

FEDERAL REGISTER: 59 FR 52374 (October 17, 1994)

DEPARTMENT OF THE INTERIOR

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

30 CFR Part 880

Coal Formation Fire Control; Part II

ACTION: Final rule.

SUMMARY: This rule implements a change to the mine fire control activities under the authority of the Act of August 31, 1954, and section 205 of the Appalachian Regional Development Act of 1965. The amendments are due to changes enacted as part of the Energy Policy Act of 1992, Public Law 102-486 (Oct. 24, 1992).

EFFECTIVE DATE: November 16, 1994.

FOR FURTHER INFORMATION CONTACT: Thomas E. Browne, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, DC 20240; Telephone: 202-208-2661.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Organization
- III. Final Rules and Disposition of Comments
- IV. Procedural Matters

1. BACKGROUND

A. SUMMARY OF THE ACT OF AUGUST 31, 1954

Congress recognized that outcrop and underground fires in coal formations waste the fuel resources of the nation and are a menace to the health and safety of the public and surface property. Congress therefore passed the Act of August 31, 1954 (*30 U.S.C. 551-558*), to provide for the control and extinguishment of outcrop and underground coal fires. The Secretary of the Interior was authorized: (a) to conduct surveys, investigations, and research related to the causes and extent of outcrop and underground fires in coal formations and the methods for control or extinguishment of such fires; to publish the results of any such surveys, investigations, and research; and to disseminate information concerning such methods; and (b) to plan and execute projects for control or extinguishment of fires in coal formations. These projects could be performed on lands owned or controlled by the United States or any of its agencies, with the cooperation of the agency having jurisdiction thereof, and on other lands upon obtaining proper consent or the necessary rights or interests in such lands. Federal funds could not be used to control or extinguish fires in any privately owned operating coal mine.

The United States Bureau of Mines was initially responsible for carrying out the provisions of this law, the only Federal program providing funding for the control of coal fires. With the passage of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95-87, *30 U.S.C. 1201* et seq., on August 3, 1977, federal funds became available through the Abandoned Mine Land (AML) program to extinguish or control coal fires at eligible AML sites. In 1983, the responsibility for implementing the Act of August 31, 1954, was transferred to OSM.

B. SUMMARY OF SECTION 2504(d) - "COAL FORMATIONS" OF THE ENERGY POLICY ACT OF 1992

The Energy Policy Act of 1992 provided additional authority for States or Indian tribes regarding projects for the control of outcrop or underground fires in coal formations under the authority of the Act of August 31, 1954 (*30 U.S.C. 551-558*), and pursuant to subsection (a)(2) of section 205 of the Appalachian Regional Development Act of 1965 (Pub. L. 89-4, 79 Stat. 5). The 1992 amendments authorize the Secretary, acting through the Director of the Office of Surface Mining, to enter into cooperative agreements with States or Indian tribes having approved abandoned mine land programs to plan and execute projects for the control or extinguishment of fires in coal formations. The amendments provide further that for States or Indian tribes with approved AML programs, any matching share contributions are

waived. In addition, the \$500,000 annual limit on the total amount of funds that can be appropriated to carry out the provisions and purposes of the Act of August 31, 1954, was eliminated. Further, any such cooperative agreement that is entered into under the Energy Policy Act of 1992 with an AML State eligible to receive funds from the Appalachian Regional Development Commission is not subject to review by that Commission.

Congress did not provide a source of funding for these cooperative agreements to extinguish or control coal formation fires in the Energy Policy Act of 1992. Congress may appropriate funding in the future.

C. RELATIONSHIP OF THE COAL FORMATION FIRE CONTROL PROGRAM TO THE OSM AML PROGRAM

While the Department of the Interior program to extinguish or control coal outcrop fires predates SMCRA and is not funded with AML monies, it and SMCRA's AML program are interrelated. Often the same people are responsible for managing both the coal outcrop fire and the AML reclamation programs. Funds available through the coal outcrop fire program may be used to control or extinguish fires in any coal formation, except in any privately owned operating coal mine. Funds available through the AML program can only be used to control or extinguish fires involving eligible abandoned mine lands. Section 401(d) of SMCRA states that monies from the AML Fund are only available for the purposes of SMCRA's Title IV-Abandoned Mine Reclamation.

D. PROPOSED RULES

OSM published proposed rules (*58 FR 68494*, December 27, 1993) to its regulations implementing changes enacted as part of the Energy Policy Act of 1992, Public Law 102-486 (Oct. 24, 1992). During the comment period on the proposed rules, OSM received comments from two state AML programs.

