. On matters concerned exclusively with regulations under 43 CFR Part 3480, Subparts 3480 through 3487, the Bureau of Land Management (BLM) will be the primary contact with the applicant. DOGM will send to OSMRE copies of any correspondence with the applicant and any information received from the applicant regarding the PAP. OSMRE will send to DOGM copies of all OSMRE correspondence with the applicant which may have a bearing on the PAP. As a matter of practice, OSMRE will not independently initiate contacts with applicants regarding completeness or deficiencies of the PAP with respect to matters covered by the Program.

BLM will inform DOGM of its actions and provide DOGM with a copy of documentation on all decisions. DOGM will be responsible for informing the applicant of all joint State-Federal determinations. Where necessary to make the determination to recommend that the Secretary approve the mining plan, OSMRE will consult with and obtain the concurrences of the BLM, the Federal land management agency and other Federal agencies as required.

The Secretary reserves the right to act independently of DOGM to carry out his responsibilities under laws other than SMCRA or provisions of SMCRA not covered by the Program, and in instances of disagreement over SMCRA and the Federal lands program.

DOGM will to the extent authorized, consult with the Federal land management agency and BLM pursuant to 30 CFR 740.4(c) (2) and (3), respectively. DOGM will also be responsible for obtaining the comments and determinations of other Federal agencies with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP. DOGM will request all Federal agencies to furnish their findings or any requests for additional information to DOGM within 45 days of the date of receipt of the PAP. OSMRE will assist DOGM in obtaining this information, upon request of DOGM.

3. DOGM will be responsible for approval and release of performance bonds under 30 CFR 740.4(c)(4), and for review and approval of exploration operations not subject to 43 CFR Part 3480, under 30 CFR 740.4(c)(6).

DOGM will prepare documentation to comply with the requirements of NEPA under 30 CFR 740.4(c)(7); however, OSMRE will retain the responsibility for the exceptions in 30 CFR 740.4(c)(7)(i)-(vii).

OSMRE will assist DOGM in carrying out DOGM's responsibilities by:

(a) Coordinating resolution of conflicts and difficulties between DOGM and other Federal agencies in a timely manner.

(b) Assisting in scheduling joint meetings, upon request, between State and Federal agencies.

(c) Where OSMRE is assisting DOGM in reviewing the PAP, furnishing to DOGM the work product within 50 calendar days of receipt of the State's request for such assistance, unless a different time is agreed upon by OSMRE and DOGM.

(d) Exercising its responsibilities in a timely manner, governed to the extent possible by the deadlines established in the Program.

(e) Assuming all responsibility for ensuring compliance with any Federal lessee protection board requirement.

4. Review of the PAP: (a) OSMRE and DOGM will coordinate with each other during the review process as needed. DOGM will keep OSMRE informed of findings made during the review process which bear on the responsibilities of OSMRE or other Federal agencies. OSMRE will ensure that any information OSMRE receives which has a bearing on decisions regarding the PAP is promptly sent to DOGM.

(b) DOGM will review the PAP for compliance with the Program and State law and regulations.

(c) OSMRE will review the operation and reclamation plan portion of the permit application, and any other appropriate portions of the PAP, for compliance with the non-delegable responsibilities of SMCRA and for compliance with the requirements of other Federal laws and regulations.

(d) OSMRE and DOGM will develop a work plan and schedule for PAP review and

each will identify a person as the project leader. The project leaders will serve as the primary points of contact between OSMRE and DOGM throughout the review process. Not later than 50 days after receipt of the PAP, unless a different time is agreed upon, OSMRE will furnish DOGM with its review comments on the PAP and specify any requirements for additional data. To the extent practicable, DOGM will provide OSMRE all available information that may aid OSMRE in preparing any findings.

(e) DOGM will prepare a State decision package, including written findings and supporting documentation, indicating whether the PAP is in compliance with the Program. The review and finalization of the State decision package will be conducted in accordance with procedures for processing PAPs agreed upon by DOGM and OSMRE.

(f) DOGM may make a decision on approval or disapproval of the permit on Federal lands in accordance with the Program prior to the necessary Secretarial decision on the mining plan, provided that DOGM advises the operator in the permit that Secretarial approval of the mining plan must be obtained before the operator may conduct coal development or mining operations on the Federal lease. DOGM will reserve the right to amend or rescind any requirements of the permit to conform with any terms or conditions imposed by the Secretary in the approval of the mining plan.

