

§ 3420.1-7

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

[52 FR 46473, Dec. 8, 1987]

§ 3420.1-7 Consultation with states and Indian tribes.

Before adopting a comprehensive land use plan or land use analysis that makes an assessment of lands acceptable for further consideration for leasing, the Bureau of Land Management or other surface management agency shall consult with the state Governor and the state agency charged with the responsibility for maintaining the state's unsuitability program (43 CFR 3461.4-1). Where a tribal government administers areas within or near the boundaries of a comprehensive land use plan or land use analysis being prepared by the Bureau of Land Management, the Bureau shall consult with the tribal government.

[44 FR 42615, July 19, 1979. Redesignated and amended at 47 FR 33137, July 30, 1982]

§ 3420.1-8 Identification of lands as acceptable for further consideration.

(a) Identification of lands as acceptable for further consideration for leasing will be made in the adoption of a comprehensive land use plan or land use analysis. Any lands identified as acceptable may be further considered for leasing under § 3420.3 of this title.

(b) Activity planning shall begin with a regional coal team meeting to review market analyses and land-use planning summaries. The market analyses and land-use planning summaries shall be

43 CFR Ch. II (10-1-02 Edition)

available at least 45 days prior to such meeting.

[44 FR 42615, July 19, 1979. Redesignated and amended at 47 FR 33137, July 30, 1982; 51 FR 18888, May 23, 1986]

§ 3420.2 Regional leasing levels.

This section sets out the process to be followed in establishing regional leasing levels. Regional leasing levels shall be established by the Secretary. The Secretary shall particularly rely upon the advice and assistance of affected State Governors in ensuring that leasing levels have properly considered social, environmental and economic impacts and constraints.

(a) The regional coal teams shall be the forum through which initial leasing level recommendations are transmitted to the Secretary. Initial leasing level recommendations shall be developed as follows:

(1) The appropriate Bureau of Land Management State Director on the regional coal team, as designated by the regional coal team chairperson, shall prepare a broadly stated range of initial leasing levels for the region. This range of initial leasing levels must be based on information available to the State Director including: land use planning data; the results of the call for coal resource information held under § 3420.1-2 of this subpart; the results of the call for expressions of leasing interest held under § 3420.3-2 of this subpart; and other considerations. The State Director will consider comments received from the public in writing and at hearings, and input and advice from the Governors of the affected States regarding assumptions, data, and other factors pertinent to the region;

(2) This initial range of leasing levels shall be made available to the other members of the regional coal team for review and comment. This review shall be designed to ensure consideration of relevant social, environmental and economic factors of which the Secretary should be aware in setting leasing levels;

(3) Governors of affected States shall be requested by the regional coal team chairperson to provide comments and

Bureau of Land Management, Interior

§ 3420.2

recommendations concerning the leasing levels through the Governor's representatives on the regional coal team. Governors may use any methodologies, systems or procedures available to determine their recommendations;

(4) The regional coal team chairperson shall call upon the team members to present their findings and recommendations on the initial leasing levels. The chairperson shall refer the members' recommendations to an appropriate Bureau State Director serving on the team. The State Director shall: (i) Ensure the recommendations are in an appropriate format; (ii) add any additional information from the Bureau of Land Management data sources which may be available and pertinent to leasing level decision-making; (iii) address any questions and clarify any issues raised by the members' recommendations; and (iv) outline any additional alternative leasing levels. The regional coal team shall consider the State Director's review and shall transmit to the Secretary alternative leasing levels and a preferred leasing level presented in ranges of tons to be offered for lease. The team also must transmit to the Secretary, without change, all comments and recommendations of the Governor and the public.

(5) The regional coal team transmittal to the Secretary shall be made through the Director, who may provide additional data and recommendations, but only as separate documentation.

(b) The Secretary, upon receipt of the regional coal team transmittal, shall initiate consultations, in writing, with the Secretary of Energy, the Attorney General and affected Indian tribes. The Secretary shall establish leasing levels by region for the purposes of approximating the amount of coal to be offered through proposed lease sale schedules after consideration of potential policy conflicts or problems concerning, but not limited to:

(1) The Department's responsibility for the management, regulation and conservation of natural resources; and

(2) The capabilities of Federal lands and Federal coal resources to meet the proposed leasing levels, and the contributions State and privately owned coal lands can make.

