

INDIAN LANDS INITIAL PROGRAM PERFORMANCE STANDARDS AND COUNTERPART PERMANENT PROGRAM PERFORMANCE STANDARDS

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Termination of Jurisdiction Team

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INTRODUCTION

Section 30 CFR 710.11(e), *Satisfying Permanent Program Performance Standards in Lieu of Initial Program Performance Standards*, states that where there is a counterpart permanent program performance standard in subchapter K of this chapter that corresponds to an Initial Program performance standard in subchapter B of this chapter, meeting either performance standard will satisfy the requirements of subchapter B of this chapter. The purpose of this document is to provide operators subject to the Indian Lands Initial Program with a side-by-side compilation that identifies the permanent program standards in subchapter K that correspond to the Initial Program performance standards in subchapter B.

In discussing the use of Initial Program and permanent program performance standards on Indian lands, the August 23, 1994 preamble (59 CFR 43414) for the Initial Regulatory Program for Indian Lands final rule provides clarification on implementation of this rule. A commenter asked whether an operator could meet the permanent program requirements for two subsections of the Use of Explosives performance standards of the Initial Program, but meet the Initial Program requirements for the remainder of the Use of Explosives performance standards. In the preamble, OSM said “The answer is no.” OSM explained that an operator may not pick and choose selective portions of a comprehensive performance standard applicable to a particular activity because it would be impracticable to administer and could result in incomplete compliance with the minimum requirements of both the Initial Program and permanent program performance standards. Consequently, under 30 CFR 710.11(e), an operator could choose to meet either **all** of the Initial Program performance standards for Use of Explosives at section 715.19 or **all** of the permanent program performance standards for Use of Explosives at 30 CFR 816.61 through 816.68.

Based on this preamble language the Office of Surface Mining Western Regional Coordinating Center (WRCC) has developed this side-by-side compilation for use by Indian Lands operators. However, WRCC will consider reasonable alternative counterpart Initial Program and permanent program standards if sufficient justification is provided to demonstrate that the proposed counterparts represent comprehensive performance standards.

STRUCTURES

The following criteria must be applied if an operator chooses to meet permanent program regulations that are applicable to structures.

-- All structures constructed after selection of the permanent program regulations must be constructed in accordance with the requirements of subchapter K.

-- For each existing structure, the operator must demonstrate, in accordance with 30 CFR 701.11(e)(1), that the structure meets the equivalent of the performance standards of subchapter K. If the structure does not meet the equivalent of the performance standards of subchapter K the operator will be required to modify or reconstruct the structure to meet the performance and design standards of subchapter K.

The operator should work with the appropriate mine team to determine what information will be necessary to for OSM to determine if modification or reconstruction is necessary.

FORMAT

Each table in this document represents a comprehensive performance standard. The left column identifies the Initial Program comprehensive performance standard and all the subsections of that standard. The right column identifies the counterpart permanent program comprehensive performance standards. To ensure compliance with SMCRA an operator must either comply with the Initial Program performance standards in the left column of each table or all of the permanent program performance standards in the right column.

30 PART 715 - GENERAL PERFORMANCE STANDARDS	
30 CFR 715.10 Information collection	Substitution is not applicable
30 CFR 715.11 General obligations	Substitution is not applicable

SIGNS AND MARKERS	
30 CFR 715.12 Signs and markers All	30 CFR 816.11 Signs and markers All

POSTMINING USE OF LAND	
30 CFR 715.13 Postmining use of land All	30 CFR 816.133 Postmining land use All

	<p>30 CFR 701.5 Definitions <i>Land Use</i></p> <p>All</p>
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BACKFILLING AND GRADING	
<p>30 CFR 715.14 Backfilling and grading</p> <p>All</p>	<p>30 CFR 816.89 Disposal of noncoal mine waste</p> <p>All</p> <p>30 CFR 816.95 Stabilization of surface areas</p> <p>All</p> <p>30 CFR 816.99 Slides and other damage</p> <p>All</p> <p>30 CFR 816.100 Contemporaneous reclamation</p> <p>All</p> <p>30 CFR 816.101 Backfilling and grading: Time and distance requirements</p> <p>All</p> <p>30 CFR 816.102 Backfilling and grading: General requirements</p> <p>All</p> <p>30 CFR 816.104 Backfilling and grading: Thin overburden</p> <p>All</p> <p>30 CFR 816.105 Backfilling and grading: Thick overburden</p>

	<p>All</p> <p>30 CFR 816.106 Backfilling and grading: Previously mined areas</p> <p>All</p> <p>30 CFR 816.107 Backfilling and grading: Steep Slopes</p> <p>All</p>
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DISPOSAL OF EXCESS SPOIL	
<p>30 CFR 715.15 Disposal of excess spoil</p> <p>All</p>	<p>30 CFR 816.71 Disposal of excess spoil: general requirements</p> <p>All</p> <p>30 CFR 816.72 Disposal of excess spoil: Valley fills/head-of-hollow fills</p> <p>All</p> <p>30 CFR 816.73 Disposal of excess spoil: Durable rock fills</p> <p>All</p> <p>30 CFR 816.74 Disposal of excess spoil: Preexisting benches</p> <p>All</p> <p>30 CFR 816.81 Coal Mine Waste: General requirements</p> <p>All as applicable to excess spoil disposal areas containing coal mine waste</p>

