

(OSM 140). OSM is requesting a 3-year term of approval for this information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information will be placed on the As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on these collections of information was published on August 22, 2000 (65 FR 51021). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

*Title:* Technical Training Program Non-Federal Nomination Form (OSM 105) and Request for Payment of Travel and Per Diem Form (OSM 140).

*OMB Control Number:* 1029-XXXX.

*Summary:* The information is used to identify and evaluate the training courses requested by students to enhance their job performance, to calculate the number of classes and instructors needed to complete OSM's technical training mission, and to estimate costs to the training program.

*Bureau Form Numbers:* OSM 105, OSM 140.

*Frequency of Collection:* Once.

*Description of Respondents:* State and Tribal regulatory and reclamation employees and industry personnel.

*Total Annual Responses:* 1,600.

*Total Annual Burden Hours:* 134 hours.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information, to the following addresses. Please refer to the appropriate OMB control number in all correspondence.

**ADDRESSES:** Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer, 725 17th Street, NW, Washington, DC 20503. Also, please send a copy of your comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Room 210-SIB, Washington, DC 20240, or electronically to [jtrelas@osmre.gov](mailto:jtrelas@osmre.gov).

Dated: November 8, 2000.

**Richard G. Bryson,**

*Chief, Division of Regulatory Support.*

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**BILLING CODE 4310-05-M**

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### Abandoned Mine Land Reclamation Program Guidelines

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

**ACTION:** Notice of intent.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) proposes to amend the Abandoned Mine Land (AML) Reclamation Program Guidelines published on December 30, 1996 (61 FR 68777). The proposed changes will make the guidelines easier to read and understand. The changes also incorporate new procedures found in the AML Enhancement Rule published February 12, 1999 (64 FR 7482). Comments are requested.

**DATES:** *Written comments:* We will accept written comments on the proposed changes until 5 p.m., Eastern time, January 16, 2001.

**ADDRESSES:** *Written comments:* You may submit your comments by mail, or hand-deliver comments to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 101, 1951 Constitution Avenue NW, Washington, DC 20240. You may also submit comments to OSM via the Internet at: [osmrules@osmre.gov](mailto:osmrules@osmre.gov).

**FOR FURTHER INFORMATION CONTACT:** Mr. Gene Krueger, Chief, Division of Reclamation Support, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW, Washington, DC 20240; Telephone (202) 208-2937. E-mail: [gkrueger@osmre.gov](mailto:gkrueger@osmre.gov).

**SUPPLEMENTARY INFORMATION:** The AML Reclamation Program Guidelines give general guidance to States, Indian tribes, the U.S. Department of Agriculture, and OSM in the administration of reclamation activities. This includes activities carried out under programs authorized by Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). These guidelines are considered to be statements of policy and do not set new legal requirements or obligations and could change at our discretion. Section B.5a-d of the guidelines has been revised to reflect the new procedures in the AML Enhancement Rule and the complete document is set forth below:

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#### A. Definitions

##### 1. Abandoned Property

Real and personal property, associated with past mining activities, forsaken or deserted by an owner. This includes real estate, structures, and equipment.

a. *Abandoned Structures*—Abandoned permanent improvements or fixtures firmly attached to the land and considered as part of real property. Abandoned structures include but are not limited to coal tipples, coal washers, storage and grading facilities, loading docks, rail spurs, concrete foundations, dams, reservoirs, and bridges. Other items such as crushers, elevators, bins, loaders, conveyors and similar equipment are within this definition if firmly attached to the land.

b. *Abandoned Equipment*—Abandoned movable items not attached to the land. Such items are considered as personal property and include equipment and dismantled machinery not attached to the land and which could be moved. These items include but are not limited to shovels, scrapers, tires, machinery parts, trailers, trucks, electrical substations on skids, feeders, and loaders.

c. *Disposal*—The sale, federal use, demolition, removal, and the burning and burial of scrap or other debris resulting from abandoned structures and equipment.

##### 2. Act

The Surface Mining Control and Reclamation Act of 1977 enacted as

Public Law 95–87 (30 U.S.C. 1201 *et seq.*), as amended.

##### 3. Administering Agency

The agency responsible for carrying out a reclamation program or project. This includes OSM for federal reclamation projects; United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) for the Rural Abandoned Mine Program; designated State reclamation agencies for projects carried out under an approved State Reclamation Plan; and Indian tribes for projects carried out under an approved Indian Reclamation Plan.

##### 4. Eligible Lands

Land and water which were mined for coal or which were affected by such mining, wastebanks, coal processing, or other coal mining processes and left or abandoned in either an unreclaimed or inadequately reclaimed condition prior to August 3, 1997, and for which there is no continuing reclamation responsibility. Provided, however, that lands and water damaged by coal mining operations after that date and on or before November 5, 1990, may also be eligible for reclamation if they meet the requirements specified in 30 CFR 874.12(d) and (e). Eligible lands and water for noncoal reclamation purposes are those sites that meet the eligibility requirements specified in Section 409 of the Act or, following certification of the completion of all know coal problems, those in Section 411 of the Act of 30 CFR 875.14. For additional eligibility requirements for water projects, see 30 CFR 874.14, and for lands affected by remining operations, see Section 404 of the Act.

