

(the act), this approval, which is solely for nonfood-producing animals qualifies for 3 years of marketing exclusivity beginning November 20, 1997, because the applicant has elected to waive section 512(c)(2)(F)(i) of the act.

FDA has determined under 21 CFR 25.33(d) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

#### List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

#### PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

**Authority:** 21 U.S.C. 360b.

2. Section 520.645 is added to read as follows:

##### § 520.645 Difloxacin.

(a) *Specifications.* Each tablet contains 11.4, 45.4, or 136 milligrams (mg) of difloxacin hydrochloride.

(b) *Sponsor.* See No. 000856 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Conditions of use—(1) Dogs—(i) Amount.* 5 to 10 mg per kilogram (2.3 to 4.6 mg/pound) of body weight.

(ii) *Indications for use.* For management of diseases in dogs associated with bacteria susceptible to difloxacin.

(iii) *Limitations.* Use once a day for 2 to 3 days beyond cessation of clinical signs of disease up to a maximum of 30 days. Federal law prohibits the extra-label use of this drug in food-producing animals. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) [Reserved]

Dated: January 21, 1998.

**Stephen F. Sundlof,**

Director, Center for Veterinary Medicine.  
[FR Doc. 98-3984 Filed 2-17-98; 8:45 am]

BILLING CODE 4160-01-F

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 936

[SPATS No. OK-023-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). The amendment is intended to revise the Oklahoma plan to allow the State to assume responsibility for administering an emergency response reclamation program in Oklahoma on behalf of OSM.

**EFFECTIVE DATE:** February 18, 1998.

#### FOR FURTHER INFORMATION CONTACT:

Michael C. Wolfrom, 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** (46 FR 2989). Subsequent actions concerning the Oklahoma plan and amendments to the plan can be found at 30 CFR 936.25.

#### II. Submission of the Proposed Amendment

Section 410 of SMCRA authorizes the Secretary to use funds under the abandoned mine land reclamation (AMLR) program to abate or control emergency situations in which adverse effects of past coal mining pose an immediate danger to the public health, safety, or general welfare. On September 29, 1982, (47 FR 42729) OSM invited States to amend their AMLR plans for

the purpose of undertaking emergency reclamation programs on behalf of OSM. States would have to demonstrate that they have the statutory authority to undertake emergencies, the technical capability to design and supervise the emergency work, and the administrative mechanisms to quickly respond to emergencies either directly or through contracts.

Under the provisions of 30 CFR 884.15, any State may submit proposed amendments to its approved AMLR plan. If the proposed amendments change the scope or major policies followed by the State in the conduct of its AMLR program, OSM must follow the procedures set out in 30 CFR 884.14 in reviewing and approving or disapproving the proposed amendments.

The proposed assumption of the AMLR emergency program on behalf of OSM is a major addition to the Oklahoma AMLR plan. Therefore, to assume the emergency program, Oklahoma must either revise the Oklahoma plan to include conducting the AMLR emergency program, or demonstrate that its plan currently includes provisions for assuming and conducting the emergency program.

By letter dated November 3, 1997 (Administrative Record No. OAML-77), Oklahoma submitted a proposed amendment to its plan pursuant to SMCRA. Oklahoma submitted the proposed amendment on its own initiative. The amendment was intended to demonstrate Oklahoma's capability to effectively perform the AMLR emergency program on behalf of OSM. A brief description of the amendment is presented below.

A. The proposed amendment would allow Oklahoma to assume the administration of the AMLR emergency program in Oklahoma on behalf of OSM. In its formal submittal, Oklahoma stated that in 1982, as part of its approved State Abandoned Mine Land Program, the Oklahoma Conservation Commission (OCC) incorporated the necessary language to assume responsibility of the AMLR emergency program at a later date. The following information, taken from the approved Oklahoma plan, was included in Oklahoma's formal submission to OSM to verify that the authority already exists for the OCC to assume AMLR emergency program responsibilities:

1. A letter from the Governor that designates the OCC as the agency responsible for the Abandoned Mine Land Reclamation Program in Oklahoma.