	<p>30 CFR 816.83 Coal Mine Waste: Refuse piles</p> <p>All as applicable to excess spoil disposal areas containing coal mine waste</p>
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TOPSOIL HANDLING	
<p>30 CFR 715.16 Topsoil handling All</p> <p>30 CFR 715.200 Interpretative rules related to general performance standards</p> <p>(c) Interpretation of 715.16(a)(4) - Topsoil removal</p>	<p>30 CFR 816.22 Topsoil and subsoil All</p> <p>30 CFR 816.200 Interpretative rules related to general performance standards</p> <p>(c) Interpretation of 816.22(e) - Topsoil removal</p>

PROTECTION OF THE HYDROLOGIC BALANCE	
<p>30 CFR 715.17 Protection of the hydrologic system 1st Paragraph</p> <p>(b) Surface water monitoring</p> <p>(f) Discharge structures</p> <p>(g) Acid and toxic materials</p> <p>(h) Ground water</p> <p>(i) Water rights and replacement</p> <p>(n) Discharge of waters into underground mines</p>	<p>30 CFR 816. 41 Hydrologic-balance protection All</p> <p>30 CFR 816.13 Casing and sealing of drilled holes: general requirements All</p> <p>30 CFR 816.14 Casing and sealing of drilled holes: temporary All</p> <p>30 CFR 816.15 Casing and sealing of drilled holes: permanent</p>

	All
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WATER QUALITY STANDARDS AND EFFLUENT LIMITATIONS SEDIMENTATION PONDS	
<p>30 CFR 715.17 Protection of the hydrologic system</p> <p>(a) Water quality standards and effluent limitations</p> <p>(e) Sedimentation ponds</p>	<p>30 CFR 816.42 Hydrologic balance: water quality standards and effluent limitations</p> <p>All</p> <p>30 CFR 816.45 Hydrologic balance: Sediment control measures</p> <p>All</p> <p>30 CFR 816.46 Hydrologic balance: siltation structures</p> <p>All</p> <p>30 CFR 816.49 Impoundments</p> <p>All as applicable to siltation structures that impound water</p> <p>30 CFR 816.56 Postmining rehabilitation of sedimentation ponds, diversions, impoundments, and treatment facilities</p> <p>All as applicable to siltation structures that impound water</p>

DIVERSIONS

<p>30 CFR 715.17 Protection of the hydrologic system</p> <p>(c) Diversion and conveyance of overland flow away from disturbed areas</p> <p>(d)(1) and (2) Stream channel diversions</p>	<p>30 CFR 816.43 Diversions</p> <p>All</p> <p>30 CFR 816.56 Postmining rehabilitation of sedimentation ponds, diversions, impoundments, and treatment facilities</p> <p>All as applicable to diversions</p>
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STREAM BUFFER ZONES	
<p>30 CFR 715.17 Protection of the hydrologic system</p> <p>(d)(3) Buffer zones</p>	<p>30 CFR 816.57 Hydrologic balance: stream buffer zones</p> <p>All</p>

ALLUVIAL VALLEY FLOORS	
<p>30 CFR 715.17 Protection of the hydrologic system</p> <p>(j) Alluvial valley floors west of the 100th meridian west longitude</p>	<p>30 CFR Part 822—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS - OPERATIONS IN ALLUVIAL VALLEY FLOORS</p> <p>All</p>

PERMANENT IMPOUNDMENTS	
<p>30 CFR 715.17 Protection of the hydrologic system</p> <p>(k) Permanent impoundments</p>	<p>30 CFR 816.49 Impoundments</p> <p>(b) Permanent impoundments</p> <p>30 CFR 816.56 Postmining rehabilitation of sedimentation ponds, diversions, impoundments, and treatment</p>

	facilities All as applicable to impoundments
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HYDROLOGIC IMPACT OF ROADS	
30 CFR 715.17 Protection of the hydrologic system (l) Hydrologic impact of roads	30 CFR 816.150 Roads: general All 30 CFR 816.151 Primary roads All

HYDROLOGIC IMPACTS OF OTHER TRANSPORT FACILITIES	
30 CFR 715.17 Protection of the hydrologic system (m) Hydrologic impacts of other transport facilities	30 CFR 816.180 Utility installations All 30 CFR 816.181 Support facilities All

DAMS CONSTRUCTED OF OR IMPOUNDING WASTE MATERIAL	
30 CFR 715.18 Dams constructed of or impounding waste material All	30 CFR 816.84 Coal mine waste: Impounding structures All 30 CFR 816.81 Coal mine waste: General requirements All as applicable to coal mine waste impounding structures 30 CFR 816.49 Impoundments

	All as applicable to coal mine waste impounding structures
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USE OF EXPLOSIVES	
	30 CFR 816.61 Use of explosives All
	30 CFR 816.62 Preblasting survey All
	30 CFR 816.64 Blasting schedule All
30 CFR 715.19 Use of explosives All	30 CFR 816.66 Signs, warnings, and access control All
	30 CFR 816.67 Control of adverse effects All
	30 CFR 816.68 Records of blasting All

REVEGETATION	
30 CFR 715.20 Revegetation All	30 CFR 816.111 Revegetation: General requirements All
	30 CFR 816.113 Revegetation:

	<p>Timing</p> <p>All</p> <p>30 CFR 816.114 Revegetation: Mulching and other soil stabilizing practices</p> <p>All</p> <p>30 CFR 816.116 Revegetation: Standards for success</p> <p>All</p>
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