

notice. We subsequently reviewed our own records and discovered that we had never received any public comments to the required § 875.15(f) **Federal Register** notices. We then polled the 6 eligible AML programs on the public response to their own subsection (e)(7) public notice efforts. All of the programs questioned the need for the required § 875.15(f) **Federal Register** notice and reported a general lack of public response to their individual (e)(7) public notice efforts. The response of Wyoming, which is by far the largest of the AML programs certified under § 875.13 and which has funded thirty-six (36) § 875.15 public facilities projects with AML grant funds, was of particular note. Although Wyoming's AML program provides for extensive local public notice and a public hearing on all proposed § 875.15 projects, that State reported that "even these local opportunities for comment elicit little if any response from those directly impacted by the project." This consistent lack of local response to local notice from the Wyoming AML program regarding prospective § 875.15 projects underscores the fact that the current rule's requirement for additional **Federal Register** notice, while helpful in theory, has not produced meaningful public notice and comment.

Our polling of the 6 States and Indian tribes brought to light additional reasons not to retain the current rule's **Federal Register** notice requirement. The Navajo Nation, which has a substantial number of applications ready for processing as soon as its revised AML plan is approved, strongly opposes the current rule's required **Federal Register** notice because of its own internal AML notice procedures. By tribal law, the Navajo Nation has had to hold public meetings for each of its 100 or more individual political units whenever AML funds are to be used anywhere in their tribal boundaries for the construction of public facilities. The current rule's § 875.15(f) required **Federal Register** notice would, therefore, trigger a redundant, time-consuming round of tribal meetings on the very same projects.

Another reason given by some of the States and Indian tribes for opposing the continuance of the § 875.15(f) required **Federal Register** notice is that, for programs with shorter construction seasons like those of Montana and Wyoming, the required **Federal Register** notice adds 45 to 60 days to the project approval process. These additional 45 to 60 days can push completion of a funded public facility well into the next construction season.

In light of the above, we are removing the requirement in § 875.15(f) that the Director always publish a **Federal Register** notice informing the public of the grant application. Instead, the Director will retain the option of publishing such notice if his/her analysis and review of the notice information required under § 875.15(e)(7) indicates that inadequate procedures were used to notify and involve the public in the funding request. In this way, we can ensure that the public has been fully apprised of the grant application while also being protected from the delay and expense of an unnecessary **Federal Register** notice.

Technical Corrections

In addition to the above, we are also revising our regulations at §§ 875.15(d) and (e) to correct errors in four existing cross-references. In § 875.15(d), we are changing the cross references from paragraphs (a), (d), and (e) to paragraphs (b), (e), and (f), respectively. In § 875.15(e), we are changing the cross reference from paragraph (c) to paragraph (d). These revisions to the cross references will not result in any substantive changes in the application of our regulations.

Finally, we have rewritten § 875.15(f) in plain language format by incorporating numbered paragraphs to make the section more reader friendly. No substantive changes resulted from using the plain language format.

II. Discussion of the Public Comments Received

Comments were requested on the proposed rule and a total of two comments were received. They were from the State of Wyoming's Abandoned Mine Land Program and the Interstate Mining Compact Commission. Both commenters supported the proposed revisions. No one requested a public hearing and none was held.

III. How Will This Rule Affect State and Indian Programs?

Following publication of this final rule, we will evaluate the State and Indian programs approved under section 405 of SMCRA to determine any changes in those programs that may be necessary. When we determine that a particular State program provision should be amended, the particular State will be notified in accordance with the provisions of 30 CFR 884.15. We have made a preliminary determination that no program revisions will be required.

IV. Procedural Matters and Required Determinations

Executive Order 12866—Regulatory Planning and Review

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

a. This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities. The elimination of the mandatory requirement to publish a **Federal Register** notice is not expected to have an adverse economic impact on States and Indian tribes. It may in fact reduce construction costs in northern climates by eliminating delays.

b. This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

c. This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

d. This rule does not raise novel legal or policy issues.

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.*). As previously stated, the elimination of the requirement for a mandatory **Federal Register** notice is not expected to have an adverse economic impact. Further, the rule produces no adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete with foreign-based enterprises in domestic or export markets.

Small Business Regulatory Enforcement Fairness Act

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

a. Does not have an annual effect on the economy of \$100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, 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