

**SUMMARY:** The African Development Foundation is repealing its old conduct regulations for employees of the Foundation, which were superseded by the executive branch-wide Standards of Ethical Conduct and financial disclosure regulations. The Foundation is also issuing a residual cross-reference to the new provisions.

**EFFECTIVE DATE:** February 21, 1996.

**FOR FURTHER INFORMATION CONTACT:** Paul Magid, Designated Agency Ethics Official, or Tom Wilson, Alternate Designated Agency Ethics Official, African Development Foundation, 1400 Eye Street, N.W., 10th Floor, Washington, D.C. 20005. Telephone: (202) 673-3916.

**SUPPLEMENTARY INFORMATION:**

I. Background

On August 7, 1992, the Office of Government Ethics published a final rule entitled "Standards of Ethical Conduct for Employees of the Executive Branch" (Standards). See 57 FR 35006-35067, as corrected at 57 FR 48557 and 57 FR 52583, with additional grace period extensions for certain existing agency Standards of Conduct at 59 FR 4779-4780 and 60 FR 6390-6391. The Standards, codified at 5 CFR part 2635 and effective February 3, 1993, establish uniform standards of ethical conduct that apply to all executive branch personnel.

By this notice, the Foundation is repealing its old conduct regulations at 22 CFR part 1504 which have been superseded by the Standards found at 5 CFR part 2635 and by the OGE regulations at 5 CFR part 2634, Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture.

II. Repeal of Foundation Employee Responsibilities and Conduct Regulations

Because the Foundation's regulations on Employees Responsibilities and Conduct have been superseded by the newer executive branch standards of ethical conduct and financial disclosure regulations, 5 CFR parts 2634 and 2635, on the effective date of the final rule, the Foundation is repealing all of existing 22 CFR part 1504. To ensure that Foundation employees are on notice of the ethical standards and financial disclosure requirements to which they are subject, the Foundation is replacing old part 1504 with a new 5 CFR 1504.1 which cross-references 5 CFR parts 2634 and 2635.

III. Matters of Regulatory Procedure

*Administrative Procedure Act*

In accordance with the Administrative Procedure Act (5 U.S.C. 553 (b) and (d)(3)), the Foundation has found that good cause exists for waiving as unnecessary and contrary to the public interest, the general notice of proposed rulemaking and the 30-day delay in effectiveness as to the rules and repeals. Public comment is unnecessary because these regulations merely revoke existing regulations which have been superseded in accordance with previously issued government-wide regulations. In addition, since these regulations relate to agency management and personnel they are exempt from notice and comment under 5 U.S.C. 553(a)(2).

*Executive Order 12866*

In promulgating this final rule the Foundation has adhered to the regulatory philosophy and the applicable principles of regulation set forth at section 1 of Executive Order 12866, Regulatory Planning and Review. This final rule deals with Foundation organization, management and personnel matters and is therefore, not deemed "significant" under Executive Order 12866.

*Regulatory Flexibility Act*

The Foundation has determined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that these regulations will not have a significant impact on small business entities because they affect only Foundation employees.

*Paperwork Reduction Act*

The Foundation has determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because these regulations do not contain any information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects in 22 CFR Part 1504

Conflict of interests, Government employees.

Dated: February 13, 1995.

Paul Magid,

*General Counsel, African Development Foundation.*

For the reasons set forth in the preamble, the African Development Foundation is revising 22 CFR part 1504 to read as follows:

**PART 1504—EMPLOYEE RESPONSIBILITIES AND CONDUCT**

**§ 1504.1 Cross-references to employee ethical conduct standards and financial disclosure regulations.**

Directors and other employees of the African Development Foundation are subject to the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635, and the executive branch financial disclosure regulations at 5 CFR part 2634.

Authority: 5 U.S.C. 7301.