##### 5. Emergency

A sudden dangerous condition or impairment that constitutes a situation with a high probability of substantial physical harm to the health, safety, or general welfare of people before the danger can be abated under normal program procedures.

##### 6. Hydrologic Balance

The relationship between the quality and quantity of water inflow to water outflow from an abandoned mine land site. The relationship includes water storage and transfer within hydrologic units as they now exist or may have existed.

##### 7. Toxic Materials

Earth materials or wastes resulting from mining operations which, if acted upon by air, water, or micro-biological processes are likely to produce chemical

or physical conditions in soils or water that are harmful to the animal and plant life or water use.

#### B. Program Considerations

##### 1. Land, Water, or Mineral Rights Required for Reclamation

a. *Consent Requirements and Responsibility*. In addition to the rights of entry required by 30 CFR part 877, other consents required by the specific type of reclamation program should be secured. In water limited areas reclamation programs that propose to restore or alter water quality or quantity should not be undertaken until the appropriate water right authorizations are secured. If the mineral estate is severed from the surface estate, consents should be secured from both parties. All necessary consents should be secured for a time period sufficient to complete the reclamation activities. The administering agency has the responsibility to make certain that no reclamation work is carried out without such authorizations.

b. *Written Consent Versus Police Power*. Written consent from the owner of record and the tenant holding a lease or his authorized agent should be the preferred means for securing agreements to enter lands in order to carry out reclamation work. Entry by use of police power is restricted to those reclamation projects that will protect public health, safety, and general welfare as authorized under Sections 407(a), 409(c), and 410 of the Act. They should be undertaken only after all possibilities of securing written consents have been exhausted.

c. *Monitoring and Maintenance*. Written consent by the landowner should include considerations for monitoring and maintenance, including rights of entry as necessary.

d. *Property Acquisition*. Acquisition of property may be undertaken only under the conditions specified in Sections 407 and 409 of the Act.

##### 2. Jurisdictional Responsibilities

a. *Reclamation Program Legal Requirements*. The administering agency should make certain of compliance with all applicable Federal, State, Tribal, and local laws and coordination with the appropriate agencies as necessary.

b. *Environmental Evaluation Requirements*. Compliance with the National Environmental Policy Act of 1969 (NEPA) is mandatory for every proposed AML reclamation project. Authorization by the Council on Environmental Quality (CEQ), at 40 CFR 1506.11, to abate emergency conditions without preparing an environmental

document does not relieve us or the States/Tribes of this responsibility.

(1) OSM and the States are authorized to act where emergency circumstances at the site require immediate abatement action if the environmental document cannot be completed prior to the initiation of action. The action taken must be limited to that necessary to control the immediate impacts of the emergency.

(2) Actions which remain to be taken at the site of an emergency after the abatement of the immediate impacts require the preparation of an environmental document.

*c. Interstate Coordination Requirements.* Where reclamation is proposed that may affect bordering States or other jurisdictional authorities, the administering agency should coordinate planning and implementation of these projects with those entities.

### 3. Selection Criteria (Non-Emergency)

*a. Reclamation Site Ranking.* Procedures for selecting non-emergency sites for reclamation should use weighing factors to rank the proposed sites in accordance with priorities set in Section 403 of the Act. Non-coal sites must comply with Section 409 or 411 as appropriate. Negative weights should be considered for negative impacts resulting from the proposed project. Generally, reclamation of lower priority projects should not begin until all known higher priority projects have been completed, are in the process of being reclaimed, or have been approved for funding by the Secretary. Lower priority projects, or contiguous work, may be undertaken in conjunction with high priority projects in accordance with these guidelines.

(1) The administering agency may give priority consideration to reclamation projects where:

(a) The landowner(s) consent to participate in post reclamation maintenance activities of the area;

(b) Reclamation provides many benefits to the landowner(s) and where those benefits have a greater cumulative value than other projects;

(c) Reclamation provides offsite public benefits; and/or,

(d) Acid Mine Drainage (AMD) is a major problem and/or the Appalachian Clean Streams Initiative (ACSI) can be used in restoration of streams polluted with AMD.

*b. Reclamation Considerations.* The following items should be considered in determining whether a non-emergency site should be reclaimed.

(1) The lands proposed for reclamation are eligible as defined by Section 404, 409, or 411 of the Act.

(2) Problems associated with the site can be abated by using current available technology or horizon technology with a high probability of success to prevent or minimize present or future negative effects. When necessary to determine which technology is best suited to a particular problem area, test plots and/or field trials are allowed. Such activities are appropriate and do not constitute "research" as prohibited by the Act.

