

as requested by EEI, public utilities would have a window of time to enter into new contracts, agreements or arrangements that would not have to comply with the new pricing restrictions. It is therefore important that we not change the effective date of the rule. Although we will not change the effective date of the rule, the Commission recognizes that many companies, particularly those not previously subject to the same or similar pricing restrictions as a result of a merger order or a market-based rate authorization, may need further time to ensure that they will be in compliance with the new restrictions and/or to obtain clarification from the Commission upon rehearing of the final rule.

4. Accordingly, upon consideration of the concerns raised by EEI, the Commission will grant an extension of time until 30 days after the issuance of an order on rehearing of Order No. 707 or until July 1, 2008, whichever comes later, for any contracts, agreements or arrangements entered into on or after March 31, 2008 to comply with the requirements of Order No. 707. This means that if utilities enter into contracts, agreements or arrangements on or after March 31, 2008, and if the pricing under such contracts, agreements or arrangements is not consistent with the pricing requirements as they may be clarified or modified by the Commission on rehearing of Order No. 707, these utilities will not be subject to enforcement action for non-compliance for the period beginning March 31, 2008 until the later of July 1, 2008 or 30 days after issuance of an order on rehearing of Order No. 707. However, such contracts, agreements or arrangements will either: (1) Need to contain a provision making them automatically subject to compliance with the pricing restrictions, as they may be clarified or modified on rehearing, as of the later of July 1, 2008 or 30 days after issuance of an order on rehearing; or (2) need to be modified to make them consistent with the pricing restrictions as of the later of July 1, 2008 or 30 days after issuance of an order on rehearing.

The Commission Orders

The Commission hereby grants an extension of time for compliance with Order No. 707, as discussed in the body of this order.

By the Commission.

Kimberly D. Bose,
Secretary.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 756

[SATS No. CR-1-FOR; Docket ID OSM-2007-0019]

Crow Tribe Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of certification.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are concurring with the Crow Tribe's certification that it has abated or reclaimed all coal-related abandoned mine land (AML) problems on Crow lands.

DATES: *Effective Date:* April 1, 2008.

FOR FURTHER INFORMATION CONTACT: Jeffrey Fleischman, Casper Field Office Director, Telephone: (307) 261-6550, Internet address: jfleischman@osmre.gov

SUPPLEMENTARY INFORMATION:

- I. Background on the Crow Plan
- II. Submission of the Proposed Amendment
- III. Office of Surface Mining Reclamation and Enforcement's (OSM's) Findings
- IV. Summary and Disposition of Comments
- V. OSM's Decision
- VI. Procedural Determinations

I. Background on the Crow Plan

The Abandoned Mine Land Reclamation Program was established by Title IV of the Surface Mining Control and Reclamation Act (SMCRA, or the Act)(30 U.S.C. 1201 *et seq.*) in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded by a reclamation fee collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal mines and for other authorized activities. Section 405 of the Act allows States and Indian tribes to assume exclusive responsibility for reclamation activity within the State or on Indian lands if they develop and submit to the Secretary of the Interior for approval, a program (often referred to as a plan) for the reclamation of abandoned coal mines. On January 4, 1989, the Secretary of the Interior approved the Crow Tribe's abandoned mine land reclamation plan (herein after the Crow Plan). You can find general background information on the Crow Plan, including the Secretary's findings and the disposition of comments, in the January 4, 1989, **Federal Register** (54 FR 116).

You can also find later actions concerning the Crow Plan and plan amendments at 30 CFR 756.20.

II. Submission of the Proposed Amendment

By letter dated May 29, 2007, the Crow Tribe indicated to OSM that all coal-related impacts on abandoned mine lands within the Crow Reservation have been successfully addressed under SMCRA (30 U.S.C. 1201 *et seq.*) (Administrative Record No. OSM-2007-0019-0006). The Crow Tribe sent the request for concurrence with its certification at its own initiative with the intent of implementing a non-coal reclamation program under its current Plan. The Crow Tribe will most likely be required to revise its AMLR Plan in the future to implement a program under section 411 of SMCRA.

