

5. Section 404.353 is amended by revising the second sentence of paragraph (a) to read as follows:

**§ 404.353 Child's benefit amounts.**

(a) \* \* \* The amount of your monthly benefit may change as explained in § 404.304.  
\* \* \* \* \*

6. Section 404.367 is amended by revising the first sentence of the introductory text; revising paragraphs (a) and (b); redesignating paragraphs (c), (d), and (e) as paragraphs (d), (e), and (f), respectively; adding paragraph (c); and, revising paragraph (f) to read as follows:

**§ 404.367 When you are a "full-time elementary or secondary school student".**

You may be eligible for child's benefits if you are a full-time elementary or secondary school student. \* \* \*

(a) You attend a school which provides elementary or secondary education as determined under the law of the State or other jurisdiction in which it is located. Participation in the following programs also meets the requirements of this paragraph:

(1) You are instructed in elementary or secondary education at home in accordance with a home school law of the State or other jurisdiction in which you reside; or

(2) You are in an independent study elementary or secondary education program in accordance with the law of the State or other jurisdiction in which you reside which is administered by the local school or school district/ jurisdiction;

(b) You are in full-time attendance in a day or evening noncorrespondence course of at least 13 weeks duration and you are carrying a subject load which is considered full-time for day students under the institution's standards and practices. If you are in a home schooling program as described in paragraph (a)(1) of this section, you must be carrying a subject load which is considered full-time for day students under standards and practices set by the State or other jurisdiction in which you reside;

(c) To be considered in full-time attendance, your scheduled attendance must be at the rate of at least 20 hours per week unless one of the exceptions in paragraph (c)(1) or (c)(2) of this section applies. If you are in an independent study program as described in paragraph (a)(2) of this section, your number of hours spent in school attendance are determined by combining the number of hours of attendance at a school facility with the agreed upon number of hours spent in independent study. You may still be considered in full-time attendance if

your scheduled rate of attendance is below 20 hours per week if we find that:

(1) The school attended does not schedule at least 20 hours per week and going to that particular school is your only reasonable alternative; or

(2) Your medical condition prevents you from having scheduled attendance of at least 20 hours per week. To prove that your medical condition prevents you from scheduling 20 hours per week, we may request that you provide appropriate medical evidence or a statement from the school;  
\* \* \* \* \*

(f) You are not subject to the provisions in § 404.468 for nonpayment of benefits to certain prisoners and certain other inmates of publicly funded institutions.

**§ 404.3691 [Removed]**

7. Section 404.369 is removed.

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**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 756**

[SPATS No. HO-003-FOR]

**Hopi Tribe Abandoned Mine Land Reclamation (AMLR) Plan**

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

**ACTION:** Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

**SUMMARY:** OSM is announcing receipt of a proposed amendment to the Hopi Tribe AMLR plan (hereinafter, the "Hopi Tribe plan") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions of and additions to the Hopi Tribe plan pertaining to the purpose of the plan; eligible lands and water subsequent to certification; coordination with other programs; land acquisition, management, and disposal; reclamation on private land and rights of entry; public participation; organization of the Hopi Tribe; personnel staffing policies; purchasing policies, procurement procedures, and accounting systems; economic conditions on the Hopi Reservation; a description of flora and fauna at abandoned mine sites; the Hopi Tribe's authority to administer its plan, as amended in the absence of a specific

statute; changing the name of the designated agency; and affirmation that the manual for purchasing policies and procedures manual is in accordance with the Office of Management and Budget's (OMB) Common Rule. Additionally, the Hopi Tribe is proposing numerous editorial and recodification changes. The amendment is intended to revise the Hopi Tribe plan to meet the requirements of and incorporate the additional flexibility afforded by the revised Federal regulations and SMCRA, as amended, and improve operational efficiency.

**DATES:** Written comments must be received by 4:00 p.m. m.s.t., January 8, 1996. If requested, a public hearing on the proposed amendment will be held on January 2, 1996. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.s.t., December 22, 1995.

