

## §216.8

## 25 CFR Ch. I (4-1-07 Edition)

(e) The mining supervisor shall review the mining plan submitted to him by the operator and shall promptly indicate to the operator any changes, additions, or amendments necessary to meet the requirements formulated pursuant to §216.4, the provisions of these regulations and the terms of the permit or lease. The operator shall comply with the provisions of an approved mining plan.

(f) A mining plan may be changed by mutual consent of the mining supervisor and the operator at any time to adjust to changed conditions or to correct any oversight. To obtain approval of a change or supplemental plan, the operator shall submit a written statement of the proposed changes or supplement and the justification for the changes proposed. The mining supervisor shall promptly notify the operator that he consents to the proposed changes or supplement, or in the event he does not consent, he shall specify the modifications thereto under which the proposed changes or supplement would be acceptable. After mutual acceptance of a change of a plan, the operator shall not depart therefrom without further approval.

(g) If circumstances warrant or if development of a mining plan for the entire operation is dependent upon unknown factors which cannot or will not be determined except during the progress of the operations, a partial plan may be approved and supplemented from time to time. The operator shall not, however, perform any operation except under an approved plan.

### §216.8 Performance bond.

(a) Upon approval of an exploration plan or mining plan, the operator shall be required to file a suitable performance bond of not less than \$2,000 with satisfactory surety, payable to the Secretary of the Interior, and the bond shall be conditioned upon the faithful compliance with applicable regulations, the terms and conditions of the permit, lease, or contract, and the exploration or mining plan as approved, amended or supplemented. The bond shall be in an amount sufficient to satisfy the reclamation requirements established pursuant to an approved ex-

ploration or mining plan, or an approved partial or supplemental plan. In determining the amount of the bond consideration shall be given to the character and nature of the reclamation requirements and the estimated costs of reclamation in the event that the operator forfeits his performance bond. In lieu of a surety bond an operator may elect to deposit cash or negotiable bonds of the U.S. government. The cash deposit or the market value of such securities shall be equal at least to the required sum of the bond.

(b) In a particular instance where the circumstances are such as to warrant an exception, the amount of the bond for a particular operation may be reduced to less than the required minimum of \$2,000.

(c) The superintendent shall set the amount of a bond and take the necessary action for an increase or for a complete or partial release of a bond. He shall take action with respect to bonds for leases or permits only after consultation with the mining supervisor.

### §216.9 Reports.

(a) Within 30 days after the end of each calendar year, or if operations cease before the end of a calendar year, within 30 days after the cessation of operations, the operator shall submit an operations report to the mining supervisor containing the following information:

(1) An identification of the permit or lease and the location of the operation.

(2) A description of the operations performed during the period of time for which the report is filed.

(3) An identification of the area of land affected by the operations and a description of the manner in which the land has been affected.

(4) A statement as to the number of acres disturbed by the operations and the number of acres which were reclaimed during the period of time.

(5) A description of the method utilized for reclamation and the results thereof.

(6) A statement and description of reclamation work remaining to be done.

(b) Upon completion of such grading and backfilling as may be required by

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an approved exploration or mining plan, the operator shall make a report thereon to the mining supervisor and request inspection for approval. Whenever it is determined by such inspection that backfilling and grading have been carried out in accordance with the established requirements and approved exploration or mining plan, the superintendent shall issue a release of an appropriate amount of the performance bond for the area graded and backfilled. Appropriate amounts of the bond shall be retained to assure that satisfactory planting, if required, is carried out.

(c)(1) Whenever planting is required by an approved exploration or mining plan, the operator shall file a report with the superintendent whenever such planting is completed. The report shall—

- (i) Identify the permit or lease;
- (ii) Show the type of planting or seeding, including mixtures and amounts;
- (iii) Show the date of planting or seeding;
- (iv) Identify or describe the areas of the lands which have been planted;
- (v) Contain such other information as may be relevant.

(2) The superintendent, as soon as possible after the completion of the first full growing season, shall make an inspection and evaluation of the vegetative cover and planting to determine if a satisfactory growth has been established.

(3) If it is determined that a satisfactory vegetative cover has been established and is likely to continue to grow, any remaining portion of the surety bond may be released if all requirements have been met by the operator.

(d)(1) Not less than 30 days prior to cessation or abandonment of operations, the operator shall report to the mining supervisor his intention to cease or abandon operations, together with a statement of the exact number of acres of land affected by his operations, the extent of reclamation accomplished and other relevant information.

(2) Upon receipt of such report an inspection shall be made to determine whether operations have been carried

out in accordance with the approved exploration or mining plan.

**§216.10 Inspection: Notice of non-compliance: Revocation.**

(a) The mining supervisor and superintendent shall have the right to enter upon the lands under a permit or lease, at any reasonable time, for the purpose of inspection or investigation to determine whether the terms and conditions of the permit or lease and the requirements of the exploration or mining plan have been complied with.

(b) If the mining supervisor determines that an operator has failed to comply with the terms and conditions of a permit or lease, or with the requirements of an exploration or mining plan, or with the provisions of applicable regulations, the superintendent shall serve a notice of noncompliance upon the operator by delivery in person to him or his agent or by certified or registered mail addressed to the operator at his last known address.

(c) A notice of noncompliance shall specify in what respects the operator has failed to comply with the terms and conditions of a permit or lease or the requirements of an exploration or mining plan, or the provisions of applicable regulations, and shall specify the action which must be taken to correct the noncompliance and the time limits within which such action must be taken.

(d) Failure of the operator to take action in accordance with the notice of noncompliance shall be grounds for suspension by the mining supervisor of operations or for the initiation of action for the cancellation of the permit or lease and for forfeiture of the surety bond required under §216.8.

**§216.11 Appeals.**

An applicant, permittee, lessee, or lessor aggrieved by a decision or order of a mining supervisor or superintendent may appeal such decision or order. An appeal from a decision or order of a superintendent shall be made pursuant to 25 CFR part 2. An appeal from a decision or order of a mining supervisor shall be made pursuant to 30 CFR parts 211 and 231.