We announced receipt of the proposed certification in the December 17, 2007, **Federal Register** (72 FR 71291). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the certification's adequacy (Administrative Record No. OSM-2007-0019-0001). We did not hold a public hearing or meeting because no one requested one. We received comments from one industry group, one State agency and three Federal agencies.

III. OSM's Findings

As discussed below, the Director of OSM, in accordance with SMCRA and 30 CFR 756.1, 884.14 and 884.15, finds that the proposed certification of completion submitted by the Crow Tribe on May 29, 2007, meets the requirements of SMCRA and the Federal regulations at 30 CFR 884.14. Accordingly, we are approving the certification.

The Chairman of the Crow Nation notified the Secretary of the Department of the Interior that the Crow Tribe certifies to the completion of all its coal reclamation projects. Section 411(a) of SMCRA provides that the head of an Indian tribe may certify to the Secretary that all of the priorities stated in section 403(a) of SMCRA for eligible lands and water have been achieved and that the Secretary, after notice in the **Federal Register** and opportunity for public comment, shall concur with such certification if the Secretary determines that such certification is correct.

Since the Secretary's approval of the Crow Plan, the Crow Tribe has conducted reclamation to correct or mitigate problems caused by past coal mining. The Crow Tribe has completed this reclamation in the order of priority

set forth in section 403(a) of SMCRA. OSM acknowledges the potential for problems occurring in the future which relate to pre-August 3, 1977, coal mining. In accordance with 30 CFR 875.13(a)(3), the Crow Tribe agrees to acknowledge and give top priority to any coal-related problem(s) that may be found or occur after submission of the certification of completion.

Based upon the Crow Tribe's May 29, 2007, certification and the absence of any known unreclaimed AML coal-related impacts, the Director of OSM, on behalf of the Secretary, concurs with the Crow Tribe's certification that all coal-related abandoned mine land problems have been abated or reclaimed, and finds that the Crow Tribe has satisfied the requirements of section 403 of SMCRA. If a coal problem occurs or is identified in the future, the Crow Tribe must reclaim the coal-related problem. Concurrence with the Crow Tribe's certification of completion of coal reclamation means that the Crow Tribe may now utilize funds provided under Title IV of SMCRA in accordance with section 411 and its current plan.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the certification, but did not receive any (Administrative Record No. OSM-2007-0019-0001).

Industry Group Comments

On November 13, 2007, we received an e-mail from Westmoreland Resources. It is not aware of any unreclaimed coal mine lands or water under Crow jurisdiction and has no objection to the certification request (Administrative Record No. OSM-2007-0019-0003).

State Agency Comments

Under 30 CFR 884.14(a)(2) and 884.15(a), we requested comments on the certification from various State and Federal agencies with an actual or potential interest in the Crow Plan (Administrative Record No. OSM-2007-0019-0009).

On November 9, 2007, we received a letter from the Montana Historical Society stating that it has no information regarding the Crow Tribe's continuing reclamation responsibilities (Administrative Record No. OSM-2007-0019-0002).

Federal Agency Comments

On November 21, 2007, we received a letter from the Bureau of Indian Affairs stating that it is unfamiliar with the total Crow Reservation and is

turning to the Superintendent of the Crow Agency for assistance in notifying OSM of any coal mining impacts that have not been reclaimed (Administrative Record No. OSM-2007-0019-0005).

On November 29, 2007, we received a letter from the U.S. Geological Survey stating that it has no comments on the Crow Tribe's requested certification of completion (Administrative Record No. OSM-2007-0019-0004).

On January 10, 2008, we received a letter from the Office of Indian Energy and Economic Development stating that it is not aware of any unreclaimed lands or water resources affected by coal mining prior to August 3, 1977, on the Crow Reservation (Administrative Record No. OSM-2007-0019-0010).

The comments listed above do not raise any concern or objection to the Crow Tribe's requested certification of completion. These comments do not require further response.

V. OSM's Decision

Based on the above findings, we approve the Crow Tribe's May 29, 2007, certification of completion.

