

Pt. 755

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[55 FR 29548, July 19, 1990]

PART 755—TRIBAL-FEDERAL INTERGOVERNMENTAL AGREEMENTS

Sec.

- 755.1 Scope.
- 755.10 Information collection.
- 755.11 Application and agreement.
- 755.12 Terms.
- 755.13 Authority reserved by the Secretary.
- 755.14 Amendments.
- 755.15 Termination.

AUTHORITY: Pub. L. 95-87 30 U.S.C. 1201-1328.

SOURCE: 49 FR 38480, Sept. 28, 1984, unless otherwise noted.

§ 755.1 Scope.

This part sets forth requirements for the development, approval and administration of Tribal-Federal Intergovernmental Agreements.

§ 755.10 Information collection.

The information collection requirements contained in this part do not require approval from the Office of Management and Budget under 44 U.S.C. 3507 because there are expected to be less than 10 respondents annually.

§ 755.11 Application and agreement.

(a) An Indian tribe may request that the Secretary enter into a Tribal-Federal intergovernmental agreement with the tribe.

(b) A request for a Tribal-Federal intergovernmental agreement shall be submitted in writing and shall include proposed terms of the agreement consistent with the requirements of this part.

§ 755.12 Terms.

The terms in each Tribal-Federal intergovernmental agreement may include:

(a) Provisions to allow the tribe to work with and assist OSM in the review of permit applications, and to recommend appropriate action on permits, permit applications, inspection and enforcement, and bond release or forfeiture; and

(b) Provisions to provide funding for tribal employees to attend and testify

30 CFR Ch. VII (7-1-25 Edition)

at hearings and to perform other functions under the agreement.

§ 755.13 Authority reserved by the Secretary.

The Secretary shall not delegate to any Indian tribe, nor shall any Tribal-Federal Intergovernmental Agreement be construed to delegate to any tribe, the nondelegable authority exercised by or reserved to the Secretary on Indian lands.

§ 755.14 Amendments.

An agreement that has been approved pursuant to this part may be amended by mutual agreement of the Secretary and the officers of the tribe.

§ 755.15 Termination.

An agreement may be terminated by either party upon written notice to the other specifying the date upon which the agreement will be terminated. The date of termination shall be no less than 30 days from the date of the notice.

PART 756—INDIAN TRIBE ABANDONED MINE LAND RECLAMATION PROGRAMS

Sec.

- 756.1 Scope.
- 756.13 Approval of the Navajo Nation's abandoned mine land plan.
- 756.14 Approval of amendments to the Navajo Nation's abandoned mine land plan.
- 756.15 Required amendments to the Navajo Nation's abandoned mine land plan.
- 756.16 Approval of the Hopi Tribe's abandoned mine land reclamation plan.
- 756.17 Approval of the Hopi Tribe's abandoned mine land reclamation plan amendments.
- 756.18 Required amendments to the Hopi Tribe's abandoned mine land reclamation plan.
- 756.19 Approval of the Crow Tribe's abandoned mine land reclamation plan.
- 756.20 Approval of amendments to the Crow Tribe's abandoned mine land reclamation plan.
- 756.21 Required amendments to the Crow Tribe's abandoned mine land reclamation plan.

AUTHORITY: 30 U.S.C. 1201 *et seq.* and Pub. L. 100-71.

Surface Mining Reclamation and Enforcement, Interior**§ 756.14****§ 756.1 Scope.**

This part implements the provisions in Pub. L. 100-71 which authorize the Crow, Hopi, and Navajo Tribes to obtain the Secretary's approval of Abandoned Mine Land Reclamation programs without prior approval of surface mining regulatory programs as ordinarily required by section 405 of SMCRA.

[53 FR 17190, May 16, 1988]

§ 756.13 Approval of the Navajo Nation's abandoned mine land plan.

The Navajo Nation's Abandoned Mine Land Plan as submitted in June 1982, resubmitted in September 1983, and amended in February 1988, is approved effective May 16, 1988. Copies of the approved program are available at:

(a) The Navajo Nation, Navajo Abandoned Mine Land Reclamation Department, Division of Natural Resources, Navajo Nation Inn—Office Complex, P.O. Box 1875, Window Rock, AZ 86515, Telephone: (520) 871-7593.

(b) Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 505 Marquette Ave., NW, Suite 1200, Albuquerque, NM 87102, Telephone: (505) 248-5070.

[60 FR 33724, June 29, 1995, as amended at 61 FR 6508, Feb. 21, 1996]

§ 756.14 Approval of amendments to the Navajo Nation's abandoned mine land plan.

