

90.011, fees; 11 AAC 90.045(a), geology description; 11 AAC 90.099, placement of coal mine waste in underground workings; 11 AAC 90.149, alluvial valley floors; 11 AAC 90.173, eligibility for small operator assistance; 11 AAC 90.207, self-bonding provisions; 11 AAC 90.327, stream channel diversions; 11 AAC 90.391, disposal of excess spoil or coal mine waste; 11 AAC 90.423, protection of fish and wildlife; 11 AAC 90.443, backfilling and grading; 11 AAC 90.491, construction and maintenance of roads and other transportation and support facilities; 11 AAC 90.901, applicability; and 11 AAC 90.907, public participation.

Alaska proposes these revisions:

- 11 AAC 05.010(a)(11) and 90.011, to move the regulatory requirements for permit fees to the fee provisions for the whole department, and the set a fee for incidental boundary revisions;
- 11 AAC 90.045, to require that the description of geology must include the deeper of the stratum immediately below the lowest coal seam to be mined, or any aquifer below the lowest seam which may be adversely affected by mining;
- 11 AAC 90.099, to require that underground mining plans describe the design, operation, and maintenance of any proposed facility to return coal mine waste and excess spoil to underground workings;
- proposed 11 AAC 90.207(f)(7), to require, when the financial conditions of a self-bond applicant or guarantor no longer meet the bond conditions, that a cessation order be issued and reclamation immediately commence;
- 11 AAC 90.391, to require that coal mine waste placed in excess spoil be nontoxic and nonacid forming;
- 11 AAC 90.409, to allow excess spoil to be returned to underground mine workings in certain circumstances;
- 11 AAC 90.423, to require that, on request, the fish and wildlife protection information required by 11 AAC 90.081 be provided to the U.S. Fish & Wildlife Service; and
- 11 AAC 90.491(a)(8), to require that the use of acid- and toxic-forming materials be prevented.

Additionally, Alaska proposes several additional minor editorial revisions.

Alaska is also withdrawing its proposed revisions to: 11 AAC 90.023, identification of interests and compliance information; 11 AAC 90.117, processing of permit applications; 11 AAC 90.125, commissioner's findings; 11 AAC 90.126, improvidently issued permits; 11 AAC 90.127, permit conditions; 11 AAC 90.129, permit revisions and

renewals; 11 AAC 90.336, impoundment design and construction; 11 AAC 90.457, revegetation success standards; 11 AAC 90.601, inspections; 11 AAC 90.613, cessation orders; 11 AAC 90.902, exemption for coal extraction incidental to the extraction of other minerals; and 11 AAC 90.911, definitions.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Alaska program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. 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 Alaska program.

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 Denver Field Division will not necessarily be considered in the final rulemaking or included in the administrative record.

IV. Procedural Determinations

1. 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).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that 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 the Federal regulations at 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.

3. 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)).

4. 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.*).

5. 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 that 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.

List of Subjects in 30 CFR Part 902

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 26, 1995.

Richard J. Seibel,

Regional Director, Western Regional Coordinating Center.

FR Doc. 95-27809 Filed 11-8-95; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 934

[ND-032-FOR; Amendment XXII]

North Dakota Regulatory Program

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

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: OSM is announcing receipt of additional proposed revisions and additional explanatory information pertaining to a previously proposed amendment to the North Dakota regulatory program (hereinafter, the "North Dakota program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions and additional explanatory information for North Dakota's proposed rules and statutes pertain to the North Dakota program's Small Operator Assistance Program, and individual civil and criminal penalties. The amendment is intended to revise the North Dakota program to be consistent with the corresponding Federal regulations and SMCRA.

DATES: Written comments must be received by 4 p.m., m.s.t., November 24, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Guy Padgett at the address listed below.

Copies of the North Dakota program, the proposed amendment, 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 Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 E. "B" Street, Room 2128, Casper, WY 82601-1918, Telephone: (307) 261-5776

North Dakota Public Service Commission, Reclamation Division, Capitol Building, Bismarck, ND 58505-0165, Telephone: (701) 224-4092

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: (307) 261-5776.

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, 934.16, and 934.30.

II. Proposed Amendment

By letter dated April 12, 1995, North Dakota submitted a proposed amendment to its program pursuant to SMCRA (30 U.S.C. 1201 *et seq.*) (Amendment number XXII, Administrative Record No. ND-W-01). North Dakota submitted the proposed amendment in response to the required program amendment at 30 CFR 934.16(y) and in response to an inconsistency with SMCRA that was identified in a July 22, 1994, rulemaking action (59 FR 37426). The provisions of the North Dakota Century Code (NDCC) that North Dakota proposes to revise or add are: NDCC 38-14.1-37(4) [SOAP, reimbursement of costs], and NDCC 38-12.1-08 [coal exploration, individual civil and criminal penalties].

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

During its review of the amendment, OSM identified concerns relating to the provisions of NDCC 38-12.1-08, individual civil penalties. 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, by submitting additional proposed revisions and additional explanatory information (Administrative Record No. ND-W-14).

