

the powers and duties of the Commission at NDCC 38-14.2-03(14), concerning the eligibility of successful bidders to receive AMLR contracts and (2) procurement procedures at section IV. C. 5 of the North Dakota plan provisions, concerning noncompetitive negotiation (sole-source procurement) when emergency or severe time constraints preclude issuing a formal request for proposals. OSM notified North Dakota of the concerns by letter dated December 7, 1995 (administrative record No. ND-X-04). North Dakota responded in a letter dated April 30, 1996, be submitting additional explanatory information (administrative record No. ND-X-09).

North Dakota proposes additional explanatory information for NDCC 38-14.2-03(14), contractor responsibility, in the form of a policy that provides guidelines to govern the selection of successful bidders for AMLR contracts, and section IV. C. 5 of its plan provisions, procurement procedures, in the form of a statement concerning sole-source procurement.

Specifically, North Dakota proposes to add a policy statement that requires a background search of successful bidders for AMLR contracts, provides the criteria to be used in determining the eligibility of the successful bidder under 30 CFR 773.15(b)(1) at the time of contract award, limits the award of the AMLR contract to a successful bidder who meets the criteria used to determine eligibility, and provides that the eligibility determination will be made through OSM's Applicant/Violator System for each AMLR contract to be awarded. North Dakota also proposes that the Federal regulation at 43 CFR 12.76(d)(4)(i)(B), which is cited in OSM's December 7, 1995, issue letter, and implements one part of the Office of Management and Budget (OMB) Circular A-102 (commonly known as the "Common Rule"), does not apply to States and that States are required to abide by 43 CFR 12-76(a) only.

### III. Public Comment Procedures

OSM is reopening the comment period on the proposed North Dakota plan amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. 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 North Dakota plan.

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 Casper Field Office will not necessarily be considered in the final rulemaking or included in 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 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that 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 SMCRA (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.

#### 6. Unfunded Mandates Reform Act

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

#### List of Subjects in 30 CFR Part 934

Abandoned mine reclamation programs, Intergovernmental relations, Surface mining, Underground mining.

Dated: May 9, 1996.

Richard J. Seibel,

*Regional Director, Western Regional Coordinating Center.*

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### 30 CFR Part 936

[OK-018-FOR]

#### Oklahoma 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 propose amendment to the Oklahoma regulatory program (hereinafter, the "Oklahoma program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to Oklahoma's Coal Program Rules and Regulations. Oklahoma proposes to recodify and reinstate rules pertaining to an exemption for coal extraction incidental to government-financed or other construction. The amendment is intended to revise the Oklahoma program to be consistent with the corresponding Federal regulations.

**DATES:** Written comments must be received by 4:00 p.m., c.d.t., June 20, 1996. If requested, a public hearing on the proposed amendment will be held on June 17, 1996. Requests to present oral testimony at the hearing must be received by 4:00 p.m., c.d.t., on June 5, 1996.

**ADDRESSES:** Written comments should be mailed or hand delivered to Jack R. Carson, Acting Director, Tulsa Field Office, at the address listed below.

Copies of the Oklahoma 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 Tulsa Field Office.

Jack R. Carson, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470 Tulsa, Oklahoma, 74135-6547, Telephone: (918) 581-6430.

Oklahoma Department of Mines, 4040 N. Lincoln Blvd., Suite 107, Oklahoma City, Oklahoma 73105, Telephone: (405) 521-3859.

**FOR FURTHER INFORMATION CONTACT:** Jack R. Carson, Telephone: (918) 581-6430.

**SUPPLEMENTARY INFORMATION:**

**I. Background on the Oklahoma Program**

On January 19, 1981, the Secretary of the Interior conditionally approved the Oklahoma program. General background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Oklahoma program can be found in the January 19, 1981, Federal Register (46 FR 4902). Subsequent actions concerning Oklahoma's program and program amendments can be found at 30 CFR 936.15 and 936.16.

**II. Proposed Amendment**

By letter dated April 26, 1996, Oklahoma submitted a proposed amendment to its program pursuant to SMCRA (Administrative Record No. OK-974). Oklahoma submitted the proposed amendment at its own initiative. Oklahoma proposes to reinstate rules pertaining to an exemption for coal extraction incidental to government-financed or other construction. These rules were previously codified as part 707. Oklahoma proposes to recodify these rules at Oklahoma Administrative Code (OAC) 460, Chapter 20, Subchapter 6.