To implement this decision, we are amending the Federal regulations at 30 CFR 756.20, which codifies decisions concerning the Crow Plan. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 405(d) of SMCRA requires that the Tribe have a program that is in compliance with the procedures, guidelines, and requirements established under the Act. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of Tribal and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. It merely confirms a factual determination made by the Crow tribe.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowable by law, 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 Tribal AMLR plans and revisions thereof because each plan is drafted and promulgated by a specific Tribe, not by OSM. Decisions on proposed Tribal AMLR plans and revisions thereof submitted by a Tribe 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 Part 884.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have identified potential effects on a federally recognized Indian tribe (the Crow Tribe) that will result from this rule which is based on an amendment submitted by the Crow Tribe. This rule will enable the Crow Tribe to use AMLR grant monies to implement a non-coal program under its current Plan. We have been in consultation with the Crow Tribe and have fully considered tribal views while developing this final rule.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed Tribal AMLR plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

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. 3501 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies 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 rule applies only to the Crow tribe, and it simply confirms a factual determination made by the tribe.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), of the Small Business Regulatory Enforcement Fairness Act. This rule:

- a. Does not have an annual effect on the economy of \$100 million.
- b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, Tribal or local government agencies, or geographic regions.
- c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or

the ability of U.S. based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the rule merely confirms a factual determination made by the Crow tribe.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that the rule merely confirms a factual determination made by the Crow tribe.

List of Subjects in 30 CFR Part 756

Abandoned mine reclamation programs, Indian lands, Surface mining, Underground mining.

Dated: March 18, 2008.

Billie E. Clark Jr,
Acting Regional Director, Western Region.

- For the reasons set out in the preamble, Title 30, Chapter VII,

Subchapter E (Tribes) of the Code of Federal Regulations is amended as set forth below:

**PART 756—INDIAN TRIBE
ABANDONED MINE LAND
RECLAMATION PROGRAMS**

- 1. The authority citation for part 756 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.* and Pub. L. 100-71.

- 2. Section 756.20 is amended by adding paragraph (a) and adding and reserving paragraph (b) to read as follows:

§ 756.20 Approval of amendments to the Crow Tribe's abandoned mine land reclamation plan.

* * * * *

- (a) The Director concurs with the Crow Tribe's May 29, 2007, certification of completion of coal reclamation effective April 1, 2008:

Original amendment submission date	Date of final publication	Citation/description
May 29, 2007	April 1, 2008	756.20 Certification of Completion.

(b) [Reserved]

[FR Doc. E8-6692 Filed 3-31-08; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG-2008-0111]

Drawbridge Operation Regulations; Piscataqua River, Portsmouth, NH, and Kittery, ME

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Memorial (US 1) Bridge across the Piscataqua River at mile 3.5, between Portsmouth, New Hampshire and Kittery, Maine. Under this temporary deviation, the bridge may remain in the closed position. This deviation is necessary to facilitate scheduled bridge maintenance.

DATES: This deviation is effective from 7 a.m. on April 21, 2008 through 7 a.m. on April 26, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-0111 and are available online at <http://www.regulations.gov>. They are also available for inspection or copying at two locations: The Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, between 7 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223-8364.

FOR FURTHER INFORMATION CONTACT: John McDonald, Project Officer, First Coast Guard District, at (617) 223-8364.

SUPPLEMENTARY INFORMATION: The Memorial (US 1) Bridge, across the Piscataqua River at mile 3.5, between Portsmouth, New Hampshire and Kittery, Maine, has a vertical clearance in the closed position of 11 feet at mean high water and 19 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.531.

The owner of the bridge, New Hampshire Department of

Transportation, requested a temporary deviation to facilitate scheduled bridge maintenance, counterweight rope replacement.

Under this temporary deviation, in effect from 7 a.m. on April 21, 2008 through 7 a.m. on April 26, 2008, the Memorial (US 1) Bridge may remain in the closed position. Vessels that can pass under the bridge without a bridge opening may do so at all times.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Should the bridge maintenance authorized by this temporary deviation be completed before the end of the effective period published in this notice, the Coast Guard will rescind the remainder of this temporary deviation, and the bridge shall be returned to its normal operating schedule. Notice of the above action shall be provided to the public in the Local Notice to Mariners and the **Federal Register**, where practicable.

Dated: March 20, 2008.

Gary Kassof,
Bridge Program Manager, First Coast Guard District.

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