

the non-consumptive use portion of the proposed regulations. The Commission reserves the right to limit oral testimony in the interest of time. Written comments submitted at or before the hearing will also be accepted and made a part of the hearing record. All written comments should be submitted by March 9, 1995.

Copies of the latest version of the proposed rules and a responsiveness document explaining why changes were made are available upon request to the Commission at 1721 N. Front Street, Harrisburg, PA. 17102-2391, 717/238-0423. Written comments may be submitted to and further information obtained from Richard A. Cairo, General Counsel/Secretary, at the same address and phone number.

Dated: February 3, 1995.

Paul O. Swartz,
Executive Director.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 756

Navajo Nation Abandoned Mine Land Reclamation (AMLR) Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Navajo Nation AMLR plan (hereinafter referred to as the "Navajo Nation plan") under the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*) (SMCRA). The proposed amendment consists of the addition of interim program coal site provisions to the Navajo Nation's AMLR Code of 1987. The amendment is intended to revise the Navajo Nation plan to be consistent with SMCRA, and to improve operational efficiency.

DATES: Written comments must be received by 4:00 p.m., m.s.t., March 13, 1995. If requested, a public hearing on the proposed amendment will be held on March 7, 1995. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.s.t., February 27, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Thomas E. Ehmett at the address listed below.

Copies of the Navajo Nation plan, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Thomas E. Ehmett, Acting Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue, NW., Suite 1200, Albuquerque, New Mexico 87102;

The Navajo Nation, P.O. Box 308, Window Rock, Arizona 86515, Telephone: (602) 871-4941.

FOR FURTHER INFORMATION CONTACT:

Thomas E. Ehmett, Telephone: (505) 766-1486.

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of SMCRA established an AMLR for the purposes of reclaiming and restoring lands and waters adversely affected by past mining. The program is funded by a reclamation fee levied on the production of coal. Lands and waters eligible for reclamation under Title IV are those that were mined or affected by mining and abandoned or inadequately reclaimed prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State, Federal, Tribal, or other laws.

Title IV provides for State and Tribal submittal to OSM of an AMLR plan. The Secretary of the Interior adopted regulations at 30 CFR 870 through 888 that implement Title IV of SMCRA. Under these regulations, the Secretary reviewed the plans submitted by States and Tribes and solicited and considered comments of State and Federal agencies and the public. Based upon the comments received, the Secretary determined whether a State or Tribe had the ability and necessary legislation to implement the provisions of Title IV. After making such a determination, the Secretary decided whether to approve the State or Tribe program. Approval granted the State or Tribe exclusive authority to administer its plan.

Ordinarily, under section 405 of SMCRA, a State or Tribe must have an approved surface mining regulatory program prior to submittal of an AMLR plan to OSM. However, on July 11, 1987, the President signed a supplemental appropriations bill (Pub. L. 100-71) that authorized the Crow and Hopi Tribes and Navajo Nation to adopt

AMLR programs without approval of Tribal surface mining regulatory programs.

Upon approval of a State's or Tribe's plan by the Secretary, the State or Tribe may submit to OSM, on an annual basis, an application for funds to be expended by that State or Tribe on specific projects that are necessary to implement the approval plan. Such annual requests are reviewed and approved by OSM in accordance with the requirements of 30 CFR Part 886.

II. Background on the Navajo Nation Plan

On May 16, 1988, the Secretary of the Interior approved the Navajo Nation plan. General background information on the Navajo Nation plan, including the Secretary's findings, the disposition of comments, and the approval of the Navajo Nation plan can be found in the May 16, 1988, **Federal Register** (53 FR 17186). Approval of the Navajo Nation plan is codified at 30 CFR 756.13. Subsequent actions concerning the Navajo Nation plan and plan amendments can be found at 30 CFR 756.14.

III. Proposed Amendment

By letter dated January 12, 1995, the Navajo Nation submitted the proposed amendment to its plan pursuant to SMCRA (administrative record No. NA-227). The Navajo Nation submitted the proposed amendment at its own initiative and in response to the final rule **Federal Register** notice acknowledging that the Navajo Nation would amend its AMLR Code of 1987 to provide for the reclamation of interim program coal sites (59 FR 49178, 48181, finding No. 1(f), September 27, 1994; administrative record No. NA-225). The Navajo Nation proposes to add new language to its Code at section 404(b) to provide:

Lands and waters also eligible for reclamation on the Navajo Nation are those which were damaged and abandoned after August 3, 1977 by coal mining processes if the Director finds in writing that:

(1) They were mined for coal or affected by coal mining processes; and

(2) The mining occurred and the site was left in either an unreclaimed or inadequately reclaimed condition between August 4, 1977 and September 18, 1984; or

(3) The mining occurred and the site was left in either an unreclaimed or inadequately reclaimed condition between August 4, 1977 and ending on November 5, 1990, and that the surety of the mining operator became insolvent during such period and as of November 5, 1990, funds immediately available from proceedings relating to such insolvency or from any financial guarantee or other source are not sufficient to provide

adequate reclamation or abatement at the site; and

(4) The site qualifies as a priority site; and two site pursuant to section 403(a)(1) and (2) of SMCRA. Priority will be given to those sites which are in the immediate vicinity of a residential area or which have an adverse economic impact upon a community.

IV. Public Comment Procedures

In accordance with the provisions of 30 CFR 884.14 and 884.15(a), OSM is seeking comments on whether the proposed amendment satisfies the applicable plan approval criteria of 30 CFR 884.14. If the amendment is deemed adequate, it will become part of the Navajo Nation plan.

1. Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.s.t., February 27, 1995. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a

public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the administrative record.

V. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State or Tribal AMLR plans and revisions thereof since each such plan is drafted and promulgated by a specific State or Tribe, not by OSM. Decisions on proposed State or Tribe AMLR plans and revisions thereof submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and the applicable Federal regulations at 30 CFR Parts 884 and 888.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State or Tribe AMLR plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Tribal submittal which is the subject of this rule is based

upon Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements established by SMCRA or previously promulgated by OSM will be implemented by the Tribe. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 756

Abandoned mine land reclamation program, Indian lands.

Dated: February 2, 1995.

Charles E. Sandberg,

Acting Assistant Director, Western Support Center.

[FR Doc. 95-3314 Filed 2-9-95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Chapter I

[CGD 94-100]

Withholding of Vessel Clearances or Permits; Identification of Satisfactory Sureties in Lieu of Clearance or Permit Denial

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: The Coast Guard is authorized, under several statutes, to request that the Customs Service refuse or revoke a vessel's clearance if the vessel's owner or operator may be subject to a penalty for violating the provisions of the authorizing statutes. These statutes also provide that the vessel may be cleared upon the filing of a bond or other surety satisfactory to the Coast Guard. However, because there are currently no uniform standards governing the form and terms of an acceptable surety, the policies applied have differed among the Coast Guard districts. The Coast Guard is requesting comments on what problems, if any, are created by these variations and what solutions, if any, are desirable. The Coast Guard may initiate rulemaking based upon the comments received.

DATES: Comments must be received on or before April 11, 1995.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406) (CGD 94-100),