

#### *7. Executive Order 12988—Civil Justice Reform*

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

#### *8. Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. As previously stated, three tribes will be affected by the rule, the Hopi, the Navajo and the Crow. The administration of the AML program by a State or Indian Tribe is funded at 100 percent by the Federal Government and the decision by a State or Indian Tribe to participate is voluntary.

#### *9. Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not considered a “significant energy action” under Executive Order 13211. The administration of the AML program will not have a significant effect on the supply, distribution, or use of energy.

#### *10. Paperwork Reduction Act*

This rule does not contain a collection of information requiring clearance under the Paperwork Reduction Act by the Office of Management and Budget.

#### *11. National Environmental Policy Act*

OSM prepared an environmental assessment (EA) for the Enhancing AML Reclamation Rule (RIN 1029-AB89) published on February 12, 1999, at 64 FR 7470 and made a Finding of No Significant Impact (FONSI) on the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). The EA and FONSI are on file in the OSM Administrative Record for the rule. That determination is valid for the publication of this rule.

#### *12. Administrative Procedure Act*

This final rule has been issued without prior public notice or opportunity for public comment. The Administrative Procedure Act (APA) (5 U.S.C. 553) provides an exception to the notice and comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary or contrary to the public interest. OSM has determined that under 5 U.S.C. 553(b)(3)(B) good cause exists for dispensing with the notice of proposed rulemaking and public comment procedures for this rule. Specifically, this rulemaking clarifies the implementation of existing regulatory language and does not add or remove any substantive requirements. For the same reasons, OSM has good cause under 5 U.S.C. 553(d) of the APA to have the regulation become effective on a date that is less than 30 days after the date of publication in the **Federal Register**.

#### **List of Subjects in 30 CFR Part 707**

Highways and roads, Incidental mining, Reporting and recordkeeping

requirements, Surface mining, Underground mining.

Dated: November 3, 2003.

**Rebecca W. Watson,**

*Assistant Secretary, Land and Minerals Management.*

For the reasons given in the preamble, 30 CFR part 707 is amended as set forth below:

#### **PART 707—EXEMPTION FOR COAL EXTRACTION INCIDENT TO GOVERNMENT-FINANCED HIGHWAY OR OTHER CONSTRUCTION**

■ 1. The authority citation for part 707 continues to read as follows:

**Authority:** Secs. 102, 201, 501, and 528 of Pub. L. 95–87, 91 Stat. 448, 449, 467, and 514 (30 U.S.C. 1202, 1211, 1251, 1278).

■ 2. In § 707.5, the definition of *Government-financed construction* is revised to read as follows:

#### **§ 707.5 Definitions.**

\* \* \* \* \*

*Government-financed construction* means construction funded at 50 percent or more by funds appropriated from a government financing agency's budget or obtained from general revenue bonds. Government financing at less than 50 percent may qualify if the construction is undertaken as an approved reclamation project under Title IV of the Act. Construction funded through government financing agency guarantees, insurance, loans, funds obtained through industrial revenue bonds or their equivalent, or in-kind payments does not qualify as government-financed construction.

[FR Doc. 03–28994 Filed 11–19–03; 8:45 am]

**BILLING CODE 4310–05–P**