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**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 756**

**Navajo Nation, Hopi Tribe, and Crow Tribe Abandoned Mine Land Reclamation (AMLR) Plans**

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

**ACTION:** Final rule; technical amendment.

**SUMMARY:** Office of Surface Mining Reclamation and Enforcement (OSM) is making technical amendments to promote consistency with the codification that OSM has used for primacy States, OSM is changing the codification of the sections approving the AMLR plans and subsequent amendments for the Hopi Tribe and Crow Tribe and is creating sections for required amendments to the Navajo Nation, Hopi Tribe, and Crow Tribe AMLR plans. OSM is also making minor editorial changes.

**EFFECTIVE DATE:** February 21, 1996.

**FOR FURTHER INFORMATION CONTACT:** John Trelease, Office of Technology, Development, and Transfer, OSM, 1951 Constitution Ave., NW., Washington, DC 20240, Telephone: (202) 208-2617.

**SUPPLEMENTARY INFORMATION:**

I. Background

In accordance with 30 CFR Part 884, OSM processes AMLR plans and amendments to these plans, which are submitted by the States and Indian tribes for OSM review and approval.

To promote consistency in codification of OSM's approvals of State and Indian Tribe AMLR plans and plan amendments and OSM-required plan amendments, OSM is amending the

Indian lands program provisions at Chapter VII, Subchapter E. OSM is also making minor editorial changes.

Specifically, OSM is adding sections to the provisions of the Indian lands program concerning the approval of amendments to the Crow Tribe AMLR plan and submittal of OSM-required amendments to the Navajo Nation, Hopi Tribe, and Crow Tribe AMLR plans, and is recodifying the existing sections accordingly. By recodifying existing information for the Hopi Tribe and Crow Tribe AMLR plan and plan amendments from 30 CFR 756.15, .16, and .17 to 30 CFR 756.16, .17, and .19; adding a section to contain information on required amendments to the Navajo National AMLR plan at 30 CFR 756.15; and creating new sections at 30 CFR 756.18 for required amendments to the Hopi Tribe AMLR plan and 756.20 for approval of amendments and 756.21 for required amendments to the Crow Tribe AMLR plan, OSM is being consistent with the codification it has used for primacy State plans, plan amendments, and required amendments to the plans.

## II. Procedural Matters

### 1. Administrative Procedure Act

The minor revisions contained in this rulemaking are technical in nature. Accordingly, pursuant to 5 U.S.C. 553(b)(B), it has been determined that the notice and public comment procedures of the Administrative Procedure Act are unnecessary. For the same reason, it has been determined that, in accordance with 5 U.S.C. 553(d), there is good cause to make this rule effective on the date of publication in the Federal Register.

### 2. 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).

### 3. 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. This rule (1) does not preempt any State, Tribal, or local laws or regulations; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging its provisions.

### 4. National Environmental Policy Act

This rule has been reviewed by OSM, and it has been determined to be categorically excluded from the

National Environmental Policy Act (NEPA) process in accordance with the Departmental Manual (516 DM 2 appendix 1.10) and the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR 1507.3).

### 5. Paperwork Reduction Act

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

### 6. 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.*).

### List of Subjects in 30 CFR Part 756

Abandoned mine reclamation programs, Indian lands, Surface mining, Underground mining.

Dated: February 8, 1996.

Richard J. Seibel,

Regional Director, Western Regional Coordinating Center.

For the reasons set forth in the preamble, title 30, chapter VII, subchapter E, part 756 of the Code of Federal Regulations is amended as set forth below:

## PART 756—INDIAN TRIBE ABANDONED MINE LAND RECLAMATION PROGRAMS

1. The authority citation for part 756 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.* and Pub. L. 100-71.

2. Section 756.13 is amended by revising paragraph (b) to read as follows:

### § 756.13 Approval of the Navajo Nation's abandoned mine land plan.

\* \* \* \* \*

(b) Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 505 Marquette Ave., NW., Suite 1200, Albuquerque, NM 87102, Telephone: (505) 248-5070.

3. Section 756.15 is revised to read as follows:

### § 756.15 Required amendments to the Navajo Nation's abandoned mine land plan.

Pursuant to 30 CFR 884.15, the Navajo Nation is required to submit to OSM by the date specified either a proposed amendment or a reasonable timetable, which is consistent with the Navajo Nation's established administrative and

legislative procedures, for submitting an amendment to the Navajo Nation plan.

