Policy Act secs. 131, 132, 133, 135, 137, 141, 148 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 788 (2005).

Section 72.44(g) also issued under Nuclear Waste Policy Act secs. 142(b) and 148(c), (d) (42 U.S.C. 10162(b), 10168(c), (d)).

Section 72.46 also issued under Atomic Energy Act sec. 189 (42 U.S.C. 2239); Nuclear Waste Policy Act sec. 134 (42 U.S.C. 10154).

Section 72.96(d) also issued under Nuclear Waste Policy Act sec. 145(g) (42 U.S.C. 10165(g)).

Subpart J also issued under Nuclear Waste Policy Act secs. 117(a), 141(h) (42 U.S.C. 10137(a), 10161(h)).

Subpart K also issued under Nuclear Waste Policy Act sec. 218(a) (42 U.S.C. 10198).

■ 2. In § 72.214, Certificate of Compliance No. 1014 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1014.

Initial Certificate Effective Date: May 31, 2000.

Amendment Number 1 Effective Date: July 15, 2002.

Amendment Number 2 Effective Date: June 7, 2005.

Amendment Number 3 Effective Date: May 29, 2007.

Amendment Number 4 Effective Date: January 8, 2008.

Amendment Number 5 Effective Date: July 14, 2008.

Amendment Number 6 Effective Date: August 17, 2009.

Amendment Number 7 Effective Date: December 28, 2009.

Amendment Number 8 Effective Date: May 2, 2012, as corrected on November 16, 2012 (ADAMS Accession No. ML12213A170, superseded by Amendment Number 8, Revision 1 on April 21, 2015.

Amendment Number 8, Revision No.1 Effective Date: April 21, 2015.

Amendment Number 9 Effective Date: March 11, 2014.

SAR Submitted by: Holtec International.

SAR Title: Final Safety Analysis Report for the HI–STORM 100 Cask System.

Docket Number: 72–1014.

Certificate Expiration Date: May 31, 2020.

Model Number: HI–STORM 100.

* * * * *

Dated at Rockville, Maryland, this 26th day of January, 2015.

For the Nuclear Regulatory Commission.

Mark A. Satorius,

Executive Director for Operations.

[FR Doc. 2015–02310 Filed 2–4–15; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25

[Docket No. FAA–2013–0142; Amdt. No. 25–141]

RIN 2120–AK12

Harmonization of Airworthiness Standards—Gust and Maneuver Load Requirements; Correction

Correction

In FAA rule document 2015–01205 appearing on pages 4761–4762 in the issue of Thursday, January 29, 2015, make the following corrections:

1. On page 4762 in the first column, the second paragraph should read as follows:

This document corrects three errors in the Greek letters and subscripts contained in various equations in the regulatory text. In one case, the ''U'' in the equation is changed from subscript to regular, uppercase text. In another case, instead of ''$P_L = P_{L-1g} \pm U_\sigma \bar{A}$'', the equation should be ''$P_L = P_{L-1g} \pm U_\sigma \bar{A}$''. In two cases, the three Greek letters ''ρεφ'' after sigma ''σ'' in the subscript of ''U'' are changed to ''ref''. In these cases, ''$U_{\sigma\rho\varepsilon\varphi}$'' should be ''$U_{\sigma ref}$''.

2. On page 4762 in the first column, the third, fourth and fifth paragraphs following the Corrections heading should read as follows:

2. On page 73467, second column, line 11, the equation ''$P_L = P_{L-1g} \pm U_\sigma \bar{A}$'' is corrected to read ''$P_L = P_{L-1g} \pm U_\sigma \bar{A}$''.

3. On page 73467, second column, fifth line from the bottom, the equation ''$U_\sigma = U_{\sigma\rho\varepsilon\varphi} F_g$'' is corrected to read ''$U_\sigma = U_{\sigma ref} F_g$''.

4. On page 73467, second column, third line from the bottom, the text ''$U_{\sigma\rho\varepsilon\varphi}$'' is corrected to read ''$U_{\sigma ref}$''.

[FR Doc. C1–2015–01205 Filed 2–4–15; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 700, 875, 877, 879, 884, and 885

RIN 1029–AC66

[Docket ID: OSM–2012–0010; S1D1S SS08011000 SX066A00067F 134S180110; S2D2S SS08011000 SX066A00 33F 13XS501520]

Abandoned Mine Land Reclamation Program; Limited Liability for Noncoal Reclamation by Certified States and Indian Tribes

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

ACTION: Final rule.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE or OSM), are revising our abandoned mine land (AML) reclamation program regulations under Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). This rule allows states and Indian tribes that have certified completion of all known coal AML reclamation needs within their jurisdiction to receive limited liability protection for certain noncoal reclamation projects.

DATES: Effective March 9, 2015.

FOR FURTHER INFORMATION CONTACT: Michael F. Kuhns, Division of Regulatory Support, 1951 Constitution Ave. NW., Washington, DC 20240; Telephone: 202–208–2860.

SUPPLEMENTARY INFORMATION:

I. Background on the AML Reclamation Program and Limited Liability Provision

A. How does the AML reclamation program operate?

Congress established the AML reclamation program in Title IV of SMCRA to remedy the extensive environmental damage caused by past coal mining activities. In general, the program is targeted toward reclaiming abandoned and inadequately reclaimed mine lands and waters adversely impacted by surface coal mining operations that were not subject to the reclamation requirements of SMCRA. Health, safety, and environmental problems associated with abandoned mine lands include polluted surface water and groundwater, dangerous entrances to underground mines, water-filled pits, unreclaimed or inadequately reclaimed mine sites (including some with dangerous highwalls) and refuse piles, sediment-clogged streams, damage from landslides, and fumes and surface instability resulting from coal seam fires and burning coal refuse. Restoration activities under the AML reclamation program correct or mitigate these problems. While the central focus of our AML program has been to address coal-related health, safety, and environmental problems, noncoal mining-related projects also are eligible to receive funding under certain conditions.

A core element of the national AML program is the reclamation plan developed by each qualifying state and tribe. Under section 405(b) of SMCRA, states that have coal lands and waters eligible for reclamation under Title IV of SMCRA may submit a proposed plan to OSMRE for review. Section 405(k) of SMCRA extends the same opportunity to Indian tribes with eligible lands and waters. If the proposed plan demonstrates that the state or tribe has eligible lands and waters and the legal authority, policies, and administrative structure necessary to adequately administer the program, we will approve the plan under section 405(d) of SMCRA and 30 CFR 884.14, provided the proposed plan and the state or tribe meet all other requirements of 30 CFR 884.11 through 884.14. Currently, 25 states, the Navajo Nation, the Hopi Tribe, and the Crow Tribe of Indians have approved AML reclamation plans.

These states and tribes receive grant funding for their AML reclamation programs under section 405(f) of SMCRA. These grants are, in part, financed through a reclamation fee assessed on current coal production.[1] The revenues generated by this reclamation fee, and from certain other sources, are transferred into the Abandoned Mine Reclamation Fund (the ''AML Fund''), which is a trust fund ''created on the books of Treasury,'' but administered by the Secretary of the Interior.[2]

During the first 30 years of the program, the states of Louisiana, Montana, Texas, and Wyoming and the Crow Tribe, the Hopi Tribe, and the Navajo Nation completed reclamation of all known coal-related AML problems within their jurisdiction and certified to that fact in accordance with section 411(a) of SMCRA. Because of this certification, these states and tribes are known as ''certified'' states and tribes.

Beginning on November 5, 1990, when the Abandoned Mine Reclamation Act of 1990 (AMRA) was enacted as part of the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508, certified states and tribes were authorized to expend Title IV grant funding on the reclamation of eligible noncoal AML problems and on the construction of utilities and public facility projects (collectively ''noncoal reclamation projects'') under the provisions of subsections (b) through (g) of section 411 of SMCRA.[3]

In sum, subsection (b) of section 411 allows certified states and tribes to expend AML Fund moneys on eligible noncoal lands, waters, and facilities without having to submit a request from the governor or tribal chairman. Eligible lands, waters, and facilities are defined under this subsection as those which were mined or processed for minerals or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under state or other Federal laws.

Subsection (c)[4] of section 411 requires that expenditures for eligible noncoal projects must reflect certain listed priorities.

Subsection (d)[5] specifies that sites listed for remedial action under the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA)[6] or the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA)[7] are not eligible noncoal projects.

Subsection (e)[8] clarifies that eligible noncoal projects can include projects relating to the protection, repair, replacement, construction, or enhancement of public facilities damaged by past mining practices so long as they relate to the priorities listed in subsection (c).

Subsection (f)[9] allows the governor of a state or the head of the governing body of an Indian tribe to request funding for ''specific public facilities related to the coal or minerals industry'' even if the site itself was not impacted by past mining practices.

Finally, subsection (g)[10] requires that noncoal programs conform to the acquisition and lien provisions of SMCRA—sections 407 and 408.[11]

Although these 1990 provisions allowed certified states to develop noncoal reclamation programs under a SMCRA reclamation plan, uncertified states were still limited in the types of noncoal reclamation projects they could perform under SMCRA. Specifically, uncertified states could use AML grant funds on the reclamation of noncoal AML sites only to abate extreme dangers to public health, safety, general welfare, and property that arose from the adverse effects of mineral mining and processing and only at the request of the governor, as provided under section 409 of SMCRA.

