

DEPARTMENT OF THE INTERIOR**Office of Surface Mining Reclamation and Enforcement****30 CFR Part 756**

[HO-004-FOR]

Hopi Abandoned Mine Land Reclamation Plan**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.**ACTION:** Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Hopi Tribe's abandoned mine land reclamation (AMLR) plan (hereinafter, the "Hopi plan") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to plan provisions pertaining to the preface; purpose of the Hopi plan; eligible lands and waters subsequent to certification; land acquisition, management, and disposal; rights of entry; Hopi Department of Natural Resources policy on public participation; organization of the Hopi Tribe; a description of aesthetic, cultural and recreational conditions of the Hopi Reservation; and flora and fauna. The amendment is intended to revise the Hopi plan to meet the requirements of the corresponding Federal regulations and be consistent with SMCRA.

DATES: Written comments must be received by 4:00 p.m., m.d.t., November 15, 1996. If requested, a public hearing on the proposed amendment will be held on November 12, 1996. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.d.t., October 31, 1996.

ADDRESSES: Written comments should be mailed or hand delivered to Guy Padgett at the address listed below.

Copies of the Hopi 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.

Guy Padgett, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue, NW., Suite 1200, Albuquerque, New Mexico 87102
Norman Honie, Abandoned Mine Land Program Manager, Office of Mining

and Minerals, Department of Natural Resources, The Hopi Tribe, P.O. Box 123, Kykotsmovi, Arizona 86039

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: (505) 248-5070.

SUPPLEMENTARY INFORMATION:**I. Background on the Hopi Plan**

On June 28, 1988, The Secretary of the Interior approved the Hopi plan. General background information on the Hopi plan, including the Secretary's findings and the disposition of comments, can be found in the June 28, 1988, Federal Register (53 FR 24262). Subsequent actions concerning the Hopi Tribe's plan and plan amendments can be found at 30 CFR 756.17 and 756.18.

II. Proposed Amendment

By letter dated September 23, 1996, the Hopi Tribe submitted a proposed amendment to its plan (administrative record No. HO-156) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). The Hopi Tribe submitted the proposed amendment in response to the required plan amendments at 30 CFR 756.18 (a) through (h). The provisions of the Hopi plan that the Hopi Tribe proposes to revise are: preface to amended reclamation plan; section I.A, purpose of the Hopi plan; section II.A(1), coal reclamation after certification and section II.A(1)(i), limited liability; sections II.B(1) (d) and (d)(ii), noncoal reclamation after certification and the construction of public facilities, section II.B(1)(h), limited liability, section II.B(1)(i), contractor responsibility, and section II.B(1)(j), reports; section IV.A(1), land acquisition; section VI.A(1) and B(1), consent to entry and public notice; and part XII, description of aesthetic, cultural and recreational conditions of the Hopi Reservation.

Specifically, the Hopi Tribe proposes in the preface to the amended Hopi plan to include the Energy Policy Act of 1992 (Pub. L. 102-486) as enabling legislation for the Tribe's AMLR program.

The Hopi Tribe is also proposing to delete the existing language that describes the purpose of the Hopi plan at section I.A and replace it with the following:

[T]he purpose of the Hopi Abandoned Mine Land Reclamation Plan, as amended, is to protect the health, safety, and general welfare of members of the Hopi Tribe and members of the general public from the harmful effects of past coal mining practices and past mineral mining and processing practices.

It also has other purposes. They are: (1) to address adverse effects of mineral mining and processing practices on public facilities; (2) to provide for public facilities in

communities impacted by coal or other mineral mining and processing practices; and (3) to address needs for activities or public facilities related to the coal or minerals industry on Hopi Lands impacted by coal or minerals development.

Provision for coal projects are found in Parts IC, IIA, and Parts III through XIV of this Plan. Noncoal projects, including projects related to mineral mining and processing as well as activities and public facilities, are subject to applicable provisions of Parts IIB through XIV of this Plan.

The Hopi Tribe proposes to revise its provisions concerning coal reclamation after certification at section II.A to clarify that the effective date of the Hopi Tribe's certificate of completion of all known abandoned coal mine problems is June 9, 1994. The Tribe also proposes the addition of new language of this section to provide that coal problems found after the effective date of certification would be subject to the provisions specified in the Hopi plan and in sections 401 through 410 of SMCRA.