(3) Reclamation can be carried out in a manner that minimizes maintenance to achieve a self-sustaining reclamation solution. Self-sustaining implies reclamation which is permanent and stable under the prevailing environmental and land-use conditions using current technology. Projects which require continuous maintenance and/or operating costs should be undertaken only if a commitment exists to bear these indefinite costs.

(4) Reclamation activities can be planned in a manner that is cost effective and agreeable with the proposed post reclamation land use as intended by the landowner(s).

(5) Reclamation activities and post reclamation land use is cost effective and agreeable with surrounding land uses, complies with local, State, Tribal, and Federal requirements, and is acceptable to the community involved.

(6) If the project area is to be remined or developed in the foreseeable future and these activities will eliminate the adverse effects of past mining, reclamation should only be undertaken where the offsite adverse impacts from the affected area are so severe as to cause significant danger to public health and safety or to the environment if not abated before the proposed remining or development takes place.

*c. Reclamation Extent.* The amount of reclamation performed on a site depends upon the priority, funding available, and technology available for reclaiming the site. When it is cost effective to do so, consideration should be given to lower priority problems in the reclamation plan when contracting for the elimination of a high priority problem. The original purpose of the reclamation should be to address the higher priority problems. Factors that should be considered in determining the amount of reclamation to be done at a site include the following:

(1) The total area of affected land and water;

(2) Uniformity/diversity of the problem(s) over the entire site;

(3) Minimum reclamation needed to restore the site and additional low priority work needed, if any;

(4) Availability of funds;

(5) Cost effectiveness of the proposed work;

(6) Proposed post reclamation land use;

(7) Onsite, offsite and multiple use benefits;

(8) Post reclamation maintenance required and landowner participation in that maintenance;

(9) Accommodating landowner(s) land use and treatment requests, if possible without incurring additional costs above that required for the minimum reclamation needed; and,

(10) The possibility of remining.

*d. Cooperative Efforts.* In addition to the landowner consent requirements described in Section B. Part 1 of these guidelines, a maintenance agreement between the administering agency and the landowner(s) may be included as part of the reclamation plan to make certain the continued success of the reclamation project. Estimated costs as well as financial and administrative responsibilities should be recognized in any agreement.

*e. Joint Projects.* Joint undertakings between the administering agency and the landowner(s) or other local, State, Tribal, or Federal agencies are supported and encouraged.

### 4. Emergency Projects

*a. Authority for Emergency Reclamation.* Authorities and requirements for rights of entry to carry out emergency reclamation projects are contained in Section 410 of the Act.

*b. Emergency Project Considerations.* (1) Emergencies are unlike Priority 1 projects by interpretation of the phrases "sudden danger" and "high probability of substantial physical harm" in the definition of "emergency" contained in these guidelines.

(2) Justification for emergency action must be based on whether immediate action is crucial to remove the danger of harm to persons. The time element is referenced by the phrase "before the danger can be abated under normal program operation procedures." This means the danger is imminent and time is not available for normal project contractual procedures.

(3) A limited amount of non-emergency work may be conducted in conjunction with emergency abatement if such work is cost effective in reclaiming the entire project site.

*c. Emergency Project Examples.* The following list shows examples of sudden situations with a high probability of causing substantial

physical harm to the health, safety, and general welfare of people.

(1) Subsidence suddenly occurring in or near populated areas or roadways.

(2) Mine water "blow-outs" in or near highly used public areas.

(3) Landslides caused by movement of spoil material or mass movement due to drainage or seepage from abandoned coal mines threatening to destroy homes and businesses or block roads and stream channels.

(4) Actual or potential failure of unstable coal refuse impoundments, processing waste banks, or abandoned sediment control structures caused by unusual precipitation events significantly risking downstream populated areas.

(5) Mine or coal refuse fires that harm the health or safety of residents in populated areas.

*d. Abatement Procedures.*

(1) Reclamation procedures are site specific and often cannot be determined until after onsite inspection and evaluation of the nature of the emergency, number of people affected, resources available, and existing time restrictions.

(2) Emergency reclamation need not resemble final restoration. The goal of emergency reclamation is to stabilize the problem and remove the danger to the public. Additional reclamation, to fully reclaim the area, may be carried out under regular reclamation programs at a later date. Limited reclamation may also be performed in connection with emergency work if cost effective as noted above at part 4.b.(3).

**5. Incidental Recovery of Coal in Connection With Reclamation Activities**

*a. Active Mining Permit Requirements.* Coal removed and sold must be "incidental" to the reclamation project, *i.e.*, physically necessary to remove in order to address the identified health, safety, or environmental problem of the approved AML construction project. This concept conforms to existing regulations at 30 CFR 707.5. Coal extracted beyond that which is determined to be incidental will be subject to Title V permitting provisions.

*b. Resource recovery potential.* AML construction is considered government financed construction in accordance with 30 CFR 707.5. Therefore, whenever coal is to be recovered incidental to reclamation, and the government contribution is less than 50 percent of the cost of reclamation, it may be sold and the proceeds kept by the contractor.