Subsections (b) through (g) of section 411 of SMCRA remained the governing authority for certified states performing noncoal reclamation projects under SMCRA until the passage of the Tax Relief and Health Care Act of 2006, Public Law 109–432, 120 Stat. 292 (the ''2006 amendments''). The 2006 amendments substantially modified the AML reclamation program in Title IV of SMCRA.

On November 14, 2008, we promulgated a final rule, which revised the OSMRE regulations for the Abandoned Mine Reclamation Fund and the Abandoned Mine Land program to implement the 2006 amendments. Abandoned Mine Land Program, 73 FR 67576–67647 (Nov. 14, 2008) (''2008 Rule''). (Please refer to the preamble of the 2008 Rule for a more complete description of the program changes resulting from the 2006 amendments. 73 FR at 67577–67578.)

Of importance to this rulemaking, the 2008 Rule incorporated changes made by the 2006 amendments relating to the amount and use of funds distributed to certified states and tribes. Prior to the

[1] 30 U.S.C. 1232(a).
[2] 30 U.S.C. 1231(a).
[3] 30 U.S.C. 1240a(b)–(g).
[4] 30 U.S.C. 1240a(c).
[5] 30 U.S.C. 1240a(d).
[6] 42 U.S.C. 7901 *et seq.*
[7] 42 U.S.C. 9601 *et seq.*
[8] 30 U.S.C. 1240a(e).
[9] 30 U.S.C. 1240a(f).
[10] 30 U.S.C. 1240a(g).
[11] 30 U.S.C. 1237–1238.

2006 amendments, section 402(g)(1) of SMCRA allocated 50 percent of the total reclamation fees paid by coal mine operators for coal produced from operations located within each state or tribe to that state or tribe. These allocations within the AML Fund are referred to as ''State share'' or ''Tribal share'' funds. However, distribution of the State share and Tribal share funds was subject to annual appropriation, and Congress did not always appropriate the full amount allocated each year. This left an increasing unappropriated balance of State share and Tribal share allocations in the AML Fund.

The 2006 amendments addressed this increasing unappropriated balance of State share and Tribal share funds, in part, by making the distribution of these funds to uncertified states mandatory.[12] Certified states and tribes, in contrast, were barred from receiving what would have been their annual State share and Tribal share allocations from the AML Fund, beginning October 1, 2007.[13] These State share and Tribal share funds were replaced with equivalent payments from otherwise unappropriated general funds in the U.S. Treasury.[14] We refer to these payments as ''certified in lieu'' funds; they are scheduled by statute to continue through fiscal year 2022. 30 U.S.C. 1240a(h)(2); see also 30 U.S.C. 1202(a) and (g)(1).

In addition, the 2006 amendments provided for payments to all states and tribes from otherwise unappropriated general funds in the U.S. Treasury in an amount equal to the unappropriated balance of their State share or Tribal share allocation in the AML Fund as of September 30, 2007. See section 411(h)(1) of SMCRA.[15] As required by the 2006 amendments, distribution of these ''prior balance replacement funds'' occurred in seven equal annual installments, beginning with fiscal year 2008 and ending in fiscal year 2014.

In 2012, however, a new law (Pub. L. 112–141) amended section 411(h) of SMCRA by capping the total annual payment to a certified state or tribe under that section at $15 million. In other words, the combined certified in lieu and prior balance replacement funds distributed annually to a certified state or tribe cannot exceed $15 million annually. On October 2, 2013, Congress increased this cap to $28 million in fiscal year 2014 and $75 million in fiscal year 2015. See section 10 of the Helium Stewardship Act of 2013 (Pub. L. 113–40).

As mentioned earlier, the 2008 Rule revised the regulations to conform to the 2006 amendments. The 2008 Rule recognized the greater latitude that the 2006 amendments gave to certified states and tribes in how they could spend the certified in lieu funds or prior balance replacement funds. In particular, under the 2008 Rule, while certified programs are still required to address known and newly discovered coal problems in a timely manner, funding not needed to address coal problems may be used for a wider range of purposes than previously allowed, including, but not limited to, purposes related to noncoal reclamation projects. See 30 CFR parts 872 and 875 (2009).

B. What is the limited liability provision of SMCRA?

Work done as part of an approved state or tribal AML reclamation plan receives limited liability protection. Among the many changes made to Title IV in 1990, AMRA added a new section—section 405(l)[16] (the limited liability provision)—which specifies that ''[n]o State shall be liable under any provision of Federal law for any costs or damages as a result of action taken or omitted in the course of carrying out a State abandoned mine reclamation plan approved under this section.'' Indian tribes are also covered under this provision because section 405(k)[17] provides that an Indian tribe is considered a state for purposes of Title IV of SMCRA. Section 405(l) waives monetary liability for states and tribes under all Federal laws when the states and tribes are acting to carry out their approved abandoned mine reclamation plan, but it does not preclude liability for a state's or tribe's gross negligence or intentional misconduct. State and tribal program officials routinely make a broad range of decisions concerning site selection and abatement of serious health, safety, and environmental problems. Although the limited liability provision does not waive the applicability of Federal laws to the states and tribes, it does waive monetary liability for actions they take in carrying out or complying with those laws in furtherance of an AML reclamation plan. In so doing, the limited liability provision provides states and tribes with a degree of protection as they make difficult choices with limited program funding.

On May 31, 1994, we promulgated 30 CFR 874.15 and 875.19 to implement the limited liability provision in section 405(l) of SMCRA. See 59 FR 28172–28173. The language in those two regulatory sections is identical—30 CFR 874.15 applies to uncertified programs, while 30 CFR 875.19 applies to certified programs.

C. Why are we making rule changes related to the limited liability provision?

We are revising our rules in response to concerns that the 2008 Rule may have created a disincentive for certified states and tribes to conduct noncoal reclamation projects with the moneys that they receive under SMCRA. In the 2008 Rule, we did not change the language of either 30 CFR 874.15 or 875.19, which are the regulatory provisions that mirror SMCRA's limited liability provision. However, we concluded in the preamble to the 2008 Rule that, although certified programs could engage in noncoal reclamation projects, programs that use the two new sources of funding under sections 411(h)(1) and (h)(2) of SMCRA (prior balance replacement funds and certified in lieu funds, respectively, instead of AML Fund moneys) would not be operating as SMCRA noncoal AML reclamation programs and would not benefit from the limited liability protections when they conduct noncoal reclamation projects. See 73 FR at 67609–67611. This is because the noncoal reclamation projects for certified states are authorized by subsections (b) through (g) of section 411 of SMCRA, and those statutory provisions only refer to the use of State share and Tribal share funds for SMCRA noncoal AML reclamation programs from the AML Fund. As stated above, as a result of the 2006 amendments, certified states and tribes no longer receive State share and Tribal share funds. Since 2008, certified states and tribes that have chosen to expend the certified in lieu funds or prior balance replacement funds to work on noncoal reclamation projects could not comply with the regulations in 30 CFR part 875 that had implemented subsections (b) through (g) of Section 411 of SMCRA[18] and, therefore, could not benefit from the limited liability protection afforded by 30 CFR 875.19 for their noncoal reclamation projects. 73 FR at 67613–67614.

Although we ultimately adopted this more restrictive approach in the 2008 Rule, we considered other alternatives in the proposed rule that preceded the 2008 Rule. First, we proposed to allow certified states and tribes to choose to use their Title IV moneys for noncoal

[12] 30 U.S.C. 1231(d)(3).

[13] 30 U.S.C. 1231(f)(3)(B).

[14] 30 U.S.C. 1240a(h)(2).

[15] 30 U.S.C. 1240a(h)(1).

[16] 30 U.S.C. 1235(l).

[17] 30 U.S.C. 1235(k).

[18] 30 CFR 875.11(b)(2).

reclamation projects under 30 CFR part 875. See Abandoned Mine Land Program, 73 FR 35214, 35233 (June 20, 2008). Second, we presented an alternative that would have required certified states and tribes to spend their certified in lieu funds for noncoal reclamation projects under 30 CFR part 875. Id.

As part of the 2008 rulemaking, we received a number of comments regarding the application of the limited liability provision to certified states and tribes. At that time, the Interstate Mining Compact Commission (IMCC), the National Association of Abandoned Mine Land Programs (NAAMLP), and one state commented that ''certified AML programs should not be required to follow all of part 875 to enjoy the protection of the limited liability provisions of § 875.19.'' [19] Since we adopted the 2008 Rule, program officials in certified states and tribes have continued to express concern that the loss of limited liability protection for noncoal reclamation projects creates a disincentive to conduct at least some types of noncoal reclamation activities.[20]

Based on our reconsideration of these past public comments on the 2008 Rule and our own concerns about the potential disincentive that the 2008 may have created, we reconsidered the position that we took in the 2008 Rule and concluded that a more flexible approach could increase reclamation of noncoal AML sites. In February 2013, we published a proposed rule to revise the 2008 Rule to allow certified states and tribes to choose to use their prior balance replacement funds and certified in lieu funds for noncoal reclamation projects under 30 CFR part 875 in accordance with an approved AML reclamation plan. Abandoned Mine Land Reclamation Program; Limited Liability for Noncoal Reclamation by Certified States and Indian Tribes, 78 FR 8822 (Feb. 6, 2013). Under the proposed rule, any noncoal reclamation projects conducted under 30 CFR part 875 in accordance with an approved AML reclamation plan would receive limited liability protection as authorized by section 405(l) of SMCRA and 30 CFR 875.19.

