

(b) *Reexport authorizations issued before the 24-month period preceding the General Order.* For reexport authorizations issued with no validity period before the 24-month period preceding September 16, 1998:

(1) Effective September 16, 1998, all such outstanding reexport authorizations for terrorist-supporting countries (see parts 742 and 746 of the EAR) are revoked.

(2) Effective November 16, 1998, all other such outstanding reexport authorizations are revoked.

(c) *Extensions.* If necessary, you may request extensions of such authorizations according to procedures set forth in § 750.7(g) of the EAR.

(d) *Specific Notice from BXA.* If you have received, or should you receive, specific notice from BXA with regard to a reexport authorization covered by this General Order, informing you of a revocation, suspension, or revision (including validity period) of any such reexport authorization, then the terms of that specific notice will be controlling.

(e) *Definition of "authorization".* The term "authorization" as used in this General Order encompasses the range of reexport authorizations granted by BXA, which includes licenses, individual letters, and other types of notifications.

Dated: September 10, 1998.

**R. Roger Majak,**

*Assistant Secretary for Export Administration.*

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BILLING CODE 3510-33-P

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 904

[SPATS No. AR-030-FOR]

#### Arkansas Regulatory Program

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** OSM is approving an amendment to the Arkansas regulatory program (hereinafter referred to as the "Arkansas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Arkansas proposed revisions to, and additions of, regulations pertaining to definitions; reclamation plans; disposal of excess spoil; steep slope mining; permits incorporating variances from approximate original contour restoration requirements for steep slope mining; prime farmlands; performance standards for coal exploration and prime farmland; signs and markers; topsoil and subsoil; hydrologic balance; backfilling and grading; procedures for

assessment conference; and request for adjudicatory public hearing. Arkansas intends to revise its program to be consistent with the corresponding Federal regulations and to enhance enforcement of its program.

**EFFECTIVE DATE:** September 16, 1998.

**FOR FURTHER INFORMATION CONTACT:** Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135-6548, Telephone: (918) 581-6430; e-mail address: mwolfrom@mcrwgw.osmre.gov.

#### SUPPLEMENTARY INFORMATION:

- I. Background on the Arkansas Program
- II. Submission of the Proposed Amendment
- III. Director's Findings
- IV. Summary and Disposition of Comments
- V. Director's Decision
- VI. Procedural Determinations

#### I. Background on the Arkansas Program

On November 21, 1980, the Secretary of the Interior conditionally approved Arkansas' program. You can find background information on Arkansas' program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the November 21, 1980, **Federal Register** (45 FR 77003). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 904.10, 904.12, 904.15, and 904.16.

#### II. Submission of the Proposed Amendment

In a letter dated February 6, 1998 (Administrative Record No. AR-561), Arkansas sent us a proposed amendment to its program in accordance with SMCRA. The proposed amendment responded to our June 17, 1997, letter (Administrative Record No. AR-559) that we sent to Arkansas in accordance with 30 CFR 732.17(c). The amendment also included changes made at Arkansas' own initiative.

We announced receipt of the proposed amendment in the February 26, 1998, **Federal Register** (63 FR 9747). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the proposed amendment. The public comment period closed on March 30, 1998. Because no one requested a public hearing or meeting, we did not hold one.

During our review of the amendment, we identified concerns relating to Arkansas' regulations at the Arkansas Surface Coal Mining and Reclamation

Code (ASCMRC) 816.56, Hydrologic Balance: Postmining Rehabilitation of Sediment Ponds, Diversions, Impoundments, and Treatment Facilities; ASCMRC 816.102, Backfilling and Grading: General Grading Requirements; ASCMRC 823.11, Applicability; and minor typographical errors. We notified Arkansas of these concerns in a fax dated July 6, 1998 (Administrative Record No. AR-561.06).

In a letter dated July 15, 1998 (Administrative Record No. AR-561.07), Arkansas responded to our concerns by sending us additional explanatory information and revisions to its proposed program amendment. Arkansas proposed additional revisions to ASCMRC 701.5, Definitions; ASCMRC 780.14, Operation Plan: Maps and Plans; ASCMRC 816.46, Hydrologic Balance: Siltation Structures; ASCMRC 816.56, Hydrologic Balance: Postmining Rehabilitation of Sediment Ponds, Diversions, Impoundments, and Treatment Facilities; ASCMRC 816.102, Backfilling and Grading: General Grading Requirements; ASCMRC 823.11, Applicability; and ASCMRC 823.15, Revegetation and Restoration of Soil Productivity. Throughout its regulations, Arkansas also changed the name of the old U.S. Soil Conservation Services to its new name of Natural Resources Conservation Service.