(g) The permit will include, as applicable, terms and conditions required by the lease issued pursuant to the MLA and by any other applicable Federal laws and regulations, including conditions imposed by the Federal land management agency relating to post-mining land use, and those of other affected agencies, and will be conditioned on compliance with the requirements of the Federal land management agency with jurisdiction.

(h) In the case that VER is determined to exist on Federal lands under section 522(e)(3) of SMCRA where the proposed operation will adversely affect a unit of the NPS, DOGM will work with the NPS to develop mutually agreed upon terms and conditions for incorporation into the permit to mitigate environmental impacts as set forth under Article X of this agreement.

(i) After making its decision on the PAP, DOGM will send a notice to the applicant, OSMRE, the Federal land management agency, and any agency with jurisdiction over the publicly owned park or historic property included in the NRHP affected by a decision under section 522(e)(3) of SMCRA. A copy of the written findings and the permit will also be submitted to OSMRE.

5. OSMRE will provide technical assistance to DOGM when requested, if available resources allow. OSMRE will have access to DOGM files concerning operations on Federal lands.

D. Review Procedures for Permit Revisions, Amendments, or Renewals: 1. Any permit revision, amendment, or renewal for an operation on Federal lands will be reviewed and approved or disapproved by DOGM after consultation with OSMRE on whether such revision, amendment, or renewal constitutes a mining plan modification. OSMRE will

inform DOGM within 30 days of receiving a copy of a proposed revision, amendment, or renewal, whether the permit revision, amendment, or renewal constitutes a mining plan modification. Where approval of a mining plan modification is required, OSMRE and DOGM will follow the procedures outlined in paragraphs C.1. through C.5. of this Article.

2. OSMRE may establish criteria to determine which permit revisions, amendments, and renewals clearly do not constitute mining plan modifications.

3. Permit revisions, amendments, or renewals on Federal lands which are determined by OSMRE not to constitute mining plan modifications under paragraph D.1. of this Article or that meet the criteria for not being mining plan modifications as established under paragraph D.2. of this Article will be reviewed and approved following the procedures outlined in paragraphs B.1. through B.5. of this Article.

Article VII: Inspections

A. DOGM will conduct inspections on Federal lands in accordance with 30 CFR 740.4(c)(5) and prepare and file inspection reports in accordance with the Program.

B. DOGM will, subsequent to conducting any inspection pursuant to 30 CFR 740.4(c)(5), and on a timely basis, file with OSMRE a legible copy of the completed State inspection report.

C. DOGM will be the point of contact and primary inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by the Agreement, except as described hereinafter. Nothing in this Agreement will prevent inspections by authorized Federal or State agencies for purposes other than those covered by this Agreement. The Department may conduct any inspections necessary to comply with 30 CFR Parts 842 and 843 and its obligations under laws other than SMCRA.

D. OSMRE will ordinarily give DOGM reasonable notice of its intent to conduct an inspection under 30 CFR 842.11 in order to provide State inspectors with an opportunity to join in the inspection. When OSMRE is responding to a citizen complaint of an imminent danger to the public health and safety, or of significant, imminent environmental harm to land, air or water resources, pursuant to 30 CFR 842.11(b)(1)(ii)(C), it will contact DOGM no less than 24 hours prior to the Federal inspection, if practicable, to facilitate a joint Federal/State inspection. All citizen complaints which do not involve an imminent danger of significant, imminent environmental harm will be referred to DOGM for action. The Secretary reserves the right to conduct inspections without prior notice to DOGM to carry out his responsibilities under SMCRA.

Article VIII: Enforcement

A. DOGM will have primary enforcement authority under SMCRA concerning compliance with the requirements of this Agreement and the Program in accordance with 30 CFR 740.4(c)(5). Enforcement authority given to the Secretary under other Federal laws and Executive orders including,

but not limited to, those listed in Appendix A (attached) is reserved to the Secretary.

B. During any joint inspection by OSMRE and DOGM, DOGM will have primary responsibility for enforcement procedures, including issuance of orders of cessation, notices of violation, and assessment of penalties. DOGM will inform OSMRE prior to issuance of any decision to suspend or revoke a permit on Federal lands.