4. Section 756.16 is revised to read as follows:

### § 756.16 Approval of the Hopi Tribe's abandoned mine land reclamation plan.

The Hopi Tribe's Abandoned Mine Land Reclamation Plan as submitted in July 1983, and amended in March and May 1988, is approved. Copies of the approved Plan are available at the following locations:

(a) The Hopi Tribe, Hopi Abandoned Mine Land Program, Department of Natural Resources, Honahni Building, P.O. Box 123, Kykotsmovi, AZ 86039, Telephone: (520) 734-2441.

(b) Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 505 Marquette Ave., NW., Suite 1200, Albuquerque, NM 87102, Telephone: (505) 248-5070.

5. Section 756.17 is revised to read as follows:

### § 756.17 Approval of amendments to the Hopi Tribe's abandoned mine land reclamation plan.

The Hopi Tribe certification of completion of coal reclamation, as submitted on February 2, 1994, is approved effective June 9, 1994.

6. Section 756.18 is added to read as follows:

### § 756.18 Required amendments to the Hopi Tribe's abandoned mine land reclamation plan.

Pursuant to 30 CFR 884.15, the Hopi Tribe is required to submit to OSM by the date specified either a proposed amendment or a reasonable timetable, which is consistent with the Hopi Tribe's established administrative and legislative procedures, for submitting an amendment to the Hopi Tribe plan.

7. Section 756.19 is added to read as follows:

### § 756.19 Approval of the Crow Tribe's Abandoned Mine Land Reclamation Plan.

The Crow Tribe's Abandoned Mine Land Reclamation Plan as submitted in 1982, and resubmitted in September, 1988 is approved. Copies of the approved Plan are available at the following locations:

(a) Crow Tribal Council, Crow Office of Reclamation, P.O. Box 159, Crow Agency, MT 59022.

(b) Office of Surface Mining Reclamation and Enforcement, Casper Field Office, Room 2128, 100 East B Street, Casper, WY 82601-1918, Telephone: (307) 261-6555.

8. Section 756.20 is added to read as follows:

**§ 756.20 Approval of amendments to the Crow Tribe's abandoned mine land reclamation plan.**

Revisions to the following provisions of the Crow Tribe's Abandoned Mine Land Reclamation Plan, as submitted to OSM on the date specified, are approved.

9. Section 756.21 is added to read as follows:

**§ 765.21 Required amendments to the Crow Tribe's abandoned mine land reclamation plan.**

Pursuant to 30 CFR 884.15, the Crow Tribe is required to submit to OSM by the date specified either a proposed amendment or a reasonable timetable, which is consistent with the Crow Tribe's established administrative and legislative procedures, for submitting an amendment to the Crow Tribe plan.

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**30 CFR Part 906**

[SPATS No. CO-001-FOR]

**Colorado Regulatory Program**

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

**ACTION:** Final rule; approval of amendment and removal of condition of program approval.

**SUMMARY:** The Secretary of Interior is announcing the approval of an amendment to the Colorado regulatory program (hereinafter referred to as the "Colorado program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and the removal of the remaining condition of program approval. The Colorado revisions pertain to the recovery of costs and expenses, including attorney's fees, incurred in connection with administrative and judicial review proceedings under the Colorado program. The amendment revised the Colorado program to be consistent with SMCRA and the corresponding Federal regulations.

**EFFECTIVE DATE:** February 21, 1996.

**FOR FURTHER INFORMATION CONTACT:** James F. Fulton, Telephone: (303) 672-5524.

**SUPPLEMENTARY INFORMATION:****I. Background on the Colorado Program**

On December 15, 1980, the Secretary of the Interior conditionally approved the Colorado program. General background information on the Colorado program, including the

Secretary's findings, the disposition of comments, and the conditions of approval of the Colorado program can be found in the December 15, 1980, Federal Register (45 FR 82173). Subsequent actions concerning Colorado's program and program amendments can be found at 30 CFR 906.11, 906.15, 906.16, and 906.30.

