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the surface owner an opportunity to appeal the determination.

(k) Any surface owner determined to be unqualified by decision of the field official of the surface management agency shall have 30 days from the date of receipt of such decision in which he/she may appeal the decision to the appropriate State Director of the Bureau of Land Management. The surface owner shall have the right to appeal the State Director's decision to the Director, Bureau of Land Management, within 30 days of receipt of that decision. Both appeals under this paragraph shall be in writing. As an exception to the provisions of §3000.4 of this title, the decision of the Director shall be the final administrative action of the Department of the Interior.

[44 FR 42615, July 19, 1979, as amended at 47 FR 33142, July 30, 1982; 48 FR 37656, Aug. 19, 1983]

§ 3427.3 Validation of information.

Any person submitting a written consent shall include with his filing a statement that the evidence submitted, to the best of his knowledge, represents a true, accurate, and complete statement of information regarding the consent for the area described.

§ 3427.4 Pre-existing consents.

An otherwise valid written consent given by a qualified surface owner prior to August 3, 1977, shall not be required to meet the transferability of §3427.2(d)(1) of this title.

[47 FR 33142, July 30, 1982]

§ 3427.5 Unqualified surface owners.

(a) Lease tracts involving surface owners who are not qualified (see §3400.0-5(gg)) shall be leased subject to the protections afforded the surface owner by the statute(s) under which the surface was patented and the coal reserved to the United States. No consent from an unqualified surface owner is required under this subpart before the authorized officer may issue a lease for such a tract (see section 9 of the Stock-Raising Homestead Act (43 U.S.C. 249); the Act of March 3, 1909 (30 U.S.C. 81); section 3 of the Act of June 22, 1910 (30 U.S.C. 85); and section 5 of the Act of June 21, 1949 (30 U.S.C. 54)).

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(b) The provisions of §§3427.1 through 3427.4 of this title are inapplicable to any lease tract on which a consent has been given by an unqualified surface owner. The high bidder at the sale of such a tract is not required to submit any evidence of written consent before the authorized officer may issue the lease unless the statute establishing the relative rights of the United States (and its lessees) and the surface owner so requires.

[47 FR 33142, July 30, 1982]

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AUTHORITY: 30 U.S.C. 181 *et seq.*; 30 U.S.C. 351-359; 30 U.S.C. 521-531; 30 U.S.C. 1201 *et seq.*; and 43 U.S.C. 1701 *et seq.*

SOURCE: 44 FR 42628, July 19, 1979, unless otherwise noted.

Subpart 3430—Preference Right Leases

§ 3430.0-1 Purpose.

These regulations set forth procedures for processing noncompetitive (preference right) coal lease applications on Federal lands.

§ 3430.0-3 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 2(b) of the Mineral Leasing Act of 1920 (30 U.S.C. 201(b)).

[44 FR 42628, July 19, 1979, as amended at 47 FR 33143, July 30, 1982]

§ 3430.0-7 Scope.

Section 4 of the Federal Coal Leasing Amendments Act of 1976, amending 30 U.S.C. 201(b), repealed the Secretary's authority to issue or extend a coal prospecting permit on Federal lands. Therefore, these regulations apply only to preference right lease applications based on prospecting permits issued prior to August 4, 1976. The surface owner consent provisions of section 714 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1304) do not apply to preference right lease applications.

[47 FR 33143, July 30, 1982]

§ 3430.1 Preference right leases.

§ 3430.1-1 Showing required for entitlement to a lease.

An applicant for a preference right lease shall be entitled to a noncompetitive coal lease if the applicant can demonstrate that he discovered commercial quantities of coal on the prospecting permit lands within the term of the prospecting permit, all other requirements having been met.

§ 3430.1-2 Commercial quantities defined.

For the purpose of § 3430.1-1 of this title, commercial quantities is defined as follows:

(a) The coal deposit discovered under the prospecting permit shall be of such character and quantity that a prudent person would be justified in further expenditure of his labor and means with a reasonable prospect of success in developing a valuable mine.

(b) The applicant shall present sufficient evidence to show that there is a reasonable expectation that revenues from the sale of the coal shall exceed the cost of developing the mine and extracting, removing, transporting, and marketing the coal. The costs of development shall include the estimated cost of exercising environmental protection measures and suitably reclaiming the lands and complying with all applicable Federal and state laws and regulations.