(a) Revisions to the following provisions of the Navajo Nation AMLR plan, as submitted to OSM on April 7 and 22, 1994, are approved effective September 27, 1994:

NAVAJO NATION ABANDONED MINE LAND RECLAMATION CODE OF 1987: INTRODUCTION
Section 101—Findings
Section 102—Purposes
Section 201—Duties of Navajo Abandoned Mine Lands Reclamation Department
Section 401—Navajo Abandoned Mine Reclamation Fund and Purposes
Section 402—Reclamation Fees
Section 403—Objectives of Fund
Section 404—Eligible Lands and Water
Section 405—Reclamation Program
Section 407—Acquisition and Reclamation of Lands Within the Navajo Nation Adversely Affected by Past Mining Practices
Section 408—Liens

Section 409—Filling Voids and Sealing Tunnels
Section 410—Deletion of Emergency Powers
Section 411—Certification of Completion of Coal Reclamation
Section 412—Navajo Abandoned Mine Reclamation Fund Report
Section 413—Miscellaneous Powers, and
Section 414—Interagency Cooperation

NAVAJO NATION RULES

II(D) (1) and (2)—Reclamation Priorities
II(L) (1) and (2)—General Reclamation Requirements
II(M) (1) and (2)—Certification of Completion of Coal Reclamation
II(N) (1)—Eligible Lands and Water Subsequent to Certification
II(O) (1)—Exclusion of Noncoal Reclamation Sites
II(P) (1), (2), and (3)—Utilities and Other Facilities, and
III(E) (1)—Future Reclamation Set-Aside Program

(b) The Director concurs with the Navajo Nation's May 4, 1994, certification of completion of coal reclamation effective September 27, 1994.

(c) Revisions to sections 404 (a), (b), and (c) of the Navajo Nation Abandoned Mine Land Reclamation (AMLR) Code of 1987, pertaining to eligible lands and water, as submitted to OSM on January 12, 1995, and as subsequently revised on February 23 1995, are approved effective April 25, 1995.

(d) Revisions to, additions of, or deletions of the following rules, as submitted to OSM on September 3, 1996, are approved effective April 15, 1997.

Section II, E, 1, Project selection,
Sections II, L, 1(e) and (g), Eligible coal lands and water,
Section II, L, 1(h), Limited liability,
Section II, L, 1(i), Contractor responsibility,
Section II, L, 1(j), Reports,
Sections II, L, 2(b)(3) and (4), Eligible noncoal lands and water prior to certification,
Section II, L, 2(c), Limited liability,
Section II, L, 2(d), Contractor responsibility,
Section II, L, 2(e), Reports,
Sections II, M, 1(b) and (d), 2, and 2(a) and (b), Certification of completion of coal sites,
Sections II, N, 1 and 1(c), Eligible lands and water subsequent to certification,
Sections II, P, 1(a) through (c), 2(a) through (f), and (3), Utilities and other facilities, and
Section III, E, 1 and 1(a), Future reclamation set-aside program.

§ 756.15

(e) Addition or removal of the following rules, as submitted to OSM on March 2 and 8, 2001, is approved effective July 31, 2001:

Section II, subsections M, 2, 2(a), 2(a)(1), 2(a)(2), and 2(a)(3), noncoal reclamation after certification (removed);
Section II, subsection O, 1, Exclusion of Noncoal Reclamation Sites (removed);
Section II, subsection O, subsection heading "NONCOAL RECLAMATION AFTER CERTIFICATION;"
Section II, subsection O, 1, applicability of subsection O;
Section II, subsections O, 2, 2(a) through 2(c), objectives and priorities;
Section II, subsection O, 3, enhancement of facilities and utilities;
Section II, subsection O, 4, determination of need for activities and construction of specific public facilities and submittal of grant applications;
Section II, subsection O, 5 through 5(h), requirements for grant applications submitted under subsection O.4 to meet;
Section II, subsection O, 6, exclusion of certain noncoal reclamation sites;
Section II, subsection O, 7, land acquisition authority for the noncoal program;
Section II, subsection O, 8, lien requirements;
Section II, subsection O, 9, limited liability;
Section II, subsection O, 10, contractor responsibility; and
Section II, subsection P, subsection heading, "RESERVED" (removed).

[59 FR 49185, Sept. 27, 1994, as amended at 60 FR 20195, Apr. 25, 1995; 62 FR 18272, Apr. 15, 1997; 66 FR 39443, July 31, 2001]

§ 756.15 Required amendments to the Navajo Nation's abandoned mine land plan.

Pursuant to 30 CFR 884.15, the Navajo Nation is required to submit to OSM by the date specified either a proposed amendment or a reasonable timetable, which is consistent with the Navajo Nation's established administrative and legislative procedures, for submitting an amendment to the Navajo Nation plan.

