

within 30 days after the publication of the notice, giving the reason why the application should not be refused or the medicated feed mill license should not be revoked, together with a well-organized and full-factual analysis of the information he is prepared to prove in support of his opposition to the Commissioner's proposal. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing there is a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the information in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the refusal to approve the application or the revocation of approval of the application, the Commissioner will enter an order on this information, stating his findings and conclusions. If a hearing is requested and is justified by the applicant's response to the notice of opportunity for a hearing, the issues will be defined, an Administrative Law Judge will be named, and he shall issue a written notice of the time and place at which the hearing will commence. In the case of denial of approval, such time shall be not more than 90 days after the expiration of such 30 days unless the Administrative Law Judge and the applicant otherwise agree; and, in the case of withdrawal of approval, such time shall be as soon as practicable.

(d) The hearing will be open to the public; however, if the Commissioner finds that portions of the application which serve as a basis for the hearing contain information concerning a method or process entitled to protection as a trade secret, the part of the hearing involving such portions will not be public, unless the respondent so specifies in his appearance.

#### § 515.31 Procedures for hearings.

Hearings relating to new animal drugs under section 512(m)(3) and (m)(4) of the Federal Food, Drug, and Cosmetic Act shall be governed by part 12 of this chapter.

#### Subpart D—Judicial Review

##### § 515.40 Judicial review.

The transcript and record shall be certified by the Commissioner of Food and Drugs. In any case in which the Commissioner enters an order without a hearing under § 314.200(g) of this chapter, the request(s) for hearing together with the data and information submitted and the Commissioner's findings and conclusions shall be

included in the record certified by the Commissioner.

#### PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

21. The authority citation for 21 CFR part 558 continues to read as follows:

**Authority:** Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

##### § 558.3 [Amended]

22. Section 558.3 *Definitions and general considerations applicable to this part* is amended in paragraphs (b)(2) and (b)(5) by removing the phrase "an application approved under 514.105(a) of this chapter" and in paragraphs (b)(3) and (b)(4) by removing the phrase "an application approved under § 514.105(b) of this chapter" and adding in their places "a medicated feed mill license application approved under § 515.20 of this chapter".

23. Section 558.4 is amended by revising the section heading and paragraphs (a), (b), and (c) to read as follows:

##### § 558.4 Requirement of a medicated feed mill license.

(a) A feed manufacturing facility must possess a medicated feed mill license in order to manufacture a Type B or Type C medicated feed from a Category II, Type A medicated article.

(b) The manufacture of the following types of feed are exempt from the required license, unless otherwise specified:

(1) Type B or Type C medicated feed using Category I, Type A medicated articles or Category I, Type B or Type C medicated feeds; and

(2) Type B or Type C medicated feed using Category II, Type B or Type C medicated feeds.

(c) The use of Type B and Type C medicated feeds shall conform to the conditions of use provided for in subpart B of this part and in §§ 510.515 and 558.15 of this chapter.

\* \* \* \* \*

Dated: July 22, 1997.

**William B. Schultz,**

*Deputy Commissioner for Policy.*

[FR Doc. 97-19820 Filed 7-29-97; 8:45 am]

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#### DEPARTMENT OF THE INTERIOR

##### Office of Surface Mining Reclamation and Enforcement

##### 30 CFR Part 924

[SPATS No. MS-012-FOR]

##### Mississippi Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing.

**SUMMARY:** OSM is announcing receipt of a proposed amendment to the Mississippi regulatory program (hereinafter the "Mississippi program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Mississippi Surface Coal Mining and Reclamation Law pertaining to definitions, reorganization, adoption of rules and regulations, small operator assistance program, permit applications, permit fees, reclamation plans, performance bonds, permit issuance, permit reissuance, permit revision, public participation, public hearings, formal hearings, confidentiality claims, environmental protection performance standards, postmining land use, underground coal mining, mine entrance signs, violation complaints, civil penalties, bond release, bond forfeiture, suspension and revocation of permits, designating lands unsuitable for surface coal mining, and creation of a "Surface Coal Mining and Reclamation Fund." The amendment is intended to revise the Mississippi program to be consistent with SMCRA, clarify ambiguities, and improve operational efficiency.