*c. Substantial deposits of incidental coal.* For sites with substantial deposits of incidental coal, we expect that AML contractors will reflect the anticipated

sale of such coal through a lowered project bid price. The lowered project bid price would, in turn, reduce the government's share of the total cost of the project. As a result, less public funding will be required for these sites to accomplish the same level of AML reclamation. By reducing the government's share of the cost of reclamation, AML money becomes available for other AML reclamation projects that would otherwise not be funded. The contractor makes a profit, the government saves money—and most important of all—additional abandoned sites that we could not afford to reclaim in the past are reclaimed.

*d. Less than 50 percent financing.* Undertaking AML projects that use less than 50 percent government-financing will not be mandatory for States or Indian Tribes; they may choose not to participate in this aspect of AML reclamation. However, State and Tribal programs that do participate will be responsible to ensure that the provisions of this rule are applied appropriately and not abused.

**6. Abandoned Structures and Equipment**

*a. Investigation and Report.*

(1) The administering agency should perform an onsite investigation of abandoned structures or equipment and encourage the landowner(s) to recover any salvage value by disposal before the start of any reclamation project.

(2) Upon completion of the onsite investigation, a report must be prepared by the administering agency which addresses the following:

(a) The type, quantity, age, and apparent condition of all abandoned structures or equipment;

(b) The structural soundness, visual quality, historical significance, effect on proposed reclamation activities, and land uses in the area. The structural soundness of the structure should be evaluated in relation to public health, safety, general welfare, and the post reclamation;

(c) The disposal or retention of the structures or equipment in accordance with local, State, Tribal and Federal laws; and,

(d) The recommended methods to remove the safety hazards associated with structures or equipment that are retained on the reclaimed site.

*b. Ownership Rights.* Based on the investigation and report, the administering agency is responsible for determining the disposal of the abandoned structures or equipment and securing consent to dispose of or change such structures.

*c. Disposal Revenues or Benefits.* Any revenues or benefits received from the sale or use of abandoned structures or equipment should be used to offset the cost of reclamation or deposited to the Fund pursuant to Section 401(b)(4) of the Act.

**7. Borrow and Disposal Areas**

*a. Site Selection.* The borrow and disposal areas created by reclamation activities should be subject to and conducted in accordance with applicable local, State, Tribal, or Federal reclamation requirements. Borrow and disposal areas should be located on the site of the reclamation project, if possible. Offsite borrow and disposal areas should be used only when no onsite area is available and it is necessary to protect the health and safety of the public. In addition, offsite areas may be used if they provide an area more suitable for reclamation and less prone to constitute a hazard in itself, produce an improved land use, or protect the environment.

*b. Adverse Impacts.* Adverse impacts of the selected areas should be minimized by disturbing the smallest possible area; providing adequate drainage, dust, and erosion control measures; protecting historic and cultural values; protecting visual esthetics; protecting fish and wildlife values; protecting the health and the safety of the community and the public; and reclaiming the borrow and disposal area after termination of the project.

**8. Program and Project Evaluation**

*a. General Evaluation Considerations.*

Reclamation activities are to be evaluated on a regular basis to determine the effectiveness of the program/project in reclaiming abandoned lands. The objective is to identify those abatement control methodologies that have been effective over time and those with demonstrated deficiencies that need to be improved or changed. Project evaluation measures the success or failure of the applied techniques while program evaluation determines the effectiveness of the overall program, including regulations and policies. Evaluation efforts include, but are not limited to, recording accomplishments, making onsite reviews before, during, and after reclamation, and analyzing fund management.

*b. Evaluation Report.* The administering agency will prepare a report on its findings and recommendations. Recommendations should be used to change program operations on future reclamation activities so that deficiencies will not

recur. If requested, the report should be made available to other agencies in order to share information and improve the AML program nationwide.

#### 9. Maintenance of Reclamation Work

a. Reclamation should be done in a manner to minimize or eliminate continued maintenance and maintenance requirements. Long term maintenance requirements should be identified during the planning and design stages. These requirements must be technically and economically possible and should be developed in cooperation with the landowner(s) and/or appropriate agencies through formal agreement. Maintenance plans should include maintenance requirements, inspection schedules, technical assistance needed, and funding requirements.

#### 10. Non-Coal Projects

a. *Guideline Applicability.* States and Indian tribes with approved reclamation plans may undertake non-coal reclamation projects under the specific provisions in Section 409 of the Act or after certification that all coal related problems have been reclaimed, as authorized in Section 411 of the Act.

b. *Priorities Under Section 409.* Non-coal projects to be reclaimed under Section 409 of the Act must be at the request of the Governor of the State or the governing body of an Indian tribe. They must comply with the priorities stated in Section 403(a)(1), except the term "coal" does not apply. The reclamation must be for the protection of public health, safety, general welfare, and property from extreme danger of negative mining practices.

c. *Priorities Under Section 411.* Noncoal projects to be reclaimed under Section 411 of the Act may not proceed until the State/Tribe has certified that all coal problems have been resolved. Planning and design work for reclamation of noncoal projects may commence prior to completion of all coal projects.