C. During any inspection made solely by OSMRE or any joint inspection where DOGM and OSMRE fail to agree regarding the propriety of any particular enforcement action, OSMRE may take any enforcement action necessary to comply with 30 CFR Parts 843 and 845. Such enforcement action will be based on the standards in the Program, SMCRA, or both, and will be taken using the procedures and penalty system contained in 30 CFR Parts 843 and 845.

D. DOGM and OSMRE will promptly notify each other of all violations of applicable laws, regulations, orders, or approved mining permits subject to this Agreement, and of all actions taken with respect to such violations.

E. Personnel of DOGM and OSMRE will be mutually available to serve as witness in enforcement actions taken by either party.

F. This Agreement does not affect or limit the Secretary's authority to enforce violations of Federal laws other than SMCRA.

Article IX: Bonds

A. DOGM and the Secretary will require each operator who conducts operations on Federal lands to submit a single performance bond payable to Utah and the United States to cover the operator's responsibilities under SMCRA and the Program. Such performance bond will be conditioned upon compliance with all requirements of the SMCRA, the Program, State rules and regulations, and any other requirements imposed by the Department. Such bond will provide that if this Agreement is terminated, the portion of the bond covering the Federal lands will be payable only to the United States. DOGM will advise OSMRE or annual adjustments to the performance bond, pursuant to the Program.

B. Prior to releasing the operator from any obligation under such bond, DOGM will obtain the concurrence of OSMRE. OSMRE concurrence will include coordination with other Federal agencies having authority over the lands involved.

C. Performance bonds will be subject to forfeiture with the concurrence of OSMRE, in accordance with the procedures and requirements of the Program.

D. Submission of a performance bond does not satisfy the requirements for a Federal lease bond required by 43 CFR Subpart 3474 or lessee protection bond required in addition to a performance bond, in certain circumstances, by section 715 of SMCRA.

Article X: Designating Land Areas Unsuitable for All or Certain Types of Surface Coal Mining and Reclamation Operations and Activities and Valid Existing Rights and Compatibility Determinations

A. Unsuitability Petitions.

1. Authority to designate Federal lands as unsuitable for mining pursuant to a petition is reserved to the Secretary.

2. When either DOGM or OSMRE receives a petition that could impact adjacent Federal or non-Federal lands pursuant to section 522(c) of SMCRA, the agency receiving the petition will notify the other of receipt and the anticipated schedule for reaching a decision, and request and fully consider data, information and recommendations of the other. OSMRE will coordinate with the Federal land management agency with jurisdiction over the petition area, and will solicit comments from the agency.

B. Valid Existing Rights and Compatibility Determinations

The following actions will be taken when requests for determinations of VER pursuant to section 522(e) of SMCRA, or for determinations of compatibility pursuant to section 522(e)(2) of SMCRA are received prior to or at the time of submission of a PAP that involves surface coal mining and reclamation operations and activities:

1. Federal lands within the boundaries of any areas specified under section 522(e)(1) of SMCRA, OSMRE will determine whether VER exists for such areas.

For non-Federal lands within section 522(e)(1) areas DOGM, with the consultation and concurrence of OSMRE, will determine whether operations on such lands will or will not affect Federal lands. For such non-Federal lands affecting Federal lands, OSMRE will make the VER determination.

Under section 522(e)(1), for non-Federal lands within the boundaries of the National Park System, DOGM, with the consultation and concurrence of OSMRE, will determine whether operations on such lands will or will not affect the Federal interest. For such non-Federal lands within the boundaries of the National Park System which affect the Federal interest, OSMRE will make the VER determination.

1. For Federal lands within the boundaries of any national forest where proposed operations are prohibited or limited by section 522(e)(2) of SMCRA and 30 CFR 761.11(b), OSMRE will make the VER determination.

OSMRE will process requests for determinations of compatibility under section 522(e)(2) of SMCRA.

3. For Federal lands, DOGM, with the consultation and concurrence of OSMRE, will determine whether any proposed operation will adversely affect units of the National Park System with respect to the prohibitions or limitations of section 522(e)(3) of SMCRA. For such operations adversely affecting units of the National Park System, DOGM, with the consultation and concurrence of OSMRE, will make the VER determination.

For Federal lands, DOGM will determine whether any proposed operation will adversely affect all publicly owned parks other than those covered in the preceding paragraph and, in consultation with the State Historic Preservation Officer, places listed in the National Register of Historic Places, with respect to the prohibitions or limitations of section 522(e)(3) of SMCRA.