The rule that we are promulgating today is designed to restore limited liability protections for certain noncoal reclamation projects, as described below.

II. Description of the Final Rule and Discussion of the Comments Received

A. Summary of the Final Rule

The final rule that we are adopting today gives certified states and tribes two options for conducting noncoal reclamation projects. First, the final rule retains the ability of certified states and tribes to expend their prior balance replacement funds and certified in lieu funds on projects outside the scope of a SMCRA noncoal AML reclamation program but without limited liability protection. Second, the final rule allows certified states and tribes the ability to voluntarily use prior balance replacement funds and certified in lieu funds to conduct noncoal reclamation projects pursuant to a SMCRA noncoal AML reclamation program under the provisions of subsections (b) through (g) of section 411 of SMCRA and 30 CFR part 875 and other applicable regulations. The limited liability protection provided by section 405(l) and 30 CFR 875.19 would apply to noncoal reclamation projects completed pursuant to a SMCRA noncoal AML reclamation program. These two options are discussed in more detail below.

Under the first option, if a certified state or tribe chooses to use some or all of its certified in lieu funds, prior balance replacement funds, or both, on noncoal reclamation projects outside of a SMCRA noncoal AML reclamation program, it will not be required to comply with subsections (b) through (g) of section 411 and the requirements of 30 CFR and other regulations related to SMCRA noncoal AML reclamation programs. Thus, for example, a state could expend certified in lieu funds on UMTRCA or CERCLA sites, but if it did so it would not receive the limited liability protections afforded by SMCRA because section 411(d) and 30 CFR 875.16 prohibit SMCRA noncoal AML reclamation programs from expending moneys on those types of sites. Certified states and tribes that choose this option will have the same administrative responsibilities that they have been subject to under the 2008 Rule.

Certified states and tribes, however, can receive limited liability protections for noncoal reclamation projects taken under the aegis of the second option—a SMCRA noncoal AML reclamation program that is part of an approved AML reclamation plan in accordance with 30 CFR part 875 and other applicable regulations. In other words, under this rule, the limited liability provision will apply to noncoal reclamation projects conducted under an approved state or tribal SMCRA noncoal AML reclamation program consistent with subsections (b) through (g) of section 411 of SMCRA and the requirements of 30 CFR part 875 and other applicable regulations.

Under such a SMCRA noncoal AML reclamation program, limited liability protections will extend to onsite reclamation activities and to program administration, site development, environmental management, and other actions taken or not taken in support of noncoal reclamation projects. Because the protections only extend to ''action taken or omitted in the course of carrying out'' an approved abandoned mine reclamation plan for a state or Indian tribe, there must be a clear nexus between the action or inaction and a noncoal reclamation project conducted pursuant to 30 CFR part 875 that is part of an approved AML reclamation plan for the protections to apply. Because OSMRE must verify that the projects conducted under the second option meet the applicable statutory and regulatory criteria, certified states and tribes choosing this option will be subject to more administrative responsibilities, such as the requirement for the submittal and approval of a written authorization to proceed. These individual administrative requirements are described in the next section-by-section analysis below.

As we explained in our proposed rule, the approach contained in this final rule is consistent with section 411(h)(1) of SMCRA, which grants the state legislatures and tribal councils almost complete discretion as to how to spend prior balance replacement funds, and it is consistent with section 411(h)(2) of SMCRA, which contains no specific instruction on the use of certified in lieu funds and does not place any restrictions upon them. 78 FR 8825. This broad congressional grant of authority gives certified states and tribes discretion to operate an approved noncoal AML reclamation program under subsections (b) through (g) of section 411 of SMCRA and the implementing regulations with these funds, should they chose to do so. This approach would also be consistent with

[19] 73 FR at 67613.

[20] *See, e.g.,* Statement of Madeline Roanhorse, Manager, AML Reclamation/Uranium Mill Tailings Radiation Control Act Department, Navajo Nation on Behalf of the National Association of Abandoned Mine Land Programs re Oversight Hearing on *The Effect of the President's FY 2013 Budget and Legislative Proposals for the Office of Surface Mining on Private Sector Job Creation, Domestic Energy Production, State Programs and Deficit Reduction* before the House Energy and Mineral Resources Subcommittee, March 6, 2012, p. 7 (''Without this limited liability protection, these states and tribes potentially subject themselves to liability under the Clean Water Act and CERCLA for their AML reclamation work. Nothing in the 2006 Amendments suggested that there was a desire or intent to remove these liability protections, and without them in place, certified states and tribes will need to potentially reconsider at least some of their more critical AML projects.'').

our view that states and tribes may use these funds for coal reclamation to maintain certification, a use also not explicitly contained in either paragraph (h)(1) or paragraph (h)(2) of section 411 of SMCRA.

B. General Discussion of Comments

In response to the proposed rule, we received comments from seven states and one Indian tribe, each with an approved AML reclamation plan under Title IV of SMCRA. In addition, we also received joint comments from the IMCC and the NAAMLP. We did not receive any comments from environmental groups, the coal industry, or citizens. All comments timely submitted are available for public review in the docket for this rulemaking.

The comments that we received ranged from very specific to very general. All comments either supported the rule or were neutral. We received no comments opposing the rule. Seven states and one tribe urged OSMRE to enact a final rule as soon as practicable. They also endorsed the IMCC/NAAMLP comments, which can be summarized in the following excerpt: ''While we anticipated fewer changes required to effect the reinstatement [of limited liability coverage], our review indicates OSMRE has done a thorough job in correcting all areas of the rules necessary to support the reinstatement. OSMRE is to be commended for their effort.''

Comments specific to a particular provision of the proposed rule are discussed below in the section-by-section analysis.

C. Section by Section Analysis

1. How are we revising part 700—General?

To improve the clarity of the regulations, we are revising § 700.5 to add a definition of the term ''SMCRA.'' We proposed to define the term ''SMCRA'' as meaning the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95–87), as amended. We received no comments about the proposed definition and are adopting it as proposed, with the exception that we are replacing the reference to Public Law 95–87 in the proposed rule with the appropriate United States Code citation (30 U.S.C. 1201 *et seq.*) because that is the more commonly used citation for the statute.

2. How are we revising part 875—Certification and Noncoal Reclamation?

We are revising this part to clarify that certified states and tribes may voluntarily conduct noncoal reclamation activities under a noncoal AML reclamation program in accordance with the provisions of 30 CFR part 875 and other applicable regulations and thus receive limited liability protection for noncoal reclamation projects completed under those provisions. In general, our revisions set forth the procedures that certified states and tribes must follow if they voluntarily choose to use their Title IV funding for noncoal reclamation projects under part 875, which includes reclamation of noncoal AML sites as well as the construction of certain utilities and public facilities as provided under § 875.15, pursuant to an approved SMCRA noncoal AML reclamation plan. These procedures relate to the eligibility of sites and restrictions for land acquisition and management, lien determinations, and contractor eligibility. In addition, this part makes clear that certified states and Indian tribes will receive limited liability protection under 30 CFR 875.19 for authorized noncoal reclamation projects and supporting administrative and programmatic activities. A discussion of our revisions to individual sections of the rules and our response to the comments that we received specific to those sections follows.

Applicability (§ 875.11)

We are revising § 875.11(b)(2) to allow certified programs to use prior balance replacement funds and certified in lieu funds for both coal reclamation projects that are necessary to maintain certification and noncoal reclamation projects approved under SMCRA. The final rule is consistent with section 411(h)(1) of SMCRA, which grants the state legislatures and tribal councils discretion as to how prior balance replacement funds may be spent, because the state legislature or tribal council could direct these funds to be expended on noncoal reclamation projects pursuant to 30 CFR part 875. In addition, optional coverage is consistent with section 411(h)(2) of SMCRA, which contains no specific instruction on the use of certified in lieu funds and does not place any restrictions upon them. Therefore, certified states and tribes now will have the discretionary authority to direct some or all of these funds to SMCRA noncoal reclamation projects consistent with section 411 of SMCRA and 30 CFR part 875. This approach is also consistent with 30 CFR 875.14(b), which expressly allows states and tribes to use certified in lieu funds and prior balance replacement funds to address coal problems discovered subsequent to certification, a use that also is not explicitly contained in either subsection (h)(1) or subsection (h)(2) of section 411 of SMCRA, which authorize the payment of prior balance replacement and certified in lieu funds.

By allowing certified states and tribes the latitude to conduct noncoal reclamation projects under 30 CFR part 875 and an approved SMCRA noncoal AML reclamation plan, we will continue to promote the AML reclamation plan as a central component of SMCRA noncoal reclamation projects. Activities carried out under a SMCRA noncoal AML reclamation program under 30 CFR part 875 will enjoy the limited liability protections of section 405(l) of SMCRA because the work will be conducted pursuant to an approved AML reclamation plan that conforms to subsections (e) and (f) of section 405 of SMCRA and the applicable regulations.