#### C. Site Considerations

##### 1. Mine Drainage

a. *General Considerations.* The reclamation plan should attempt to minimize or control mine drainage and include procedures to treat impounded waters containing toxic materials before release. At-source control measures are preferred over long-term treatment methods to eliminate or minimize maintenance.

b. *At-Source Control Measures.* Controlling or minimizing mine drainage at its source can be

accomplished by any or all of the following techniques:

(1) Mine-sealing techniques, including grout curtains and slurry trenching. Factors to be considered when planning to seal mines are the potential to develop hydrostatic heads, the accessibility of the area, and the integrity of the surrounding geologic formations;

(2) Infiltration control and water diversion. Factors to be considered include topography, control of surface water, effects on ground water, the control of water passage through openings, and the storm event design; and/or,

(3) Daylighting, the surface mining procedures and excavation processes used to expose underground mine works for partial or complete removal of the remaining mineral underlying the surface. Factors to be considered include the depth of overburden, marketability of the mineral, and safety measures.

c. *Treatment Measures.* Secondary treatment of mine drainage can be carried out by the addition of neutralizing agents. Permanent treatment facilities should be designed to minimize operation and maintenance costs and should only be considered if no other means exists to abate the problem. Written assurance, from the landowner or any other interested party, should be obtained to assure that the treatment facilities will be maintained after appropriations for the Abandoned Mine Land Program cease.

d. *Coal Refuse Piles and Coal Waste Embankments.* Methods of reclaiming land containing coal refuse, coal wastes, or abandoned workings include, but are not limited to:

(1) Removing the coal refuse or coal waste to an environmentally acceptable site, subject to all appropriate approvals;

(2) Burying the refuse or waste, diverting water away from or around the reclaimed area, whenever possible, or layering the refuse material with clay or other unpierceable material, when practical, to prevent water infiltration and contamination; and,

(3) Treating the refuse pile in place by:

(a) Diverting water around the coal refuse and/or waste;

(b) Collecting and conveying drainage from the refuse pile for safe disposition (an approved water pollution control facility should be used if needed to meet quality standards);

(c) Grading and contouring waste structures to drain water off the disposal site;

(d) Covering the refuse with a suitable thickness of nontoxic or nonacid-

forming material or treating the refuse with lime or other material to prevent acid or other toxic drainage; or

(e) Any combination of the above treatments.

##### 2. Active Slides and Slide-Prone Areas

a. *Site Evaluation Factors.* Factors that should be considered on a case-by-case basis in the evaluation of slides or slide-prone areas include the following:

(1) The topography of the ground surface as an indication of past landslide activity and potential instability. Topographic data collected should include contour maps at 2 to 5 foot intervals, surface drainage characteristics, locations of ponded surface water, and slope profiles;

(2) The geology of the subsurface. Rock formations and geologic structures including folds, faults, joints, and shear zones, should be identified whenever possible. This information may be useful in comparing the landslide potential of various areas;

(3) The soil or spoil material. Description of the slide-prone material should include its texture, permeability, and engineering properties as well as the related soil-rock ratios;

(4) Ground water sources. Springs and seeps, dump areas, adits, auger holes, drill holes, and coal seams should be identified;

(5) Vegetative cover. Vegetation will affect the stability of the slide or slide-prone area. Deep masses of roots may provide sufficient reinforcement to distort the geometry of the slide and trees with deep tap roots may curtail severe movement. Vegetative cover within a landslide area should be compared to that within the surrounding area and with that present at known landslide areas;

(6) Other physical factors. These include timber coverage or lack of it on slopes, parent material and volume of spoil, proximity to other slides, or other data specific to the slide area which may be helpful in designing the best structural specifications for stabilizing the area; and,

(7) U.S. Geological Survey slide-prone maps, U.S. Department of Agriculture soil maps, and other related data.

b. *Remedial Measures.* Reclamation and stabilization of slide areas may be achieved by one or more of the following methods:

(1) Removing unstable material or by terracing;

(2) Installing surface and/or subsurface drainage such as rip-rap channels, french drains, pumping wells, etc.;

(3) Installing support and reinforcement systems such as retaining walls, gabions, vertical pilings, etc.; and,  
(4) Revegetation.

### 3. Erosion and Sedimentation

a. *Erosion and Sediment Control Considerations.* Erosion and sediment control measures should be designed in accordance with Federal, State and local laws and should do the following:

(1) Minimize erosion from the reclamation site and adjacent lands, minimize water pollution from sediment, acid drainage, and other toxic materials, and provide conditions suitable for the planned land use;

(2) Maintain the soil resource within acceptable soil loss limits. Allowable sheet and rill erosion rates should be equal with the soil resulting from reclamation. Information relative to allowable soil loss limits may be obtained from the local Natural Resource Conservation Service Office;

(3) Expose the least amount of land at any one time, with the more hazardous areas exposed for the shortest time and during the season when extreme rainfall is least likely to occur;

(4) Complete reclamation activities so revegetation can take place at the most advantageous time of year; and,

(5) Control foot and vehicular traffic and grazing until vegetation is established.

b. *Erosion Control Practices.* Well established vegetation is generally the most cost-effective means of erosion control. Other methods may include one or more of the following, in conjunction with vegetation, to achieve temporary and/or permanent erosion control.