This document sets forth the times and locations that the Mississippi program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

**DATES:** Written comments must be received by 4:00 p.m., c.d.t., August 29, 1997. If requested, a public hearing on the proposed amendment will be held on August 25, 1997. Requests to speak at the hearing must be received by 4:00 p.m., c.d.t. on August 14, 1997.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Arthur

W. Abbs, Director, Birmingham Field Office, at the address listed below.

Copies of the Mississippi program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the address listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Birmingham Field Office.

Arthur W. Abbs, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 135 Gemini Circle, Suite 215, Homewood, Alabama 35209, Telephone: (205) 290-7282.

Mississippi Department of Environmental Quality, Office of Geology, 2380 Highway 80 West, P.O. Box 20307, Jackson, Mississippi 39289-1307, Telephone: (601) 961-5500.

**FOR FURTHER INFORMATION CONTACT:**

Arthur W. Abbs, Director, Birmingham Field Office, Telephone: (205) 290-7282.

**SUPPLEMENTARY INFORMATION:**

**I. Background on the Mississippi Program**

On September 4, 1980, the Secretary of the Interior conditionally approved the Mississippi program. Background information on the Mississippi program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the September 4, 1980, **Federal Register** (45 FR 58520). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 924.10, 924.12, and 924.16.

**II. Description of the Proposed Amendment**

By letter dated May 6, 1997 (Administrative Record No. MS-0338), Mississippi submitted a proposed amendment to its program pursuant to SMCRA. Mississippi submitted the proposed amendment in response to the required amendment at 30 CFR 924.16. On March 10, 1997, the Governor of Mississippi signed Senate Bill No. 2725, which contains both substantive and nonsubstantive changes to the Mississippi Surface Coal Mining and Reclamation Law (Mississippi Code of 1972). The full text of the proposed program amendment submitted by Mississippi is available for public inspection at the locations listed above under **ADDRESSES**. A brief discussion of the proposed amendment is presented below.

**A. Nonsubstantive Changes to the Mississippi Code of 1972**

Mississippi proposes minor wording changes, citation corrections, revised paragraph notations, and other organizational changes resulting from this amendment throughout its statutes, including the following sections: § 53-9-3, Legislative findings and declarations; § 53-9-5, Purpose; § 53-9-19, Financial interest of persons employed under this chapter—penalty—monitoring and enforcement; § 53-9-21, Surface coal mining and reclamation permit—term—extensions—use by successor in interest—termination; § 53-9-49, Authorized departures from performance standards; § 53-9-51, Records, reports and equipment to be maintained by permittees—evaluation of results—specification of monitoring sites—entry and inspection—release of materials to public; § 53-9-61, Criminal penalties—resisting, preventing, impeding, or interfering with performance of duties; § 53-9-63, Nonexclusivity of penalty provisions; § 53-9-73, Cooperation with secretary of interior; § 53-9-75, Application of chapter to public corporations; § 53-9-83, Lease of state coal deposits; § 53-9-85, Enforcement and protection of water rights; and § 53-9-87, Training, examination, and certification of persons responsible for blasting.

**B. Statutes Removed From the Mississippi Code of 1972**

The following statutes were repealed: § 53-9-13, Creation of surface mining and reclamation operations section; § 53-9-15, Creation of surface mining review board; § 53-9-17, Director of bureau of geology and energy resources—powers and duties; § 53-9-59, Criminal penalties—failure to make or making of false statement, representation or certification; § 53-9-79, Review board—judicial review of decision; and § 53-9-91, Fees.

**C. Substantive Changes to the Mississippi Code of 1972**

1. *Section 53-9-7, Definitions.* Mississippi amended its definition section by deleting old terms, adding new terms, and revising existing terms as follows:

The following previously approved defined terms were removed: § 53-9-7(a), Act; § 53-9-7(b), Administrator; § 53-9-7(d), Bureau; § 53-9-7(e), Chief; § 53-9-7(i), Director; § 53-9-7(j), Division; § 53-9-7(r), Public Law 95-87; § 53-9-7(t), Review board; and § 53-9-7(u), Section.