*Section 460:20-6-1, Purpose*

This section specifies the purpose of Subchapter 6 as establishing procedures for determining those surface coal mining and reclamation operations that meet the exemption criteria for coal

extraction as an incidental part of government-financed construction.

*Section 460:20-6-2, Responsibility*

This section specifies that the Department of Mines is responsible for enforcing the requirements of Subchapter 6. It also specifies that persons conducting coal extraction as an incidental part of government-financed construction is responsible for keeping specified documentation on the site of the extraction operation.

*Section 460:20-6-3, Definitions*

This section contains definitions for the terms "Extraction of coal as an incidental part"; "Government financing agency"; and "Government-financed construction."

*Section 460:20-6-4, Applicability*

This section specifies that a permit must be obtained unless the coal extraction is an incidental part of government-financed construction.

*Section 460:20-6-5, Information to be Maintained on Site*

This section specifies the information that must be maintained on the site of the extraction operation.

**III. Public Comment Procedures**

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Oklahoma program.

**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 Tulsa 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., c.d.t., on June 5, 1996. 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 12988**

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and

its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

### 3. *National Environmental Policy Act*

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

### 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 State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

### 6. *Unfunded Mandates*

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

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

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 9, 1996.

Brent Wahlquist,

*Regional Director, Mid-Continent Regional Coordinating Center.*

[FR Doc. 96-12725 Filed 5-20-96; 8:45 am]

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 17

RIN 2900-AH77

#### Contract Program for Veterans With Alcohol and Drug Dependence Disorders

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend 38 CFR Part 17 by modifying eligibility criteria for veterans participating by contract in the Department of Veterans Affairs' program of alcohol and drug dependence or abuse treatment and rehabilitation in residential and nonresidential facilities. Current regulations stipulate that, prior to participation in contract care under this program, veterans must be provided hospital care in facilities over which the Secretary has direct jurisdiction. It is proposed to change the regulations to stipulate that, prior to participation in contract care, veterans must have been or must be receiving care (regardless of whether it was or is hospital care) by professional staff over whom the Secretary has jurisdiction (regardless of whether it is direct jurisdiction). The proposed elimination of the requirement of "hospital care" appears to be necessary to address changed clinical practices and continue the intended program. In the past, substance abuse treatment generally was provided in a hospital setting. Now, much substance abuse treatment also is provided in an ambulatory care or residential setting. Also, the proposal to change "direct jurisdiction of the Secretary" to "jurisdiction of the Secretary" would allow for continuation of any cases in which VA has had involvement (including, among other things, fee basis care) and thereby help ensure that a complete course of treatment is provided.

**DATES:** Comments must be received on or before July 22, 1996.

**ADDRESSES:** Mail written comments concerning these proposed regulations to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; or hand deliver written comments to: Office of Regulations Management, Room 1176, 801 Eye Street, NW., Washington, DC 20001. Comments should indicate that they are submitted in response to "RIN 2900-AH77." All written comments are available for public inspection in the Office of Regulations Management,

Room 1176, 801 Eye Street, NW., Washington, DC 20001 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

#### FOR FURTHER INFORMATION CONTACT:

Karen G. Boies, Ph. D., Deputy Associate Director for Addictive Disorders and Psychiatric Rehabilitation, Veterans Health Administration, Department of Veterans Affairs, (202) 565-7316.

**SUPPLEMENTARY INFORMATION:** This proposed rule is authorized under provisions of 38 U.S.C. 501 and 38 U.S.C. 1720A.

The Secretary hereby certifies that the provisions of the proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. There does not appear to be a basis for considering special provisions for small entities since, in all likelihood, only entities that are small entities would conduct activities affected by this rule. Also, because of budgetary constraints and the high utilization of this program, we anticipate no change in the total number of bed days of care paid by VA to participating small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

#### List of Subjects in 38 CFR Part 17

Alcoholism, Claims, dental health, Drug abuse, Foreign relations, Government contracts, Grant program—health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Veterans.

Approved: February 20, 1996.

Jesse Brown,

*Secretary of Veterans Affairs.*

For the reasons set out in the preamble, 38 CFR part 17 is proposed to be amended as follows:

## PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

2. In section 17.80, paragraph (a)(1) is revised to read as follows:

**§ 17.80 Alcohol and drug dependence or abuse treatment and rehabilitation in residential and nonresidential facilities by contract.**

(a) \* \* \*

(1) Veterans who have been or are being furnished care by professional