(1) Mulches may be used for temporary erosion control and in some cases stabilizing agents such as gravel, stone, and concrete blocks may be used for permanent protection.

(2) Permanent structural measures may be used to turn runoff, reduce slope length, and provide for an effective runoff disposal system.

(3) Temporary vegetation and/or structural measures may be needed for erosion control during reclamation. Provisions should be made to remove the temporary control measures and stabilize the area when they are no longer needed.

c. *Sediment Trapping Practices.* When erosion controls are incapable of preventing excessive sediment buildup, either during reclamation or permanently, the excess sediment should be controlled to prevent offsite contamination.

(1) Temporary sediment control measures such as filter strips, sediment traps, and sediment basins, should be

stabilized and maintained during their planned life.

(2) Permanent sediment basins should be maintained and the sediment removed when it accumulates to the design level. The use of permanent sediment basins should be minimized because of the continuing maintenance responsibility.

### 4. Vegetation

a. *Existing Vegetation Inventory and Evaluation.* The administering agency should complete an inventory and evaluation of existing vegetation and site conditions prior to developing the design and specifications for a project. The permanent vegetation selected to cover the reclaimed mine land should be compatible with the site characteristics and the intended land use of the reclaimed and surrounding land and provide adequate erosion control.

b. *Vegetative Requirements.* The vegetation portion of the project design and specifications should be developed considering the requirements itemized for each of the following cases.

(1) In areas where the present plant species are inadequate or undesirable and only a change in vegetation is needed.

(a) Necessary erosion and sediment control structures should be installed to protect the area from excessive erosion and sedimentation during the vegetation establishment period. Temporary vegetation may be used alone or in combination with a mulch or other stabilizing agent in accordance with the needs of the site.

(b) The newly planted area should be protected from excessive use, especially livestock grazing, during the establishment period.

(2) In areas where changes in topography and vegetation are needed.

(a) Changes in topography should be made to improve esthetic aspects of the site, permit establishment of desirable vegetative cover, and insure compatibility with the planned land use.

(b) Temporary vegetation should be used to protect stockpiles of soil materials for a short time or to provide temporary cover until the permanent vegetation is established.

(3) In areas where the present spoil material is unsuited for vegetation the spoil material should be covered or replaced with material that will support the desired vegetation. If covering or replacement costs are prohibitive, attempts should be made to create a suitable plant growth medium upon which vegetation may be established.

(4) In areas where alteration of the site to support vegetation is impractical, sediment should be confined to the immediate area, if feasible. Surface runoff should be treated to an acceptable level of quality before discharging offsite, if necessary.

### 5. Toxic Materials

a. *Sampling and Analysis Consideration.* The administering agency should sample sites suspected of containing toxic materials. Chemical and/or physical analyses may include, but are not limited to:

- (1) pH (paste);
- (2) SMP Buffer (tests pH of solution prior to weathering);
- (3) Net acidity or alkalinity, or potential acidity;
- (4) Total sulfur (sulfate and sulfide);
- (5) Electrical conductivity (mmhos/cm);
- (6) NKP and USDA texture class when material is to be used as post-reclamation plant growth medium;
- (7) Organic matter (quantity and type); and,
- (8) Visual and/or microscopic identification of potential toxic or acid forming minerals.

b. *Planning Considerations.* The administering agency should consider the following items in their planning efforts on projects containing toxic materials:

- (1) Critical toxic limits;
- (2) Containment or segregation of toxic materials using sealed pits or embankments and/or covering the toxic materials with compacted clay or some other suitable material;
- (3) Site preparation, including grading, backfilling, scarification, and application of appropriate growing medium, chemical fertilizers, lime gypsum, mulches, or sludge;
- (4) Water management control, including surface and subsurface drainage, sediment control, and soluble toxic elements; and,
- (5) Necessary monitoring and required maintenance, if any.

c. *Sites Eligible Under CERCLA.* Abandoned mine land sites containing acid mine drainage or other toxic material may be eligible for clean-up under CERCLA, if included on the national priority list (NPL). Sites listed on the NPL are ineligible for AML funding.

### 6. Hydrologic Balance

a. *Planning Considerations.* After identification of areas needing restoration of the hydrologic balance, the administering agency should consider the following items in their planning.

(1) Evaluation of procedures needed to reduce or eliminate pollution to receiving surface and subsurface waters, including technical and economic constraints.

(2) Potential beneficial and/or negative effects of proposed restoration activities on offsite hydrologic systems.