**ADDRESSES:** Written comments should be mailed or hand delivered to Donna J. Griffin at the address listed below.

Copies of the Hopi Tribe plan, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Donna J. Griffin, Acting Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue, NW., Suite 1200, Albuquerque, New Mexico 87102

Norman Honie, Abandoned Mine Land Program Director, Office of Mining and Minerals, Department of Natural Resources, The Hopi Tribe, P.O. Box 123, Kykotsmovi, AZ 86039

**FOR FURTHER INFORMATION CONTACT:** Donna J. Griffin, Telephone: (505) 248-5070.

**SUPPLEMENTARY INFORMATION:**

**I. Background on the Hopi Tribe Plan**

On June 28, 1988, the Secretary of the Interior approved the Hopi Tribe plan. General background information on the Hopi Tribe plan, including the Secretary's findings and the disposition of comments, can be found in the June 28, 1988, Federal Register (53 FR 24262). Subsequent actions concerning the Hopi Tribe's plan and plan amendments can be found at 30 CFR 756.14(a).

## II. Proposed Amendment

By letter dated November 2, 1995, the Hopi Tribe submitted a proposed amendment to its plan (administrative record No. HO-148) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). The Hopi Tribe submitted the proposed amendment at its own initiative and in response to a September 26, 1994, letter (administrative record No. HO-145.1) that OSM sent to the Hopi Tribe in accordance with 30 CFR 884.15(b). The provisions of the Hopi Tribe plan that the Hopi Tribe proposes to revise and/or add are: the "Table of Contents;" a preface to the amended reclamation plan; a list of addenda and errata; the Chairman's letter of designation and Hopi Tribe resolution; the General Counsel's opinion on the authority of the Hopi Tribe to conduct an AMLR program; Part I, purpose of the Hopi Tribe plan; Part II, eligible lands and water subsequent to certification; Part III, coordination of the Hopi AMLR Program with other programs; Part IV, land acquisition, management, and disposal; Part V, reclamation on private land; Part VI, rights of entry; Part VII, Hopi Department of Natural Resources (DNR) policy on public participation; Part VIII, organization of the Hopi Tribe; Part IX, personnel staffing policies; Part X, purchasing policies and procurement procedures; Part XI, accounting systems and management accounting; Part XII, economic conditions on the Hopi Reservation; and Part XIII, a description of flora and fauna at abandoned mine sites.

Specifically, the Hopi Tribe proposes to:

(1) revise the "Table of Contents" to reflect the proposed recodification changes and include a list of appendices;

(2) add a new part called "Preface to Amended Reclamation Plan" that provides an explanation of the Hopi AMLR Program goals and objectives and describes eligible projects and their priorities;

(3) add a cover page for the "List of Addenda and Errata" and revise the "List of Figures" to retitle "Figure 4" and delete "Figure 5;"

(4) add new cover pages for the "Chairman's Letter of Designation and Hopi Tribe Resolution" and "Opinion of Legal Counsel" and delete the cover pages titled "Section 884.13(a)" and "Section 884.413(b);"

(5) redesignate Section 884.13(c)(1) as Part "I" and revise this part to include in the purpose of Hopi Tribe plan provisions that (a) allow for the protection and replacement of water supplies and protection, repair,

replacement, construction, or enhancement of public facilities adversely affected by mining and processing practices, (b) provide that the "Director" shall be to the "Director of the Hopi Office of Mining and Mineral Resources (OMMR)" or his designee within the OMMR or in the Hopi AMLR Program and that the "OMMR is an office within the DNR, and oversees operations of the Hopi Abandoned Mine Land Program," and (c) reclamation priorities similar to those allowed at section 403 of SMCRA, and provide for deletion of language concerning the allocation of funds collected annually for purposes of the Hopi AMLR Program;