We received no comments opposing the proposed revisions to this section and we are adopting the revisions to this section as proposed.

Reclamation Priorities for Noncoal Program (§ 875.15)

In our proposed rule, we did not include any revisions to the language in § 875.15, which establishes priorities for SMCRA noncoal AML reclamation programs. However, the IMCC/NAAMLP asked for clarification regarding the priorities listed in that section. In particular, they wanted to know whether we would require certified states and tribes to strictly adhere to those priorities if the certified state or tribe chooses to expend its AML moneys pursuant to new § 875.11(b)(2)(ii), which authorizes those states and tribes to ''conduct a noncoal reclamation program in accordance with the requirements of this part.'' The commenters then opined that, because the expenditure of funds on a SMCRA noncoal AML reclamation program under 30 U.S.C. part 875 is voluntary, it would be inappropriate to require a certified state or Indian tribe to strictly follow the hierarchy of priorities in this section. They suggested that certified states and Indian tribes should be able to choose which project or projects to address, and in which order. For example, they would like the flexibility to address a priority 3 site before all priority 1 and 2 sites are corrected.

We did not make any changes to § 875.15 in response to this comment because this section is derived from subsections (c), (e), and (f) of section 411 of SMCRA, which are described above in section I.A of this preamble.[21]

[21] 30 U.S.C. 1240a(c), (e) and (f).

The priorities and restrictions contained in § 875.15 are part of the statutory requirements for a SMCRA noncoal AML reclamation program, and we must give them effect. However, we have not historically interpreted this language in an inflexible manner. Section 411(c) of SMCRA and § 875.15(b) state that the expenditure of moneys ''shall reflect'' the priorities listed. This language is similar to the language used to describe the priorities for coal reclamation under section 403(a) of SMCRA. See 30 U.S.C. 1233(a) (''Expenditure of moneys . . . shall reflect the following priorities in the order stated. . . .''). Our longstanding approach for interpreting section 403(a) has been ''that reclamation programs can reclaim Priority 3 land and water projects before the completion of all Priority 1 and 2 projects as long as the overall reclamation program generally reflects the priorities.'' [22] Because section 411(c) and § 875.15(b) are so similar to section 403(a), the same approach would apply to noncoal reclamation projects: *i.e.,* Priority 3 noncoal reclamation projects may be conducted before completion of all Priority 1 and 2 noncoal reclamation projects so long as the overall SMCRA noncoal AML reclamation program generally reflects the priorities listed in section 411(c) and 30 CFR 875.15.

Exclusion of Certain Noncoal Reclamation Sites (§ 875.16)

Consistent with the proposed rule, we are revising this section to prohibit the reclamation of sites designated for remedial action under UMTRCA [23] or listed for remedial action under CERCLA [24] by certified states or tribes using prior balance replacement funds or certified in lieu funds if they conduct the reclamation as a component of a voluntary SMCRA noncoal AML reclamation program under part 875. SMCRA clearly prohibits ''[s]ites and areas designated for remedial action pursuant to [UMTRCA] or which have been listed for remedial action pursuant to [CERCLA]'' from being ''eligible for expenditures from the Fund under'' section 411 of SMCRA.[25]

The revision to § 875.16(b) will continue to prohibit a certified state or Indian tribe from expending money left over from the pre-2008 distributions of funds from section 402(g)(1) on UMTRCA and CERCLA sites. In addition, as described in the proposed rule, this section is being revised to prohibit the expenditure of prior balance replacement funds and certified in lieu funds for UMTRCA and CERCLA sites if the state or tribe chooses to conduct a SMCRA noncoal AML reclamation program under part 875. The revised rule does not prohibit a certified state or tribe from expending Title IV moneys on UMTRCA and CERCLA sites if those projects are completed outside the scope of a SMCRA noncoal AML reclamation program operating under part 875. However, the certified state or tribe will not receive limited liability coverage under SMCRA for those projects.

We received no comments opposing this proposed provision. We did, however, receive a suggestion to capitalize ''State'' in the regulatory text to be consistent with capitalization of this word elsewhere in our regulations. We are adopting the proposed rule with this editorial change.

Land Acquisition Authority—Noncoal (§ 875.17)

As stated in the proposed rule, we are revising this section to confirm that the requirements specified in parts 877 (Rights of Entry) and 879 (Acquisition, Management and Disposition of Lands and Water) also apply to a state's or tribe's SMCRA noncoal AML reclamation projects conducted voluntarily under part 875. We received no comments opposing the proposed changes to this section and we are adopting the changes with a minor revision for clarity.

Limited Liability (§ 875.19)

Consistent with the proposed rule, we are revising this section to clarify that no state or Indian tribe conducting noncoal reclamation projects, including the reclamation of noncoal AML sites and the construction of certain utilities and public facilities, under the provisions of part 875 is liable under any provision of Federal law for any costs or damages as a result of action taken or omitted in the course of carrying out an approved state or Indian tribe AML reclamation plan. The revision is also consistent with section 405(l) of SMCRA, as this section preserves state and tribal liability for costs or damages caused by a state's or tribe's gross negligence or intentional misconduct when carrying out a SMCRA noncoal program under an approved reclamation plan.

Although not specifically referring to this provision, one commenter requested that we clarify whether the limited liability provisions of section 405(l) of SMCRA and the Federal regulations would ''provide a certified state or tribal program operating under a federally approved state abandoned mine program with exemption from liability under the third-party lawsuit provision of the Clean Water Act[.]'' This commenter noted that the legislative history surrounding section 405(l) specifically refers to section 405(l) as limiting the liability of CERCLA for reclamation projects associated with eligible noncoal abandoned mine sites ''so long as the project is undertaken pursuant to a federally approved reclamation plan.'' See H.R. Rep. 101–294, at 30, 37 (1989).

We have opted not to make any changes to the regulatory text based on this comment. We note that the language of section 405(l) of SMCRA and § 875.19 limits liability ''under any provision of Federal law for *any costs or damages* as a result of action taken or omitted in the course of carrying out an approved State or Indian tribe abandoned mine reclamation plan.'' 30 U.S.C. 1235(l) (emphasis added). This limited liability protection does not exempt states or tribes from complying with applicable Federal laws, including the Clean Water Act.[26] Rather, it protects a state or tribe from paying for costs or damages that may arise as a result of the state's or tribe's actions or inactions while carrying out its approved abandoned mine reclamation plan. All grant recipients must provide assurances to OSMRE that activities funded by the AML Fund, certified in lieu funds, or prior balance replacement funds will comply with Federal laws, as well as state, tribal, and local laws. We are unaware of any instances where states or tribes have attempted to rely on this provision to avoid complying with the Clean Water Act or any other Federal law. Nevertheless, until such time as the courts define the scope of coverage under section 405(l), we cannot definitively state the parameters of the limited liability protection provision nor foresee all future possible factual scenarios in which a state or tribe may raise section 405(l) of SMCRA as a defense against a claim for costs or damages arising from the state's or tribe's actions or inactions while carrying out an approved abandoned mine reclamation plan.

We are making one minor revision to this section from the language as proposed. We removed the word ''certified'' from the first sentence of this rulemaking because, according to § 875.11, this part applies to both noncoal reclamation projects conducted by certified states and tribes pursuant to SMCRA noncoal AML reclamation

[22] 73 FR at 67603 (summarizing OSM's history of this approach).

[23] 42 U.S.C. 7901 *et seq.*

[24] 42 U.S.C. 9601 *et seq.*

[25] 30 U.S.C. 1240a(d).

[26] 33 U.S.C. 1251 *et seq.*

programs under subsections (b) through (g) of section 411 of SMCRA and part 875 as well as to noncoal reclamation activities conducted by uncertified states consistent with section 409 of SMCRA and the applicable regulations. We originally proposed to include the word ''certified'' to ensure that these states and tribes would be eligible for limited liability coverage, and we did not intend to remove this coverage from uncertified states. Thus, removing the word ''certified'' eliminates the possibility of any unintended loss of limited liability coverage for uncertified states performing authorized noncoal reclamation work.

Contractor Eligibility (§ 875.20)

As described in the proposed rule, we are revising this section to clarify that certified states and tribes that voluntarily conduct noncoal reclamation activities under part 875 must comply with the contractor eligibility requirements. This section also applies to certified states and tribes that conduct coal reclamation to maintain certification. We received no comments opposing the proposed revisions to this section and we are adopting the rule as proposed with a minor revision for clarity.

3. How are we revising Part 877—Rights of Entry?

We did not propose any revisions to part 877 in the proposed rule, but we are making minor, non-substantive revisions to § 877.1 (Scope) for clarity in response to a comment suggesting that we add introductory language to part 877 to clarify that ''noncoal'' replaces all references to ''coal'' when certified states and tribes are conducting noncoal reclamation projects under section 411 of SMCRA and part 875 of the regulations. The commenter acknowledged that the revisions to § 875.17 would have the same effect, but the commenter stated that repeating this language in part 877 would improve clarity and avoid confusion. We agree with the commenter and are adding the requested language to § 877.1.