Based upon the additional explanatory information and/or revisions to the proposed program amendment submitted by Arkansas, we reopened the public comment period in the August 4, 1998, **Federal Register** (63 FR 41506). The public comment period closed on August 19, 1998.

#### III. Director's Findings

Following, and in accordance with SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are our findings concerning the proposed amendment.

Any revisions that we do not specifically discuss below concern nonsubstantive wording changes, or revised cross-references and paragraph notations to reflect organizational changes that result from this amendment.

#### A. Regulations That Arkansas Removed From the Arkansas Surface Coal Mining and Reclamation Code

1. ASCMRC 701.5, Definitions and ASCMRC 816.46, Hydrologic Balance: Siltation Structures

Arkansas' current definition of "siltation structure" at ASCMRC 816.46(a)(1) only applies to section 816.46. The definition of "siltation

structure" must also apply to siltation structures at ASCMRC 780.25, Reclamation Plan: Siltation Structures, Impoundments, Banks, Dams and Embankments. Therefore, Arkansas proposed to remove the definition of "siltation structure" from section 816.46(a)(1) and reserve paragraph (a)(1), and add the definition of "siltation structure" to the general definition section of its regulations at ASCMRC 701.5, Definitions. We are approving the removal of this definition from section 816.46(a)(1) and its addition to section 701.5 because we removed the definition of "siltation structure" from our own regulation at 30 CFR 816/817.46(a)(1) and added it to 30 CFR 701.5. We made the changes in recognition of the broader applicability of "siltation structure" under the revised impoundment regulations. (See 59 FR 53022, October 20, 1994.)

2. ASCMRC 816.21, Topsoil: General Requirements; ASCMRC 816.23, Topsoil: Storage; ASCMRC 816.24, Topsoil: Redistribution; ASCMRC 816.25, Topsoil: Nutrients and Soil Amendments

Arkansas proposed to remove ASCMRC 816.21, 816.23, 816.24 and 816.25 from its regulations and combine their provisions into fully revised ASCMRC 816.22. We are approving the removal of the above sections because we removed the counterpart Federal regulations at 30 CFR 816/817.21, 816/817.23, 816/817.24, and 816/817.25 from our regulations and incorporated their provisions into 30 CFR 816/817.22. (See 48 FR 22092, May 16, 1983.)

3. ASCMRC 816.103, Backfilling and Grading: Covering Coal and Acid and Toxic Forming Materials and ASCMRC Part 826, Special State Program Performance Standards—Operations on Steep Slopes

Arkansas proposed to remove ASCMRC 816.103 and Part 826 from its regulations and incorporate their essential provisions into ASCMRC 816.102(f) and 816.106, respectively. We

are approving the removal of these sections because we removed the counterpart Federal regulations at 30 CFR 816.103 and Part 826, respectively, from our regulations and incorporated their essential provisions into 30 CFR 816.102(f), and 816.107 and 817.107, respectively. (See 48 FR 23356, May 24, 1983.)

#### *B. Revisions to Arkansas' Regulations That Are Substantively Identical to the Corresponding Provisions of the Federal Regulations*

1. Arkansas proposed to change the name of the "U.S. Soil Conservation Service" to its new name of "Natural Resources Conservation Service" throughout its regulations. We find that these changes will not make the Arkansas regulations less effective than the Federal regulations.

2. The proposed State regulations listed in the table below contain language that is the same as or similar to the corresponding sections of the Federal regulations. Any differences between the proposed State regulations and the Federal regulations are nonsubstantive.

Topic	State regulation (ASCMRC)	Federal counterpart regulation (30 CFR)
Definition of "Significant recreational, timber, economic or other values compatible with surface coal mining operations".	761.5 .....	761.5.
Operation Plan: Maps and Plans .....	780.14(c) .....	780.14(c).
Disposal of Excess Spoil .....	780.35(b) .....	780.35(b).
Prime Farmland .....	785.17(d)(5) .....	785.17(e)(5).
Topsoil and Subsoil .....	816.22 .....	816.22.
Hydrologic Balance: Postmining Rehabilitation of Sedimentation Ponds, Diversions, Impoundments, and Treatment Facilities.	816.56 .....	816.56.
Disposal of Excess Spoil: Pre-existing Benches .....	816.74 .....	816.74.
Backfilling and Grading: General Grading Requirements .....	816.102 .....	816.102.
Backfilling and Grading: Thin Overburden .....	816.104-S .....	816.104.
Backfilling and Grading: Thick Overburden .....	816.105-S .....	816.105.
Backfilling and Grading: Steep Slopes .....	816.106 .....	816.107.
Special State Program Performance Standards—Operations on Prime Farmland .....	Part 823 .....	Part 823.
Procedures for Assessment Conference .....	845.18(b) .....	845.18(b).
Request for Adjudicatory Public Hearing .....	845.19(a) .....	845.19(a)

Because the above proposed revisions are identical in meaning to the corresponding Federal regulations, we find that Arkansas' proposed regulations are no less effective than the Federal regulations.