A definition for the term "Appeal" was added at § 53-9-7(a) to mean "an

appeal to an appropriate court of the state taken from a final decision of the permit board or commission made after a formal hearing before that body."

At § 53-9-7(b), the term "Approximate original contour" was revised by adding language which allows water impoundments on reclaimed areas if the permit board determines that the impoundments are in compliance with § 53-9-45(2)(g).

At § 53-9-7(c), the terminology "As recorded in the minutes of the permit board" was defined as "the date of the permit board meeting at which the action concerned is taken by the permit board."

At § 39-9-7(d), the term "Coal" was revised to mean "combustible carbonaceous rock, classified as anthracite, bituminous, subbituminous, or lignite by the American Society of Testing and Materials."

At § 53-9-7(e), the term "Commission" was revised to mean "the Mississippi Commission on Environmental Quality."

At § 53-9-7(f), the term "Department" was revised to mean "the Mississippi Department of Environmental Quality."

At § 53-9-7(g), the term "Executive Director" was defined as "the executive director of the department."

At § 53-9-7(i), the term "Federal Act" was defined as "the Surface Mining Control and Reclamation Act of 1977, as amended, which is codified as Section 1201 et seq. of Title 30 of the United States Code."

At § 53-9-7(j), the term "Formal hearing" was defined to mean "a hearing on the record, as recorded and transcribed by a court reporter, before the commission or permit board where all parties to the hearing are allowed to present witnesses, cross-examine witnesses and present evidence for inclusion into the record, as appropriate under rules promulgated by the commission or permit board."

A definition for "Interested party" was added at § 53-9-7(l) to mean "any person claiming an interest relating to the surface coal mining operation and who is so situated that the person may be affected by that operation, or in the matter of regulations promulgated by the commission, any person who is so situated that the person may be affected by the action."

At § 53-9-7(m), the term "Lignite" was defined as "consolidated lignite coal having less than eight thousand three hundred (8,300) British thermal units per pound, moist and mineral matter free."

At § 53-9-7(p), the term "Permit area" was revised by adding the requirement that the permit area be

covered by the operator's performance bond.

At § 53-9-7(q), the term "Permit board" was defined to mean the permit board created under Section 49-17-28."

At § 53-9-7(r), the term "Person" was revised by adding a joint venture, cooperative, and any agency, unit or instrumentality of federal, state or local government, including any publicly owned utility or publicly owned corporation to those who are considered a person.

The terms "Public hearing," "informal hearing," or "public meeting" were defined at § 53-9-7(t) to mean "a public forum organized by the commission, department or permit board for the purpose of providing information to the public regarding a surface coal mining and reclamation operation or regulations proposed by the commission and at which members of the public are allowed to make comments or ask questions or both of the commission, department or the permit board."

At § 53-9-7(v), the term "Revision" was defined to mean "any change to the permit or reclamation plan that does not significantly change the effect of the mining operation on either those persons impacted by the permitted operations or on the environment, including, but not limited to, incidental boundary changes to the permit area or a departure from or change within the permit area, incidental changes in the mining method or incidental changes in the reclamation plan."

The term "State geologist" was defined at § 53-9-7(x) to mean "the head of the office of geology and energy resources of the department or a successor office."

At § 53-9-7(aa), the terminology "Unwarranted failure to comply" was revised to mean "the failure of a permittee to prevent or abate the occurrence of any violation of a permit, this chapter or any regulations promulgated under this chapter due to indifference, lack of diligence or lack of reasonable care."

2. *Section 53-9-9, General Responsibilities of the Department of Environmental Quality, the Commission on Environmental Quality, and the Permit Board.* The Department of Environmental Quality is designated as the agency to administer the Mississippi program. The Commission on Environmental Quality is designated as the body to enforce the Mississippi program, including the issuance of penalty orders, promulgation of regulations, and designation of lands unsuitable for surface coal mining. The Permit board is designated as the body

to issue, modify, revoke, transfer, suspend, and reissue permits and to require, modify or release performance bonds.

