

Act (85 Stat. 688) and recognized by the federal government as eligible for services from the Bureau of Indian Affairs.

We, us, or our mean the Secretary of the Interior or the official in the Bureau of Indian Affairs to whom the Secretary has delegated authority.

§ 286.2 What is the purpose of these regulations?

This part prescribes regulations and procedures pertaining to the Indian Business Development Program which has provided grants to further economic development on Indian reservations. It gives requirements you must follow on reporting the status of grants and complying with grant conditions. It also establishes the circumstances under which you must return grant funds.

§ 286.3 Information collection.

(a) The Office of Management and Budget has approved our collection of information under 44 U.S.C. 3501 *et seq.* under clearance number 1076-0093. The collection of information helps the BIA to provide assistance to failing businesses funded with grants and to compile reports on the program's effectiveness.

(b) We estimate the public reporting for this information to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. These may be copies of financial statements required by and furnished to the lender which provided the loan portion of the total financing required. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Director of Management and Administration, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240 and the Office of Management and Budget, Paperwork Reduction Project (1076-0093), Washington, DC 20503.

§ 286.4 What are the grant limitations and requirements that apply?

An Indian tribe cannot receive over \$250,000 in grants from this program. The total of grants to an individual or any other non-tribal business entity cannot exceed \$100,000. Grantees must have obtained at least 75 percent of the necessary financing from sources other than the direct and guaranteed loan programs.

§ 286.5 Do I need to return unused funds?

(a) You must return all or a portion of the funds in the following circumstances:

You Must Return the Entire Grant if, Within 3 Years of the Grant

You sell the business which received the grant and did not reinvest the proceeds, with our approval, in a new business which contributes to the reservation economy.

You move the business off the reservation and it no longer contributes to the reservation economy.

Indian ownership and/or active management falls below 51 percent.

If a cooperative association, profits are not allocated for later distribution to members.

(b) When do I need to return unused funds? We require you to return unused grant funds if you do not initiate the economic enterprise within the time stated in your grant agreement. Grant funds owed will be deemed debt owed to the United States. The following table indicates circumstances in which you must return funds.

You Must Return Unused Funds if You Did Not Initiate Your Grant Through These Types of Actions

You have not obtained a lease if you needed to do this for your enterprise.

You have not started construction, if that was necessary.

You have not purchased equipment or other materials needed for the enterprise.

You have not performed other actions which were necessary to initiate the enterprise.

(c) Can I obtain an extension of time to allow me to start my enterprise? If we determine that circumstances exist beyond your control we may extend the time we allow you to initiate the enterprise. No program may be initiated and no funding may be disbursed after September 30, 1997.

(d) What additional information do I need to provide for an extension? You must provide assurance that you will initiate the enterprise within the extended time period. We will write to the lender regarding any actions which we propose requiring you to return grant funds or of any proposal to extend the time.

§ 286.6 What reports must I submit?

(a) After receiving a grant, you must furnish us the following information:

You must submit	Semiannually during	And annually during
comparative balance sheets.	the first two years of operation.	years three through five of operation.
profit and loss statements.	the first two years of operation.	years three through five of operation.

(b) You may use copies of financial statements which you furnish to the lender who provides partial financing.

(c) If you fail to provide the necessary reports, we will require repayment of grant funds. Grant funds owed will be deemed debt owed to the United States.

Dated: January 10, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

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Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

[SPATS No. AR-027-FOR]

Arkansas Regulatory Program and Abandoned Mine Land Reclamation Plan

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

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: OSM is announcing receipt of revisions pertaining to a previously proposed amendment to the Arkansas regulatory program and abandoned mine land reclamation plan (hereinafter referred to as the "Arkansas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions for Arkansas' proposed amendment pertain to the definition for "unanticipated event or condition"; procedures for challenging ownership and control links shown in AVS; and applicant liability under the Small Operator Assistance Program. Arkansas also proposed to correct typographical errors and a number of incorrect reference citations. The amendment is intended to incorporate the additional flexibility afforded by the revised Federal regulations and to enhance the enforcement of the State program.

DATES: Written comments must be received by 4:00 p.m., c.s.t., February 14, 1997.

ADDRESSES: Written comments should be mailed or hand delivered to A. Dwight Thomas, Acting Director, Tulsa Field Office at the address listed below.

Copies of the Arkansas program, 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 Tulsa Field Office.