#### *C. Revisions to Arkansas' Regulations That Are Not Substantively Identical to the Corresponding Provisions of the Federal Regulations*

1. ASCMRC 780.25, Reclamation Plan: Siltation Structures, Impoundments, Banks, Dams and Embankments

Except for all coal processing waste dams and embankments covered by Section 816.81 through 816.84,

Arkansas' current regulation at paragraph (a)(3)(i) authorizes a registered land surveyor to prepare and certify detailed design plans for structures not included in paragraph (a)(2). In this amendment, Arkansas removed the language that authorizes a registered land surveyor to prepare and certify these detailed design plans. We approve the removal of this authorization because 30 CFR 780.25(a)(3)(i) allows the preparation and certification of the above mentioned detailed design plans only in States that authorize land surveyors to prepare and certify such plans. Arkansas' regulations do not authorize land surveyors to

prepare or certify such plans. Therefore, the removal of this provision does not conflict with 30 CFR 780.25(a)(3)(i).

#### **IV. Summary and Disposition of Comments**

##### *Public Comments*

We solicited public comments on the proposed amendment, but did not receive any.

##### *Federal Agency Comments*

According to 30 CFR 732.17(h)(11)(i), and in a letter dated February 18, 1998 (Administrative Record No. AR-561.03), we solicited comments on the proposed amendment from various Federal

agencies with an actual or potential interest in Arkansas' program. We received comments from the U.S. Army Corp of Engineers in two letters dated March 17, 1998, and August 11, 1998 (Administrative Record Nos. AR-561.05 and AR-561.12, respectively). Both letters stated that they are satisfied with the changes that Arkansas proposed to make to the Arkansas program.

#### *Environmental Protection Agency (EPA)*

According to 30 CFR 732.17(h)(11)(ii), we are required to obtain the written consent of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards that are in force under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Arkansas proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not request the EPA's consent.

According to 30 CFR 732.17(h)(11)(i), we solicited comments on the proposed amendment from the EPA (Administrative Record No. AR-561.01). The EPA did not respond to our request.

#### *State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

According to 30 CFR 732.17(h)(4), we are required to solicit comments from the SHPO and ACHP on proposed amendments which may have an effect on historic properties. We solicited comments on the proposed amendment from the SHPO and ACHP (Administrative Record No. AR-561.02), but neither responded to our request.

#### **V. Director's Decision**

Based on the above findings, we approve the amendment as submitted to us by Arkansas on February 6, 1998, and as revised on July 15, 1998.

We approve the regulations that Arkansas proposed with the provision that they be fully placed in force in identical form to the regulations submitted to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 904 which codifies decisions concerning the Arkansas program. We are making this final rule effective

immediately to expedite the State program amendment process and to encourage Arkansas to bring the Arkansas program into conformity with the Federal standards without undue delay. SMCRA requires consistency of State and Federal standards.

#### **VI. Procedural Determinations**

##### *Executive Order 12866*

The Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review) exempts this rule from 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*

This rule does not require an environmental impact statement 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 corresponding 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 corresponding Federal regulations.

#### *Unfunded Mandates*

OSM has determined and certifies under 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 904**

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 31, 1998.

**Brent Wahlquist,**

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

For the reasons set out in the preamble, 30 CFR Part 904 is amended as set forth below:

#### **PART 904—ARKANSAS**

1. The authority citation for Part 904 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

2. Section 904.15 is amended in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

#### **§ 904.15 Approval of Arkansas regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
February 6, 1998 .....	September 16, 1998 .....	ASCMRC 701.5; 761.5(d); 780.14(c); 780.18(b)(7), .25(a)(3)(i), .35(b); 785.15(b)-(c), .16(a), (c)(6), and (d), .17(d)(5); 815.15(k); 816.11(g), .21, .22, .23, .24, .25, .43(e), (f)(5), .44(c), .46, .48(b), .56, .74, .102, .103, .104-S, .105-S, .106, .107(a)-(b); Part 823; Part 826; 845.18(b) and .19(a).

