

FEDERAL REGISTER: 45 FR 63002 (September 23, 1980)

DEPARTMENT OF THE INTERIOR

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

30 CFR Part 886

State Reclamation Grants; Filing of Financial and Performance Reports, and Identification of Specific Forms

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement proposes amending rules to require the filing of financial and performance reports under State Reclamation Grants on a quarterly basis, and to identify specific forms for grant application and reporting. Existing regulations require annual reports under the Grant. Amended regulations are proposed and OSM seeks public comment on the proposed amendment.

DATES: A public hearing on the proposed amendment will be held at the Department of the Interior Auditorium on November 24, 1980, at 9:00 a.m. The hearing may be cancelled as discussed under Supplementary Information below. Written comments on the proposed amendments must be received by November 24, 1980, by no later than 5:00 p.m. Written comments on whether OSM should hold a public hearing on the proposed amendment must be received by October 13, 1980.

ADDRESSES: Written comments may be mailed to: Office of Surface Mining, U.S. Department of the Interior, P.O. Box 7267, Benjamin Franklin Station, Attn: Jim Fulton, Washington, D.C. 20004, or be hand delivered to: Office of Surface Mining, U.S. Department of the Interior, South Building, Attn: Jim Fulton, 1951 Constitution Avenue, N.W., Washington, D.C. 20240. The public hearing will be held at the Department of the Interior Auditorium, 18th and C. Streets, N.W., Washington, D.C. 20240.

Availability of Proposed Forms

Copies of the forms for grant application and reporting proposed to be incorporated in 30 CFR 886.15 are available for inspection and may be obtained at the following offices:

OSM Headquarters, Department of the Interior, South Building, Attn: Jim Fulton, Auditorium, 1951 Constitution Avenue, N.W., Washington, D.C. 20245 (202) 343-4728;

OSM Regional I, First Floor, Thomas Hill Building, 950 Kanawha Boulevard, East Charleston, West Virginia 25301 (304) 342-8125;

OSM Region II, 530 Gay Street, S.W., Suite 500, Knoxville, Tennessee 37902 (615) 637-8060;

OSM Region III, Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204 (317) 269-2609;

OSM Region IV, 818 Grand Avenue, Scarritt Building, 5th Floor, Kansas City, Missouri 64106 (913) 758-2193;

OSM Region V, Post Office Building, 1823 Stout Street, Denver, Colorado 80202 (303) 837-5511.

FOR FURTHER INFORMATION CONTACT:

James F. Fulton, Abandoned Mine Lands, State and Indian Programs, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20245, (202) 343-4511.

SUPPLEMENTARY INFORMATION:

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Public Law 95-87, 30 U.S.C. 1201 et seq., establishes an abandoned mine land program for the purposes of reclaiming and restoring land and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. 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 provides that if the Secretary determines that a State has developed and submitted a program for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of Title IV, the Secretary may approve the State program and grant to the State exclusive responsibility and authority to implement the provisions of the approved program. The Act also provides, however, that the Secretary may withdraw this approval and authorization, if it is determined, upon the basis of information provided under Section 405 of SMCRA, that the State program is not in compliance with the procedures, guidelines and requirements established by Title IV.

Section 405 of SMCRA (30 U.S.C. 1235) provides the requirements for State reclamation plans and grants and for program

monitoring by the Secretary. Specifically, Section 405(h) if the Act provides that upon approval of a State reclamation plan, the Secretary shall grant, on an annual basis, funds to be expended in the State pursuant to Section 402(g) and which are deemed necessary to implement the State reclamation program as approved. Additionally, oversight responsibility for the program is found in Sections 405(i) and 405(j) of SMCRA. Subsection 405(i) requires the Secretary to monitor the progress and quality of the programs and subsection 405(j) provides authority of the Secretary to require annual and other reports as may be necessary to carry out his responsibilities.

Final regulations implementing the provisions of Title IV for the Abandoned Mine Lands Program were published in the Federal Register on October 25, 1978. 30 CFR 872 *et seq.*, 43 *Fed. Reg.* 49932, October 25, 1978. Under Section 886.23 (a) and (b) of these regulations, the regulatory authority is required to submit annually to the Regional Director, OSM, a Financial Status Report for each grant made in accordance with Office of Management and Budget Circular No. A-102, Attachment H.

During the first months of 1980, OSM drafted internal procedures required to properly manage the activities under approved State reclamation plans and grants awarded to States under 30 CFR Part 886. The procedures identified the need for requiring quarterly financial and performance reports rather than the annual reports as set forth in Section 886.23 of the AML regulations. Such increased reporting is believed necessary due to the size of anticipated grants and the number and types of individual projects. Included in State Reclamation Programs will be small projects that could be completed before an annual report would be required. Other projects will be multimillion dollar efforts covering large areas and any project may be the center of considerable public interest. In addition, because of unexpected contingencies, many plans will necessarily need modification affecting both the financial and performance aspects of approved projects about which OSM must be made aware. Increased reporting requirements will therefore greatly assist OSM in carrying out oversight responsibilities, and are specifically authorized under Section 405(i) and 405(j) of SMCRA. In addition, OSM has developed specific forms for grant application and reporting and proposes to identify them by regulation.