2. A legal opinion from the Attorney General that the OCC has the power to

administer the Abandoned Mine Land Reclamation Program in Oklahoma.

3. A copy of the Oklahoma Abandoned Mine Reclamation Act (45 O.S., sections 740.1 through 740.7).

Section 740.7(A) authorizes OCC to spend monies from the State Abandoned Mine Reclamation Fund for emergency restoration, reclamation, abatement, control or prevention of adverse effects of coal mining practices on eligible land if it finds that an emergency exists constituting a danger to the public health, safety or general welfare and no other person or agency will act expeditiously to restore, reclaim, abate, control or prevent the adverse effects of coal mining practices. Section 740.7(B) authorizes the OCC to enter on any land where an emergency exists and any other necessary access land to restore, reclaim, abate, control or prevent the adverse effects of coal mining practices and do all things necessary or expedient to protect the public health, safety or general welfare.

4. A copy of the Oklahoma Abandoned Mine Land Reclamation Program (Oklahoma Administrative Code (OAC) 155:15-1-1 through 155:15-1-16).

Oklahoma's regulations at OAC 155:15-1-8(e) provide procedures for emergency studies or reclamation.

5. A copy of section 884.13(c)(6) of the Oklahoma plan concerning entry for emergency study and reclamation.

6. A copy of section 884.13(e) of the Oklahoma plan concerning public participation in Oklahoma's AMLR program.

B. After assuming the emergency program, Oklahoma would conduct investigations of potential emergency sites, and following OSM concurrence that emergency situations exist, perform remedial reclamation.

OSM announced receipt of the proposed amendment in the December 15, 1997, **Federal Register** (62 FR 65632), 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 14, 1998.

During its review of the amendment, OSM identified concerns relating to emergency contracting procedures, statutory authority and administrative procedures. OSM notified Oklahoma of these concerns by telefax dated December 19, 1997 (Administrative Record No. OAML-77.06). By letter dated December 19, 1997 (Administrative Record No. OAML-77.05), Oklahoma responded to OSM's concerns by submitting additional explanatory information regarding its

proposed plan amendment. Because the additional information merely clarified certain provisions of Oklahoma's approved reclamation plan and program, OSM did not reopen the public comment period.

### 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.

OSM's guidelines, published in the September 29, 1982, **Federal Register** (47 FR 42729), outline three requirements for state assumption of the AMLR emergency program. To be granted emergency authority by OSM, the State agency must demonstrate that it has the (1) Statutory authority to undertake emergencies, (2) technical capability to design and supervise the emergency work, and (3) administrative mechanisms to respond quickly to emergencies either directly or through contractors.

#### A. Statutory Authority

The OCC has had statutory authority to administer an emergency response program since approval of the original reclamation plan. In a letter dated September 25, 1978 (Administrative Record No. OAML-77), the Governor of Oklahoma designated the Oklahoma Conservation Commission (OCC) as the agency responsible for the Abandoned Mine Land Reclamation Program under Title IV, Pub. L. 95-87. Title IV of Pub. L. 95-87 covers both the regular AML program and the emergency reclamation program. The Oklahoma Attorney General issued an official opinion (78-267) on November 16, 1978 (Administrative Record No. OAML-77), which states that the "OCC and the Conservation Districts have the power to administer the state program aspects of Title IV of the Federal Surface Mining Control and Reclamation Act of 1977." A subsequent official opinion by the Oklahoma Attorney General (81-211) issued on August 13, 1981 (Administrative Record No. OAML-77.05), states that (1) "The OCC has express statutory authority to administer an abandoned mine land reclamation program within the contemplation of Title IV of the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87," and (2) "The Conservation Districts are not authorized to administer the state program aspects of SMCRA pertaining to abandoned mine reclamation."