The Hopi Tribe is proposing to add new language at section II.A(1)(i) to provide for limited liability for coal reclamation after certification such that

[t]he Tribe shall not be liable under any provision of Federal, State, or Tribal law for any costs or damages as a result of action taken or omitted in the course of carrying out this plan. This section shall not preclude liability for costs or damages as a result of gross negligence or intentional misconduct by the Tribe. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence or intentional misconduct.

The Hopi Tribe is also proposing to revise its provisions concerning noncoal reclamation after certification at sections II.B(1) (d) and (d)(ii) by providing that the projects and construction of "public" facilities shall include as priority two the protection of public health, safety, and general welfare from the adverse effects of mining and processing practices, rather than the protection of public health, safety, general welfare and property. In addition, the Hopi Tribe is proposing to add new provisions at sections II.B(1) (h) through (j) to provide for noncoal reclamation the following:

(h) Limited Liability. The Tribe shall not be liable under any provision of Federal, State, or Tribal law for any costs or damages as a result of action taken or omitted in the course of carrying out this plan. This section shall not preclude liability for costs or damages as a result of gross negligence or intentional misconduct by the Tribe. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence or intentional misconduct.

(i) Contractor Responsibility. To receive AML funds, every successful bidder for a

Tribal AML contract must be eligible under 30 CFR 773.15(b)(1) at the time of contract award to receive a permit or conditional permit to conduct surface coal mining operations. Bidder eligibility must be confirmed by OSM's automated Applicant/Violator System.

(j) Reports. A Form OSM-76, "Abandoned Mine Land Problem Area Description," shall be submitted to OSM upon project completion to report the accomplishments achieved through the project.

Further, the Hopi Tribe is proposing to delete the existing provisions for these topics at sections II.E through G and recodify section II.H as II.E.

The Hopi Tribe proposes to revise its provisions concerning land acquisition at section IV.A(1) to provide that land adversely affected by coal and noncoal mining practices, including refuse piles and all refuse thereon, may be acquired by the Hopi Tribe for the purposes of the reclamation program when the acquisition of the lands meets the requirements of section 407 of SMCRA.

The Hopi Tribe is proposing to revise its rights of entry provisions at section VI.A(1) to provide that entry may be made for the purposes of studies or exploration for the purposes of reclamation and for reclamation work, and at section VI.B(1) to provide that the written notice to be sent to landholders when written consent cannot be obtained will state the intent and reasons for entry and will be consistent with procedures and requirements of the applicable OSM regulations and that such notice will be given 30 days prior to entry.

The Hopi Tribe proposes to delete the original text concerning the description of aesthetic, cultural and recreational conditions of the Hopi Reservation and add new language at part XII to briefly describe the general aesthetic, historic, cultural or recreational values or conditions of the Hopi Reservation.

Finally, the Hopi Tribe is proposing minor editorial and recodification changes.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 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 Hopi 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.d.t., October 31, 1996. 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.

IV. 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 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 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 Tribe or State AMLR plans and revisions thereof since each such plan is drafted and promulgated by a specific Tribe or State, not by OSM. Decisions on proposed Tribe or State AMLR plans and revisions thereof submitted by a Tribe or State 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 Tribe or State 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 Tribe or State 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 or State. 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.

6. Unfunded Mandates Reform Act

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

List of Subjects in 30 CFR Part 756

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

Dated: October 8, 1996.

Russell F. Price,

Acting Regional Director, Western Regional Coordinating Center.

[FR Doc. 96-26510 Filed 10-15-96; 8:45 am]

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PANAMA CANAL COMMISSION

35 CFR Parts 133 and 135

RIN 3207-AA38

Tolls for Use of Canal; Rules for Measurement of Vessels

AGENCY: Panama Canal Commission.

ACTION: Proposed rulemaking; extension of comment period.

SUMMARY: The Panama Canal Commission (PCC) is providing a supplemental comment period on the toll rate/measurement rule published in the Federal Register (61 FR 46407) on September 3, 1996. The original comment period closed on September 25, 1996. The provision of this additional period responds to requests from a number of interested parties who indicated there had not been sufficient time to adequately address the various issues raised by the proposal.

Additional written comments will be accepted through November 15, 1996.

As in the first comment period, PCC will consider, and strongly encourages all interested parties to present in writing, pertinent data, views or arguments, along with any alternatives or other relevant information, for PCC's consideration prior to issuance of any final rules. Any final rules approved will be effective no earlier than 30 days from the date of their publication in the Federal Register.

