

## List of Subjects in 30 CFR Part 925

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 8, 1996.

Brent Wahlquist,

*Regional Director, Mid-Continent Regional Coordinating Center.*

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

**PART 925—MISSOURI**

1. The authority citation for Part 925 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 925.15 is amended by adding paragraph (u) to read as follows:

**§ 925.15 Approval of regulatory program amendments.**

\* \* \* \* \*

(u) With the exception of that portion of the Phase II/III Revegetation Success Standards for Prime Farmland, concerning the option to utilize county averages of production as one method of establishing a target yield for prime farmland, the addition of the following revegetation success guidelines: Phase III Revegetation Success Standards for Woodland; Phase III Success Standards for Industrial/Commercial Revegetation; Phase III Revegetation Success Standards for Cropland; Phase III Revegetation Success Standards for Wildlife Habitat; Phase III Revegetation Success Standards for Pasture and Previously Mined Areas; Phase II/III Revegetation Success Standards for Prime Farmland; Phase III Revegetation Success Standards for a Recreation land use; Phase III Revegetation Success Standards for Residential land use; and the revision of the rules at 10 CSR 40-3.120/3.270(6)(B) concerning specific standards for postmining land uses, as submitted to OSM on December 14, 1995, are approved effective May 28, 1996.

**§ 925.16 [Amended]**

3. Section 925.16 is amended by removing and reserving paragraphs (a) and (p)(6).

[FR Doc. 96-13263 Filed 5-24-96; 8:45 am]

BILLING CODE 4310-05-M

**30 CFR Part 936**

[SPATS No. OK-015-FOR]

**Oklahoma Abandoned Mine Land Reclamation Plan**

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** OSM is approving a proposed amendment to the Oklahoma abandoned mine land reclamation plan (hereinafter referred to as the "Oklahoma plan") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Oklahoma proposed revisions and additions to its rules and to sections of the Oklahoma plan pertaining to definitions, contractor responsibility, eligible lands and waters, reclamation project objectives and priorities, project ranking, public participation, organizational structure, and coordination of reclamation with other agencies. The amendment is intended to revise the Oklahoma plan to be consistent with the corresponding Federal regulations and SMCRA, to incorporate the additional flexibility afforded by the revised Federal regulations, and to improve operational efficiency.

**EFFECTIVE DATE:** May 28, 1996.

**FOR FURTHER INFORMATION CONTACT:**

Jack R. Carson, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135-6547, Telephone: 918 581-6430.

**SUPPLEMENTARY INFORMATION:**

I. Background on the Oklahoma Plan  
II. Submission of the Proposed Amendment  
III. Director's Findings  
IV. Summary and Disposition of Comments  
V. Director's Decision  
VI. Procedural Determinations

**I. Background on the Oklahoma Plan**

On January 21, 1982, the Secretary of the Interior approved the Oklahoma plan. Background information on the Oklahoma plan, including the Secretary's findings, the disposition of comments, and the approval of the plan can be found in the January 21, 1982, Federal Register (47 FR 2989). Subsequent actions concerning Oklahoma's plan and amendments to the plan can be found at 30 CFR 936.25.

**II. Submission of the Proposed Amendment**

By letter dated November 13, 1995 (Administrative Record No. OAML-63),

Oklahoma submitted a proposed amendment to its plan pursuant to SMCRA. Oklahoma submitted the proposed amendment in response to a September 26, 1994, letter from OSM in accordance with 30 CFR 884.15 (Administrative Record No. OAML-65) and at its own initiative. Oklahoma proposed to amend its administrative rules at OAC 155:15, Oklahoma Abandoned Mine Land Program, and its reclamation plan at section 884.13(c)1, Goals and Objectives; 884.13(c)2, Project Ranking and Selection; 884.13(c)3, Interagency Coordination; 884.13(c)5, Eligible Lands and Waters; 884.13(c)7, Public Participation; and 884.13(d)1, Administrative and Management Structure.

OSM announced receipt of the proposed amendment in the December 21, 1995, Federal Register (60 FR 66244), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on January 22, 1996.

During its review of the amendment, OSM identified concerns relating to Oklahoma's proposal to revise the administrative regulations at OAC 155.15-1-5, Eligible Lands and Water, and the Oklahoma plan at section 884.13(c)5, Eligible Lands and Water. These revisions were intended to allow expenditure of funds for reclamation of certain lands and water affected by mining after August 3, 1977, the effective date of SMCRA. OSM notified Oklahoma of the concerns by telephone on March 15, 1996, and by telefax on March 19, 1996 (Administrative Record Nos. OAML-71 and OAML-72).

Oklahoma responded in a letter dated March 21, 1996, by submitting revisions to its amendment (Administrative Record No. OAML-69).

Based upon the revisions to the proposed plan amendment submitted by Oklahoma, OSM reopened the public comment period in the April 8, 1996, Federal Register (61 FR 15435) and provided opportunity for public comment on the adequacy of the revised amendment. The public comment period closed on April 23, 1996.

**III. Director's Findings**

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 884.14 and 884.15, are the Director's findings concerning the proposed amendment.

Revisions not specifically discussed below concern nonsubstantive editorial changes, punctuation, grammatical, or revised cross-references and paragraph

notations to reflect organizational changes resulting from this amendment.

*A. OAC 155:15, Oklahoma Abandoned Mine Land Reclamation Program*

1. *OAC 155:15-1-2.* This section is amended to revise the definitions for "Act"; "Fund"; "Program"; and "Secretary." The revised definitions are not inconsistent with the definition contained in the Federal regulations at 30 CFR 870.5. Therefore, the Director is approving the proposed revisions at OAC 155:15-1-2.

2. *OAC 155:15-1-3.* This section is changed to add subsection (4) that requires all successful bidders for AML construction contracts to be found eligible to receive funding using the OSM automated Applicant/Violator System (AVS). This is a required amendment as specified in the September 26, 1994, letter from the Director. The Director finds the proposed provision is in compliance with the requirements of the Federal regulations at 30 CFR 874.16 and 875.20. Therefore, the Director is approving the proposed revision to OAC 155:15-1-3.

3. *OAC 155:15-1-5.* Subsections (b), (c), and (d) are added to OAC 155:15-1-5. These subsections incorporate the requirements of the Federal regulations at 30 CFR 874.12 (d), (g), and (h). These new subsections expand the definition of lands and waters eligible for funding to include certain sites mined after August 4, 1977. Review of the original amendment determined that the Oklahoma plan or regulations must also make provisions for the requirements of 30 CFR 874.12(e) and (f), in order for the plan to be consistent with the provisions of SMCRA and the Federal regulations. OSM notified Oklahoma of this concern on March 15, 1996, and advised that the additional provisions may be included in either the State regulations at OAC 155:15-1-5 or in the Oklahoma Plan. Oklahoma submitted an additional revision to the plan on March 21, 1996.

The Director finds that the proposed regulations at OAC 155:15-1-5 (b), (c), and (d) are substantially the same as the Federal counterpart regulations at 30 CFR 874.12 (d), (g), and (h). Counterparts to the Federal Regulations at 30 CFR 874.12 (e) and (f) are included in the Oklahoma plan at Section 884.13(c)5. Therefore, the Director finds the post-SMCRA eligibility provisions of this amendment to be consistent with SMCRA and the Federal regulations, and he is approving them.

4. *OAC 115:15-1-6.* A new first paragraph is added to OAC 115:15-1-6 which incorporates the revised

requirements of 30 CFR 874.13 and outlines reclamation project objectives and priorities. New provisions require that State reclamation projects be accomplished in accordance with OSM's "Final Guidelines for Reclamation Programs and Projects", published March 6, 1980.

Old subsections (4) and (7) of 155:15-1-6 were deleted and the remaining subsections renumbered (4) and (5). Old subsection (4) identified "projects for research and demonstration relating to reclamation and water quality control" as the fourth priority for funding, an old subsection (7) identified "construction of public facilities in mining impacted communities" as the seventh priority of reclamation funding. The deletion of these two subsections is consistent with the deletion of the Federal counterpart subsections on May 31, 1994 (59 FR 28136). The revised regulation at OAC 155:15-1-6 is substantially the same as the Federal counterpart regulation at 30 CFR 874.13 and SMCRA section 403(a). Therefore, the Director finds it is consistent with SMCRA and the Federal regulations, and he is approving it.

5. *OAC 115:15-1-14.* This section is added to incorporate the requirements of 30 CFR 874.14, authorizing repair and replacement of water supplies damaged by abandoned mines. The proposed regulation at OAC 115:15-1-14 is substantially the same as the Federal counterpart regulation at 30 CFR 874.14 and SMCRA section 403(a). Therefore, the Director finds it is consistent with SMCRA and the Federal regulations, and he is approving it.

6. *OAC 155:15-1-15.* This section is added to allow Oklahoma to receive and use future set-aside funds. The proposed regulation at OAC 155:1-15 is substantially the same as the Federal counterpart regulation at 30 CFR 873. Therefore, the Director is approving OAC 155:15-1-15.

7. *OAC 155:15-1-16.* This section is added to authorize the establishment of an Acid Mine Drainage Trust Fund and to outline the requirements for acid mine drainage projects. The proposed regulation at OAC 155:15-1-16 is substantively the same as the Federal counterpart regulation at 30 CFR 876. Therefore, the Director is approving OAC 155:15-1-16.

*B. Oklahoma Abandoned Mine Land Reclamation Plan*

1. *Section 884.13(c)1, Goals and Objectives.* This section is changed to reflect new language in the "objectives and priorities" section of the Federal regulation at 30 CFR 874.13 and the elimination of two reclamation priorities in SMCRA section 403. The

new introductory paragraph outlines reclamation project objectives and priorities and states that "generally, projects of a lower priority should not be undertaken until all known higher priority coal projects have either been accomplished, are in the process of being reclaimed, or have been approved by the secretary, except in those instances where such lower priority projects may be undertaken in conjunction with a higher priority site." This adds clarification to the section and is in compliance with new language in 30 CFR 874.13.

The seven priority objectives outlined in the original version of the State plan are revised to five priority objectives. Old priority objectives (4) and (7) of this section were deleted and the remaining objectives renumbered (4) and (5). Old objective (4) identified as the fourth priority for funding, projects for research and demonstration relating to reclamation and water quality control. Old objective (7) identified construction of public facilities in mining impacted communities as the seventh priority of reclamation funding. The deletion of these two objectives is consistent with the deletion of the Federal regulation counterpart objectives on May 31, 1994 (59 FR 28136).

At the State's initiative, detailed discussions of generic AML problem types, corrective measures, conservation practices, funding considerations, anticipated benefits, possible adverse effects, and time frames covered by the plan are all deleted from the State reclamation plan through this revision. These discussions are not a required part of this section and many were out of date because of changes to the State program, changes to SMCRA, the advancement of reclamation technology, and completion of many of the State's highest priority projects.

The Director finds that Section 884.13(c)1 is substantially the same as the Federal counterpart regulation at 30 CFR 874 and SMCRA section 403(a). Therefore, he is approving it. This revision also accurately reflects changes to the Oklahoma Administrative Code at OAC 115:15-1-6.

2. *Section 884.13(c)2, Specific Criteria for Ranking and Identifying Projects To Be Funded.* A new provision is added to the first paragraph that provides for publication of public notices in 16 coal counties and provides opportunity for the public to attend one of four annual public meetings. The Project Selection Matrix is replaced with a new one. Table 3 which outlines the general procedure for project ranking and selection is replaced. It clarifies the process and clearly outlines the

responsibilities of each of the parties involved in project selection. Input from the general public is placed at the head of the process. This public involvement was not explicit in the previously approved procedure.

The proposed changes are voluntary on the part of the State program and improve opportunities for public involvement in the project selection process. There are no comparable components in SMCRA or the Federal regulations. However, 30 CFR 884.13(c)(2) does require that States describe the project ranking procedures in their State reclamation plans. Therefore, the Director finds the new provisions are consistent with SMCRA and the Federal regulation requirements, and he is approving the proposed revision.

3. *Section 884.13(c)3, Coordination of Reclamation Work Between The State, The Soil Conservation Service And Other Reclamation Agencies.* The list of agencies which will be represented on the State Reclamation Committee is revised. The sections entitled "Purpose of the State Reclamation Committee" and "Role of the State Reclamation Committee" are consolidated into one "Purpose" section. The proposed changes are voluntary on the part of the State program. There are no comparable components in SMCRA or the Federal regulations. However, 30 CFR 884.13(c)(3) does require that States describe coordination of reclamation work among the State reclamation program, the Rural Abandoned Mine Program, the reclamation programs of any Indian tribes, and OSM reclamation programs. Therefore, the Director finds this part of the State plan is consistent with and satisfies the requirements of 30 CFR 884.13(c)(3), and he is approving the proposed revisions.

4. *Section 884.13(c)5, Policies and Procedures Regarding Reclamation on Private Land.* The subsection entitled "Eligible Lands and Water" is revised to make certain mine lands, abandoned after passage of SMCRA, eligible for reclamation funding under the Abandoned Mine Land Program. A new sub-part (B) is added to the "Eligible Lands and Waters" subsection which incorporates the requirements of 30 CFR 874.12 (d), (e), (f), (g), and (h). The changes to Section 884.13(c)5 are substantially the same as the Federal counterpart regulations. Therefore, the Director is approving the proposed revision.

5. *Section 884.13(c)7, Public Participation And Involvement In The Preparation Of The State Reclamation Plan And In The State Reclamation Program.* Subsection (2) of the public

participation policies is changed to provide more and earlier opportunity for the public to become involved in the AML project selection process. This is a voluntary change initiated by the State. There is no direct counterpart Federal regulation. However, a description of public participation policies is required by 30 CFR 884.13(c)(7). Therefore, the Director finds this revised section meets this Federal requirement, and he is approving it.

6. *Section 884.13(d)1, A Description Of The Administrative And Management Structure To Be Used In Conducting The Reclamation Program.* Figure 7, "Organizational Chart of the Oklahoma Conservation Commission", is replaced with a new chart dated July 1, 1995. Supplemental charts are included which depict the various sub-parts of the Conservation Commission. The subsection entitled "State Agencies Which May Become Involved in the State Reclamation Program" is replaced with a new list of agencies. Figure 8, "Organization Chart of the Oklahoma Executive Branch", is deleted. This chart is not required by Federal regulations.

There is no direct counterpart Federal regulation. However, a description of the organization of the designated agency and its relation ship to other State organizations or officials is required by 30 CFR 884.13(d)(1). The Director finds this revised section meets this Federal requirement, and he is approving it.

#### IV. Summary Disposition of Comments

##### *Public Comments*

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received and because no one requested an opportunity to speak at a public hearing, no hearing was held.

##### *Federal Agency Comments*

Pursuant to 884.14(a)(2) and 884.15(a), the Director solicited comments on the proposed amendment from various other Federal agencies with an actual or potential interest in the Oklahoma plan (Administrative Record No. OAML-64 and OAML-70). The U.S. Department of Interior, Bureau of Mines, the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, and the Oklahoma Historical Society responded with expressions of "no comment" (Administrative Record Nos. OAML-66, OAML-67, OAML-73, OAML-74, and OAML-75). No other comments were received.

#### V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Oklahoma on November 13, 1995 and revised on March 21, 1996.

The Director is taking this opportunity to correct the date of program approval from July 20, 1981, to January 21, 1982, at 30 CFR 936.20, Approval of Oklahoma Abandoned Mine Land Reclamation Plan, and to add the date a previous amendment was approved on July 20, 1990, at 30 CFR 936.25, Approval of Abandoned Mine Land Reclamation Plan Amendments.

The Federal regulations at 30 CFR Part 936, codifying decisions concerning the Oklahoma plan, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State plan amendment process and to encourage States to bring their plans into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

#### VI. Procedural Determinations

##### *Executive Order 12866*

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

##### *Executive Order 12988*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, 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 and Tribal abandoned mine land reclamation plans and revisions thereof since each such plan is drafted and promulgated by a specific State or Tribe, not by OSM. Decisions on proposed abandoned mine land reclamation 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 30 CFR Parts 884 and 888.

##### *National Environmental Policy Act*

No environmental impact statement is required for this rule since agency decisions on proposed State and Tribal abandoned mine land reclamation 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)).

*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.*).

*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 submittal which is the subject of this rule is based upon corresponding 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 previously promulgated by OSM will be implemented. 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.

*Unfunded Mandates*

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 8, 1996.