Pursuant to Executive Order 12866, every Federal agency is required within applicable statutory limits to choose regulatory goals that maximize benefits to society and select the most effective means to achieve these goals. To this end OSM has received comments and recommendations from the public.

All comments received during the comment period were considered in this rulemaking process, and all substantive comments received are addressed in the following preamble.

II. ORGANIZATION

The regulatory revisions are intended to implement the requirements of the Act of August 31, 1954, consistent with the purposes stated in the Act, its legislative history, and the Secretary's commitment to avoid excessive and burdensome regulations. These final rules implement changes to the coal formation fire control program which was amended as part of the Energy Policy Act of 1992, 102-486 (Oct. 24, 1992). The material is organized into sections which comprise 30 CFR Part 880. At the end of each section, any comments received from interested parties are addressed.

III. FINAL RULES AND DISPOSITION OF COMMENTS

PART 880 - MINE FIRE CONTROL

GENERAL

To reflect the new legislative provisions in the Energy Policy Act of 1992 pertaining to coal outcrop fires, OSM is amending Part 880 of Chapter VII, Subchapter R. Part 880 is renamed "Mine Fire Control" to reflect the greater geographic expanse of its provisions. The Abandoned Mine Land Program currently has 23 States and three Indian tribes with approved programs that are now eligible to participate under the new provisions. The old Title-Mine Fire Control, Appalachia-is no longer indicative of its provisions. OSM is amending the authority section to: 1) include the Energy Policy Act of 1992, Pub. L. 102-486, and 2) delete Pub. L. 95-87 (SMCRA) since none of the authority for the coal formation fire control program comes from SMCRA.

The current numbering system used in Part 880 is not consistent with that used elsewhere in OSM regulations. Therefore, the sections have been redesignated as follows:

EXISTING	REDESIGNATED
Section 880.2	Section 880.5
Section 880.3	Section 880.11
Section 880.4	Section 880.12
Section 880.5	Section 880.13
Section 880.6	Section 880.14
Section 880.7	Section 880.15
Section 880.8	Section 880.16

The authority to fund projects to address coal outcrop fires comes from the Act of August 31, 1954 (*30 U.S.C. 551-558*); section 205(a)(2) of the Appalachian Regional Development Act of 1965 (Pub. L. 89-4, 79 Stat. 5); and the Energy Policy Act of 1992 (Pub. L. 102-486). None of the authority comes from SMCRA. The Energy Policy Act of 1992 did not provide any funds to address coal output fires. AML funds can only be used to control or extinguish fires involving eligible abandoned mine land.

SECTION 880.2 (REDESIGNATED 880.5) - DEFINITIONS

The definition of State was deleted as it limited States to those listed in section 403 of the Appalachian Regional Development Act of 1965. Funds made available under the Act of August 31, 1954, and the Energy Policy Act of 1992, can be used in any State or by Indian tribe. The definition for Local authorities was modified to make it clearer. A definition was added for Approved abandoned mine reclamation program stating it means a program meeting the requirements defined in Section 405 of the Surface Mining Control and Reclamation Act of 1977, as amended, and for two terms in the Act of August 31, 1954, Operating coal mine and Inactive coal mine, to relate them to terms in the Surface Mining Control and Reclamation Act of 1977, as amended. Project is defined as "a project whose purpose is to control or extinguish fires in coal formations."

No comments were received on this section.

SECTION 880.3 (REDESIGNATED 880.11) - QUALIFICATIONS OF PROJECTS

This section was revised to include the provision in the Act of August 31, 1954, that Federal funds cannot be used to fund projects to control or extinguish fires in coal formations in privately owned operating coal mines. It was also amended to provide that only projects funded by the Appalachian Regional Development Commission must be submitted by the State to the Commission and receive the approval of that body. This Commission has not funded such projects in many years.

No comments were received on this section.

SECTION 880.4 (REDESIGNATED 880.12) - COOPERATIVE AGREEMENTS

This section was revised to state clearly the roles of OSM, States, Indian tribes, and other Federal agencies when extinguishing or controlling coal formation fires under the authority of these regulations. Paragraph 880.12 (a) states that OSM shall, upon application by a State or Indian tribe with an approved abandoned mine reclamation program, enter into a cooperative agreement with the State or Indian tribe to control or extinguish fires in coal formations.