(6) redesignate Section 884.13(c)(2) as Part "II;" retitle this part as "Eligible Lands and Water Subsequent to Certification;" add language (a) consistent with the requirements of the Federal regulations at 30 CFR 874.12 for eligible coal lands and water, 30 CFR 874.16 for contractor responsibility, 30 CFR Part 875 for noncoal reclamation, and 30 CFR 886.23 for reports and (b) to provide for the construction of public facilities in villages impacted by mining activities on Hopi Indian lands as provided in sections 411 (e) and (f) of SMCRA and include a description of needs and proposed construction and activities; and delete (a) "Table 1, Comprehensive/Problem Evaluation Matrix" and (b) language concerning filling voids and sealing tunnels and evaluating and ranking reclamation projects;

(7) redesignate Section 884.13(c)(3) as Part "III;"

(8) redesignate Section 884.13(c)(4) as Part "IV;" revise the procedures concerning the acquisition of lands to (a) include lands adversely affected by "coal and noncoal mining" practices and (b) add new language to require that the Hopi AMLR Program shall obtain "from a qualified appraiser a valuation" of the fair market value of all land to be acquired and that the fair market value of the land "shall consider the principle of the best and highest use" of the land as adversely affected by past mining and that such "valuation of fair market value shall be approved by the Hopi Tribal Council;" revise the language concerning purchases by (a) deleting the provision that allows affected lands to be acquired with monies from the abandoned mine land (AML) fund if approved by the OSM Field Office Director and the Hopi Tribal Council and such acquisition meets the requirements of OSM's regulations, (b) replacing it with new language requiring that "the Tribe may acquire land and water under this section if approved in

advance by OSM based on written findings made by OSM in accordance with the provisions of 30 CFR 879.11, and as approved by the Hopi Tribal Council," and (c) deleting the requirement that "improvements to the land may be acquired if such interest is necessary to the reclamation work planned or the post reclamation use of the land;"

(9) redesignate § 884.13 (c)(5) as Part "V" and revise the language of this part to include a reference to "the General Allotment Act of 1887" (25 U.S.C.A. 331 *et seq.*);

(10) redesignate § 884.13(c)(6) as Part "VI" and delete language concerning emergency entry and the requirement that "if written notice cannot be obtained for the purposes of emergency reclamation and if notice cannot be given prior to entry, notice will be given to the landholders as soon after entry as practical;"

(11) redesignate § 884.13(c)(7) as Part "VII" and add language clarifying procedures concerning public participation in the development of the Hopi Tribe plan and listing the 1991 and 1992 public meetings held in connection with the Hopi Tribe's certification of completion of reclamation of all known coal-related problems and to review projects and needs relevant to sections 411(e) and (f) of SMCRA;

(12) redesignate § 884.13(d)(1) as Part "VIII" and add language to (a) provide that the Hopi Tribal Council on "December 07, 1987, passed Resolution H-03-88," which designates DNR as the agency responsible for implementing the Hopi Tribe plan, (b) reference "the Chairman's Letter of Designation and Hopi Tribe Resolution section of this plan," and (c) reference "Figure 4," which presents "the relationship of the DNR to others in the Tribal organization;"

(13) redesignate § 884.13(d)(2) as Part "IX" and add references to the Tribe's "Personnel Policies and Procedures Manual," "The Civil Rights Act of 1964," and "The Rehabilitation Act of 1973;"

(14) redesignate § 884.13(d)(3) as Part "X" and add references to the "Purchasing Policies and Procedures Manual," which was adopted by the Tribe by Executive Action dated April 15, 1978, and OMB's "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" dated March 11, 1988, which is also known as "the Common Rule;"

(15) redesignate § 884.13(d)(4) as Part "XI" and add references to "The Hopi Tribe Financial Policies and Procedures

Manual," which was adopted by Tribal Council Resolution H-102-82 on August 9, 1982, and the "Standards for Audit of Governmental Organizations, Program Activities, and Functions," which provides standards for the performance of audits;