#### B. Technical Capability

The OCC has demonstrated through past performance that it has the technical capability to implement an AMLR emergency program. Oklahoma asserted in its November 3, 1997, submission of the formal amendment that, "For the last 4 years, the OCC AML Program has concentrated on the elimination of underground mine openings and subsidence problems (non emergency) in LeFlore County. With this work in LeFlore County and the close working relationship with OSM on past AML emergencies, the OCC AML staff believes it is time to assume responsibility for the AML Emergency Program."

Oklahoma has conducted an AMLR Program since 1982. Technical capabilities utilized for emergency reclamation projects are the same as those used for normal, high priority reclamation projects; usually, only the project schedule is different. OSM annual oversight reports for evaluation years 1991 to 1996 indicate that Oklahoma successfully implements the high priority AMLR program. The oversight reports indicate that closure of mine portals and shafts, and treatment of subsidence areas have been part of the high priority AMLR program since at least 1991. As of the end of evaluation year 1996, OCC had closed 89 vertical openings and 140 open mine portals, and stabilized 8.1 acres of mine subsidence. These are the same types of abandoned mine land features that are likely to be encountered in the AMLR emergency program.

#### C. Administrative Mechanisms

On December 19, 1997, OSM requested by telephone and followed up by telefax, a description of the emergency response contracting procedures available to the OCC to respond to contract needs. OCC replied to OSM by letter dated December 19, 1997, outlining the emergency response contracting procedures. In summary, the OCC Executive Director has the authority to issue contracts for emergency work in amounts up to \$25,000, the same day as an emergency problem is identified. Contracts larger than \$25,000 may be issued after an emergency Board Meeting of the OCC Commissioners. OSM finds that the \$25,000 limit is similar to the small purchase threshold for Federal agencies and will allow the OCC adequate flexibility to address emergency conditions. Other administrative processes required to implement the emergency program are the same as

those already in place for the Oklahoma AML Program.

OSM's review of Oklahoma's AMLR plan, Oklahoma's emergency response contracting procedures, and OSM's annual oversight reports for 1991 through 1996, found that OCC has developed and refined the in-house investigation, design and project administration abilities necessary to administer an AML program and an emergency response program.

In accordance with section 405 of SMCRA, the Director finds that Oklahoma has submitted an amendment to its AMLR plan and has determined, pursuant to 30 CFR 884.15, that:

1. The public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.

2. Views of other Federal agencies have been solicited and considered.

3. The State has the legal authority, policies and administrative structure necessary to implement the amendment.

4. The proposed plan amendment meets all requirements of the OSM AMLR program provisions.

5. The State has an approved Surface Mining Regulatory Program.

6. The amendment is in compliance with all applicable State and Federal laws and regulations.

Therefore, the Director finds that the proposed Oklahoma plan amendment allowing the State to assume responsibility for an emergency response reclamation program on behalf of OSM is in compliance with SMCRA and meets the requirements of the Federal regulations.

#### IV. Summary and Disposition of Comments

##### Public Comments

OSM 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. The U.S. Army Corps of Engineers responded by letter dated December 24, 1997 (Administrative Record No. OAML-77.07), stating it had no comments. No other comments were received.

#### V. Director's Decision

Based on the above findings, the Director is approving Oklahoma's request to assume the AMLR emergency program as submitted by Oklahoma on November 3, 1997.

The Federal Regulations at 30 CFR Part 936, codifying decisions concerning the Oklahoma plan, are being amended to implement this decision. The final rule is being made effective February 18, 1998.

##### Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 884.15(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to the State program are not enforceable until approved by OSM. In the oversight of the Oklahoma program, the Director will recognize only the statutes, regulations and other materials approved by OSM, together with any consistent implementing policies, directives and other materials, and will require the enforcement by Oklahoma of only such provisions.

#### 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 Part 884.

##### 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

OSM has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on local, state, or tribal governments or private entities.

##### List of Subjects in 30 CFR Part 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 10, 1998.

**Kathy Karpan,**

*Director, Office of Surface Mining.*

For the reasons set out in the preamble, 30 CFR Part 936 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 936.25 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

**§ 936.25 Approval of Oklahoma abandoned mine land reclamation plan amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
* * * November 3, 1997 .....	* * * February 18, 1998 .....	* Emergency response reclamation program.

[FR Doc. 98-3915 Filed 2-17-98; 8:45 am]  
BILLING CODE 4310-05-M

**POSTAL SERVICE**

**39 CFR Part 946**

**Reimbursement for Sale of Abandoned Property**

**AGENCY:** Postal Service.  
**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Postal Service's disposition of evidence and abandoned property regulations to provide that a person submitting a valid claim for reimbursement of funds from the sale of such property must be reimbursed the last appraised value of the property prior to its sale.

**EFFECTIVE DATE:** This rule is effective February 18, 1998.

**FOR FURTHER INFORMATION CONTACT:** Walter E. Ladick, Program Manager, Forfeiture Group, Postal Inspection Service, (202) 268-5475.

**SUPPLEMENTARY INFORMATION:** Postal Service regulations concerning the disposition of property acquired by the Postal Inspection Service for possible use as evidence are codified at 39 CFR part 946. Once the evidentiary need to retain the property no longer exists, the Postal Service returns the property to its rightful owner, unless the property is contraband or subject to a court order. If no one submits a timely claim for the property, it is considered abandoned and becomes the property of the Postal Service, which may retain or sell it. Such property, however, must be returned to the rightful owner if he or she files a valid claim within three years from the date the property became abandoned.

Under the current rule, a person filing a valid claim for property that has been sold must be reimbursed the amount of the proceeds realized from the sale of such property, less costs incurred by the Postal Service in selling the property and in returning or attempting to return such property to the owner. Experience has demonstrated, however, that efforts

to value and dispose of low-value evidentiary and abandoned properties vested to the Postal Service are inefficient and not cost effective.

In the future, such property will be included in sales of unclaimed items that are held regularly at Postal Service mail recovery centers. Since many like items are sold in lots at these sales, it would present a problem to account for the sale price of each item. Therefore, this new rule provides that the person submitting a valid claim for the property that has been sold will be reimbursed the same amount as the last appraised value of the property prior to its sale.

**List of Subjects in 39 CFR Part 946**

Claims, Law enforcement, Postal Service.

Accordingly, 39 CFR part 946 is amended as set forth below.

**PART 946—RULES OF PROCEDURE RELATING TO THE DISPOSITION OF STOLEN MAIL MATTER AND PROPERTY ACQUIRED BY THE POSTAL INSPECTION SERVICE FOR USE AS EVIDENCE**

1. The authority citation for part 946 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 39 U.S.C. 401(2), (5), (8), 404(a)(7), 2003, 3001.

2. Section 946.6(a)(2) is revised to read as follows:

(a) \* \* \*

(2) Where property has been sold, a person submitting a valid claim under this section must be reimbursed the same amount as the last appraised value of the property prior to the sale of such property.

\* \* \* \* \*

**Stanley F. Mires,**  
*Chief Counsel, Legislative.*

[FR Doc. 98-3951 Filed 2-17-98; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[CA 179-0066; FRL-5963-1]

**Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing the approval of a revision to the California State Implementation Plan (SIP) proposed in the **Federal Register** on December 8, 1997. The revision concerns a rule from the Bay Area Air Quality Management District (BAAQMD). This approval action will incorporate this rule into the federally approved SIP. The intended effect of approving this rule is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rule controls VOC emissions from architectural coatings. Thus, EPA is finalizing the approval of this revision into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, EPA's general rulemaking authority, plan submissions, and enforceability guidelines.

**EFFECTIVE DATE:** This action is effective on March 20, 1998.

**ADDRESSES:** Copies of the rule revisions and EPA's evaluation report for this rule is available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW., Washington, DC 20460.