4. How are we revising Part 879—Acquisition, Management, and Disposition of Lands and Water?

Because the final rule modifies part 875 to allow certified states and tribes to voluntarily conduct noncoal reclamation projects under SMCRA, we are revising, consistent with the proposed rule, part 879 so that the procedures related to acquisition, management, and disposition of land and water are consistent with this option. In general, certified states and Indian tribes that voluntarily conduct noncoal reclamation projects under part 875 will be required to follow the provisions of part 879. Consistent with the proposed rule, we also are revising § 879.15 to specify that all moneys received by a certified state or tribe in the context of their noncoal reclamation projects conducted under part 875 must be handled in accordance with § 885.19 to ensure that any moneys received from the disposition of lands and waters are returned to the AML reclamation program. Each change, a summary of the comments we received, if any, and our responses to these comments are described below in more detail.

Scope (§ 879.1)

Consistent with the proposed rule, we are revising this section to clarify its applicability to certified states and tribes that choose to conduct noncoal reclamation projects under part 875. We received no comments opposing our proposed revisions to § 879.1. However, one commenter suggested that we add language to the introduction of part 879 to clarify that ''noncoal'' replaces all references to ''coal'' when certified states and tribes are conducting noncoal reclamation projects under part 875. The commenter acknowledged that the revisions to § 875.17 would have the same effect, but the commenter stated that repeating this language in part 879 would improve clarity and avoid confusion.

We agree with the commenter. Accordingly, we are revising § 879.1 to reflect the changes that we proposed, and we are adopting additional language to clarify that ''noncoal'' replaces all references to ''coal'' when certified states and tribes are conducting noncoal reclamation projects under part 875.

Land Eligible for Acquisition (§ 879.11)

As described in the proposed rule, we are revising §§ 879.11(a) and 879.11(b) to clarify that these sections apply to a certified state or Indian tribe that chooses to conduct noncoal reclamation activities under part 875. In addition, we determined that previous § 879.11 was not as clear as we intended, and we restructured § 879.11(a) to confirm that OSMRE must execute a written approval and make the findings required by §§ 879.11(a)(1) and 879.11(a)(2) when we acquire land. We received no comments opposing the proposed changes and we are adopting the revisions to this section as proposed with minor revisions to §§ 879.11(a)(2) and 879.11(b) for clarity.

Disposition of Reclaimed Land (§ 879.15)

As proposed, we are revising § 879.15(h) to specify that moneys received from disposal of land by certified states and tribes conducting a SMCRA noncoal AML reclamation program under part 875 must be handled as unused funds in accordance with § 885.19. We received no comments opposing the proposed changes to this section and we are adopting the rule as proposed.

5. How are we revising Part 884—State Reclamation Plans?

As described in the proposed rule, we are revising part 884 to specify the contents of an AML reclamation plan for certified states and Indian tribes. In particular, we are revising two sections—§§ 884.13 and 884.17. Each change, a summary of the comments we received, if any, and our responses to these comments are described below in more detail.

Content of Proposed State Reclamation Plan (§ 884.13)

As proposed, we are revising this section to require that an AML reclamation plan for a certified state or tribe contain all components required for an AML reclamation plan for an uncertified state or tribe, plus a commitment to address eligible coal problems found or occurring after certification as required in §§ 875.13(a)(3) and 875.14(b). This is a change from the 2008 Rule that specified that a noncoal AML reclamation plan for a certified state or tribe need include only two components: (1) a designation by the governor of the state or the governing authority of the Indian tribe identifying the agency authorized to administer the AML reclamation program and to receive and administer grants, and (2) a commitment to address eligible coal problems found or occurring after certification, as required in §§ 875.13(a)(3) and 875.14(b).

We are making this change so that certified states and tribes will be able to avail themselves of the limited liability protections afforded by section 405(l) of SMCRA. To receive the protection of section 405(l), certified states and Indian tribes must conduct noncoal reclamation projects under 30 CFR part 875 in accordance with an approved AML reclamation plan that conforms to paragraphs (e) and (f) of section 405 and the applicable regulations.

We received no comments opposing our proposed revisions to this section. The final rule that we are adopting

today is substantively identical to proposed § 884.13. However, we are reorganizing this section for clarity and consistency with current rule drafting principles. The final rule consolidates the requirements that apply to all states and tribes (both certified and uncertified) in paragraph (a). Paragraph (b) contains the additional requirement that applies to certified states and tribes.

Other Uses by Certified States and Indian Tribes (§ 884.17)

In response to a comment received on the proposed rule, we are revising section 884.17 in the final rule to alleviate confusion about whether certain restrictions in that section apply to public facility projects. Section 884.17 details the contents of a reclamation plan for a certified state or tribe that chooses to use AML funds for a specific type of noncoal reclamation project—a public facility project. In particular, this section allows certified states and tribes to expend money on public facility projects ''when the Governor of the State has certified and the Director [of OSM] has concurred that'' (1) all reclamation, both coal and noncoal reclamation, has been completed, (2) the ''specific public facilities are required as a result of coal development,'' and (3) other funds available under the Mineral Leasing Act of 1920 (MLA),[27] as amended, or the Payment in Lieu of Taxes Act (PILTA),[28] are inadequate.

This provision was first proposed in 1978 as § 850.12(d). See Abandoned Mine Land Reclamation Program Provisions, 43 FR 17918, 17930 (Apr. 25, 1978). The preamble to the February 2013 proposed rule explains that we proposed § 850.12 to allow states and tribes to include noncoal reclamation activities in their initial state or tribal AML reclamation plan. See 43 FR at 17921. This 1978 provision, § 850.12, helped to implement section 402(g)(2) of SMCRA, which originally stated:

> Fifty per centum of the funds collected annually in any State or Indian reservation shall be allocated to that State or Indian reservation by the Secretary pursuant to any approved abandoned mine reclamation program to accomplish the purposes of this title. Where the Governor of a State or the head of a governing body of a tribe certifies that (i) objectives of the fund set forth in sections 403 and 409 have been achieved, (ii) there is a need for construction of specific public facilities in communities impacted by coal development, (iii) impact funds which may be available under provisions of the Federal Mineral Leasing Act of 1920, as amended, or the Act of October 20, 1976, Public Law 94–565 (90 Stat. 2662), are inadequate for such construction, and (iv) the Secretary concurs in such certification, then the Secretary may continue to allocate all or part of the 50 per centum share to that State or tribe for such construction: *Provided, however,* That if funds under this subparagraph (2) have not been expended within three years after their allocation, they shall be available for expenditure in any eligible area as determined by the Secretary.

30 U.S.C. 1232(g)(2) (1978); see also 91 Stat. 458.

When OSMRE finalized the 1978 rule, it renumbered the provision as § 884.12(d). See Abandoned Mine Land Reclamation Program Provisions, 43 FR 49932, 49948 (Oct. 25, 1978). In 1982, OSMRE revised and recodified § 884.12(d) as § 884.17. See Revision of the Abandoned Mine Land Reclamation Program Rules, 47 FR 28574, 28600 (June 30, 1982). As explained in the preamble to the corresponding proposed rule, we proposed this change so as ''to avoid confusion as to when impact assistance is available and how it can be obtained.'' Proposed Revision of the Abandoned Mine Land Reclamation Program Regulations, 46 FR 60778, 60786 (Dec. 11, 1981).

Among the changes made by AMRA in 1990 was the removal of restrictions on public facility projects contained in the second sentence of section 402(g)(2), as originally enacted in 1977. AMRA also added paragraphs (a) through (g) to section 411, which contain the current restrictions on the types of noncoal reclamation projects, including public facility projects, that can be financed with AML moneys by certified states and tribes. Although we amended our regulations in 1994 to incorporate the amendments to SMCRA contained in AMRA and the Energy Policy Act of 1992, we did not make any changes to § 884.17. See Abandoned Mine Land Reclamation Fund Reauthorization Implementation, 59 FR 28136 (May 31, 1994). At that time, however, we did add § 875.15 to incorporate the expanded authority of certified states and tribes to use AML funds for projects related to the protection, repair, replacement, or enhancement of facilities used by the public, if these facilities are affected by coal or noncoal mining activities. See 59 FR at 28161–28164.

Although we did not amend § 884.17 in 1994, we recognized that the restrictions contained in the second sentence of section 402(g)(2) of SMCRA, as originally enacted in 1977, were inapplicable and that certified States and Tribes would not have to meet the criteria in § 884.17 in order to expend AML funds on public facility projects under SMCRA. In response to a comment that suggested that we require a certified state or tribe to complete all known coal and noncoal reclamation before allowing the construction of public facility projects under section 411(f), we stated:

> [A] State Governor or head of a governing body of an Indian tribe may request funding for activities pursuant to Section 411(f) at any time after certification. There is no requirement that a State or Indian tribe complete all known noncoal reclamation before utilizing this authority. The commenters' premise is based on the original statutory language of Section 402(g)(2) as enacted in 1977. This section provided that once a state had completed all of its coal and noncoal reclamation, it could utilize AML funds for community impact assistance. This old statutory scheme was deleted, and OSM can find no references in the legislative history which supports the commenter's position. . . . In the absence of restricting language in Section 411(f) or qualifying language in Section 411(c), OSM believes the proper interpretation is to permit States and Indian tribes to utilize the authority in Section 411(f) without regard to the completion of the priorities specified in Section 411(c) [pertaining to noncoal reclamation].

