

§ 1308.14 Schedule IV.

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Dated: April 6, 1998.

Donnie R. Marshall,

Acting Deputy Administrator, Drug Enforcement Administration.

[FR Doc. 98-9824 Filed 4-13-98; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE INTERIOR**Office of Surface Mining Reclamation and Enforcement****30 CFR Part 924**

[SPATS No. MS-014-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 (hereafter 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 the small operator assistance program, variances from performance standards, enforcement, and administrative and judicial review proceedings. The amendment is intended to revise the Mississippi program to be consistent with SMCRA.

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 hearings, if one is requested.

DATES: Written comments must be received by 4:00 p.m., c.d.t., May 14, 1998. If requested, a public hearing on the proposed amendment will be held on May 11, 1998. Requests to speak at the hearing must be received by 4:00 p.m., c.d.t. on April 29, 1998.

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 addresses 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.

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 48520). 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 March 26, 1998 (Administrative Record No. MS-0354), Mississippi submitted Senate Bill 3116 as a proposed amendment to its program pursuant to SMCRA. Mississippi submitted the proposed amendment in response to the required program amendments codified at 30 CFR 924.16 (b), (c), and (d). The Mississippi Legislature amended the Mississippi Surface Coal Mining and Reclamation Law at section 53-9-26 to clarify an applicant's eligibility for the small operator assistance program; section 53-9-45 to provide that specified variances for Reclamation performance standards apply to steep-slope mining; section 53-9-69 to require that a notice of violation shall be issued when a violation which does not pose an immediate threat is detected and to authorize the assessment of costs and expenses to certain persons participating in a

judicial review or an administrative review proceeding under certain circumstances; and section 53-9-77 to clarify that the availability of judicial review under this section shall not limit civil litigation rights. A discussion of the amendments to each section is presented below.

1. *§ 53-9-26, Small Operator Assistance Program.* Mississippi proposes to change the word "operation" to the word "operator" in the phrase "at all locations of a surface coal mining operation."

2. *§ 53-9-45, Variances From Performance Standards.* At section 53-9-45(4)(b), Mississippi proposes to remove the reference to subsection (2) in the phrase "a variance from the requirement to restore to approximate original contour set forth in subsection (2) or (3) of this section."

3. § 53-9-69, Enforcement and Administrative and Judicial Review Proceedings

a. At section 53-9-69(1)(c)(i), Mississippi proposes to change the word "may" to the word "shall" in the phrase "the commission, executive director or the executive director's authorized representative may issue an order to the permittee or agent of the permittee."

b. Mississippi proposes to add the following new provision at section 53-9-69(4):

(4) When an order is issued under this section, or as a result of any administrative proceeding under this chapter, at the request of any person, a sum equal to the aggregate amount of all costs and expenses, including attorney's fees, as determined by the commission to have been reasonably incurred by that person for or in conjunction with that person's participation in the proceedings, including any judicial review of agency actions, may be assessed against either party as the court, resulting from judicial review, or the commission, resulting from administrative proceedings deems proper.

4. § 53-9-77, Formal Hearings.

Mississippi proposes to add the following new provisions at section 53-9-77(5):

(5) Except as provided in Section 53-9-67, the availability of judicial review under this section shall not limit any rights established under Section 53-9-67.

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 April 29, 1998. 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

OSM has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 924

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 6, 1998.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 924

[SPATS No. MS-013-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). Mississippi is proposing to replace all of its currently approved regulations for surface coal mining and reclamation operations with new regulations. The amendment is intended to revise the Mississippi program to be consistent with the corresponding Federal regulations, provide additional safeguards, 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., May 14,