[61 FR 6508, Feb. 21, 1996]

§ 756.16 Approval of the Hopi Tribe's abandoned mine land reclamation plan.

The Hopi Tribe's Abandoned Mine Land Reclamation Plan as submitted in July 1983, and amended in March and May 1988, is approved. Copies of the ap-

30 CFR Ch. VII (7-1-25 Edition)

proved Plan are available at the following locations:

(a) The Hopi Tribe, Hopi Abandoned Mine Land Program, Department of Natural Resources, Honahni Building, P.O. Box 123, Kykotsmovi, AZ 86039, Telephone: (520) 734-2441.

(b) Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 505 Marquette Ave., NW., Suite 1200, Albuquerque, NM 87102, Telephone: (505) 248-5070.

[61 FR 6508, Feb. 21, 1996]

§ 756.17 Approval of the Hopi Tribe's abandoned mine land reclamation plan amendments.

The following amendments to the Hopi Tribe's abandoned mine land reclamation plan are approved.

(a) The Hopi Tribe certification of completion of coal reclamation, as submitted on February 2, 1994, is approved effective June 9, 1994.

(b) With the exceptions of part I, concerning the purpose of the Hopi tribe plan; section I, A(3) concerning facilities related to water supplies; section I, A(4), concerning public facilities projects; section II, B(1)(d)(ii), concerning the protection of property; and section 884.13(f)(2), concerning a description of aesthetic, cultural and recreational conditions of the Hopi Reservation, revisions to and additions of the following plan provisions, as submitted to OSM on November 2, 1995, are approved effective April 23, 1996.

Table of Contents—Title of Part II and List of Appendices;

List of Addenda and Errata—Title for this part;

List of Figures—Title of Figure 4 and deletion of Figure 5;

Preface to Amended Reclamation Plan—Introductory paragraph, program goals and objectives, and eligible projects;

Chairman's Letter of Designation and Hopi Tribe Resolution—Designation of Tribal agency authorized to administer approved plan;

Opinion of Legal Counsel—Authority of designated agency to conduct the AMLR program in accordance with the requirements of Title IV of SMCRA;

Section I, A(1)—Protection of the health, safety, and general welfare of members of the Hopi Tribe;

Section I, A(2)—Restoration of land and water resources;

Surface Mining Reclamation and Enforcement, Interior**§ 756.18**

Section I, B—Designation of administrative authority;
Section I, C—Reclamation priorities;
Sections I, C (4) and (5)—Deletion of existing C(4) and recodification of C(5) and (6) as C(4) and (5);
Section I, C—Deletion of allocation of funds provisions;
Section II, A—[Lack of] Limited liability provision for coal;
Section II, A(1)—Abatement of any new coal problems that arise after the effective date of the certification of completion of coal reclamation;
Sections II, A(1) (a) through (f)—Eligible coal lands and water;
Section II, (A)(1)(g)—Contractor responsibility;
Section II, A(1)(h)—Reports;
Sections II, B(1) (a) and (b)—Eligible lands and water subsequent to certification;
Sections II, B(1)(c), (d) (i) and (iii), (e), and (g)—Reclamation priorities for noncoal program;
Section II, B(1)(f)—Need for activities or construction of specific public facilities related to the coal or mineral industry on Tribal lands impacted by coal or mineral development;
Section II, G—Reports;
Sections II, C through F—Exclusion of certain noncoal reclamation sites, noncoal land acquisition authority, limited liability, and contractor responsibility;
Section II, H and [deletion of] ranking and selection of noncoal reclamation projects and Table I, Comprehensive/Problem Evaluation Matrix—Description of needs, proposed construction and activities;
Part III—Coordination of Tribal AML programs with other programs;
Section IV, A(1)—Acquisition of lands by the Hopi Tribe;
Section IV, A(2)(a)(i)—Appraisals;
Section IV, A(2)(b)—Lands eligible for acquisition;
Sections IV, A(2) (c), (d), (e), B(2), and C—Land acquisition, management, and disposal;
Section IV, B(1)—Management of acquired lands;
Part V and Figures 1 and 2—Reclamation on private land;
Section VI, A, B, and C—Rights of entry;
Deletion of section VI, C—Entry for emergency reclamation;
Part VII—Hopi Department of Natural Resources (DNR) policy on public participation;
Part VIII and Figure 4—Organization of the Hopi Tribe;
Part IX—Personnel staffing policies;
Part X—Purchasing and procurement;
Part XI—Management accounting;
[Deletion of] sections 884.13(e) (1), (2), and (3)—Purpose of Hopi Tribe plan and criteria for ranking and identifying projects;
Part XII—Economic conditions of the Hopi Reservation;
Part XIII—Flora and fauna;
Appendices 1 through 12—Addition of cover pages;
Appendix 1—Constitution and By-Laws of the Hopi Tribe, as amended;
Appendix 7—Title of the appendix;
Memorandum from the Assistant General Counsel/Legislation Counsel to DNR dated May 18, 1995—Elimination of Title IV from the draft Hopi Code Mining Ordinance;
Hopi Tribal Council Resolution H-134-89, adopted August 29, 1989; and
Memorandum from the Hopi Tribe Office of Financial Management to DNR dated September 7, 1995—Purchasing procedures.