For Federal lands other than those on which the proposed operation will adversely

affect units of the National Park System, DOGM will make the VER determination for operations which are prohibited or limited by section 522(e)(3) of SMCRA. In the case that VER is determined to exist on Federal lands under section 522(e)(3) of SMCRA where a proposed operation will adversely affect a unit of the NPS, DOGM will work with the NPS to develop mutually agreed upon terms and conditions for incorporation into the permit in order to mitigate environmental impacts.

In the case that VER is determined not to exist under section 522(e)(3) of SMCRA or 30 CFR 761.11(c), no surface coal mining operations and activities will be permitted unless jointly approved by DOGM and the Federal, State or local agency with jurisdiction over the publicly owned park or historic place.

4. DOGM will process determinations of VER on Federal lands for all areas limited or prohibited by section 522(e)(4) and (5) of SMCRA as unsuitable for mining. For operations on Federal lands, DOGM will coordinate with any affected agency or agency with jurisdiction over the proposed surface coal mining and reclamation operation.

Article XI: Termination of Cooperative Agreement

This Agreement may be terminated by the Governor or the Secretary under the provisions of 30 CFR 745.15.

Article XII: Reinstatement of Cooperative Agreement

If this Agreement has been terminated in whole or in part it may be reinstated under the provisions of 30 CFR 745.16.

Article XIII: Amendment of Cooperative Agreement

This Agreement may be amended by mutual agreement of the Governor and the Secretary in accordance with 30 CFR 745.14.

Article XIV: Changes in State or Federal Standards

A. The Department or the State may from time to time promulgate new or revised performance or reclamation requirements or enforcement and administration procedures. Each party will, if it determines it to be necessary to keep this Agreement in force, change or revise its regulations or request necessary legislative action. Such changes will be made under the procedures of 30 CFR Part 732 for changes to the Program and under the procedures of section 501 of SMCRA for changes to the Federal lands program.

B. DOGM and the Department will provide each other with copies of any changes to their respective laws, rules, regulations or standards pertaining to the enforcement and administration of this Agreement.

Article XV: Changes in Personnel and Organization

Each party to this Agreement will notify the other, when necessary, of any changes in personnel, organization and funding, or other changes that may affect the implementation of this Agreement to ensure coordination of responsibilities and facilitate cooperation.

Article XVI: Reservation of Rights

This Agreement will not be construed as waiving or preventing the assertion of any rights in this Agreement that the State or the Secretary may have under laws other than SMCRA or their regulations, including but not limited to those listed in Appendix A.

Dated: _____

Signed: _____

Governor of Utah

Dated: _____

Signed: _____

Secretary of the Interior

Appendix A

1. The Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.*, and implementing regulations.

2. The Mineral Leasing Act of 1920, 30 U.S.C. 181 *et seq.*, and implementing regulations, including 43 CFR Part 3480.

3. The National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and implementing regulations, including 40 CFR Part 1500.

4. The Endangered Species Act, 16 U.S.C. 1531 *et seq.*, and implementing regulations, including 50 CFR Part 402.

5. The National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, and implementing regulations, including 36 CFR Part 800.

6. The Clean Air Act, 42 U.S.C. 7401 *et seq.*, and implementing regulations.

7. The Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, and implementing regulations.

8. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*, and implementing regulations.

9. The Reservoir Salvage Act of 1960, amended by the Preservation of Historical and Archaeological Data Act of 1974, 16 U.S.C. 469 *et seq.*

10. Executive Order 11593 (May 13, 1971), Cultural Resource Inventories on Federal Lands.

11. Executive Order 11988 (May 24, 1977), for flood plain protection.

12. Executive Order 11990 (May 24, 1977), for wetlands protection.

13. The Mineral Leasing Act for Acquired Lands, 30 U.S.C. 351 *et seq.*, and implementing regulations.

14. The Stock Raising Homestead Act of 1916, 43 U.S.C. 291 *et seq.*

15. The Constitution of the United States.

16. Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*

17. 30 CFR Chapter VII.

18. The Constitution of the State of Utah.

19. Utah Code Annotated 40-10-1 *et seq.*

20. Utah Code Annotated 40-8-1 *et seq.*

21. Utah Coal Mining and Reclamation Permanent Program, Chapters I and II, Final Rules of the Board of Oil, Gas and Mining, UMC/SMC 700 *et seq.*

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