**II. Proposed Amendment**

By letter dated November 20, 1995, Colorado submitted a proposed amendment to its program (administrative record No. CO-675) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). Colorado submitted the proposed amendment in response to the condition of program approval at 30 CFR 906.11(mm). Colorado proposed to revise 2 CCR 407-2, Rules 5.03.6 and 5.03.6(4)(e), concerning costs, expenses, and attorney's fees.

OSM announced receipt of the proposed amendment in the December 7, 1995, Federal Register (60 FR 62789), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. CO-675-2). Because no one requested a public hearing or meeting, none was held. The public comment period ended on January 8, 1996.

**III. Secretary's Findings**

As discussed below, the Secretary, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds that the proposed program amendment submitted by Colorado on November 20, 1995, is no less effective than the corresponding Federal regulations and no less stringent than SMCRA. Accordingly, the Secretary approves the proposed amendment.

**1. Rule 5.03.6, Awarding of Costs, Expenses, and Attorney Fees Incurred in Seeking an Award**

Existing Rule 5.03.6 authorizes the Colorado Mined Land Reclamation Board (Board), under certain circumstances, to assess and award costs, expenses, and attorney fees to parties of Board proceedings resulting in Board decisions and orders or to parties of administrative proceedings under the Colorado Surface Coal Mining Reclamation Act. In response to the condition of original program approval at 30 CFR 906.11(mm)(1)(ii) (finding No. 4(k), 45 FR 82173, 82194, December 15, 1980), Colorado proposed to revise Rule 5.03.6 to specify that the costs, expenses, and attorney fees to be awarded to a requesting party are those incurred by the party seeking the award.

Section 525(e) of SMCRA allows for an award of a sum equal to the aggregate amount of all costs, expenses, and attorney fees determined by the Secretary of the Interior to have been reasonably incurred by a person for or in connection with his participation in administrative proceedings. In addition, the Federal regulations at 43 CFR 4.1295(b) require that an award may include all costs and expenses, including attorneys' fees and expert witness fees, reasonably incurred in seeking the award.

Proposed Rule 5.03.6 differs from 43 CFR 4.1295(b) only in that it does not specifically address expert witness fees. However, this is not a substantive difference because the "costs and expenses" requirement of the proposed rule includes such fees. For this reason, the Secretary finds that Colorado's proposed revision to Rule 5.03.6, which requires that awarded costs, expenses, and attorney fees be restricted to those incurred by the requesting party in seeking the award, is no less stringent than section 525(e) of SMCRA, and no less effective than the corresponding requirement of the corresponding Federal regulation at 43 CFR 4.1295(b). The Secretary approves the revised rule and removes the condition of original program approval codified at 30 CFR 906.11(mm)(1)(ii).

**2. Rule 5.03.6(4), Awarding Costs, Expenses, and Attorney Fees From the Division to Administrative Proceeding Participants Other Than the Permittee**

In response to the condition of original program approval at 30 CFR 906.11(mm)(2) (finding No. 4(k), 45 FR 82173, 82194, December 15, 1980), Colorado proposed to add newly-created paragraph (e) to Rule 5.03.6(4), which would allow appropriate costs and expenses, including attorneys' fees, to be awarded from the Colorado Department of Natural Resources, Division of Minerals and Geology (Division) to participants, other than the permittee or his representative, in "administrative proceedings" under the Colorado Surface Coal Mining Reclamation Act (Act).

The corresponding Federal regulation at 43 CFR 4.1294(b) allows appropriate costs and expenses, including attorneys' fees, to be awarded from OSM to participants, other than a permittee or his representative, in "any proceeding" under SMCRA. "Any proceeding" includes both administrative and judicial proceedings.

Proposed Rule 5.03.6(4)(e) differs from 43 CFR 4.1294(b) in that it restricts the awarding of costs, expenses, and attorneys' fees to those incurred in