(16) delete the following sections in their entirety: (a) "Section 884.13(e)(1), Eligible Lands and Water," and provide for its replacement at Part II, Eligible Lands and Waters Subsequent to Certification, (b) "Section 884.13(e)(2), Problem Descriptions," and provide that current problems and needs are described in Part II, Section H of the Hopi Tribe plan, and (c) "Section 884.13(e)(3), Problem Abatement Proposals," and provide that current proposals are described in Part II, Section H of the Hopi Tribe plan;

(17) redesignate Section 884.13(f)(1) as Part "XII;" add language to provide that (a) the "[o]riginal text of this part, Economic Conditions on the Hopi Reservation, is replaced in its entirety by the FY 1993-1995 Annual OEDP [Overall Economic Development Plan] Report \* \* \*," (b) the "[c]urrent economic conditions on the Hopi Reservation are discussed in the following Annual OEDP Report," and (c) "[t]he figures included in the OEDP Report also provide data on economic and socioeconomic conditions on the Hopi Reservation, and reveal the importance of coal mining and the minerals industry to the reservation economic base and the tribal government revenue system;" and attach the referenced report to the Hopi Tribe plan;

(18) delete "Section 884.13(f)(2), Description of Aesthetic, Cultural and Recreational Conditions of the Hopi Reservation," in its entirety;

(19) redesignate Section 884.13(f)(3) as part "XIII";

(20) provide as "Appendix 1" the "Constitution and By-Laws of the Hopi Tribe," which was approved December 19, 1936, and amended on August 1, 1969, February 14, 1980, and December 7, 1993;

(21) provide cover pages for Appendices 2 through 12 and change the title of Appendix 7 from "Hopi Tribe Resolution H-93-80" to "Hopi Tribe Resolution H-93-80 and Subsequent Correspondence to the Bureau of Census;" and

(24) numerous minor editorial and grammatical revisions and recodification changes.

The Hopi Tribe also proposes adding the following items to its plan: (1) a memorandum dated May 18, 1995, from the Hopi Tribe's Assistant General Counsel affirming the authority of the

Tribe's AMLR Program to administer the Hopi Tribe plan as amended in the absence of any AMLR statute; (2) Hopi Tribal Resolution H-134-89 that provides documentation of the Tribe's action changing the name of the Office of Natural Resources to the Department of Natural Resources; and (3) a memorandum dated August 31, 1995, from the Tribe's Office of Financial Management that affirms that the Hopi Tribe "Purchasing Policies and Procedures Manual" is in accordance with OMB's Common Rule.

### III. Public Comment Procedures

In accordance with the provisions of 30 CFR 884.15(a), OSM is seeking comments on whether the proposed amendment satisfies the applicable plan approval criteria of 30 CFR 884.14. If the amendment is deemed adequate, it will become part of the Hopi Tribe plan.

#### 1. Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

#### 2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.s.t., December 22, 1995. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the

audience who wish to testify have been heard.

### 3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the administrative record.

### IV. Procedural Determinations

#### 1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

#### 2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of Tribe or State AMLR plans and revisions thereof since each such plan is drafted and promulgated by a specific Tribe or State, not by OSM. Decisions on proposed Tribe or State AMLR plans and revisions thereof submitted by a Tribe or State are based on a determination of whether the submittal meets the requirements of title IV of SM CRA (30 U.S.C. 1231-1243) and the applicable Federal regulations at 30 CFR parts 884 and 888.

#### 3. National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed Tribe or State AMLR plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

#### 4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

### 5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Tribe or State submittal which is the subject of this rule is based upon Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements established by SMCRA or previously promulgated by OSM will be implemented by the Tribe or State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

#### List of Subjects in 30 CFR Part 756

Abandoned mine reclamation programs, Indian lands, Surface mining, Underground mining.

Dated: November 29, 1995.