3. *Section 53-9-11, Promulgation of Rules and Regulations by Commission on Environmental Quality.* Section 53-9-11(1) was revised to clarify the Commission on Environmental Quality's (commission) authority and responsibilities for rules and regulations. The commission may adopt, modify, repeal, and promulgate rules and regulations after notice and hearing and in accordance with the Mississippi Administrative Procedures Law. The commission may also enforce rules and regulations and make exceptions to and grant exemptions and variances from them where not otherwise prohibited by Federal or State law. No exceptions, exemptions or variances shall be less stringent than rules and regulations promulgated under SMCRA.

Section 53-9-11(1)(a)(iv) was revised to reflect changes in and add to the list of State agencies that are to receive notice of the public hearing that is required before the adoption of any rules and regulations.

Section 53-9-11(1)(b) was revised by requiring the publication of the notice of the public hearing in one newspaper instead of three.

Section 53-9-11(2) was revised by adding a provision specifying that failure of any person to submit comments within the time period established by the commission would not preclude action by the commission.

4. *Section 53-9-23, Permit Reissuance.* Section 53-9-23(3) was revised by adding a provision that allows an operator, if the application was timely filed, to continue surface coal mining operations until the permit board takes action on his reissuance application.

5. *Section 53-9-25, Application fee—contents of application—Insurance Coverage—Blasting Plan.* Section 53-9-25(1)(a) was revised to require information regarding ownership and performance history of the applicant. Also required is a statement as to whether the applicant, subsidiary, affiliate or persons controlled by or under common control with the applicant had held a mining permit which in the five-year period before filing of the application had been suspended or revoked or the performance bond forfeited.

Section 53-9-25(2)(b) was revised to require that the insurance policy include compensation to persons damaged as a result of surface coal mining and reclamation operations, including use of explosives, and entitled

to compensation under applicable State law.

Section 53-9-25(3) was added to require the applicant to file a list of administrative orders or notices of violation issued under the State act, the law of any state or the United States, any rule or regulation of any department or agency of any state or the United States, related to air or water environmental protection, incurred by the applicant in connection with any surface coal mining operation during the three-year period preceding the filing date of the application. The list also must indicate the final resolution of any orders or notices. This new provision also specifies the conditions and circumstances for which the Permit board will issue or not issue a permit after its review of the applicant and operator's violation history.

6. *Section 53-9-27, Filing of Application.* Mississippi revised § 53-9-27 by requiring an applicant to file a copy of the application for public inspection within 10 days after filing with the permit board and by clarifying the type of information that the applicant may omit from the application filed for public inspection if the commission determines the information to be confidential under § 53-9-43.

7. *Section 53-9-29, Reclamation Plan.* Section 53-9-29(1) was revised by adding the requirement that a reclamation plan include an identification of lands subject to surface coal mining operations over the estimated life of those operations.

At § 53-9-29(5), the applicant must also include in the reclamation plan the steps to be taken to comply with the performance standards applicable to reclamation.

8. *Section 53-9-31, Filing, Deposit, and Adjustment of Bond—Requirement of Surety—Liability Under Bond.* Section 53-9-31(1) was revised by adding the requirements that the performance bond be filed before the issuance of a permit and that the amount of the bond be determined by the permit board after consultation with the state geologist.

Section 53-9-31(2) was revised by adding "letters of credit" to the types of bond allowed in lieu of a surety bond. The banks which issue the alternative types of bond must be insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or a similar federal banking or savings and loan insurance organization.

9. *Section 53-9-33, Requisites for Approval of Application for Permit—Schedule of Notices of Violation—Permit to Mine on Prime Farmland.*

Section 53-9-33 is amended to authorize the permit board to issue, deny, or modify a permit based upon a complete application and to specify general requirements for issuance or modification of a permit, including public notification and opportunity for public hearing. The applicant for a permit or modification of a permit shall have the burden of establishing that the application is in compliance with the requirements of the Mississippi program.

New subsection 53-9-33(4) specifies that no transfer, assignment or sale of the rights granted under any permit shall be made without approval of the permit board.