59 FR at 28163. Thus, since the enactment of AMRA and the adoption of § 875.15, we have not required certified states and tribes to meet the criteria in § 884.17 in order to expend AML funds on public facility projects under SMCRA.

In 2008, we revised our AML regulations to implement the 2006 amendments to SMCRA. At that time, we made editorial changes to § 884.17, such as updating a cross-reference and updating the title. We made no substantive changes to this section at that time. See 73 FR at 67642. In response to a comment in the 2008 rulemaking, we explained that we were retaining the provision in order to accommodate unexpended State and Tribal share moneys distributed to certified states and tribes prior to the effective date of the 2006 amendments. See 73 FR at 67617. However, we reiterated that this section should ''reflect the greater discretion that certified States and Indian tribes now have to use Title IV moneys'' and that ''§ 884.17(a) no longer applies to certified States and Indian tribes using prior balance replacement funds or certified in lieu funds.'' Id.

Although we did not propose any changes to this section in the most recent proposed rule, we received one comment requesting that we make

[27] 30 U.S.C. 181 *et seq.*

[28] Although existing 30 CFR 884.17(a)(3) refers to the ''Payment In Lieu of Taxes Act'' as the ''Act of October 20, 1978, Public Law 94–565 (90 Stat. 2662)'' the correct reference to that Act is the ''Act of October 20, 1976.''

revisions to the section, if appropriate, to clarify how the section relates to the flexibility granted to certified states and tribes by the 2006 amendments to use their Title IV funds. In response to the comment, we reviewed the history of this provision and verified that no certified state or tribe has any funds remaining in their Title IV grants that would be subject to these restrictions. Accordingly, we have decided to revise § 884.17(a) to remove these outdated restrictions.

New § 884.17(a) incorporates the language of section 411(f) of SMCRA, which provides that certified states and tribes may expend AML moneys on public facility projects if the governor of the state or the head of the governing body of a tribe ''determines there is a need for activities or construction of specific public facilities related to the coal or minerals industry in States impacted by coal or minerals development and the Secretary concurs.'' 30 U.S.C. 1240a(f). Thus, the restrictions in previous § 884.17(a)(1) and (3) that required certified states to complete all coal and noncoal reclamation projects and use any impact assistance funds available under the MLA or PILTA before AML funds could be used on specific public facility projects have been removed. The restriction in previous § 884.17(a)(2) has been modified to reflect the language of section 411(f) of SMCRA and incorporated into new § 884.17(a).

This revision is consistent with section 405(l) of SMCRA, which provides that the limited liability protection of that provision applies only to ''action taken or omitted in the course of carrying out a State abandoned mine reclamation plan approved under this section [section 405].'' The change to this regulation allows certified states and tribes to revise their reclamation plans to provide for the construction of public facility projects under those plans in accordance with the current statutory and regulatory restrictions. Any public facilities constructed under an approved AML reclamation plan in accordance with part 875 would be a noncoal reclamation project and would receive limited liability protection as authorized by section 405(l) of SMCRA and 30 CFR 875.19. Conversely, public facility projects constructed with AML funds, but which are not undertaken as part of the approved AML reclamation plan in accordance with part 875, will not receive limited liability protection.

6. How are we revising Part 885—Grants to Certified States and Indian Tribes?

As described in the proposed rule and discussed in more detail below, we are revising this part to grant certified states and tribes the discretionary authority to use prior balance replacement funds and certified in lieu funds for noncoal reclamation projects under part 875. To accomplish this goal, we are revising § 885.12 to expand the list of activities eligible for certified program funding, and we are revising § 885.16 to ensure that the appropriate project authorization and environmental reviews are conducted. Finally, we are revising § 885.20 to ensure that we receive the necessary grant information and project reporting for all noncoal reclamation projects conducted under part 875.

What can I use grant funds for? (§ 885.12)

As proposed, we are revising § 885.12(b) to clarify that certified states and tribes may use prior balance replacement funds and certified in lieu funds for noncoal reclamation projects under section 411 of SMCRA and 30 CFR part 875. We received no comments opposing our proposed revisions to this section, and we are adopting the revisions as proposed, along with minor non-substantive organizational changes to enhance clarity and be consistent with plain language principles.

What responsibilities do I have after OSMRE approves my grant? (§ 885.16)

As described in the proposed rule, we are revising § 885.16(e) to provide that certified states and tribes that use prior balance replacement funds and certified in lieu funds for noncoal reclamation projects under part 875 must request and receive a written authorization from us to proceed before construction may begin on individual projects. Our authorization to proceed denotes that both the state or tribe and OSMRE have taken all actions necessary to ensure compliance with the National Environmental Policy Act of 1969 (NEPA),[29] and any other applicable laws, clearances, permits, or requirements.

To receive an authorization to proceed from us, a certified state or tribe must follow its approved AML reclamation plan and conduct administrative and site development activities within the procedural framework provided by 30 CFR part 875 and other applicable regulations. If we issue an authorization to proceed, the certified state or tribe will qualify under section 405(l) of SMCRA and 30 CFR 875.19 for limited liability protection for that project, including the administrative and programmatic activities directly related to that project. However, a certified state or Indian tribe may elect to conduct noncoal reclamation projects outside the parameters of a SMCRA noncoal AML reclamation program under 30 CFR part 875. Those activities may include projects at CERCLA or UMTRCA sites as provided by other laws. If a certified state or tribe conducts noncoal reclamation projects outside an approved SMCRA AML reclamation plan and part 875, it need not request an authorization to proceed from us, and it will not receive limited liability protection for that project.

Certified states and tribes have many years of experience designing and carrying out noncoal reclamation projects with moneys from the AML Fund. As with those projects, submissions for noncoal reclamation projects using prior balance replacement funding and certified in lieu funding must contain information sufficient to comply with NEPA and AML grant and administrative requirements. These review elements include, but are not limited to, information sufficient for the conduct of assessments under NEPA, the Endangered Species Act, National Historic Preservation Act, and the Clean Water Act. In addition, we will review proposals and conduct oversight activities as needed to ensure that our program requirements related to site eligibility, grants management, and AML Inventory management are met. Proposals that receive our approval as noncoal reclamation projects must be implemented consistent with the scope of work that we approve, and we must review changes in project scope or activities that would materially alter the environmental consequences of the reclamation. We received no comments opposing our proposed revisions to this section and are adopting the revisions as proposed, with minor editorial revisions for clarity.

What must I report? (§ 885.20)

Consistent with the proposed rule, we are revising § 885.20 to clarify that certified programs using prior balance replacement funds and certified in lieu funds for noncoal reclamation projects under section 411 of SMCRA and part 875 of the regulations must update the AML inventory for each noncoal reclamation project as it is funded. We received no comments opposing our proposed revisions to this section and are adopting the revisions as proposed.

[29] 42 U.S.C. 4321 *et seq.*

III. Procedural Matters and Required Determinations

A. Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Seven certified states and tribes will be affected by this rule, which removes a disincentive for certified states and tribes to undertake noncoal reclamation projects. We estimate that approximately 30 to 60 noncoal reclamation projects will be covered by SMCRA's limited liability provision each year, although we cannot predict whether these projects would have been undertaken in the absence of this rule. This rule does not impose any additional mandatory costs on certified states and tribes because participation is voluntary. Reclamation projects improve the quality of the human environment and eliminate hazardous conditions while improving water quality, air quality, wildlife habitat, community aesthetics, and the visual landscape. In the future, other states will be subject to this rule upon certification.

B. Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (RFA).[30] The revisions are not expected to have a significant adverse economic impact on the regulated community, including small entities. This rule will affect the states of Louisiana, Montana, Texas, and Wyoming and the Crow Tribe, the Hopi Tribe, and the Navajo Nation.

C. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act.[31] For the reasons previously discussed, the rule will not—

a. Have an annual effect on the economy of $100 million or more.

b. Cause a major increase in costs or prices for consumers, individual industries; Federal, state, or local government agencies; or geographic regions.

c. Have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

D. Unfunded Mandates

This rule will not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than $100 million per year. The rule will not have a significant or unique effect on state, tribal, or local governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act [32] is not required.

E. Executive Order 12630—Takings

The rule will not have significant takings implications because it is not a governmental action capable of interference with constitutionally protected property rights. A takings implication assessment is not required.

F. Executive Order 13132—Federalism

This rule will not alter or affect the relationship between states and the Federal Government. Therefore, the rule will not have significant Federalism implications. Consequently, there is no need to prepare a Federalism assessment.

G. Executive Order 12988—Civil Justice Reform

The Office of the Solicitor for the Department of the Interior has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

H. Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the revisions will not have substantial direct effects on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

We invited tribal representatives to consult with us on our intention to propose this rule. In response to a request for consultation, we met with representatives from the Hopi Tribe and Navajo Nation on July 10, 2012, at Kykotsmovi, Arizona. The Crow Tribe did not request consultation.

The Hopi Tribe and the Navajo Nation stated that they would like the rule to allow a tribe with an approved AML reclamation program to be able to request limited liability protection for some projects but to decline it for others. Our rule accommodates this approach by granting certified states and tribes discretionary authority to conduct noncoal reclamation projects (including construction of certain utility and public facility projects) pursuant to 30 CFR part 875 under the aegis of an approved SMCRA noncoal AML reclamation plan and the applicable regulations whenever the state or tribe wishes to avail itself of the limited liability protection of section 405(l) of SMCRA and 30 CFR 875.19.