James F. Fulton,

*Acting Regional Director, Western Regional Coordinating Center.*

[FR Doc. 95-29877 Filed 12-6-95; 8:45 am]

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### 30 CFR Part 906

[SPATS No. CO-029-FOR]

#### Colorado Regulatory Program

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

**ACTION:** Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

**SUMMARY:** OSM is announcing receipt of a proposed amendment to the Colorado regulatory program (hereinafter, the "Colorado program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to and additions of rules pertaining to Colorado's responsibility as regulatory authority for regulating surface coal mining and reclamation operations and coal exploration; definitions; commercial use or sale of coal extracted during coal exploration; public availability of information; right of entry and operation information; public notice and comment on permit applications; procedures for review of permit applications; criteria for permit

approval or denial; permit conditions; permit revisions; allowance of self-bonds; terms and conditions for self-bonds; criteria and schedule for release of performance bonds; termination of jurisdiction; performance standards for signs and markers, haul and access roads, effluent standards for discharges of water from areas disturbed by surface coal mining and reclamation operations, blasting, and coal mine waste returned to underground mine workings; inspection frequency at abandoned sites; inspections based upon citizen requests; enforcement actions at abandoned sites; show cause orders and patterns of violations involving violations of water quality effluent standards; and award of costs and expenses including attorney's fees. The amendment is intended to revise the Colorado program to be consistent with the corresponding Federal regulations, incorporate the additional flexibility afforded by the revised Federal regulations, and improve operational efficiency.

**DATES:** Written comments must be received by 4 p.m., m.s.t. January 8, 1996. If requested, a public hearing on the proposed amendment will be held on January 2, 1996. Requests to present oral testimony at the hearing must be received by 4 p.m., m.s.t., on December 22, 1995.

**ADDRESSES:** Written comments should be mailed or hand delivered to James F. Fulton at the address listed below.

Copies of the Colorado program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Denver Field Division.

James F. Fulton, Chief, Denver Field Division, Western Regional Coordinating Center, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway, Suite 3300, Denver, CO 80202

Colorado Division of Minerals and Geology, Department of Natural Resources, 215 Centennial Building, 1313 Sherman Street, Denver, Colorado 80203, Telephone: (303) 866-3567.

#### FOR FURTHER INFORMATION CONTACT:

James F. Fulton, telephone: (303) 672-5524.

#### SUPPLEMENTARY INFORMATION:

##### I. Background on the Colorado Program

On December 15, 1980, the Secretary of the Interior conditionally approved the Colorado program. General background information on the Colorado program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Colorado program can be found in the December 15, 1980, Federal Register (45 FR 82173). Subsequent actions concerning Colorado's program and program amendments can be found at 30 CFR 906.11, 906.15, 906.16, and 906.30.

##### II. Proposed Amendment

By letter dated November 20, 1995, Colorado submitted a proposed amendment to its program (administrative record No. CO-676) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*).

Colorado submitted the proposed amendment at its own initiative; in partial response to May 7, 1986, and March 22, 1990, letters (administrative record No. CO-282 and CO-496) that OSM sent to Colorado in accordance with 30 CFR 732.17(c); and in response to (1) the condition of Colorado's program approval at 30 CFR 906.11(mm) and (2) the requirement that Colorado amend its program at 30 CFR 906.16(a).

Colorado proposes for the following provisions of 2 CCR 407-2, Rules and Regulations of the Colorado Mined Land Reclamation Board for Coal Mining:

Revisions at Rule 1.03.1(1)(a) to clarify that Colorado's responsibility for the regulation of surface coal mining and reclamation operations and coal exploration includes, among other things, approval or disapproval of revisions and renewals of existing permits;

Recodification of existing Rule 1.04(1) as Rule 1.04(1a), and addition at Rule 1.04(1) of a definition for "Abandoned site" to identify (1) those sites which could have a decreased frequency of inspection under proposed Rule 5.0202(8) and (2) the enforcement provisions applicable to sites which meet the conditions of the definition;

Addition at Rule 1.04(31a) of a definition for "Current assets" to mean "cash or other assets or resources which are reasonably expected to be converted to cash or sold or consumed within one year or within the normal operating cycle of the business;"

Addition at Rule 1.04(31b) of a definition for "Current liabilities" to mean "obligations which are reasonably expected to be paid or liquidated within