New subsection 53-9-33(5) requires the permit board to review outstanding permits and allows the permit board to require reasonable modification of the permit provisions during the term of the permit.

10. *Section 53-9-35, Permit Revisions.* This section was revised by specifying that a decision by the executive director to grant or deny a revision of a permit shall be subject to formal hearing and appeal. Existing subsections (2) and (3) were removed and the substantive provisions added to § 53-9-33.

11. *Section 53-9-37, Advertisement of Land Ownership—Public Comment on Intention to Mine or Objections to Application for Permit—Informal Conferences—Authority of Administrator to Conduct Hearings.* Several modifications were made to this section regarding the notification and publication requirements for a permit application and requirements for public hearings, including the following:

At the time of submission, the applicant shall place the notice of land ownership and location in a local and regional newspaper of general circulation in the county in which the proposed mine is to be located. If no local newspaper of general circulation in the county is published, notice shall be published in a regional newspaper and in a newspaper of general statewide circulation published in Jackson, Mississippi.

The failure of any person to submit comments within the time established by the commission shall not preclude action by the commission.

Any interested party may request a public hearing within 45 days after the last publication of the newspaper notice. The permit board shall hold a public hearing in the county of the proposed surface coal mining and reclamation operations within 90 days after receipt of the first request for a public hearing. The public hearing shall be advertised once a week for four

consecutive weeks with the last notice being published at least 30 days before the scheduled public hearing date. Any person requesting transcription of the hearing record shall bear the costs of the transcription. Upon request by an interested party who requested a public hearing, the permit board shall arrange reasonable access to the area of the proposed operation for the purpose of gathering information relevant to the proceeding. Access may not be provided before the public hearing if requested in less than one week of the hearing.

The permit board shall act upon a complete permit application within 60 days after the date of the public hearing. If no public hearing is requested or required, the permit board shall act within 60 days after the last publication of the applicant's newspaper notice. The time frames may be extended if agreed in writing by the department and the applicant.

12. *Section 53-9-39, Disposition of Application for Permit—Manner of Notifying Interested Parties—Hearing Before Permit Board and Notification of Decision—Temporary Relief—Right to Judicial Appeal.* Several modifications were made to this section regarding notification of the action taken by the permit board on a permit application, administrative review of the action, and appeal of the final action, including the following:

Within 14 days after issuing or denying a permit or granting or denying a modification to an existing permit, the permit board shall notify by mail the applicant, the mayor of each municipality and the president of the board of supervisors of each county in which the permit area is located, persons who submitted written comments, and persons who requested the public hearing. The notification shall include a description of the permit area and a summary of the mining and reclamation plan. If the permit board denies the permit, it shall provide the applicant in writing specific reasons for the denial.

Within 45 days after the action of the permit board, the applicant or any other interested party may request a formal hearing. If the permit board fails to take action within the time allowed under § 53-9-37, any interested party may request a formal hearing on that failure to act. Any formal hearing shall be conducted within 60 days after receipt of the first request for a formal hearing. At the conclusion of the formal hearing or within 30 days after the formal hearing, the permit board shall enter in its minutes a final decision affirming, modifying and reversing its prior decision to issue or deny the permit.

The permit board shall mail within seven days after its final decision a notice of that decision to the applicant and all persons who participated as a party in the formal hearing. The deadlines may be extended by written agreement of the parties.

13. *Section 53-9-41, Coal Exploration Permit.* This section was modified by deleting language regarding confidential information. The language on confidential information was added to § 53-9-43.

14. *Section 53-9-43, Confidentiality of Information.* This section was modified by removing the existing language regarding issued permits meeting all applicable performance standards and by adding language on the confidentiality of information. The deleted language was added to § 53-9-45. Section 53-9-43 now authorizes the commission to determine confidentiality claims and to provide penalties for unauthorized disclosure of confidential information. The applicant must submit a written confidentiality claim to the commission before the submission of the information. The commission shall promulgate rules and regulations consistent with the Mississippi Public Records Act regarding access to confidential information. A person convicted of making unauthorized disclosures shall be fined \$1,000 and dismissed from public office or employment.