One commenter noted that it did not see a need for OSM to enter into a cooperative agreement with States or Indian tribes that already have existing approved abandoned mine reclamation programs. It argued the outcrop coal fire projects should be handled via the same process as any other "simplified grant project." The commenter went on to say that it can see no practical reason to establish a new procedural framework for this type of activity. The establishment of a new cooperative agreement by OSM to address coal outcrop fires does not comply with Executive Order 12778 which directs Federal agencies to promote "simplification and burden reduction."

OSM has not accepted this comment. Congress directed that OSM shall, upon application by a State or Indian tribe having an approved abandoned mine land program, enter into a cooperative agreement with that State or Indian tribe to control or extinguish coal formation fires. While OSM is committed to simplifying its procedures, OSM believes it is not

appropriate to use AML simplified grants to fund projects under the authority of the Act of August 31, 1954, and the Energy Policy Act of 1992 to extinguish or control fires in coal formations. Congress did not identify a source of funds for such projects to extinguish or control fires in coal formations. OSM anticipates that if funds are made available in the future, they will be used to address fires not eligible for AML funding. AML funds cannot be used to address fires on lands not eligible for AML funding such as outcrop fires where no prior mining has occurred. Since the simplified grants are used to fund eligible AML projects, OSM does not want to mix funds for eligible and ineligible AML projects in one funding mechanism. Also, quite likely, these cooperative agreements will have to contain provisions unique to the coal formation fire control program.

Paragraph 880.12(b) authorizes OSM to conduct the fire control projects in those States and with those Indian tribes not having an approved abandoned mine reclamation program. However, upon application by such a State or Indian tribe, OSM may enter into a cooperative agreement with the State or Indian tribe to fund the control or extinguishment of fires in coal formations. The Act of August 31, 1954, requires that if a coal fire is in an inactive coal mine on lands now owned or controlled by the United States or any of its agencies, except where the project is necessary for the protection of lands or other property owned or controlled by the United States or any of its agencies, that: (1) the State or Indian tribe or the person owning or controlling such lands contribute on a matching basis 50 percent of the cost of planning and executing such project; or (2) if the State or Indian tribe or the person furnishes evidence satisfactory to the Secretary of an inability immediately to make the matching contribution, that such State or Indian tribe or person pay the Government, within such time as the Secretary shall determine, an amount equal to 50 percent of the cost of planning and executing such project. The Energy Policy Act of 1992 waived this requirement in States or Indian tribes with an approved abandoned mine reclamation program.

The same commenter noted that it believes the intent of Congress (in the 1992 Energy Policy Act) was to make Federal funds available for the total cost of abatement of coal fires on all lands in the United States. OSM does not accept this comment. OSM is proposing 100 percent Federal funding for extinguishment of fires in States or Indian tribes having approved AML programs and on Federal lands. Fire abatement on other lands would be funded by a 50/50 cost-share approach. Paragraph 880.12(b) pertains only to those States or Indian tribes not having an approved AML program. As stated above, Congress only waived the requirement for cost sharing on non-Federal lands for States or Indian tribes having approved AML programs.

Paragraph (c) establishes that OSM is also authorized to conduct fire control projects on lands owned or controlled by the United States, with the cooperation of the agency having jurisdiction thereof. However, upon application by another Federal agency having jurisdiction for lands owned or controlled by the United States, OSM may enter into an agreement with the other Federal agency to control or extinguish such fires in coal formations.

The same commenter did not think that OSM (or the Federal agency having jurisdiction for Federal lands) should be the only one conducting coal formation fire control projects on Federal lands. The commenter suggested that States or Indian tribes having responsibility for conducting AML projects on Federal lands within their boundaries should also have responsibility for conducting coal formation fire control projects on Federal lands within their boundaries.

OSM accepts this comment in part. OSM wants the coal outcrop fire program to be run as efficiently and cost effectively as possible. OSM would encourage a State or Indian tribe to be responsible for a coal outcrop fire project on Federal lands if it appears to be more cost effective and if the entity's agreements to conduct AML projects on Federal lands within its boundaries also apply to non-AML funded projects. OSM, not the State or Indian tribe, will decide which projects will be funded under the authorities listed in section 880.1, Scope, within a State's or Indian tribe's border, including projects on Federal lands.

OSM removed paragraph (d) of section 880.4 (redesignated 880.12), which stated that none of the funds contributed by the Government or the State or Indian tribe or the local authorities shall be used for the purchase of sand, clay, stone, or other noncombustible materials used to control or extinguish the fire. A review of the pertinent legislation found no such restriction. In many cases, it might be impossible to extinguish or control a coal fire if Federal or State or Indian tribe funds could not be used to purchase sand, clay, stone, chemical foams, or other noncombustible materials used to control or extinguish the fire.