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 934

[SPATS ND-032-FOR, Amendment No. XXII]

#### North Dakota Regulatory Program

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** OSM is approving a proposed amendment to the North Dakota regulatory program (hereinafter referred to as the "North Dakota program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions and information explaining those North Dakota's proposed rules and statutes which comprise the amendment pertain to: the North Dakota Small Operator Assistance Program, and individual civil and criminal penalties within the coal exploration section of the program. The amendment is intended to revise the North Dakota program to be consistent with the corresponding Federal regulations and SMCRA.

**EFFECTIVE DATE:** September 16, 1998.

**FOR FURTHER INFORMATION CONTACT:** Guy V. Padgett, Telephone: (307) 261-6550; Fax: (307) 261-6552; Internet: GPadgett@osm.gov.

#### SUPPLEMENTARY INFORMATION:

#### I. Background on the North Dakota Program

On December 15, 1980, the Secretary of the Interior conditionally approved the North Dakota program. General background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the North Dakota program can be found in the December 15, 1980, **Federal Register** (45 FR 82214). Subsequent actions concerning the North Dakota program and program

amendments can be found at 30 CFR 934.12, 934.13, 934.15, and 934.16.

#### II. Proposed Amendment

By letter dated April 12, 1995, North Dakota submitted a proposed amendment (amendment number XXII, administrative record No. ND-W-01) to its program pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). North Dakota submitted the proposed amendment in response to the required program amendments at 30 CFR 934.16(y) and (z) (59 FR 37423, 37428-374296; July 22, 1994). The statutory provisions North Dakota proposed to revise are: North Dakota Century Code (NDCC) 38-14.1-37(4) concerning SOAP, reimbursement of costs, and NDCC 38-12.1-08, concerning coal exploration, individual civil and criminal penalties.

OSM announced receipt of the proposed amendment in the May 2, 1995, **Federal Register** (60 FR 21484; administrative record No. ND-W-04), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment. Because no one requested a public hearing or meeting, none was held. The public comment period ended at 4 p.m. on June 1, 1995.

During its review of the amendment, OSM identified concerns with the proposed revisions to NDCC 38-13.1-08, relating to individual civil and criminal penalties within the coal exploration program. OSM notified North Dakota of the concerns by letter dated August 28, 1995 (administrative record No. ND-W-12). North Dakota responded in a letter dated October 19, 1995 (administrative record No. ND-W-14) by submitting additional proposed revisions to its program at North Dakota Administrative Code 43-02-01 and additional explanatory information pertaining to North Dakota Century Code 38-12.1-08.

Based upon the revisions to and additional explanatory information that was submitted with the proposed program amendment submitted by North Dakota, OSM reopened the public comment period in the November 9, 1995, **Federal Register** (60 FR 56549; administrative record No. ND-W-16).

The public comment period ended 4 p.m. November 24, 1995.

The regulatory revisions that North Dakota proposed in its October 19, 1995 letter, while satisfying most of OSM's concerns, made North Dakota's regulations at North Dakota Administrative Code (NDAC) 43-02-01 inconsistent with its statute at NDCC 38-12.1-08, upon which those regulations are based. However, when this was pointed out to North Dakota in a July 30, 1997 telephone conversation (administrative record No. ND-W-21), it submitted an August 1, 1997 letter (administrative record No. ND-W-18) slightly revising its regulations at NDAC 43-02-01 to make them consistent with its statute. Based on the proposed revision, OSM reopened the public comment period in the September 4, 1997, **Federal Register** (62 FR 46695; administrative record No. ND-W-19). The public comment period ended 4 p.m. September 19, 1997.

#### III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds that the proposed program amendment submitted by North Dakota on April 12, 1995, and as revised and supplemented with additional explanatory information and program revisions on October 19, 1995, and on August 1, 1997, with additional requirements, is no less stringent than SMCRA and no less effective than the Federal regulations. Accordingly, the Director approves the proposed amendment.

##### 1. NDCC 38-.1-37(4): Small Operators

North Dakota proposed a revision to NDCC 38-14.1-37(4), pursuant to the Director's Findings at III.3.i that were contained in the July 22, 1994 **Federal Register** (Vol. 59, No. 140, p. 37426). This addition of subsection 4 to NDCC 38-14.1-37 also affects subsections 2 and 3 in accordance with the July 22, 1994, **Federal Register** noted above. The Director's Findings at III.3.h. states that:

[I]f North Dakota ultimately decides to adopt the responsibility to provide or assume the training costs and inform qualified coal operators of the availability of assistance under SOAP, NDCC 38-14.1-37(3), because