The tribes also indicated that they would prefer that the limited liability protections apply to all projects, including public facility projects, and that OSMRE should be involved in the NEPA process because OSMRE understands the required NEPA procedures. The final rule incorporates provisions accommodating these requests.

Similarly, the tribes requested that the limited liability protection apply to noncoal AML projects, as they were concerned that they could face liability issues if they chose to remediate sites, such as abandoned uranium mines. As mentioned above, however, Section 411(d) of SMCRA, effectively specifies that sites listed for remedial action under UMTRCA or CERCLA are not eligible for projects under the noncoal reclamation program operating under part 875. Consequently, under our rule, certified states and tribes may not receive limited liability protection for noncoal AML projects at such sites. We emphasize, however that there is no prohibition against certified states and tribes using prior balance replacement funds or certified in lieu funds moneys at UMTRCA and CERCLA sites as long as they do so outside the scope of a SMCRA noncoal AML reclamation

[30] 5 U.S.C. 601 *et seq.*

[31] 5 U.S.C. 804(2).

[32] 2 U.S.C. 1534.

program. But, because of the statutory limitation, they cannot receive limited liability coverage for those projects.

States and tribes should be cognizant that, while the limited liability provision protects them from costs and damages under Federal laws, they must still comply with applicable Federal laws. All grant recipients, including Indian tribes, must provide assurances to OSMRE that expenditures of AML funding will comply with Federal laws, as well as state, tribal, and local laws.

The tribes questioned how the rule might affect a tribe's AML reclamation plan. Certified states and tribes will need to conduct a detailed review of their existing approved AML reclamation plans to determine if any changes are necessary as a result of adoption of this final rule. OSMRE staff will be available to assist in this review. Because noncoal reclamation was routinely conducted by certified states and tribes prior to our 2008 Rule, it is possible that some or all of the approved AML reclamation plans may contain language sufficient to implement the rule with only minimal changes.

The tribes also voiced concern about the extent of limited liability protection provided to public facility projects. The limited liability provision extends protections to public facility projects if they are conducted under an approved SMCRA noncoal AML reclamation plan consistent with paragraphs (b) through (g) of section 411 of SMCRA and 30 CFR part 875. The limited liability provision in 30 CFR 875.19 specifies that a state or Indian tribe is not liable under Federal law for any costs or damages as a result of any action it takes or omits to take while conducting noncoal reclamation activities under part 875. The provision does not preclude liability for gross negligence or intentional misconduct by a state or Indian tribe.

In addition, the tribes commented on the relationship between SMCRA's limited liability provision and the Department of the Interior's trust responsibilities. More specifically, the tribes asked if OSMRE assumes liability whenever it provides funding to a tribe. The answer to that question is no. OSMRE distributes AML funding to a tribe not as part of a trust relationship but, instead, as part of a government-to-government relationship. The limited liability provision of section 405(l) of SMCRA, in turn, reduces the potential liability of a state or Indian tribe under Federal law for costs or damages for actions taken or omitted when carrying out an approved AML reclamation plan and the applicable regulations. All grant recipients, including Indian tribes, must provide assurances to OSMRE that expenditures of AML funding will comply with Federal laws, as well as state, tribal, and local laws. By providing funding, OSMRE assumes no liability for actions taken by the tribe or tribal officials. This rule does not affect or relate to the Department's trust responsibilities.

I. Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This rule is not considered a significant energy action under Executive Order 13211 because it is not classified as a significant rule under Executive Order 12866 and because the revisions will not have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a statement of energy effects is not required.

J. Paperwork Reduction Act

This rule contains no new information collection requirements that are not already covered by Office of Management and Budget (OMB) control numbers 1029–0059 (for 30 CFR parts 735, 885 and 886 and grant forms OSM–47, OSM–49 and OSM–51) and 1029–0087 (for the OSM–76—Problem Area Description Form). We anticipate that the rule will not result in an increase in either the number of respondents who prepare grant forms or the burden per respondent.

K. National Environmental Policy Act

We have determined that the revisions in this rule are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act,[33] as provided in 43 CFR 46.205(b). The specific categorical exclusion that applies is the exclusion in 43 CFR 46.210(i). This exclusion includes policies, directives, regulations, and guidelines that are of an administrative, financial, legal, technical, or procedural nature. In this case, extension of the limited liability provision of section 405(l) to noncoal reclamation projects conducted by certified states is a legal matter. Moreover, this categorical exclusion also covers policies, directives, regulations, and guidelines ''whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case.'' 43 CFR 46.210(i). In this case, because of the amount of discretion that certified states and tribes have in expending their AML funding, it is unclear if or how this limited liability coverage will affect the number of noncoal reclamation projects performed. However, as required by this rule at 30 CFR 885.16(e), any noncoal reclamation project that is eligible for limited liability protection must undergo specific NEPA review during the grant application process. Thus, this categorical exclusion applies because, to the extent that this rule generates any environmental effects, these effects will be analyzed at a later date when the environmental effects are less ''broad, speculative, or conjectural.'' In addition, none of the extraordinary circumstances listed in 43 CFR 46.215 applies.

[33] 42 U.S.C. 4332(2)(c).

L. Information Quality Act

In developing this rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Pub. L. 106–554, section 15).

List of Subjects

30 CFR Part 700

Administrative practice and procedure, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 875

Abandoned Mine Reclamation Fund, Indian lands, Reclamation fees, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 877

Abandoned Mine Reclamation Fund, Indian lands, Reclamation fees, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 879

Abandoned Mine Reclamation Fund, Indian lands, Reclamation fees, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 884

Grant programs—natural resources, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 885

Abandoned Mine Reclamation Fund, Indian lands, Reclamation fees, Reporting and recordkeeping requirements, Surface mining, Underground mining.

Dated: December 3, 2014.

Janice M. Schneider,

Assistant Secretary, Land and Minerals Management.

For the reasons set forth in the preamble, the Department is amending 30 CFR parts 700, 875, 877, 879, 884, and 885 as set forth below.

PART 700—GENERAL

■ 1. The authority citation for part 700 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Amend § 700.5 by adding a definition for the term ''SMCRA'' in alphabetical order to read as follows:

§ 700.5 Definitions.

* * * * *

SMCRA means the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.,* as amended.

* * * * *

PART 875—CERTIFICATION AND NONCOAL RECLAMATION

■ 3. The authority citation for part 875 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 4. In § 875.11, revise paragraph (b) to read as follows:

§ 875.11 Applicability.

* * * * *

(b) If you are a State or Indian tribe that has certified under section 411(a) of the Act—

(1) You must use State share or Tribal share funds distributed to you under section 402(g)(1) of the Act before October 1, 2007, in accordance with this part; and

(2) You may use prior balance replacement funds distributed to you under section 411(h)(1) of the Act, certified in lieu funds distributed to you under section 411(h)(2) of the Act, or both, to—

(i) Maintain certification as required by §§ 875.13 and 875.14 of this part; or

(ii) Conduct a noncoal reclamation project in accordance with the requirements of this part.

■ 5. In § 875.16, revise paragraph (b) to read as follows:

§ 875.16 Exclusion of certain noncoal reclamation sites.

* * * * *

(b) You, the certified State or Indian tribe, may not reclaim sites and areas designated for remedial action under the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 *et seq.*) or that have been listed for remedial action under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 *et seq.*) using—

(1) Moneys distributed from the Fund under section 402(g)(1) of the Act.

(2) Prior balance replacement funds distributed to you under section 411(h)(1) of the Act where you are conducting reclamation under the provisions of this part.

(3) Certified in lieu funds distributed to you under section 411(h)(2) of the Act where you are conducting reclamation under the provisions of this part.

■ 6. Revise § 875.17 to read as follows:

§ 875.17 Land acquisition authority—noncoal.

The requirements of parts 877 (Rights of Entry) and 879 (Acquisition, Management and Disposition of Lands and Water) of this chapter apply to a State's or Indian tribe's noncoal reclamation projects conducted under this part, except that, for purposes of this section, the term ''noncoal'' replaces all references to ''coal'' in parts 877 and 879 of this chapter.

■ 7. Revise § 875.19 to read as follows:

§ 875.19 Limited liability.

No State or Indian tribe conducting noncoal reclamation activities under the provisions of this part is liable under any provision of Federal law for any costs or damages as a result of action taken or omitted in the course of carrying out an approved State or Indian tribe abandoned mine reclamation plan. This section does not preclude liability for costs or damages as a result of gross negligence or intentional misconduct by the State or Indian tribe. For purposes of the preceding sentence, reckless, willful, or wanton misconduct will constitute gross negligence or intentional misconduct.

■ 8. Revise § 875.20 to read as follows:

§ 875.20 Contractor eligibility.

Every successful bidder for any contract by an uncertified State or Indian tribe under this part, or for any contract by a certified State or Indian tribe to undertake a noncoal reclamation project under this part, must be eligible under §§ 773.12, 773.13, and 773.14 of this chapter at the time of contract award to receive a permit or be provisionally issued a permit to conduct surface coal mining operations. This section applies only to any contracts by a certified State or Indian tribe that are for coal reclamation or that are for a noncoal reclamation project under this part.

PART 877—RIGHTS OF ENTRY

■ 9. The authority citation for part 877 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 10. Revise § 877.1 to read as follows:

§ 877.1 Scope.

This part establishes procedures for entry upon lands or property by OSMRE, States, and Indian tribes for reclamation purposes. For certified States or Indian tribes conducting noncoal reclamation projects under the provisions of part 875, the term ''noncoal'' replaces all references to ''coal'' in this part.

PART 879—ACQUISITION, MANAGEMENT, AND DISPOSITION OF LANDS AND WATERS

■ 11. The authority citation for part 879 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 12. Revise § 879.1 to read as follows:

§ 879.1 Scope.

This part establishes procedures for acquisition of eligible land and water resources for emergency abatement activities and reclamation purposes by you, a State or Indian tribe, with an approved reclamation program that has not certified completion of coal reclamation or a certified State or Indian tribe conducting noncoal reclamation activities under part 875 of this chapter, or by us. It also provides procedures for the management and disposition of lands acquired by the State, the Indian tribe, or us. For certified States or Indian tribes conducting noncoal reclamation projects under the provisions of part 875, the term ''noncoal'' replaces all references to ''coal'' in this part.

■ 13. In § 879.11, revise paragraphs (a) and (b) to read as follows:

§ 879.11 Land eligible for acquisition.

(a)(1) We may acquire land adversely affected by past coal mining practices with moneys from the Fund.

(2) You, an uncertified State or Indian tribe or a certified State or Indian tribe conducting noncoal reclamation projects under part 875 of this chapter, may acquire land adversely affected by past coal mining practices with moneys from the Fund or with prior balance replacement funds and certified in lieu funds provided under §§ 872.29 and 872.32 of this chapter, provided that we first approve the acquisition in writing.

(3) Before acquiring land under paragraph (a)(1) of this section or approving land acquisition under paragraph (a)(2) of this section, we must

make a finding that the land acquisition is necessary for successful reclamation and that—

(i) The acquired land will serve recreation, historic, conservation, and reclamation purposes or provide open space benefits after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices; and

(ii) Permanent facilities will be constructed on the land for the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. For the purposes of this paragraph, ''permanent facility'' means any structure that is built, installed, or established to serve a particular purpose or any manipulation or modification of the site that is designed to remain after the reclamation activity is completed, such as a relocated stream channel or diversion ditch.

(b) You, an uncertified State or Indian tribe or a certified State or Indian tribe conducting noncoal reclamation projects under part 875 of this chapter, if approved in advance by us, may acquire coal refuse disposal sites, including the coal refuse, with moneys from the Fund and with prior balance replacement funds and certified in lieu funds provided under §§ 872.29 and 872.32 of this chapter. We, OSMRE, also may use moneys from the Fund to acquire coal refuse disposal sites, including the coal refuse.

(1) Before the approval of the acquisition, the reclamation program seeking to acquire the site will make a finding in writing that the acquisition is necessary for successful reclamation and will serve the purposes of the reclamation program.

(2) Where an emergency situation exists and a written finding as set forth in § 877.14 of this chapter has been made, we may acquire lands where public ownership is necessary and will prevent recurrence of the adverse effects of past coal mining practices.

* * * * *

■ 14. In § 879.15, revise paragraph (h) to read as follows:

§ 879.15 Disposition of reclaimed land.

* * * * *

(h) You must return all moneys received from disposal of land under this part to us. We will handle all moneys received under this paragraph as unused funds in accordance with §§ 885.19 and 886.20 of this chapter.

PART 884—STATE RECLAMATION PLANS

■ 15. The authority citation for part 884 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 16. Amend § 884.13 as follows:

■ a. Remove the introductory text;

■ b. Redesignate paragraphs (a) through (f) as paragraphs (a)(1) through (a)(6), respectively;

■ c. In newly redesignated paragraph (a)(3), redesignate paragraphs (1) through (7) as paragraphs (a)(3)(i) through (vii), respectively;

■ d. In newly redesignated paragraph (a)(4), redesignate paragraphs (1) through (4) as paragraphs (a)(4)(i) through (iv), respectively;

■ e. In newly redesignated paragraph (a)(5), redesignate paragraphs (1) through (3) as paragraphs (a)(5)(i) through (iii), respectively;

■ f. In newly redesignated paragraph (a)(6), redesignate paragraphs (1) through (3) as paragraphs (a)(6)(i) through (iii), respectively; and

■ g. Add new paragraphs (a) introductory text and (b).

The additions read as follows:

§ 884.13 Content of proposed State reclamation plan.

(a) *Requirements applicable to all eligible States and Indian tribes.* You must submit the proposed reclamation plan to the Director in writing. The plan must include the information in paragraphs (a)(1) through (6) of this section.

* * * * *

(b) *Additional requirement applicable to certified States and Indian tribes.* If you are a certified State or Indian tribe, the plan must include a commitment to address eligible coal problems found or occurring after certification as required in §§ 875.13(a)(3) and 875.14(b) of this chapter.

■ 17. In § 884.17, revise paragraph (a) to read as follows:

§ 884.17 Other uses by certified States and Indian tribes.

(a) The reclamation plan for a certified State or Indian tribe may provide for the construction of specific public facilities related to the coal or minerals industries in States impacted by coal or minerals development. This form of assistance is available when the Governor of the State or the head of a governing body of an Indian tribe determines there is a need for such activities or construction and the Director concurs.

* * * * *

PART 885—GRANTS FOR CERTIFIED STATES AND INDIAN TRIBES

■ 18. The authority citation for part 879 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 19. In § 885.12, revise paragraph (b) to read as follows:

§ 885.12 What can I use grant funds for?

* * * * *

(b)(1) You may use grant funds as established for each type of funds you receive.

(2) You may use prior balance replacement funds as provided under § 872.31 of this chapter.

(3) You may use certified in lieu funds as provided under § 872.34 of this chapter.

(4) You may use the following moneys for noncoal reclamation projects under section 411 of the Act and part 875 of this chapter:

(i) Moneys that may be available to you from the Fund.

(ii) Prior balance replacement funds made available under § 872.31 of this chapter.

(iii) Certified in lieu funds as provided under § 872.34 of this chapter.

* * * * *

■ 20. In § 885.16, revise the section heading and paragraph (e) to read as follows:

§ 885.16 What responsibilities do I have after OSMRE approves my grant?

* * * * *

(e) If you conduct a coal reclamation project under part 874 of this chapter or noncoal reclamation project under part 875 of this chapter, you must not expend any construction funds until you receive a written authorization from us to proceed on an individual project. Our authorization to proceed ensures that both you and we have taken all actions necessary to ensure compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and any other applicable laws, clearances, permits, or requirements.

* * * * *

■ 21. In § 885.20, revise paragraph (c) to read as follows:

§ 885.20 What must I report?

* * * * *

(c) You must use the AML inventory to maintain a current list of AML problems and to report annual reclamation accomplishments with grant funds.

(1) If you conduct coal reclamation projects or noncoal reclamation projects under part 875 of this chapter, you must update the AML inventory for each reclamation project as you fund it.

(2) You must update the AML inventory for each reclamation project you complete as you complete it.

(3) We must approve any amendments to the AML inventory after December 20, 2006. We define *amendment* as any

coal problems added to the AML inventory in a new or existing problem area.

[FR Doc. 2015–02278 Filed 2–4–15; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number–USCG–2014–0995]

RIN 1625–AA87

Moving Security Zone; Escorted Vessels; MM 90.0–106.0, Lower Mississippi River; New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is establishing an interim rule providing for temporary moving security zones around vessels being escorted by one or more Coast Guard or other Federal, State, or local law enforcement assets, on the navigable waters of the Lower Mississippi River, New Orleans, LA. These temporary moving security zones are necessary for the safe transit and mooring of vessels requiring escort protection by the Coast Guard for security reasons as well as the safety and security of personnel and port facilities. Entry into, remaining in or transiting through these zones is prohibited for all vessels, mariners, and persons unless specifically authorized by the Captain of the Port New Orleans or a designated representative. The Coast Guard seeks comments on this interim rule before establishing a permanent final rule.

DATES: This rule is effective in the CFR on February 5, 2015 through July 1, 2015. This rule is effective with actual notice for purposes of enforcement on January 31, 2015. This rule will remain in effective through July 1, 2015. Comments and related material must be received by the Coast Guard on or before March 9, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0995]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this interim rule, call or email Commander Kelly Denning, Sector New Orleans, U.S. Coast Guard; telephone (504) 365–2392, email *Kelly.K.Denning@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

AHP Above Head of Passes
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
MM Mile Marker
NPRM Notice of Proposed Rulemaking
CFR Code of Federal Regulation

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov,* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under **ADDRESSES**. Requests for a public meeting must be received on or before March 9, 2015. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register.**

B. Regulatory History and Information

On a routine basis, the Coast Guard previously established similar temporary moving security zones around escorted vessels as temporary final rules for the Lower Mississippi River. Those temporary final rules are accessible as explained above under **ADDRESSES**, [Docket Number USCG–2013–0994, 79 FR 7587, Feb. 10, 2014