

## Bureau of Land Management, Interior

## § 3436.2-3

management program. An environmental assessment or environmental impact statement shall be prepared on the proposed exchange prior to the public hearings and consultation required by §§ 3435.3-5 through 3435.3-7 of this title.

(e) In determining under § 3435.3-4 of this title the estimated value of the lease or preference right lease application to be relinquished, the Secretary shall proceed as though there were no prohibitions on surface mining operations on the lands covered by the lease or preference right lease application.

(f) The exchange proponent shall bear all administrative costs of the exchange, including the cost of establishing the value of each lease involved in the exchange, if the exchange is completed.

[47 FR 33145, July 30, 1982, as amended at 50 FR 42023, Oct. 17, 1985]

### § 3436.2 Fee coal exchanges.

#### § 3436.2-1 Qualified exchange proponents.

(a) Fee coal exchanges under this program shall only be available to persons who:

(1) Own coal west of the 100th Meridian, west longitude, underlying or near an alluvial valley floor where surface coal mining operations are prohibited by section 510(b)(5) of the Surface Mining Control and Reclamation Act because such operations would interrupt farming or materially damage the quantity and quality of the water in surface or underground water systems that would supply the alluvial valley floor; and

(2) Are not entitled to continue any existing surface coal mining operation pursuant to the first proviso to section 510(b)(5) of the Surface Mining Control and Reclamation Act.

(b) Exchange proponents bear the burden of establishing their qualifications pursuant to paragraph (a) of this section. The Secretary shall accept a determination made pursuant to 30 CFR 785.19(c) as conclusive evidence of the existence of an alluvial valley floor.

#### § 3436.2-2 Federal coal deposits subject to disposal by exchange.

The coal deposits offered in exchange by the Secretary shall be determined to be acceptable for further consideration for coal leasing pursuant to § 3420.1 of this title and shall be in the same State as the coal deposit offered in exchange by the proponent.

#### § 3436.2-3 Exchange procedures.

(a) Any person meeting the requirements of § 3436.2-1(a) of this title may apply for an exchange. No special form of application is required. Any exchange proposal should be directed to the District Manager for the Bureau of Land Management district in which the Federal coal deposits are located.

(b) The Secretary shall evaluate each exchange request to determine whether the proponent is qualified.

(c) After the authorized officer and the owner of the coal deposit underlying an alluvial valley floor identify Federal coal deposits that are suitable for consideration for disposition through exchange, the exchange shall be processed in accordance with part 2200 of this title, except as provided in this section.

(d) The Secretary may consolidate the environmental analysis for the proposed exchange with the regional environmental impact statement prepared on alternative leasing schedules for the coal production region in which the Federal coal deposits are located pursuant to § 3420.3-4 of this title. If the environmental analysis is not so consolidated, the Secretary shall consider environmental and other resource information obtained during the land use planning process or at other stages of the coal management program in preparing an appropriate environmental analysis or environmental impact statement on the proposed exchange.

(e) Exchanges shall be made on an equal value basis, provided that values of the lands exchanged may be equalized by the payment of money to the grantor or the Secretary so long as the payment does not exceed 25 percent of the total value of the lands or interests transferred out of Federal ownership. In determining the value of the coal deposit underlying or near an alluvial

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valley floor, the Secretary shall proceed as though there were no prohibition on surface coal mining operations on the property.

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**PART 3440—LICENSES TO MINE**

**Subpart 3440—Licenses to Mine**

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AUTHORITY: 30 U.S.C. 181 *et seq.*

SOURCE: 44 FR 42634, July 19, 1979, unless otherwise noted.

**Subpart 3440—Licenses to Mine**

**§ 3440.0-3 Authority.**

(a) These regulations are issued under the authority of the statutes cited in § 3400.0-3 of this title.

(b) These regulations primarily implement section 8 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 208).

**§ 3440.1 Terms.**

**§ 3440.1-1 Forms.**

(a) Four copies of the application for a license to mine coal for domestic needs or for a renewal of such a license shall be filed on a form approved by the Director, or a substantial equivalent of the form, in the Bureau of Land Management State Office having jurisdiction over the lands involved (43 CFR subpart 1821).

(b) The original application or any renewal application shall be accompanied by the fee prescribed in subpart 3473 of this title, except when the application is filed by a relief agency.

**§ 3440.1-2 Qualifications.**

(a) An individual, association or individuals, municipality, charitable organization or relief agency may hold a license to mine. A municipality shall file

the information required under § 3472.2-5(b) of this title.

(b) A license to mine shall not be issued to a private corporation.

(c) A license to mine shall not be issued to a minor, but may be issued to a legal guardian on behalf of a minor.

**§ 3440.1-3 Limitations on coal use.**

(a) A license to mine may be issued to a municipality for the nonprofit mining and disposal of coal to its residents for household use only. Under such a license, a municipality may not mine coal either for its own use or for nonhousehold use such as for factories, stores, other business establishments and heating and lighting plants.

(b) Coal extracted under a license to mine shall not be disposed of for profit.

**§ 3440.1-4 Area and duration of license.**

(a) A license to mine for an individual or association in the absence of unusual conditions or necessity, shall be limited to a legal subdivision of 40 acres or less and may be revoked at any time. Each license to mine shall terminate at the end of 2 years from the date of issuance, unless an application for a 2 year renewal is filed and approved before its termination date.

(b) A license to mine to a municipality may not exceed 320 acres for a municipality of less than 100,000 population, 1,280 acres for a municipality between 100,000 and 150,000 population, and 2,560 acres for a municipality of 150,000 population or more. A license to mine to a municipality shall terminate at the end of 4 years from the date of issuance, unless an application for a 4 year renewal is filed and approved before the termination date.

(c) (1) The authorized officer may authorize a recognized and established relief agency of any state upon the agency's request, to take government-owned coal deposits within the state and provide the coal to localities where it is needed to supply families on the rolls of such agency who require coal for household use but are unable to pay for that coal.

(2) Tracts shall be selected in areas assessed as acceptable for mining operations and at points convenient to supply the families in a locality. Each