A. Dwight Thomas, 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.
Arkansas Department of Pollution
Control and Ecology, Surface Mining
and Reclamation Division, 8001
National Drive, Little Rock, Arkansas
72219-8913, Telephone (501) 682-
0744.

FOR FURTHER INFORMATION CONTACT:

A. Dwight Thomas, Acting Director,
Tulsa Field Office, Telephone: (918)
581-6430.

SUPPLEMENTARY INFORMATION:

- I. Background on the Arkansas Program
- II. Discussion of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

**I. Background on the Arkansas
Program**

On November 21, 1980, the Secretary of the Interior conditionally approved the Arkansas program. Background information on the Arkansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the November 21, 1980, Federal Register (45 FR 77003). Arkansas amended its program by submitting provisions that satisfied all of the conditions of the Secretary's approval of November 21, 1980. Effective January 22, 1982, OSM removed the conditions of the approval of the Arkansas permanent regulatory program. Information on the removal of the conditions can be found in the January 22, 1982, Federal Register (47 FR 3108). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 904.12, 904.15, and 904.16.

**II. Discussion of the Proposed
Amendment**

By letter dated April 2, 1996 (Administrative Record No. AR-557), Arkansas submitted a proposed amendment to its program pursuant to SMCRA. Arkansas submitted the

proposed amendment at its own initiative. The provisions of the Arkansas Surface Coal Mining and Reclamation Code (ASCMRC) that Arkansas proposes to amend are: ASCMRC Section 700.10(b), Termination of Jurisdiction; ASCMRC Section 701.5, Definitions for "drinking, domestic or residential water supply," "land eligible for re-mining," "material damage," "non-commercial building," "occupied residential dwelling and structures related thereto," "previously mined area," "replacement of water supply," and "unanticipated event or condition"; ASCMRC Section 761.12(h), Procedures; ASCMRC Section 771.25(b), Permit Fees; ASCMRC Section 778.14(c), Compliance Information; ASCMRC Section 778.18, Personal Injury and Property Insurance Information; ASCMRC Section 779.19(b), Vegetation Information; ASCMRC Section 779.22, Land Use Information; ASCMRC Section 779.25(k), Cross-sections, Maps, and Plans; ASCMRC Section 780.21 and 784.14, Hydrologic Information; ASCMRC Section 780.23 and 784.15, Land Use Information; ASCMRC Section 780.25 and 784.16, Ponds, Impoundments, Banks, Dams and Embankments; ASCMRC Section 783.22, Land Use Information; ASCMRC Section 784.20, Subsidence Control; ASCMRC Section 784.25(a), Return of Coal Processing Waste to Abandoned Underground Workings; ASCMRC Section 785.25, Lands Eligible for Re-mining; ASCMRC Section 786.5(b), Definitions for "applicant/violator system or AVS," "federal violation notice," "ownership or control link," "state violation notice," and "violation notice"; ASCMRC Section 786.11(c)(2), Public Notices of Filing of Permit Applications; ASCMRC Section 786.17(c), Review of Violations; ASCMRC Section 786.19(g)-(r), Criteria for Permit Approval or Denial; ASCMRC Section 786.30, Improvidently Issued Permits: General Procedures; ASCMRC Section 786.31, Improvidently Issued Permits: Rescission Procedures; ASCMRC Section 786.32, Verification of Ownership or Control Application Information; ASCMRC Section 786.33, Review of Ownership or Control Violation Information; ASCMRC Section 786.34, Procedures for Challenging Ownership or Control Links Shown in AVS; ASCMRC Section 786.35, Standards for Challenging Ownership or Control Links and the Status of Violations; ASCMRC Section 788.14(a)(3), Permit Renewals: Completed Applications; ASCMRC Section 795.12, Program Services; ASCMRC Section 795.13(a)(2),

