

FEDERAL REGISTER: 48 FR 35399 (August 4, 1983)

DEPARTMENT OF THE INTERIOR

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM)

30 CFR Part 872

Notice of Intent to Withdraw Unexpended State Abandoned Mine Land Reclamation Funds

ACTION: Rule related notice.

SUMMARY: The Office of Surface Mining is proposing to withdraw abandoned mine land reclamation (AMLR) funds allocated to the States of Georgia and Washington under the authority of Section 402(g)(2) of the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87 (SMCRA) and 30 CFR 872.11 of the Secretary's regulations. Both States have failed to adopt regulatory programs for active mining pursuant to Section 503 of SMCRA or reclamation plans for the restoration of lands previously degraded by past coal mining practices. Without these programs the States are ineligible to receive the State share allocation of AMLR funds collected within these States. Failure to expend these funds within the time limits allocated by SMCRA and the Secretary's regulations can result in the transfer of these funds to the Secretary's discretionary share for expenditure in any eligible area of the country.

DATES: Comments on the proposed actions will be accepted until 5:00 p.m., August 19, 1983. Comments received after that time may not necessarily be considered nor included in the administrative record. These actions will be effective September 6, 1983.

ADDRESSES: Written comments must be mailed to: Administrative Record R&I-08, Office of Surface Mining, Room 5315-L 1951 Constitution Avenue NW., Washington, D.C. 20240 or hand carried to: Office of Surface Mining, Administrative Record R&I-08, Room 5315, 1100 L Street NW., Washington, D.C. 20005.

All comments, notices of public meetings and summaries of the meetings will be available for inspection in Room 5315, 1100 L Street NW., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Jim Fary, Division of Abandoned Mine Land Reclamation, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone (202) 343-7921.

Public Meetings: Representatives of OSM will be available to meet between August 4, 1983 and August 19, 1983, at the request of members of the public, State representatives, industry officials, labor representatives and environmental organizations to receive advice and recommendations concerning these proposed actions.

OSM representatives will be available for such meetings from 9:00 a.m. to noon and 1:00 p.m. to 4:00 p.m. local time, Monday through Friday, excluding holidays. Summaries of each meeting will be prepared and made available for public review in Room 5315, 1100 L Street NW., Washington, D.C. 20005.

Persons wishing to meet with representatives of OSM during this time period may request a meeting at OSM's Washington, DC Office or at the Casper or Birmingham Field Offices. Persons to contact to schedule such meetings are as follows:

Jim Fary, Division of Abandoned Mine Land Reclamation, 1951 Constitution Ave. NW., Washington, D.C. 20240; (202) 343-7921.

John Davis, Birmingham Field Office Director, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 34209; (205) 254-0890.

William Thomas, Casper Field Office Director, P.O. Box 1420, 935 Pendell Blvd., Mills, Wyoming 82644; (307) 261-5776.

SUPPLEMENTARY INFORMATION:

The Abandoned Mine Land Fund was established by the Surface Mining Control and Reclamation Act of 1977 in response to concern over extensive environmental damage caused by past coal mining activities. The Abandoned Mine Land Fund derives its financing from Title IV of the Act which establishes a fee on coal production for the purpose of financing specified Federal, State, and Indian reclamation programs. Programs funded by Congressional appropriations include grants to States and Indian tribes to plan and carry out reclamation programs and projects, Federal Reclamation projects carried out by the Secretary of Interior through OSM, and the Rural Abandoned Mine Program (RAMP) administered by the Secretary of Agriculture and carried out by the Soil Conservation Services. Lands and water eligible for reclamation are those that were mined or affected by mining 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 Federal law.

Title IV of SMCRA provides that fifty percent of the AMLR funds collected within a State or on Indian lands are to be allocated to that State or Indian tribe to accomplish the purposes of this title. "Allocate" means the administrative identification in the records of OSM of moneys in the Fund for a specific purpose, e.g., identification of moneys for exclusive use by a State.

States and tribes are eligible to receive such allocated funds only after they have received approved regulatory programs pursuant to Section 503 of the Act and approved reclamation plans under Section 405. If allocated funds have not been expended within three years of their allocation by the States or Indian tribes, Section 402 of the Act provides the Secretary authority to withdraw such funds from the States accounts and utilize them in any eligible area of the country.

On June 30, 1982, OSM published revised final regulations concerning the implementation and administration of the Abandoned Mine Land Program. *47 FR 28574*. Under 30 CFR 872.11(b)(2), OSM set out two procedures concerning the withdrawal of allocated but unexpended State or Indian tribal funds. First, if a State advises OSM in writing that it does not intend to submit a State reclamation plan, no moneys will be allocated to that State. Secondly, amounts allocated to a State that have not been granted to the State within three years from the date of allocation shall be available to the Director for other purposes as set out in 30 CFR 872.11(b)(5) and Section 401(c) of the Act.

Currently, \$12,915 and \$3,996,600 have been administratively allocated to the States of Georgia and Washington respectively. The State of Georgia has formally notified OSM in writing on September 8, 1981, that it does not wish to assume regulatory responsibility over surface mining. According the Director is proposing to transfer all funds allocated to that State to the Secretary's discretionary share pursuant to the authority in Section 402 and 412(a) of the Act and 30 CFR 872.11(b)(2) of the Secretary's regulations.

The State of Washington, on the other hand, has never formally advised OSM in writing concerning its intentions not to regulate surface mining and reclamation operations. However, since the State has not made reasonable efforts to assume primacy over these areas and thereby become eligible for AMLR grants, the Director is proposing to withdraw all State AMLR funds which have been allocated but left unexpended for more than three years.

Dated: July 27, 1983.

James R. Harris, Director, Office of Surface Mining.

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