15. *Section 53-9-45, Promulgation of Regulations and Performance Standards Relating to Surface Mining—Variances.* This section was modified to require surface coal mining and reclamation permits to meet general environmental protection performance standards by adding the language from existing § 53-9-43.

It was also amended to make various clarifying language revisions to the existing provisions concerning the general environmental protection performance standards that the commission shall promulgate by regulations, including the following:

At § 53-9-45(2)(c), the regulations shall assure restoration of the approximate original contour of the land with all highwalls, spoil piles and depressions eliminated, unless an exception is provided under § 53-9-45.

At § 53-9-45(2)(g), the operator may elect to impound water to provide lakes or ponds for wildlife, recreational or water supply purposes if it is a part of the approved mining and reclamation plan and if those impoundments are constructed in accordance with applicable Federal and state laws and regulations.

At § 53-9-45(2)(h), the regulations shall govern the proper conduct of augering operations or prohibit those operations under certain circumstances.

At § 53-9-45(4)(b)(ii), additional criteria was added for a variance from the requirement to restore to approximate original contour and to reclaim the land to an industrial, commercial, residential or public use. Notification must be made to appropriate Federal, state, and local governmental agencies providing an opportunity to comment on the proposed use; the proposed postmining land use must be compatible with adjacent land uses and state and local and land use planning; and the proposed postmining land use must be economically practical.

16. *Section 53-9-47, Promulgation of Regulations Relating to Surface Effects of Underground Coal Mining.* This section was amended to make various clarifying language revisions to the existing provisions concerning the surface effects of underground coal mining operations that the commission may promulgate by regulations, including the following:

At § 53-9-47(1), the commission is now given the option of promulgating regulations regarding the surface effects of underground coal mining operations.

Section 53-9-47(2)(d) was revised by clarifying the contents of the waste piles that must be stabilized. The operator must stabilize all waste piles containing mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine workings or excavations.

17. *Section 53-9-53, Mine Entrance Sign.* This section was revised by adding additional information that the mine entrance sign must contain. The signs must also state that questions and complaints regarding the operation may be directed to the department and it must show the department's telephone number.

18. *Section 53-9-55, Civil Penalties.* This section was amended to add new provisions and make various clarifying language revisions to the existing provisions concerning administrative enforcement and assessment of civil penalties, including the following:

Section 53-9-55(1)(a) authorizes the commission to issue a written complaint for violations of the Mississippi program. It specifies the content of the written complaint and requires the alleged violator to appear before the commission not less than 20 days from the date of the mailing or service of the complaint. Section 53-9-55(1)(b) requires the commission to offer an opportunity for a formal hearing, and allows the commission to assess

penalties. Section 53-9-55(1)(c) specifies the requirements for proof of service for notices or other instruments issued by or under authority of the commission.

Section 53-9-55(2) authorizes the commission, after notice and opportunity for a formal hearing, to assess a civil penalty not to exceed \$25,000 per violation. If a cessation order is issued under Section 53-9-69, the commission shall assess a civil penalty.

Section 53-9-55(3) is revised to allow the commission to promulgate regulations regarding a waiver from the requirement to post a penalty payment bond upon a showing by the operator of an inability to post the bond.

Section 53-9-55(5) is revised to also allow civil penalties to be recovered in a civil action in the chancery or circuit court of any county in which the surface coal mining and reclamation operation exists or in which the defendant may be found.

New § 53-9-55(6) specifies that "provisions of this section and chapter regarding liability for the costs of clean-up, removal, remediation or abatement of any pollution, hazardous waste or solid waste shall be limited as provided in § 49-17-42 and rules promulgated under that section."

19. *Section 53-9-57, Criminal Penalties.* This section was revised to provide criminal penalties for making false statements, representations, and certifications.

20. *Section 53-9-65, Bond Release and Bond Forfeiture.* Section 53-9-65 was revised to authorize the permit board to release performance bonds, to clarify the existing public hearing provisions, to provide for administrative review and appeal of decisions of the permit board, and to establish a procedure for bond forfeiture.