(c) Leasing levels shall be based on the following factors:

(1) Advice from Governors of affected States as expressed through the regional coal team;

(2) The potential economic, social and environmental effects of coal leasing on the region, including recommendations from affected Indian tribes;

(3) Expressed industry interest in coal development in the region and indications of the demand for coal reserves;

(4) Expressed interests for special opportunity sales;

(5) Expected production from existing Federal coal leases and non-Federal coal holdings;

(6) The level of competition within the region and recommendations from the Department of Justice;

(7) U.S. coal production goals and projections of future demand for Federal coal;

(8) Consideration of national energy needs;

(9) Comments received from the public in writing and at public hearings; and

(10) Other pertinent factors.

(d) Prior to determining a final leasing level, the Secretary shall consult with the Governors of affected States to obtain final comments and recommendations. The Secretary shall then establish a final leasing level for the proposed coal lease sale.

(e) The levels shall be established for each coal production region where activity planning is conducted under the provisions of §3420.3 of this subpart. The levels shall be developed separately for each region, but levels for 2 or more regions may be developed at the same time as the Secretary deems appropriate. Leasing levels may be stated in terms of a range of values.

(f) The leasing levels established for any given region shall become the basis for the proposed action for study in the regional coal lease sale environmental impact statement prepared pursuant to §3420.3-4 of this subpart. The Secretary's final decision on which coal lease tracts, if any, within a region to offer for sale, and the schedule for the offering of such tracts shall be based on

§ 3420.3

all information at the Secretary's disposal at the time of the decision.

[47 FR 33137, July 30, 1982, as amended at 48 FR 37655, Aug. 19, 1983; 50 FR 8626, Mar. 4, 1985; 64 FR 52242, Sept. 28, 1999]

§ 3420.3 Activity planning: The leasing process.

§ 3420.3-1 Area identification process.

(a) This section describes the process for identifying, ranking, analyzing, selecting, and scheduling lease tracts after land use planning has been completed. This process constitutes the "activity planning" aspect of the coal management program. Activity planning may occur where areas acceptable for further consideration for leasing have been identified by land use planning completed consistent with the provisions of § 3420.1-4 of this subpart.

(b) Split estate land otherwise acceptable for further consideration for leasing shall, upon verification of a refusal to consent received from a qualified surface owner under § 3427.2 of this title, be deleted from further activity planning.

(c) Each regional coal team established under § 3400.4 of this title shall:

(1) Guide tract delineation and preparation of site specific analyses of delineated tracts;

(2) Rank delineated tracts, select tracts that meet the leasing level established by the Secretary, and identify all alternative tract combinations to be analyzed in the regional lease sale environmental impact statement;

(3) Guide the preparation of the regional lease sale environmental impact statement; and

(4) Recommend a regional coal lease sale schedule to the Director.

(d) Public notice and opportunity for participation in activity planning must be appropriate to the area and the people involved. The Bureau of Land Management will make available a calendar listing of the points in the planning process at which the public may participate, including:

(1) The regional coal team meeting to recommend initial leasing levels (see § 3420.2(a)(4));

(2) The regional coal team meeting for tract ranking (see § 3420.3-4(a));

43 CFR Ch. II (10-1-02 Edition)

(3) Publication of the regional coal lease sale environmental impact statement (see § 3420.3-4(c)); and

(4) The regional coal team meeting to recommend specific tracts for a lease sale and a lease sale schedule (see § 3420.3-4(g)).

[44 FR 42615, July 19, 1979. Redesignated and amended at 47 FR 33138, July 30, 1982; 64 FR 52243, Sept. 28, 1999]

§ 3420.3-2 Expressions of leasing interest.

(a) A call for expressions of leasing interest may be made after areas acceptable for further consideration for leasing have been identified by land use planning completed consistent with the provisions of § 3420.1-4 of this subpart.

(b) Each call for expressions of leasing interest shall be published as a notice in the FEDERAL REGISTER and in at least 1 newspaper of general circulation in each affected state.

(c) All information submitted under this subpart shall be available for public inspection and copying upon request. Data which are considered proprietary shall not be submitted as part of an expression of leasing interest.

[44 FR 42615, July 19, 1979. Redesignated and amended at 47 FR 33138, July 30, 1982]

§ 3420.3-3 Preliminary tract delineation.

(a) Tracts may be delineated in any areas acceptable for further consideration for leasing whether or not expressions of leasing interest have been received for those areas.

(b) When public bodies have submitted expressions of leasing interest, tracts shall be delineated when and where technically feasible for public body special leasing opportunities in accordance with § 3420.1-3 of this subpart.

(c) In cooperation with the Small Business Administration, tracts may be delineated when and where technically feasible for small business special leasing opportunities in accordance with § 3420.1-3 of this title.

(d) Other tracts to be used in a lease or fee exchange (43 CFR subparts 3435 and 3436) may be delineated.