(c) Revisions to, additions of, or deletions of the following plan provisions, as submitted to OSM on September 23, 1996, are approved effective March 31, 1997:

Preface to Amended Reclamation Plan—Introductory paragraph and Eligible Projects;
Section I, A—Purpose of Hopi plan;
Section II, A(1)—Certification of Completion of Coal Sites;
Section II, A(1)(a)—Eligible Coal Lands and Water;
Section II, A, (1)(g)—Contractor Responsibility (for coal reclamation);
Section II, (A)(1)(i)—Limited Liability (for coal reclamation);
Sections II, (B)(1)(d) and (d)(ii)—Noncoal Reclamation After Certification;
Sections II, (B)(1)(h), (i), and (j)—Limited Liability, Contractor Responsibility, and Reports (for noncoal reclamation);
Deletion of sections II, E, F, and G—Limited Liability, Contractor Responsibility, and Reports (for noncoal reclamation);
Section II, E—Description of Needs, Proposed Construction and Activities;
Sections IV, (A)(1) and (B)(1)—Acquisition and Management of Acquired Lands;
Sections VI, A(1) (a) through (c) and B(1)—Consent to Entry and Public Notice;
Section VII, B(8)—Public Participation;
Section VIII—Organization of the Hopi Tribe;
Section XII—Description of Aesthetic, Cultural and Recreational Conditions of the Hopi Reservation; and
Section XIV—Flora and Fauna.

[61 FR 17839, Apr. 23, 1996, as amended at 62 FR 15115, Mar. 31, 1997]

§ 756.18 Required amendments to the Hopi Tribe's abandoned mine land reclamation plan.

Pursuant to 30 CFR 884.15, the Hopi Tribe is required to submit to OSM by the date specified either a proposed

§ 756.19

amendment or a reasonable timetable, which is consistent with the Hopi Tribe's established administrative and legislative procedures, for submitting an amendment to the Hopi Tribe plan.

(a)–(b) [Reserved]

[61 FR 6508, Feb. 21, 1996, as amended at 61 FR 17840, Apr. 23, 1996; 62 FR 15115, Mar. 31, 1997]

§ 756.19 Approval of the Crow Tribe's abandoned mine land reclamation plan.

The Crow Tribe's Abandoned Mine Land Reclamation Plan as submitted in 1982, and resubmitted in September, 1988 is approved. Copies of the approved Plan are available at the following locations:

(a) Crow Tribal Council, Crow Office of Reclamation, P.O. Box 159, Crow Agency, MT 59022.

Original amendment submission date	Date of final publication	Citation/description
May 29, 2007	April 1, 2008	756.20 Certification of Completion.

(b) [Reserved]

[61 FR 6509, Feb. 21, 1996, as amended at 73 FR 17249, Apr. 1, 2008]

§ 756.21 Required amendments to the Crow Tribe's abandoned mine land reclamation plan.

Pursuant to 30 CFR 884.15, the Crow Tribe is required to submit to OSM by

30 CFR Ch. VII (7-1-25 Edition)

(b) Office of Surface Mining Reclamation and Enforcement, Casper Field Office, Room 2128, 100 East B Street, Casper, WY 82601-1918, Telephone: (307) 261-6555.

[61 FR 6508, Feb. 21, 1996]

§ 756.20 Approval of amendments to the Crow Tribe's abandoned mine land reclamation plan.

Revisions to the following provisions of the Crow Tribe's Abandoned Mine Land Reclamation Plan, as submitted to OSM on the date specified, are approved.

(a) The Director concurs with the Crow Tribe's May 29, 2007, certification of completion of coal reclamation effective April 1, 2008:

the date specified either a proposed amendment or a reasonable timetable, which is consistent with the Crow Tribe's established administrative and legislative procedures, for submitting an amendment to the Crow Tribe plan.

[61 FR 6509, Feb. 21, 1996]