21. *Section 53-9-67, Civil Action.* Existing § 53-9-67(b), regarding a civil action by a person who is injured in his person or property through a violation by an operator, was removed. New § 53-9-67(6) specifies that "provisions of this section and chapter regarding liability for the costs of clean-up, removal, remediation or abatement of any pollution, hazardous waste or solid waste shall be limited as provided in § 49-17-42 and rules promulgated under that section."

22. *Section 53-9-69, Inspection—Cessation Order—Suspension or Revocation of Permit—Hearing.* This section was amended to revise existing procedures for inspections; issuance of enforcement orders of the Commission on Environmental Quality, Executive Director or the Executive Director's

authorized representative; suspension and revocation of permits by the permit board; formal hearings regarding enforcement and suspension and revocation of permits; and civil actions to enforce orders.

23. *Section 53-9-71, Designation of Lands as Unsuitable for Surface Coal Mining Operations.* Section 53-9-71 was amended to modify the procedures for petitioning to designate lands unsuitable for surface coal mining and reclamation and to revise the provisions for public hearings and formal hearings.

24. *Section 53-9-77, Formal Hearings.* This section was amended to provide for administrative review and appeal of decisions of the permit board and commission and to provide for the powers of the permit board and the commission in conducting hearings.

25. *Section 53-9-81, Exceptions.* The existing provision at § 53-9-81(c), concerning the extraction of coal incidental to the extraction of other materials, was removed.

26. *Section 53-9-89, Deposit of Funds.* Section 53-9-89 was amended to create the "Surface Coal Mining and Reclamation Fund"; to create the "Surface Coal Mining Program Operations Account" and the "Surface Coal Mining Reclamation Account within the fund; to provide for use of the accounts; and to require certain funds to be deposited into the fund. Monies in the "Surface Coal Mining Program Operations Account" are to be used to pay the reasonable direct and indirect costs of administering and enforcing the Mississippi program. Monies in the "Surface Coal Mining Reclamation Account" are to be used to pay for the reclamation of lands for which bonds or other collateral were forfeited. The "Surface Coal Mining Program Operations Account" may receive monies from any available public or private source. The "Surface Coal Mining Reclamation Account" may receive monies from fines, penalties, the proceeds from the forfeiture of bonds or other collateral and interest.

#### *D. Statues Added to the Mississippi Code of 1972*

1. *Section 53-9-26, Small Operator Assistance Program.* This new section authorizes the Mississippi Department of Environmental Quality to provide assistance to small operators of surface coal mines.

2. *Section 53-9-28, Permit Fees.* This new section requires permit fees for surface coal mining and reclamation permits and authorizes the Mississippi Commission on Environmental Quality to set those fees.

3. *Section 53-9-32, Application Summary.* This new section requires the State Geologist (head of the Office of Geology and Energy Resources) to prepare a plain language summary of the proposed surface coal mining and reclamation operation based on a complete application. The summary shall be made available to the public.

### III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Mississippi program.

#### Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Birmingham Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

#### Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t. on August 14, 1997. The location and time of the hearing will be arranged with those persons requesting the hearing. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

#### Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

### IV. Procedural Determinations

#### Executive Order 12866

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

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed 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 State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

#### National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

#### 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. 3507 *et seq.*).

#### Regulatory Flexibility Act

The Department of the Interior has determined 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 State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

#### Unfunded Mandates

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

#### List of Subjects in 30 CFR Part 924

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 21, 1997.

#### Brent Wahlquist,

*Regional Director, Mid-Continent Regional Coordinating Center.*

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## DEPARTMENT OF THE TREASURY

### 31 CFR Part 103

RIN 1506-AA09, 1506-AA20

#### Financial Crimes Enforcement Network; Bank Secrecy Act Regulations; Money Services Businesses—Stored Value Products and Issuers, Sellers, and Redeemers of Money Orders or Traveler's Checks; Open Working Meetings

**AGENCY:** Financial Crimes Enforcement Network, Treasury.

**ACTION:** Meetings on proposed regulations.

**SUMMARY:** The Financial Crimes Enforcement Network ("FinCEN") will hold two working meetings to give interested persons the opportunity to discuss with FinCEN officials issues arising under the proposed Bank