Eligibility for Assistance; ASCMRC Section 795.16, Data Requirements; ASCMRC Section 795.17, Qualified Laboratories; ASCMRC Section 795.19, Applicant Liability; ASCMRC Part 800, General Requirements for Bonding of Surface Coal Mining and Reclamation Operations Under the State Program; ASCMRC Section 816.41, Hydrologic Balance Protection; ASCMRC Section 816.46, Hydrologic Balance: Siltation Structures; ASCMRC Section 816.49, Impoundments; ASCMRC Section 816.81, Coal Mine Waste: General Requirements; ASCMRC Section 816.82, Coal Processing Waste Banks: Site Inspection; ASCMRC Section 816.85, Coal Processing Waste Banks: Construction Requirements; ASCMRC Section 816.86, Coal Processing Waste: Burning; ASCMRC Section 816.88, Coal Processing Waste: Return to Underground Workings; ASCMRC Section 816.89, Disposal of Noncoal Mine Wastes; ASCMRC Section 816.91-93, Coal Processing Waste: Dams and Embankments; ASCMRC Section 816.112, Revegetation: Use of Introduced Species; ASCMRC Section 816.116, Revegetation: Standards for Success; ASCMRC Section 816.121-U, Subsidence Control: General Requirements; ASCMRC Section 816.122-U, Subsidence Control: Public Notice; ASCMRC Section 816.124-U, Subsidence Control: Surface Owner Protection; ASCMRC Section 816.126-U, Subsidence Control: Buffer Zones; ASCMRC Section 827.12, Coal Processing Plants: Performance Standards; ASCMRC Section 842.11, Inspections; ASCMRC Section 842.14, Review of Adequacy and Completeness of Inspections; ASCMRC Section 874.5, Definition for "left or abandoned in either an unreclaimed or inadequately reclaimed condition"; and ASCMRC Section 874.12, Eligible Lands and Water.

OSM announced receipt of the proposed amendment in the May 3, 1996, Federal Register (61 FR 19881) and invited public comment on its adequacy. The public comment period ended June 3, 1996.

During its review of the amendment, OSM identified concerns relating to ASCMRC 701.5, Definition for "unanticipated event or condition"; ASCMRC 786.34, Procedures for Challenging Ownership or Control Links Shown in AVS; ASCMRC 816.49, Impoundments; ASCMRC 795.19, Applicant Liability under the Small Operator Assistance Program; typographical errors; and a number of incorrect reference citations. OSM notified Arkansas of the concerns by E-

mail dated October 22, 1996 (Administrative Record No. AR-557.07). Arkansas responded in a letter dated December 9, 1996 (Administrative Record No. AR-557.06), and a facsimile (fax) dated January 7, 1997 (Administrative Record No. AR-557.08), by submitting a revised agreement.

Specifically, Arkansas proposes the following:

A. Subchapter A—General

1. ASCMRC Section 701.5
Definitions

Arkansas proposes to correct a reference citation for the definition of “unanticipated event or condition.”

B. Subchapter G—Surface Coal Mining and Reclamation Operations Permits and Coal Exploration Procedures Systems

1. ASCMRC Section 786.33 Review of Ownership and Control Violation Information

Arkansas proposes to correct a reference citation in paragraph (a).

2. ASCMRC Section 786.34
Procedures for Challenging Ownership and Control Links Shown in AVS

Arkansas proposes to correct reference citations in paragraphs (a)(1) and (a)(3), and to revise paragraphs (b) through (d) regarding procedures an applicant or other person must follow in order to challenge the status of a State violation.

C. Subchapter H—Small Operator Assistance

1. ASCMRC Section 795.19
Applicant Liability

Arkansas proposes to amend paragraph (a) by deleting the term “laboratory” thereby making applicants liable for all services allowed under the Small Operator Assistance Program and not just those relating to laboratory service.

D. Subchapter K—State Program Performance Standards

1. ASCMRC Section 816.49
Impoundments

Arkansas proposes to amend this section by redesignating existing paragraphs (a)(1) through (a)(8) as paragraphs (a)(2) through (a)(9), respectively, and by redesignating existing paragraphs (a)(9) through (a)(11) as paragraphs (a)(11) through (a)(13), respectively; by adding new paragraphs (a)(1) and (a)(10); by revising newly redesignated paragraphs (a)(2), (a)(4), (a)(5), (a)(6)(i), (a)(9), and (a)(12); and by inserting references to the SCS criteria for dam classification.

E. Subchapter R—Abandoned Mine Land Reclamation

1. ASCMRC Section 874.12 Eligible Lands and Water

Arkansas proposes to delete the incorrect reference citations in paragraphs (a)(5) and (a)(8) and replace them with appropriate reference citations.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Arkansas program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Arkansas program.

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 Tulsa Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

IV. 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 regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and

its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

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 State submittal which is the subject of this rule is based upon counterpart 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 by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart 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 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 17, 1997.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

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