(3) Post reclamation land use of the site and surrounding area.

*b. Surface-Water Considerations.*

Restoration of surface drainage should minimize erosion and maximize ecological stability. Factors to be considered include, but are not limited to:

(1) Type of reconstruction materials to be used, stream gradient, fish and wildlife habitat, and compatibility with adjoining undisturbed surface drainage;

(2) Use of the reclaimed area as a source of ground-water recharge and the potential for downstream flooding;

(3) Feasibility of long-term, self-maintaining erosion control measures to enhance stream and flood plain stability; and,

(4) Construction of water impoundments which do not adversely affect the restoration of the hydrologic balance and are in accordance with applicable local, State, Tribal, or Federal requirements.

*c. Ground-Water Considerations.*

Restoration of ground-water should be done in a manner that will not diminish or degrade water leaving the site. Factors to be considered include, but are not limited to:

(1) Evaluation of the re-established water table, relative to the reclaimed land surface;

(2) Evaluation of the ground-water recharge capacity, considering the underlying aquifers and backfill materials; and,

(3) Identification of toxic and/or acid forming materials and procedures to eliminate or minimize contamination of the water table.

## 7. Public Health and Safety

*a. Dump Sites.* Abandoned mine sites used as dumps are usually excellent breeding places for insect and vermin and could pose a hazard to public health. The presence of a dump in an abandoned mine site should not be considered the primary reason for reclamation, but may be considered in raising the site priority in the same objective category. Prior to any reclamation work on dumps, the local, State and/or Tribal agency should be encouraged to abate the problem under other existing authorities and consulted regarding proper disposal methods.

*b. Highwall Danger.* Highwalls may create a significant danger to public

health or safety when there is public use of the area above or below the highwall and/or there is evidence of sloughing that may damage structures or block roads and stream channels. Reclamation techniques include, but are not limited to:

(1) Reducing the highwall height;

(2) Backfilling and grading the highwall to a stable slope; or

(3) Providing a physical barrier to limit accessibility and material movement.

*c. Mine Openings and Subsidence.*

(1) The administering agency should consider the following items when planning for subsidence control projects:

(a) Exploratory drilling to determine the locations, size, and condition of abandoned underground mine openings with the potential to subside (except in emergencies);

(b) Proximity to populated areas with high public use;

(c) Notification to all local, State, and Tribal land use planning agencies of potential subsidence areas; and,

(d) Restricting entry to mine openings by constructing physical barriers and/or fencing for emergency situations until the opening can be properly reclaimed.

*d. Radiation Emission.* Where radiation constitutes a potential public health or safety problem, the administering agency should coordinate with other pertinent agencies prior to reclamation activity. Normally, this coordination is done during the development of the State reclamation standards for radiation.

*e. Domestic Water Supplies.* Control measures designed to protect or restore domestic water supplies should consider the number of people affected, the type and concentration of pollutant(s), and the type and cost of control technology. Clean-up or restoration of domestic water supplies should be restricted to source control where possible.

*f. Surface and Underground Mine Fires.* Only fires associated with abandoned mines or in virgin seams associated with other abandoned mine reclamation problems are eligible for Title IV funding.

(1) Prior to initiating control or extinguishment efforts, geologic investigations should be carried out to determine the extent of the fire and the amount of remaining combustible material.

(2) Reclamation design and procedures should include methods to control or eliminate hazardous gases, fumes, and other types of air pollution associated with the fire.

*g. Hazardous/Explosive Gases.* Toxic gases, other than those associated with mine fires, may require site specific control or treatment procedures. For example, methane seeping into a residence must be vented and should be monitored for a reasonable amount of time to ensure the area is safe.

Whenever possible gases should be vented or sealed off at their source.

## 8. Esthetics and Visual Values

Reclaimed lands should, to the extent that it is feasible, conform to the visual aspects of the surrounding landscape. The reclamation design and procedures should take into consideration the proximity to public high use areas and the visual impact within the context of the viewing distance.

*a. Visual Degraders.*

The administering agency determines what conditions are visually degrading and should be considered for visual improvement. Visual degraders may include, but are not limited to, highwalls, erosion, discolored water, haul roads, refuse piles, slurry ponds, spoil piles, abandoned mining equipment and structures, garbage and refuse dumps, open pits, and deforestation.

*b. Esthetics Problem Solutions.*

Solutions for esthetic problems may involve removal of offensive material or condition, strategic placement of screening materials, and/or the use of appropriate plant species. Guidelines and standards to evaluate visual resources developed by the U.S. Forest Service, Natural Resource Conservation Service, U.S. Bureau of Land Management, National Park Service, and other agencies should be adapted for use in evaluating and planning visual solutions.

## 9. Fish and Wildlife Values

*a. Project Identification Requirements.*

The administering agency should periodically provide a list of proposed and on-going abandoned mine land activities to the conservation or land management agencies with responsibilities for fish and wildlife or their habitats and should request pertinent information and suggestions from these agencies.

*b. Determining Fish and Wildlife Values and Goals.* The administering agency should review information provided by the conservation and land management agencies with responsibilities for fish and wildlife or their habitats to determine the pre-reclamation fish and wildlife values of abandoned mine land sites. The administering agency should then determine the fish and wildlife goals for

each project, in relation to that project's determined fish and wildlife values and the program priority objectives.

c. *Planning Considerations.* The administering agency should encourage the consideration of fish and wildlife values in all reclamation activities, including those whose primary purposes for reclamation are related to public health, safety, or general welfare. If fish and wildlife values are determined to be among the goals of the reclamation efforts, the administering agency should incorporate them into the reclamation plan.

d. *Installing and Maintaining Established Fish and Wildlife Habitat Values.* The administering agency should insure that all fish and wildlife measures contained in the selected plan are implemented and should encourage the landowner(s) to maintain them at or above the planned level.

#### 10. Air Quality

a. *Air Quality Standards.* All reclamation activities should be conducted in accordance with applicable local, State, Tribal, or Federal air quality standards.

b. *Coordination Requirements.* Local, State, Tribal, or Federal air quality officials should be contacted prior to reclamation planning activities for requirements concerning air quality permit procedures, applicable standards, and possible control measures.

c. *Air Quality Degradation and Improvement.* Long-term air quality improvements which will result from reclamation should have priority over possible short-term air quality degradation caused by reclamation construction.

Dated: November 7, 2000.

**Mary Josie Blanchard,**

*Assistant Director, Program Support.*

[FR Doc. 00-29299 Filed 11-15-00; 8:45 am]

BILLING CODE 4310-05-M

## INTERNATIONAL TRADE COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**TIME AND DATE:** November 27, 2000 at 2 p.m.

**PLACE:** Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205-2000.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agenda for future meeting: none

2. Minutes
3. Ratification List
4. Inv. No. 731-TA-894 (Preliminary) (Ammonium Nitrate from Ukraine)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on November 27, 2000; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on December 4, 2000.)
5. Outstanding action jackets: none

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: November 14, 2000.

By order of the Commission:

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 00-29475 Filed 11-14-00; 1:50 pm]

BILLING CODE 7020-02-P

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Pursuant To the Comprehensive Environmental Response, Compensation, and Liability Act

Under Section 122(d) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9622(d), and 28 CFR 50.7, notice is hereby given that on October 10, 2000, a proposed Partial Consent Decree ("Decree") in two consolidated cases, *United States v. Allied Battery Co.*, Civil No. CV-98-N-0446-S, and *United States v. CSX Transportation, Inc.*, Civil No. CV-98-N-2561, was lodged with the United States District Court for the Northern District of Alabama. In this action, the United States seeks recovery of its response costs incurred by EPA in cleaning up contaminated soil at the Carlie Lee Superfund Site, a former battery cracking operation located in Tarrant City, Alabama, near Birmingham. Under this Decree, four settling defendants—Allied Battery Co., Econo Battery Services, Fairfield Iron & Metals, Inc. and Joseph J. McCleney, Jr.—have agreed to pay separate amounts, collectively totaling \$36,000, in partial reimbursement of the United States' response costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources

Division, U.S. Department of Justice, P.O. Box 7611, Washington, DC, 20044-7611, and should refer to *United States v. Allied Battery Co.* D.J. Ref. 90-11-3-1758, and *United States v. CSX Transportation, Inc.*, D.J. Ref. 90-11-3-1758/1.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Northern District of Alabama, 200 Robert Vance Federal Bldg., 1800 5th Ave. N., Birmingham, Alabama; and (2) the U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia. A copy of the Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611. In requesting a copy, please enclose a check in the amount of \$6.25 (25 cents per page reproduction cost) payable to the Consent Decree Library.

**Walker B. Smith,**

*Deputy Chief, Environmental Enforcement Section, Environment & Natural Resources Division.*

[FR Doc. 00-29294 Filed 11-15-00; 8:45 am]

BILLING CODE 4410-15-M

## DEPARTMENT OF JUSTICE

### Morton International, Inc.; Consent Judgment

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on October 26, 2000 a proposed Consent Decree in *United States and State of Mississippi v. Morton International, Inc.*, Civil Action No. 1:00CV501 (BrR) was lodged with the United States District Court for the Southern District of Mississippi, Biloxi Division.

In this action the United States and State of Mississippi allege that the Morton International, Inc. (hereafter Morton or defendant) is liable under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), the Safe Drinking Water Act (SDWA), the Clean Water Act (CWA), the Clean Air Act (CAA), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Emergency Planning and Community Right-to-Know Act (EPCRA), and the Mississippi Solid Waste Disposal Law of 1974, the Mississippi Air and Water Pollution Control Law, and the organic act of the Commission and of the Mississippi Department of Environmental Quality (MDEQ) for penalties and injunctive relief in connection with the defendant's manufacturing facility