OSM has sent to each affected State a copy of the proposed grant reporting format including forms for quarterly reporting. In addition meetings were held during January and February 1980, in the OSM Regions to present the proposed reporting arrangement. A comment period of 30 days was provided to State agencies before OSM's reporting instructions were redrafted.

OSM is presently in the process of forwarding to the General Accounting Office the proposed reporting system for form clearance. This reporting system includes the forms that were introduced to and commented on by State agencies.

PROPOSED CHANGE

The rule being proposed today changes the period for required performance and financial reports under State Reclamation Grants from annually to quarterly, and identifies grant application and reporting forms in the regulations. OSM believes that quarterly reports and the use of standard grant application and reporting forms will provide a basis for proper management of each grant. In drafting the proposed regulation OSM has attempted to require only that information which is essential to proper grants management.

ADDITIONAL INFORMATION REQUESTED

OSM seeks public comment on the proposed rule. Interested persons may submit written comments on the proposed rulemaking on or before November 24, 1980, at the address listed under "Addresses" not later than 5:00 p.m. A public hearing will be held on November 12, 1980, in the Department of the Interior Auditorium, 18th and C Streets NW., Washington, D.C. The hearing will begin at 9:00 a.m. The hearing may be cancelled unless there are significant number of requests during the 20-day period to comment on the need for a hearing. If the hearing is cancelled, notice will be published in the Federal Register.

DETERMINATION OF SIGNIFICANCE

The proposed rule does not fall within any of the categories listed in 43 CFR 14.3(c). Consequently, the Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Furthermore, the Department has determined that a notice of intent to propose rules will not be beneficial to the drafting process. OSM previously sent the proposed rule change and overall reporting plan to each affected State and held meetings with the States in each OSM Region. All States had opportunity to comment at that time. Therefore, OSM has received sufficient input from the States to prepare a draft rule and proceed directly to proposed rulemaking. A notice of intent to propose rules would only duplicate OSM's efforts in obtaining earlier State input.

STATEMENT OF ENVIRONMENTAL IMPACT

The Department of the Interior has determined that this action will not have a significant effect on the human environment and an environmental impact statement will therefore not be prepared.

Statement of Authorship

The primary author of this document is James Fulton, State and Indian Reclamation Programs Division, Office of Surface Mining.

Dated: September 15, 1980.

Joan M. Davenport,
Assistant Secretary, Energy and Minerals.

A new 30 CFR 886.15(b)(2) is added and the original 30 CFR 886.15(b)(2) is redesignated as 886.15(b)(3) and revised to read as below.

SECTION 886.15 - GRANT APPLICATION PROCEDURES.

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(b)(2) When submitting an application for non-construction costs (State agency's administrative costs), Parts II, IV and V of the application are to follow the reporting requirements of Attachment M of OMB Circular No.

A-102 for non-construction programs. In submitting Part III of the application for non-construction cost the State agency will use the OSM Budget Information Report Form OSM-47. The Performance Narrative Statement Report, Form AM-45, is to be submitted with each application.

(3) When submitting an application for construction costs, Part II, III and IV of the application shall be submitted for each individual project and follow the reporting requirements of Attachment M of OMB Circular No. A-102 for construction programs. Part V of the application shall have a single assurance covering all projects including the grant application. The Performance Narrative Statement Report, Form AM-45, is to be submitted for each project.

(i) Complete copies of plans and specifications for projects shall not be required before the grant is approved. The Regional Director may review such plans and specifications in the agency office or on the project site.

(ii) A description of the actual or planned public involvement in the decision to undertake the work, in the planning of the reclamation activities, and in the decision on how the land will be used after reclamation shall be included in part IV of the application.

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30 CFR 886.23 (a) and (b)(1) are proposed to be revised as follows:

SECTION 886.23 - REPORTS.

(a) The agency shall, for each grant made under this part, submit quarterly to the Regional Director a Financial Status Report, Form SG 269, for the agency's administrative costs. The agency shall submit quarterly to the Regional Director for each project the Outlay Report and Request for Reimbursement for Construction Programs, Form SF 271. These forms will be submitted in accordance with Office of Management and Budget Circular No. A-102, Attachment H.

(b) The agency shall, in each quarter after the first grant, submit to the Regional Director a Program Narrative Statement, Form AM-45. This Program Narrative Statement will be prepared in accordance with the Office of Management and Budget Circular No. A-102, Attachment H. This statement shall include:

(1) For each activity or project previously funded or completed during the quarter, a brief description of the project or activity.

(i) For State's agency's administrative costs, submit a comparison of actual accomplishments to the goals established for the period, reasons why established goals were not met, and any other pertinent information.

(ii) For each reclamation project describe the type of reclamation performed, the project and status of the reclamation work, the project location, landowner's name and a summary of expected benefits.

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