

Issued in Washington, DC, on this 8th day of August 1995.

**Martin Slate,**

*Executive Director, Pension Benefit Guaranty Corporation.*

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 901

#### Alabama Abandoned Mine Land Reclamation Plan

**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 Alabama abandoned mine land reclamation plan (hereinafter referred to as the "Alabama plan") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Alabama proposed revisions and additions to its plan pertaining to contractor bidder eligibility screening, exclusion of certain noncoal sites from reclamation, requirement of form submission upon project completion, and removal of fourth priority for noncoal reclamation sites. The amendment is intended to revise the Alabama plan to be consistent with the corresponding Federal regulations and SMCRA.

**EFFECTIVE DATE:** August 15, 1995.

**FOR FURTHER INFORMATION CONTACT:** Jesse Jackson, Jr., Director, Birmingham Field Office, OSM, 135 Gemini Circle, Suite 215, Birmingham, Alabama 35209, Telephone: (205) 290-7287.

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Alabama Plan.
- 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 Alabama Plan

On May 20, 1982, the Secretary of the Interior approved the Alabama plan. Background information on the Alabama plan, including the Secretary's findings, the disposition of comments, and the approval of the plan can be found in the May 20, 1982, **Federal Register** (47 FR 22062). Subsequent actions concerning the conditions of approval and amendments to the plan can be found at 30 CFR 901.25.

#### II. Submission of the Proposed Amendment

By letter dated December 5, 1994 (Administrative Record No. AL-512), Alabama submitted a proposed amendment to its plan pursuant to SMCRA in response to a September 2, 1994, letter that OSM sent to Alabama in accordance with 30 CFR 884.15(d). Alabama proposed to amend two sections of its plan. At "Administrative and Management Structure of the Alabama Abandoned Mine Land Reclamation Program Pursuant to 30 CFR Part 884.13(d)," Alabama proposed to incorporate a contractor responsibility requirement under OSM's Applicant Violator System (AVS) for the reclamation of coal and noncoal sites. At "Ranking and Selection Procedures Pursuant to 30 CFR Part 884.13(c)(2)," Alabama proposed to exclude certain noncoal sites from reclamation and require submission of form OSM-76 upon project completion.

OSM announced receipt of the proposed amendment in the December 19, 1994, **Federal Register** (59 FR 65287), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on January 18, 1995.

During its review of the amendment, OSM identified concerns relating to Alabama's organizational chart, personnel positions, identification of agencies, purchasing and procurement functions, resolution of audits, research and development, ranking and selection parameters, site evaluation, and final project selection.

OSM notified Alabama of these concerns by letter dated March 1, 1995 (Administrative Record No. AL-0534). By letters dated March 27, 1995 (Administrative Record No. AL-0535) and April 18, 1995 (Administrative Record No. AL-0539), Alabama responded to OSM's concerns by submitting additional explanatory information and revisions to its proposed plan amendment.

Alabama proposed additional revisions to its administrative and management structure and ranking and selection procedures which are intended to clarify its personnel positions and organizational structure and its procedure for the prioritization and selection of projects.

Because the additional explanatory information and revisions submitted by Alabama merely clarified the provisions of the proposed plan amendment, OSM did not reopen the public comment period.

#### III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 884.14 and 884.15, are the Director's findings concerning the proposed amendment.

Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

##### 1. Procedures for Ranking and Selecting Abandoned Mine Land Reclamation Projects

*A. Preliminary Site Evaluation.* Alabama is proposing to revise its ranking and selection procedures for abandoned mine land (AML) reclamation projects. Specifically, at section II(B)2d, Alabama is proposing to delete the requirement that a project be evaluated according to whether or not it will be designated a "Research and Demonstration Project" to develop new technology. At section II(B)3d, Alabama is proposing to delete priority 4—Research and Development, and at section II(B)3j, it is proposing to delete priority 10—Public Facilities (Non-Coal).

Section 403(a) of SMCRA defines the priorities for the expenditures of moneys on eligible lands and waters which were mined for coal or affected by such mining. As amended by the Energy Policy Act of 1992, this section no longer authorizes funding of a research and development priority. Sections 411(c) and (e) of SMCRA define the priorities for non-coal sites. The Director finds that the proposed deletions at sections II(B)2d, II(B)3d, and II(B)3j do not render the Alabama program less effective than sections 403(a) and 411(c) and (e) of SMCRA.