DATES: The comment period is extended until November 15, 1996.

ADDRESSES: Comments may be mailed to: John A. Mills, Secretary, Panama Canal Commission, 1825 I Street, NW., Suite 1050, Washington, DC 20006-5402; Telephone: (202) 634-6441, Fax: (202) 634-6439, Internet E-Mail: PanCanalWO@AOL.COM; or the Office of Financial Management, Panama Canal Commission, Balboa Heights, Republic of Panama (Telephone: 011-507-272-3194, Fax: 011-507-272-3040).

FOR FURTHER INFORMATION CONTACT: John A. Mills at the above address, (telephone: (202) 634-6441).

SUPPLEMENTARY INFORMATION: PCC requests that parties desiring to submit new or additional comments advise PCC verbally or in writing of their intention to do so no later than October 24, 1996

so that it may program sufficient time for staff analysis of those comments.

Dated: October 10, 1996.

John A. Mills,

Secretary, Panama Canal Commission.

[FR Doc. 96-26469 Filed 10-15-96; 8:45 am]

BILLING CODE 3640-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 64, 70, and 71

[FRL-5636-8]

Compliance Assurance Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification Not to Extend Comment Period.

SUMMARY: On August 13, 1996, EPA published a notice of availability of a draft regulatory package on the Compliance Assurance Monitoring (CAM) rulemaking. In that notice, EPA stated that it would make required impact analyses available for review and comment no later than August 30, 1996. 61 FR 41991. On September 3, 1996, EPA published a correction notice stating that no required impact analyses would be made public until the CAM rule is promulgated. 61 FR 46418.

EPA has reconsidered the release of regulatory impact analyses and decided to make public for comment the required analyses under the Regulatory Flexibility Act concerning the potential impact on small entities. That analyses should be available by early November 1996 and EPA will at that time make it available and announce through a Federal Register notice a 30-day comment period. During that comment period EPA will accept comments only on the impact of the draft CAM approach on small entities.

The general public comment period on the latest draft of the CAM approach will close on October 15, 1996 as originally specified in the August 13, 1996 notice.

FOR FURTHER INFORMATION CONTACT: Peter Westlin, Office of Air Quality Planning and Standards, (919) 541-1058.

Dated: October 10, 1996.

John S. Seitz,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 96-26454 Filed 10-15-96; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 80

[FRL-5636-3]

Petition by Guam for Exemption From Anti-Dumping and Detergent Additization Requirements for Conventional Gasoline

AGENCY: Environmental Protection Agency.

ACTION: Proposed notice of decision.

SUMMARY: The Environmental Protection Agency ("EPA" or "the Agency") is proposing to grant a petition by the Territory of Guam for exemption from the anti-dumping requirements for gasoline sold in the United States after January 1, 1995. This action is proposed because of Guam's unique geographic location and economic factors. EPA is not granting Guam's petition for exemption from the fuel detergent additization requirements that all gasoline sold in the United States after January 1, 1995 contain fuel detergents. If the gasoline anti-dumping exemption were not granted, Guam would be required to import gasoline from a supplier meeting the anti-dumping requirements adding a considerable expense to gasoline purchased by the Guam consumer. Guam is in full attainment with the national ambient air quality standard for ozone. This proposed action is not expected to cause harmful environmental effects to the citizens of Guam.

DATES: Comments on this proposed final decision must be received in writing by November 15, 1996.

ADDRESSES: Materials relevant to this petition are available for inspection in public docket A-95-19 at the Air Docket Office of the EPA, room M-1500, 401 M Street, SW., Washington, DC 20460, (202) 260-7548, between the hours of 8:00 a.m. to 5:30 p.m., Monday through Friday. A duplicate public docket, A-GU-95, has been established at U.S. EPA Region IX, 75 Hawthorne Street (Mail Code: A-2-1), 17th Floor, San Francisco, CA 94105, (415) 744-1225, and is available between the hours of 8:30 a.m. to noon, and 1 p.m. to 5 p.m., Monday through Friday. As provided in 40 CFR part 2, a reasonable fee may be charged for copying services.

Comments should be submitted (in duplicate if possible) to the two dockets listed above, with a copy forwarded to Marilyn Winstead McCall, U.S. Environmental Protection Agency, Fuels and Energy Division, 401 M Street, SW. (Mail Code: 6406J), Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: