

Secretary of the Interior adopted regulations at 30 CFR 870 through 888 that implement Title IV of SMCRA. Under these regulations, the Secretary reviewed the plans submitted by States and Tribes and solicited and considered comments of State and Federal agencies and the public. Based upon the comments received, the Secretary determined whether a State or Tribe had the ability and necessary legislation to implement the provisions of Title IV. After making such a determination, the Secretary decided whether to approve the State or Tribal program. Approval granted the State or Tribe exclusive authority to administer its plan.

Ordinarily, under section 405 of SMCRA, a State or Tribe must have an approved surface mining regulatory program prior to submittal of an AMLR plan to OSM. However, on July 11, 1987, the President signed a supplemental appropriations bill (Pub. L. 100-71) that authorized the Crow and Hopi Tribes and Navajo Nation to adopt AMLR programs without approval of Tribal surface mining regulatory programs.

Upon approval of a State or Tribal plan by the Secretary, the State or Tribe may submit to OSM, on an annual basis, an application for funds to be expended by that State or Tribe on specific projects that are necessary to implement the approved plan. Such annual requests are reviewed and approved by OSM in accordance with the requirements of 30 CFR Part 886.

II. Background on the Navajo Plan

On May 16, 1988, the Secretary of the Interior approved the Navajo plan. General background information on the Navajo plan, including the Secretary's findings, the disposition of comments, and the approval of the Navajo plan can be found in the May 16, 1988, **Federal Register** (53 FR 17186). Approval of the Navajo plan is codified at 30 CFR 756.13. Subsequent actions concerning the Navajo plan and plan amendments can be found at 30 CFR 756.14.

III. Proposed Amendment

By letter dated January 12, 1995, the Navajo Nation submitted a proposed amendment to its AMLR plan pursuant to SMCRA (administrative record No. NA-227). The Navajo Nation submitted the proposed amendment at its own initiative and in response to the final rule **Federal Register** notice acknowledging that the Navajo Nation would amend its AMLR Code of 1987 to provide for the reclamation of interim program coal sites (59 FR 49178, 48181, finding No. 1(f), September 27, 1994; administrative record No. NA-225). The

Navajo Nation proposed the addition of new language at section 404(b) of its AMLR Code to provide for such reclamation.

OSM announced receipt of the proposed amendment in the February 10, 1995, **Federal Register** (60 FR 7926), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. NA-232). Because no one requested a public hearing or meeting, none was held. The public comment period ended on March 10, 1995.

During its review of the proposed amendment, OSM identified concerns relating to the provisions of the Navajo AMLR Code of 1987 at section 404(b)(2) pertaining to the dates used to define interim program coal sites, and the lack of a provision requiring a determination that there are insufficient funds to provide for adequate reclamation or abatement at the site. OSM notified the Navajo Nation of the concerns in a telephone conversation of February 23, 1995 (administrative record No. NA-233).

The Navajo Nation responded in a letter dated February 23, 1995, by submitting a revised amendment (administrative record No. NA-234). Based upon the revisions to the proposed plan amendment submitted by the Navajo Nation, OSM reopened the public comment period in the March 10, 1995, **Federal Register** (60 FR 13086, administrative record No. NA-236). The public comment period ended on March 27, 1995.

IV. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 884.14 and 884.15, finds that the proposed Navajo plan amendment as submitted by the Navajo Nation on January 12, 1995, and as revised by it on February 23, 1995, is not inconsistent with SMCRA and is in compliance with the corresponding Federal regulations at 30 CFR 884.14 and 884.15. Thus, the Director approves the proposed amendment.

1. Nonsubstantive Revisions to the Navajo Nation AMLR Code of 1987

The Navajo Nation proposed to recodify sections 404 (a) and (c), eligible lands and water, of its AMLR Code of 1987, (corresponding provisions at section 404 of SMCRA).

Because the recodification of this previously-approved section of the Navajo Nation's AMLR Code is nonsubstantive in nature, the Director finds it is not inconsistent with SMCRA.

The Director approved the proposed recodification.

2. Reclamation of Interim Program Coal Sites

The Navajo Nation proposed the addition of provisions at section 404(b) of its AMLR Code to provide for the reclamation of interim program coal sites. Such sites were left in either unreclaimed or inadequately reclaimed condition (1) between August 4, 1977, and September 28, 1984, and the amount of the bond or other financial guarantee is insufficient to provide for adequate reclamation or abatement at the site, or (2) where the mining occurred between August 4, 1977, and November 5, 1990, and the surety of the mining operator became insolvent, and as of November 5, 1990, funds immediately available from proceedings relating to such insolvency or from any other source were insufficient to provide adequate reclamation or abatement at the site. In addition, to qualify for reclamation or abatement, such sites must be either priority 1 or 2 sites pursuant to section 403(a) (1) and (2) of SMCRA, and priority will be given to those sites in the immediate vicinity of a residential area or which have an adverse economic impact upon a community.

Proposed section 404(b) of the Navajo Nation AMLR Code contains the same requirements as the counterpart Federal requirements at section 402(g)(4) of SMCRA. Therefore, the Director finds that the proposed AMLR Code provisions are consistent with the counterpart SMCRA provisions. The Director approves proposed section 404(b) of the Navajo Nation AMLR Code.

V. Summary and Disposition of Comments

Following are summaries of all substantive written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

1. Public Comments

OSM invited public comments on the proposed amendment, but none were received.

2. Agency Comments

Pursuant to 30 CFR 884.15(a) and 884.14(a)(2), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Navajo plan (administrative record Nos. NA-231 and NA-235).

(a) *Arizona State Historic Preservation Officer (SHPO)*. On March 13, 1995, the