

section, the agency is now required to sign the agreement and return it to OSM within the 20-day period. Since the grant, when signed by the Director, would obligate funds, subsection (c) states that failure of the State/Indian tribe to execute the grant within 20 days would result in a deobligation of the total Federal grant amount. Thus, if the signed agreement is not returned to OSM by the close of business on the 20th day after the designated OSM official signs it and OSM has not granted an extension, OSM will initiate deobligation procedures.

Several commenters have stated that OSM should allow liberal extensions of the 20-day period to execute a grant agreement based upon reasonable justification provided by the State/Indian tribe. Otherwise, commenters note, grantees could be faced with automatic premature deobligations simply because they are unable to obtain the appropriate approvals and authorizing signatures within the 20 calendar day period.

OSM has accepted this comment and made a change in the language of § 886.16(c) to provide that an extension of time may be approved verbally or in writing by the individual delegated the authority to sign grant agreements. Specifically, the word "formally" has been deleted to allow an oral or other less formal mechanism of approval. OSM notes that the States/Indian tribes are the primary delivery mechanism for the AML program. The actual signing of the grant agreements is not a complex matter; OSM will endeavor to continue to keep it as uncomplicated as possible.

In addition, one commenter has requested that the 20-day period of § 886.16(c) be lengthened to 45 days to allow sufficient time to execute grant agreements.

OSM has declined to extend the 20-day period based upon experience over the past decade that reflects that there has been few if any problems encountered by the involved parties in meeting the specified time period.

New §§ 886.16(d) and 886.16(e) are added to clarify that compliance with NEPA is required before AML grant funds may be used by the State/Indian tribe and that a completed Form OSM-76 must be submitted prior to the use of funds for construction activities. Currently, OSM grant procedure requires NEPA compliance at the construction grant award stage. Since the issuance of a grant need not contain authorization of expenditures for any specific project, that action should not require NEPA compliance. Instead, NEPA compliance is deferred until the State/Indian tribe requests authorization

to expend funds under the grant. The actual initiation of each project is the action that might have a significant effect on the environment. Under these procedures, NEPA documentation would be developed as a normal part of project planning rather than up front in a grant application. Although OSM field office approval would still be required before the States/Indian tribes are authorized to proceed with individual projects, OSM believes that the overall management of the grant by the States/Indian tribes is enhanced by this action.

One commenter stated that § 886.16(d) should be revised to clarify that the provisions of the National Environmental Policy Act of 1969 apply to coal AML projects only and not to noncoal projects.

OSM disagrees with this comment. NEPA applies to both coal and noncoal projects. NEPA compliance must occur for every project.

Prior to the time that authorization to expend funds for construction activities is requested, information specific to the project is provided to the OSM field office by the State/Indian tribe. The required information is provided on the Form OSM-76, Abandoned Mine Land Problem Area Description (OMB No. 1029-0081). This information conforms to that required in section 405(f) of SMCRA.

Several commenters asked for clarification on whether the filing of Form OSM-76 with grant applications applies to both coal and noncoal projects. Commenters objected to having to file a Form OSM-76 with noncoal projects.

Although unfunded noncoal problem areas/projects do not have to be included in the AML inventory, if such projects are funded, OSM is required under section 403(c) of SMCRA to establish procedures for, and to track, accomplishments. This is being implemented for all Title IV projects through States/Indian tribes submitting information on Form OSM-76.

It is noted that budgets are "revised" and grants are "amended." Because of the method of approving an AML grant, a budget by itself is not required to be revised. Thus, the title of Section 886.17 would be changed from "Grant and budget revisions" to read "Grant amendments."

Section 886.17 is amended by revising paragraph (a)(1) which refers to OMB Circular A-102. This editorial change properly refers to the Grants Management Common Rule. This editorial change has been made throughout this rule.

Paragraph (a)(2) of § 886.17, which discusses events that trigger notification

requirements, is revised by deleting subparagraphs (i) and (ii) and inserting language specifying that notification is necessary for changes that will result in an extension of the grant period, or require additional funds, or make a budget transfer from administrative costs to project costs or vice versa. This revision eliminates the need to notify OSM of project-specific changes, but retains the mandates of the Grants Management Common Rule. This simplifies the grant process; OSM would not require project-by-project approval of State/Indian tribe AML projects at the time of initial grant approval. Thus, a grant amendment would not be necessary merely due to changes in individual projects that do not effect the overall grant period, funding, or cost category.

Several commenters stated that § 886.17(a)(2) should be revised to clarify that budget transfers, from administrative costs to project costs to indirect costs and vice versa, require notification only and do not require a grant amendment.

OSM disagrees with the comments. The Grants Management Common Rule, (43 CFR part 12, subpart C.30(c)(3)), requires that when a grant provides funding for both construction and nonconstruction activities, the grantee must obtain prior written approval from the awarding agency before making any fund or budget transfers from nonconstruction to construction or vice versa. This requirement is being implemented by the grantee formally amending its approved budget.

Likewise, paragraphs (b)(1) and subparagraphs (b)(3) (i)-(iii) of section 886.17, which require OSM approval for budget revisions of \$5,000 or 5 percent of the grant amount, except in certain enumerated circumstances, are removed by these amendments. Thus, the requirements in paragraphs (b)(1) and (b)(3) (i)-(iii) of section 886.17 are deleted in favor of the new instructions in revised paragraph 886.17(a)(2). This is a conforming change that is brought about by the Grants Management Common Rule and would codify existing practices.

In addition, paragraph (b)(2) of section 886.17 is revised to allow OSM 30 days, instead of the current 15 days, in which to either approve or disapprove the amendment. Paragraph (b)(2) is redesignated as subsection (b). The proposed 30-day time limit reflects OSM's evaluation of the time needed to complete its review of the amendment.

In regard to paragraph 886.17(b)(2), one commenter stated that they prefer 15 days instead of the specified 30-day