

them from the final showing if the applicant is no longer interested in leasing such lands or if such lands would be subject to special conditions or protective stipulations and the cost of mining the lands subject to these conditions or protective stipulations would adversely affect the commercial quantities determination.

(f) The applicant may delete any area subject to special conditions or protective stipulations, because it has been assessed to be unsuitable or otherwise, and the costs of mining subject to the conditions or protective stipulations, from the final showing required by paragraph (c) of this section.

(g) All data submitted by the preference right lease applicant that is labeled as privileged or confidential shall be treated in accordance with the provisions of part 2 of this title.

[44 FR 42628, July 19, 1979, as amended at 47 FR 33143, July 30, 1982; 52 FR 25799, July 8, 1987]

§ 3430.4-2 Additional information.

(a) If the applicant for a preference right lease has submitted timely, some, but not all of the information required in § 3430.4-1 of this title, the authorized officer shall request additional information and shall specify the information required.

(b) The applicant shall submit any requested additional information within 60 days of the receipt of the request. The authorized officer may grant one 60-day extension if the applicant files a written request within the first 60-day period.

§ 3430.4-3 Costing document and public review.

(a) The authorized officer shall prepare a document that estimates the cost of compliance with all laws, regulations, lease terms, and special stipulations intended to protect the environment and mitigate the adverse environmental impacts of mining.

(1) The costs shall be calculated for each of the various numbered subject areas contained in § 3430.4-4 of this title.

(2) The authorized officer's estimated costs of compliance may be stated in ranges based on the best available information. If a range is used, he/she

shall identify the number from each range that the authorized officer proposes to use in making the determination whether a particular applicant has identified coal in commercial quantities.

(b) The authorized officer shall provide for public review of the costs of environmental protection associated with the proposed mining on the preference right lease application area.

(1) The authorized officer shall send the Bureau's cost estimate document to the preference right lease applicant and provide at least 30 days for the applicant to review said document before a notice of availability is published in the FEDERAL REGISTER. Comments submitted by the applicant, and the Bureau's response to the comments, shall be made available to the public for review and comment at the time the cost estimate document is made available.

(2) The authorized officer then shall publish in the FEDERAL REGISTER a notice of the availability of the Bureau's cost estimation document.

(3) The authorized officer also shall send the cost estimation document to all interested parties, including all agencies, organizations, and individuals that participated in the environmental impact statement or the scoping process.

(4) Copies of the cost estimation document shall be submitted to the Environmental Protection Agency.

(5) The public shall be given a period of not less than 60 days from the date of the publication of the notice in the FEDERAL REGISTER to comment on the Bureau's cost estimates.

(c) The cost estimate document and all substantive comments received (or summaries thereof if the response is voluminous) shall be part of the Record of Decision for the preference right lease application(s) (See 40 CFR 1505.2).

(1) The authorized officer shall respond to each substantive comment in the Record of Decision by modifying or supplementing his/her cost estimates, or explaining why they were not modified or supplemented in response to the comments.

(2) The authorized officer shall submit a copy of the Record of Decision

with the public comments and the Bureau's response to the Environmental Protection Agency.

(3) The authorized officer shall publish a notice of the availability of each Record of Decision in the FEDERAL REGISTER.

(4) No preference right lease shall be issued sooner than 30 days following publication of the notice of availability required by paragraph (c)(3) of this section.

[52 FR 25799, July 8, 1987]

§ 3430.4-4 Environmental costs.

Prior to determining that a preference right lease applicant has discovered coal in commercial quantities, the authorized officer shall include the following listed and any other relevant environmental costs in the adjudication of commercial quantities (examples may not apply in all cases, neither are they all inclusive):

(a) *Permitting.* (1) Surface water—cost of collecting and analyzing baseline data on surface water quality and quantity (collecting and analyzing samples, constructing and maintaining monitoring facilities, purchasing equipment needed for surface water monitoring).

(2) Groundwater—costs of collecting and analyzing baseline data on groundwater quality and quantity (collecting and evaluating samples from domestic or test wells, purchasing well casings and screens and monitoring equipment, drilling and maintenance of test wells).

(3) Air quality—costs of collecting and analyzing baseline air quality data (purchasing rain, air direction, and wind gauges and air samplers and evaporation pans).

(4) Vegetation—costs of collecting and analyzing data on indigenous vegetation (collecting and classifying samples for productivity analyses).

(5) Wildlife—costs of collecting and analyzing baseline data on wildlife species and habitats (collecting wildlife and specimens and data and purchasing traps and nets).

(6) Soils—costs of collecting and analyzing baseline soil data (collecting and analyzing soil samples by physical and chemical means).

(7) Noise—costs of collecting and analyzing baseline data on noise (purchasing necessary equipment).

(8) Socio-economics—costs of conducting social and economic studies for baseline data (collecting and evaluating social and economic data).

(9) Archaeology, history, and other cultural resources—costs of collecting and analyzing data on archaeology, history, and other cultural resources (conducting archaeological excavations and historical and cultural surveys).

(10) Paleontology—costs of collecting and analyzing paleontological data (conducting surveys and excavations).

(11) Geology—costs of collecting and analyzing baseline geological data (drilling overburden cores and conducting physical and chemical analyses).

(12) Subsidence—costs of collecting and analyzing data on subsidence (setting monuments to measure subsidence).

(13) Mine planning—costs of developing mine permit application package (development of operating, blasting, air and water pollution control, fish and wildlife, and reclamation plans).

(b) Mining—environmental mitigation required by law or proposed to be imposed by the authorized officer.

(1) Surface water protection—costs of mitigating the impacts of mining on the quantity of surface water (purchasing replacement water and transporting it) and on the quality of surface water (construction sedimentation ponds, neutralization facilities, and diversion ditches).

(2) Groundwater protection—costs of mitigating the impacts of mining on the quantity of groundwater (replacing diminished supplies or water rendered unfit for its prior use(s)) and on the quality of groundwater (treating pumped mine water, compensating for damage to water rights, sealing sedimentation ponds).

(3) Air pollution control—costs of mitigating the impacts of mining on air quality (compliance with National Ambient Air Quality Standard and Protection from Significant Deterioration requirements using water and chemical sprays for dust control, installing and operating dust and other pollution collections).