Brent Wahlquist,

*Regional Director, Mid-Continent Regional Coordinating Center.*

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

**PART 936—OKLAHOMA**

1. The authority citation for Part 936 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 936.20 is revised to read as follows:

**§ 936.20 Approval of Oklahoma abandoned mine land reclamation plan.**

The Oklahoma Abandoned Mine Land Reclamation Plan, as submitted on July 30, 1981, is approved effective January 21, 1982 (47 FR 2989–2991, January 21, 1982). Copies of the approved Plan and Amendments are available at:

Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office, 5100 E. Skelly Drive, Suite 470, Tulsa, OK 74135

Oklahoma Conservation Commission, 2800 N. Lincoln Blvd., Suite 160, Oklahoma 73505

3. Section 936.25 is added to read as follows:

**§ 936.25 Approval of Abandoned Mine Land Reclamation Plan Amendments.**

(a) The proposed amendment pertaining to the Oklahoma abandoned mine land reclamation plan, as submitted to OSM on August 24, 1989, is approved effective July 20, 1990.

(b) The proposed amendment pertaining to the Oklahoma abandoned mine land reclamation plan, as submitted to OSM on November 13, 1995, and revised on March 21, 1996, is approved effective May 28, 1996.

[FR Doc. 96–13262 Filed 5–24–96; 8:45 am]  
BILLING CODE 4310–05–M

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 0**

[DA 96–396]

**Delegation of Authority to General Counsel To Act Upon Applications for Determination of Exempt Telecommunications Company Status**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This amendment changes the Commission's rules to reflect delegation of authority to the General Counsel to act on applications for determination of exempt telecommunications company status.

**EFFECTIVE DATE:** May 28, 1996.

**FOR FURTHER INFORMATION CONTACT:** Lawrence J. Spiwak, Office of General Counsel, (202) 418–1880.

**SUPPLEMENTARY INFORMATION:**

1. Through this order in DA 96–396, adopted May 14, 1996 and released May 15, 1996, we amend part O of the Commission's rules to reflect a delegation of authority to the General Counsel to act upon applications for "exempt telecommunications company" ("ETC") status filed with the Commission under new section 34(a)(1) of the Public Utility Holding Company Act of 1935.<sup>1</sup> This authority was

<sup>1</sup> 15 U.S.C. 79–79z–5b, as added by section 103 of the Telecommunications Act of 1996, Pub. L. No. 104–104, 110 Stat. 56 (1996).

delegated by the Commission in an order granting the application of CSW Communications, Inc. for a determination of ETC status.<sup>2</sup> In CSW, the Commission also ordered the Managing Director to make conforming changes to the Commission's rules to reflect this delegation of authority.<sup>3</sup>

2. The amendments adopted herein pertain to agency organization. The notice and comment and effective date provisions of section 4 of the Administrative Procedure Act<sup>4</sup> are therefore inapplicable. Authority for the amendments adopted herein is contained in sections 4(i) and (j), 5(c)(1) of the Communications Act of 1934, as amended.

3. Accordingly, it is ordered, pursuant to authority delegated by Commission Order, FCC 96–152, released April 4, 1996, and effective upon publication in the Federal Register, that part O of the Commission's rules and regulations is amended as set forth below.

Federal Communications Commission.  
William F. Caton,  
*Acting Secretary.*

List of Subjects in 47 CFR Part 0

Organization and functions.

Final Rules

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

**PART 0—ORGANIZATION AND FUNCTIONS**

1. The authority citation for part 0 continues to read as follows:

Authority: 47 CFR Ch. 1, secs. 2–5, 301, 303, 307–309, 315, 317, 48 Stat., as amended, 1064–1066, 1068, 1081–1085, 1089, 47 U.S.C. 152–155, 301, 303, 307–309, 315, 317.

2. Section 0.251 is amended by adding a new paragraph (j), which reads as follows:

\* \* \* \* \*

(j) The General Counsel is delegated authority to act upon any application for a determination of exempt telecommunications company status filed pursuant to section 34(a)(1) of the Public Utility Holding Company Act of 1935, as amended by section 103 of the Telecommunications Act of 1996.

[FR Doc. 96–13249 Filed 5–24–96; 8:45 am]

BILLING CODE 6712–01–P

<sup>2</sup> Order, In re Application of CSW Communications, Inc. for Status as an Exempt Telecommunications Company, \_\_\_ FCC Rcd \_\_\_, (FCC 96–152, Rel. April 4, 1996) ("CSW").

<sup>3</sup> Id.

<sup>4</sup> 5 U.S.C. § 553(b)(A) and 553(d).