North Dakota proposes revisions to North Dakota Administrative Code chapter 43-02-01 and additional explanatory information pertaining to NDCC 38-12.1-08, individual civil and criminal penalties.

Specifically, North Dakota explains that North Dakota law does provide statutory authority subjecting officers, directors, and agents to individual civil and criminal penalties even though it is the corporation, not the individuals, that committed the violation. North Dakota cites statutory provisions not previously incorporated into the North Dakota program, specifically NDCC 12.1-03-03. This statute provides (1) that a person is legally accountable for any conduct he performs or causes to be performed in the name of an organization, and (2) that whenever duty or act is imposed upon an organization by a statute or regulation,

any agent of the organization having primary responsibility for the subject matter of the duty is legally accountable for an omission to perform the required act.

North Dakota further explains that the legislative hearings and the legislative history of NDCC 38-12.1-08 demonstrates a legislative intent (1) to subject directors, officers, and agents to civil and criminal penalties even though it is the corporation, not the individual, that committed the violation, and (2) to make NDCC 38-12.1-08 no less stringent than SMCRA Section 518(f).

North Dakota also notes that NDCC 38-12.1-04 gives the commission authority to enforce orders to effectuate NDCC chapter 38-12.1, and that NDCC 38-12.1-08 imposes civil and criminal penalties for any person who violates that chapter, which would include orders issued pursuant to NDCC 38-12.1-04. Further, North Dakota notes that, as a practical matter, there has been very limited coal exploration in the State for the last decade.

Finally, North Dakota proposes to add new regulatory provisions at North Dakota Administrative Code (NDAC) 43-02-01 to implement the statutory provisions described above. The proposed rules include the following provisions: (1) when a corporate permittee violates permit conditions or any rule imposed under NDAC chapter 43-02-01 or NDCC chapter 38-12.1, or fails or refuses to comply with orders issued by the commission (with one exception), any director, officer, or agent who willfully and knowingly authorized or carried out the violation, failure, or refusal shall be held accountable, and the commission shall enforce the civil and criminal penalties provided against the corporation; (2) a civil penalty may be assessed only after opportunity for public hearing; and (3) any civil penalties assessed may be recovered by the commission in civil actions in the appropriate North Dakota district court.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed North Dakota program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. 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 North Dakota program.

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 Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

IV. Procedural Determinations

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This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that 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 section 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 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.

3. 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 of 1969 (42 U.S.C. 4332(2)(C)).

4. 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.*).

5. 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 that 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.

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 31, 1995.

Russell F. Price,

Acting Regional Director, Western Regional Coordinating Center.

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DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 224

RIN 1510-AA49

Federal Process Agents of Surety Companies

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This action proposes to amend 31 CFR Part 224 (also appearing as Treasury Department Circular 901, Revised) which governs surety companies doing business with the United States. Specifically, it proposes to eliminate the requirement that surety companies doing business with the United States report their Federal process agent appointments to the Financial Management Service (FMS). FMS no longer needs or collects this information. This revision will make the regulation consistent with current practice.

DATES: Comments on this proposed rule must be received on or before December 11, 1995.

ADDRESSES: Comments or inquiries may be mailed to Surety Bond Branch, Department of the Treasury, Financial Management Service, 3700 East-West Highway, Room 6F04, Hyattsville, MD 20782, Attn: Laura Harshbarger.

FOR FURTHER INFORMATION CONTACT: Dorothy Martin, (202) 874-6850, (Manager, Surety Bond Branch).

SUPPLEMENTARY INFORMATION: This regulation proposes to eliminate the requirement that surety companies report their Federal Process Agent appointments to the Financial Management Service. This action does not eliminate the requirement for the companies to designate a person to serve as a Federal Process Agent and to register them with the clerk of the district court for the judicial district in which a surety bond is to be given.

The proposed rule includes several editorial changes and a realignment of the sections as a result of eliminating § 224.5, "Filing process agent appointment information with the Treasury."

This regulation is not a significant regulatory action as defined in Executive Order 12866. Accordingly, a regulatory assessment is not required. It is hereby certified that this revision will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. This change will clarify the regulation.

List of Subjects in 31 CFR Part 224

Surety bonds, Insurance.

Accordingly, Part 224 of Title 31 is proposed to be amended as follows:

PART 224—FEDERAL PROCESS AGENTS OF SURETY COMPANIES

1. The authority citation continues to read as follows:

Authority: 31 U.S.C. 9306.

2. Section 224.1 is revised to read as follows:

§ 224.1 Statutory provision.

The rules and regulations in this Part are prescribed for carrying into effect 31 U.S.C. 9306.

3. Section 224.5 is removed, and § 224.6 is redesignated as § 224.5 and revised to read as follows:

§ 224.5 Process agents; termination of authority.

Whenever the authority of a process agent is terminated by reason of revocation, disability, removal from the district, or any other cause, it shall be the duty of the company to immediately make a new appointment.

§ 224.7 [Redesignated as § 224.6]

4. Section 224.7 is redesignated as § 224.6, and revised to read as follows: