

period to approve or disapprove grant amendments.

Based on past experience, OSM is of the opinion that a 30-day period provides a reasonable and sufficient time to review and approve or disapprove a grant amendment. Accordingly, OSM has not acted upon this comment and will endeavor to process all grant amendments as quickly as possible within the 30-day period contemplated by the regulation.

Section 886.18, discussing conditions for grant reduction, suspension, and termination, is amended by revising paragraph (a)(2) to make a minor editorial change to the reference from 30 CFR 872.11(b)(2) to 30 CFR 872.11(b)(1) and 872.11(b)(2). This is a conforming change made necessary by rulemaking to implement the AMRA, Pub. L. 101-508.

In the interest of clarity, OSM has decided to substitute the word "obligate" for "expend" in paragraph 886.18(a)(2). Paragraph 402(g)(1)(D) of SMCRA uses the term "expended," but the term "obligate" is deemed to be a more technically correct financial term to reflect an irrevocable commitment of funds by a grantee.

In regard to paragraph 886.18(a)(2), one commenter observed that if a grantee fails to expend distributed funds within a 3-year grant period, those funds will be expended by the Secretary to accomplish the purposes of Title IV. The commenter disagrees with this section due to annual distribution decreases and anticipated future decreases due to the amendments to SMCRA. The commenter feels that all distributed funds should be utilized only by the respective State/Indian tribe for the purposes of Title IV.

Except for the editorial change previously mentioned, OSM does not believe that any changes should be made to this regulation. Section 402(g)(1)(D) of SMCRA specifically provides for the Secretary to use moneys granted, but not expended, within 3 years after the grant award. Note however, that even though the language of this provision has not been modified, OSM has always been able to work with the States/Indian tribes on expending appropriated funds.

Paragraph (a)(3) of section 886.18 is also revised by specifying that certain Indian tribes may receive reclamation funds without having an approved regulatory program. Under the 1987 amendments to SMCRA, the Crow, Hopi, and Navajo Indian tribes do not have an approved Title V program prior to being eligible to receive AML funds. See 30 U.S.C. 1235(k) (1988).

Subsection 886.18(b) is replaced by a new subsection (b). The new subsection (b) incorporates remedial measures outlined in the Grants Management Common Rule.

Also, the current subsection (b) is revised and redesignated as subsection (c). This new subsection (c) contains editorial changes to indicate that the "OSM official delegated grant signature authority" is the person who would give notice of grant reduction, suspension, or termination of a grant. In addition, subsection (c) requires certified mail transmittal of the required written notice. Subsection (c) also adds a new paragraph (7) that would incorporate the concept of mutual termination of a grant as outlined in the Grants Management Common Rule.

Likewise, the current subsection 886.18(c) is redesignated as subsection (d) and revised to clarify that State or Tribal appeals of OSM decisions to reduce, suspend, or terminate a grant are evaluated to the Director of OSM. This rule provides that the Director would have 30 days from receipt to decide the appeal. The Director's decision could then be appealed to the Secretary.

These appeals would be processed in accordance with existing OSM procedures. OSM has elected not to codify the details of this process since the procedures may be amended as necessary.

One commenter stated that, before reduction or termination of a grant, the grantee should be allowed to complete the appeal process provided in Subsection 886.18(d). Hence, paragraph 886.18(c)(2) should be revised to provide for the initiation and completion of the appeals process before any final action is taken to reduce or terminate a grant.

OSM accepts this comment and notes that no regulatory language change is required because the authority to appeal a reduction, suspension or termination of a grant exists in paragraph 886.18(d). Under this paragraph the Director must decide the appeal within 30 days of receipt. Further, a grantee can then appeal the Director's decision to the Secretary who also has 30 days to act upon the appeal.

Section 886.19, which explains requirements for an audit, is revised to remove an outdated reference to OMB Circular A-102.

Two commenters requested further clarification of Section 886.19 by incorporating appropriate reference to specific published Office of Management and Budget guidance.

In order to provide guidance to grantees, OSM has revised section

886.19 to state that the agency shall arrange for an independent audit pursuant to guidance provided by the General Accounting Office and the Office of Management and Budget. This revision is being done in a general fashion because the applicable circulars and other guidance documents could be modified and/or combined in the future.

Section 886.20, which outlines administrative procedures for agencies under this Part, is revised by replacing references to OMB Circular A-102 with the Grants Management Common Rule. This change will alleviate the need for rulemaking to effectuate every minor change in form requirements. No comments were received on this section which is adopted as proposed.

Section 886.21, outlining allowable costs, is revised by deleting the work "project" in paragraph (a). As discussed throughout this rulemaking, these amendments eliminate certain project specific grant procedures under the AML program. The revision will have little substantive effect since previous grants, although containing project-specific information, were for overall reclamation activities.

One commenter has noted that "acquisition of land" is an allowable cost. That commenter has stated that OSM may want to clarify § 886.21(a) to note that acquisition is limited to lands affected by coal and noncoal mining, i.e., does not include public facility projects authorized under Section 411(f) of SMCRA.

OSM has not made any change to § 886.21. This is a general provision that addresses grants as a whole; if specific limitations exist in Title IV of SMCRA, those limitations would have to be complied with as required.

Section 886.22(a) contains some editorial changes in order to properly reference the Grants Management Common Rule. In addition, subsection (d), mandating that drawdowns be made by the agency as closely as possible to the time of making disbursements, is revised by requiring that when advances are appropriate, they should be made as closely as possible to the actual time of disbursement. This change will reflect current practice and procedure. No comments were received on this section which is thus adopted as proposed.

Section 886.23 is amended by replacing the semi annual reporting requirement with an annual reporting requirement. In the view of OSM, annual reporting is sufficient to ensure proper Federal oversight. The AML program has been in effect in most States for over a decade. This change represents the growing maturity of these