SECTION 880.5 (REDESIGNATED 880.13) - PROJECT IMPLEMENTATION

The title of section 880.5 (redesignated 880.13) was changed from "Project contract" to "Project implementation." Most of this section contained guidance relative to the contracting procedures to be followed for the extinguishment or control of coal formation fires.

Paragraphs (a) and (b) establish responsibilities for implementing projects to extinguish or control coal formation fires in States or Indian tribes having an approved abandoned mine land program and in other States, Indian lands, or on Federal lands. A commenter suggested deletion of paragraphs (a) (1) and (2) as States or Indian tribes with approved AML programs routinely perform the described tasks for all AML projects. The commenter questioned why the States or Indian tribes need a new cooperative agreement that tells them to do things they do already.

OSM does not accept this comment, as discussed above in relation to paragraph 880.4(a) (redesignated 880.12(a)). Paragraph (a)(2)'s requirement that if OSM assistance is required, OSM will be reimbursed by the State or Indian tribe for all costs incurred including employee's time, must remain in the rule. OSM anticipates that in most instances, aid will be provided by employees whose salaries are paid out of the AML fund. Because AML funds cannot be used to address projects not eligible for AML funding, and because OSM anticipates that most coal formation fire projects will address fires not eligible for AML funding, it will often be necessary for States or Indian tribes to reimburse OSM for any services provided.

OSM removed paragraphs (c) and (d) pertaining to contracts as none of the legislation authorizing this program set out any special contracting requirements. Normal contracting procedures for Federally funded contracts as set out in OSM Directive GMT 10, "Federal Assistance Manual," and other relevant documents are to be followed. In many instances, fire control projects must be initiated quickly to prevent the fire from becoming much larger or to control quickly a threat to public health and safety. States or Indian tribes entering into cooperative agreements with OSM to extinguish or control coal formation fires may need to use more expedited contracting procedures than those used for regular AML projects. States managing their emergency AML programs have often had to develop more expedited contracting procedures. Sometimes new legislation has been required to do so.

SECTION 880.6 (REDESIGNATED 880.14) - ADMINISTRATION OF CONTRIBUTIONS

OSM modified this section to recognize that, while some projects to extinguish or control coal formation fires may be implemented by OSM, others may be implemented by States or Indian tribes or another Federal agency.

A commenter noted that if outcrop fires were funded as a regular AML grant item, there would be no need to implement any of the changes proposed in this section. OSM does not accept this comment for the reasons previously discussed under section 880.4 (redesignated 880.12).

SECTION 880.7 (REDESIGNATED 880.15) - ASSISTANCE BY STATES, LOCAL AUTHORITIES, AND PRIVATE PARTIES

This section was amended to acknowledge that private parties may, when appropriate, provide assistance.

A commenter suggested that this section be deleted because the language in this section clearly states that all the support for the project work must be provided (upon request) by States, Indian tribes, local, or private parties. OSM does not accept this comment. This section does not require that States, Indian tribes, local authorities, or private parties support for a coal formation fire project. It says that as appropriate, they may provide assistance.

IV. PROCEDURAL MATTERS

Paperwork Reduction Act

This rule does not contain collections of information that require approval by the Office of Management and Budget under *44 U.S.C. 3501 et seq.*

Author

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Executive Order 12866

This rule is not subject to Office of Management and Budget review under Executive Order 12866.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, *5 U.S.C. 601* et seq., the Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities. The rule facilitates voluntary cooperative agreements between OSM and States or Indian tribes for the purpose of extinguishing fires in coal formation outcrops.

Executive Order 12778 on Civil Justice Reform

This rule has been reviewed under the applicable standards of section 2(b)(2) of Executive Order 12778, Civil Justice Reform (*56 FR 55195*). In general, the requirements of section 2(b)(2) of Executive Order 12778 are covered by the preamble discussion of this rule. Additional remarks follow concerning individual elements of the Executive Order:

A. What is the preemptive effect, if any, to be given to the regulation?

This rule will have no preemptive effect on State or Tribal laws or regulations.

B. What is the effect on existing Federal law or regulation, if any, including all provisions repealed or modified?

This rule modifies the AML program regulations pursuant to the Act of August 31, 1954 (*30 U.S.C. 551-558*); section 205(a)(2) of the Appalachian Regional Development Act of 1965 (Pub. L. 89-4, 79 Stat. 5), and the Energy Policy Act of 1992, Pub. L. 102-486, as described herein, and is not intended to modify the rules or provisions of any other Federal statute. The preceding discussion of this rule specifies the Federal regulatory provisions that are affected by this rule.

C. Does the rule provide a clear and certain legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction?

The standards established by this rule are as clear and certain as practicable, given the complexity of the topics covered and the mandates of the Act of August 31, 1954 and the Energy Policy Act of 1992.

D. What is the retroactive effect, if any, to be given to the regulation?

This rule is not intended to have retroactive effect.

E. Are administrative proceedings required before parties may file suit in court? Which proceedings apply? Is the exhaustion of administrative remedies required?

No administrative proceedings are required before parties may file suit in court challenging the provisions of this revision. Prior to any judicial challenge to the application of the revision, however, administrative procedures must be exhausted.

F. Does the rule define key terms, either explicitly or by reference to other regulations or statutes that explicitly define those items?

Terms that are important to the understanding of this rule are set forth in 30 CFR 880.5.

G. Does the rule address other important issues affecting clarity and general draftsmanship of regulations set forth by the Attorney General, with the concurrence of the Director of the Office of Management and Budget, that are determined to be in accordance with the purposes of the Executive Order?

The Attorney General and the Director of the Office of Management and Budget have not issued any guidance on this requirement.

National Environmental Policy Act

OSM has prepared an environmental assessment (EA) and has made a finding that this rule would not significantly affect the quality of the human environment under section 102(2)(C) of NEPA, 42 U.S.C. 4332(2)(C). The EA and finding of no significant impact are on file in the OSM Administrative Record, Room 660, 800 N. Capitol St., NW., Washington, DC.

LIST OF SUBJECTS IN 30 CFR PART 880

Appalachia, Fire control or extinguishment, Government contracts, Grant programs-Natural Resources, Mine safety and health.

Dated: August 18, 1994.

Bob Armstrong, Assistant Secretary, Land and Minerals Management.

Accordingly, 30 CFR Part 880 is amended as set forth below:

CHAPTER VII-OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT, DEPARTMENT OF THE INTERIOR

SUBCHAPTER R - ABANDONED MINE LAND RECLAMATION

1. The Title of Part 880 is revised to read as follows:

PART 880 - MINE FIRE CONTROL

2. The authority citation for part 880 is revised to read as follows:

Authority: 30 U.S.C. 551-558, 40 U.S.C. App. 205, and Pub. L. 102-486.

3. Sections 880.2 through 880.8 are redesignated as follows:

OLD SECTION	NEW SECTION
880.2	880.5
880.3	880.11
880.4	880.12
880.5	880.13
880.6	880.14
880.7	880.15
880.8	880.16

4. Section 880.1 is revised to read as follows:

SECTION 880.1 -- SCOPE.

Projects for the control or extinguishment of outcrop or underground fires in coal formations under the authority of the Act of August 31, 1954 (30 U.S.C. 551-558); section 205(a)(2) of the Appalachian Regional Development Act of 1965 (Pub. L. 89-4, 79 Stat. 5), and the Energy Policy Act of 1992 (Pub. L. 102-486).

5. Newly designated Section 880.5 is amended by removing paragraph (c); by redesignating paragraph (d) as (c) and revising it; and adding new paragraphs (d), (e), (f), and (g) to read as follows:

SECTION 880.5 -- DEFINITIONS.

* * * * *

(c) LOCAL AUTHORITIES means the State or local governmental bodies organized and existing under the authority of State laws, including, but not limited to, a county, city, township, town, or borough;

(d) APPROVED ABANDONED MINE RECLAMATION PROGRAM means a program meeting the requirements defined in Section 405 of PL 95-87, as amended;

(e) OPERATING COAL MINE means a coal mine for which the regulatory authority has not terminated its jurisdiction as set out under 30 CFR 700.11(d)(1);

(f) INACTIVE COAL MINE means a coal mine for which the regulatory authority has terminated its jurisdiction as set out under 30 CFR 700.11(d)(1);

(g) PROJECT means a project whose purpose is to control or extinguish fires in coal formations.

6. Newly designated Section 880.11 is revised to read as follows:

SECTION 880.11 -- QUALIFICATIONS OF PROJECTS.

The purpose of all projects is to prevent injury and loss of life, protect public health, conserve natural resources, or protect public and private property. Federal funds cannot be used to fund projects in privately owned operating coal mines. Further, any such cooperative agreement that is entered into under the Energy Policy Act of 1992 with an AML State eligible to receive funds from the Appalachian Regional Development Commission is not subject to review by that Commission.

7. Newly designated Section 880.12 is revised to read as follows:

SECTION 880.12 -- COOPERATIVE AGREEMENTS.

(a) OSM shall, upon application by a State or Indian tribe with an approved abandoned mine reclamation program, enter into a cooperative agreement with the State or Indian tribe to control or extinguish fires in coal formations.

(b) OSM may conduct coal formation fire control projects in States not having an approved abandoned mine reclamation program or on Indian lands if the tribe does not have an approved abandoned mine reclamation program. However, upon application by such a State or Indian tribe, OSM may enter into a cooperative agreement with the State or Indian tribe and the local authorities to control or extinguish fires in coal formations. OSM shall require in connection with any project for the control or extinguishment of fires in any inactive coal mine on lands not owned or controlled by the United States or any of its agencies, except where such project is necessary for the protection of lands or other property owned or controlled by the United States or any of its agencies in such a State that: (1) the State or the person owning or controlling such lands contribute on a matching basis 50 percent of the cost of planning and executing such project, or (2) if such State or person furnishes evidence satisfactory to the Secretary of an inability to make the immediately matching contribution herein provided for, that such State or person pay the Government, within such time as the Secretary shall determine, an amount equal to 50 percent of the cost of planning and executing such project. If the project is funded by the Appalachian Regional Commission, the Federal share shall not exceed 75 percent of the cost of the project.

(c) OSM is authorized to conduct fire control projects on lands owned or controlled by the United States. However, upon application by another Federal agency having jurisdiction for lands owned or controlled by the United States, or a

State or Indian tribe having an approved abandoned mine reclamation program and agreements with Federal agencies to conduct such projects on Federal lands within its boundaries, OSM may enter into an agreement with either the other Federal agency or State or Indian tribe to control or extinguish fires in coal formations. There are no cost sharing requirements for this type of project.

8. Newly designated Section 880.13 is revised to read as follows:

SECTION 880.13 -- PROJECT IMPLEMENTATION.

(a) Under cooperative agreements with States or Indian tribes having an approved AML reclamation plan:

(1) States or Indian tribes will design, plan, and engineer a method of operation for control or extinguishment of the outcrop or underground mine fire, and will execute the project through a project contract, or, if the work is to be done in phases, a series of project contracts.

(2) If OSM assistance is required, OSM will be reimbursed by the State or Indian tribe for all costs incurred, including OSM employees' time.

(b) In States and on Indian lands under the jurisdiction of tribes not having approved AML reclamation plans and on Federal lands, OSM has the authority to design, plan, and engineer a method of operation for control or extinguishment of the outcrop or underground mine fire, and will execute the project through a project contract, or, if the work is to be done in phases, a series of project contracts. OSM, may, at its discretion, delegate authority to perform this work to States or Indian tribes or other Federal agencies.

9. Newly designated Section 880.14 is revised to read as follows:

SECTION 880.14 -- ADMINISTRATION OF CONTRIBUTIONS.

Financial contributions made by a State or Indian tribe, local authorities, or another Federal agency will be deposited in a trust fund in the Treasury of the United States. These contributions can be withdrawn by OSM and expended by the organization executing the project (OSM, a State, Indian tribe, or another Federal agency) pursuant to the cooperative agreement as necessary in performance of the project work. Withdrawals and expenditures from the trust fund will be made only for costs connected with the project. Any part of the money contributed by a State, Indian tribe, local authority, or another Federal agency for an individual project that remains unexpended upon the completion or termination of project will be returned to the State, Indian tribe, local authority, or other Federal agency.

10. Newly designated Section 880.15 is amended by revising the section heading; by revising the introductory paragraph; and by revising paragraphs (a), (b) and (g) to read as follows:

SECTION 880.15 -- ASSISTANCE BY STATES OR INDIAN TRIBES, LOCAL AUTHORITIES, AND PRIVATE PARTIES.

States Indian tribes, local authorities, or private parties, as may be appropriate in each particular project, and without cost or charge to project costs may:

(a) Provide assistance in planning and engineering the project, as requested by the organization executing the project;

(b) Furnish best available information, data, and maps on the location of the project and the location of water, sewer, and power lines within the project area, and maps or plats showing properties and lands on which releases, consents, or rights or interests in lands have been obtained;

* * * * *

(g) Furnish noncombustible materials suitable for implementing the planned fire control work. This material may be waste or borrow material obtained at the site or brought in from off-site.

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