*B. Intensive Site Evaluation.* At section II(D), Alabama is proposing to modify its site parameters to correspond with the current list of resource values reviewed under the National Environmental Policy Act, adding the noise and topography parameters.

The Federal regulations at 30 CFR 884.13(c) require that the State provide a description of the policies and procedures it will follow in conducting the reclamation program. The Director finds the proposed revisions at section II(D) to be consistent with the Federal regulations at 30 CFR 884.13(c) and not inconsistent with section 403(a) of SMCRA.

*C. Exclusion of Certain Noncoal Reclamation Sites.* At section II(F), Alabama is proposing to add a new section—Exclusion of Certain Noncoal

Reclamation Sites—which provides that money from the AML reclamation fund not be used for the reclamation of sites and areas designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

The Director finds that the proposed addition at section II(F) is substantively identical to and therefore no less effective than section 411(d) of SMCRA.

**D. Consultation.** At section II(G)6, Alabama is proposing to add to its consultation list regional planning and development districts affected by individual projects and deleting the Alabama Department of Economic and Community Affairs.

The Federal regulations at 30 CFR 884.13(c)(3) and (c)(7) require that the State provide procedures for public participation and involvement in the State reclamation program. The Director finds the proposed revisions at section II(G)6 to be not inconsistent with the Federal regulations at 30 CFR 884.13(c)(3) and (c)(7).

**E. Completion Report.** At section II(I), Alabama is adding the requirement that Form OSM-76, "Abandoned Mine Land Problem Area Description," be submitted upon project completion.

The Federal regulations at 30 CFR 884.13(c) require that the State describe the policies and procedures to be followed in conducting the reclamation program. The Director finds the proposed addition at section II(I) to be consistent with the Federal regulations at 30 CFR 884.13(c) and 30 CFR 886.23(c).

## 2. Administrative and Management Structure

**A. Personnel.** At section I(C), Alabama is proposing to revise its listing of job titles to include "Abandoned Mine Land Chief Planner" and delete "Right-of-Way Specialist III." Other minor changes to its job classification system have also been made.

**B. Personnel Policies.** At section III, Alabama is proposing to revise its personnel policies to make non-substantive wording changes.

**C. Purchasing and Procurement Policies.** At section V, Alabama is proposing to require that to receive AML funds for coal or noncoal reclamation, every successful bidder for an AML contract must be eligible under 30 CFR 773.15(b)(1) (Review of Violations) at the time of contract award to receive a permit or conditional permit to conduct surface coal mining operations. Bidder eligibility must be confirmed by OSM's AVS.

The Federal regulations at 874.16 and 875.20 require that successful bidders for an AML contract must be eligible under 30 CFR 773.15(b) at the time of contract award to receive a permit to conduct surface coal mining operations. Bidder eligibility must be confirmed by OSM's AVS for each contract to be awarded. The Director finds the changes at sections I and III are consistent with requirements found at 30 CFR 884.13(d)(2) and (3). The Director finds the proposed revisions at section V to be consistent with the Federal regulations at 30 CFR 874.16 and 875.20.

## IV. Summary and Disposition of Comments

### Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received, and because no one requested an opportunity to speak at a public hearing, no hearing was held.

### Federal Agency Comments

Pursuant to 884.14(a)(2) and 884.15(a), the Director solicited comments on the proposed amendment from various other Federal agencies with an actual or potential interest in the Alabama plan. The Department of the Interior, Bureau of Mines; the Department of the Army, Corps of Engineers; and the Department of Agriculture, Natural Resources Conservation Service concurred without comment.

### Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), the Director solicited the written concurrence of the Administrator of the EPA with respect to those provisions of the proposed plan amendment which relate to air or water quality standards promulgated under the authority of the Clean Air Act (42 U.S.C. 7401 *et seq.*) or the Clean Water Act (33 U.S.C. 1252 *et seq.*). None of the revisions that Alabama proposed to make in its amendment pertain to air or water quality standards. Therefore, no response was received from EPA, neither was one necessary.

## V. Director's Decision

Based on the above findings, the Director approves the proposed plan amendment as submitted by Alabama on December 5, 1994, and as revised on March 27, 1995, and April 18, 1995.

## VI. 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 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 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 and Tribal abandoned mine land reclamation plans and revisions thereof since each such plan is drafted and adopted by a specific State or Tribe, not by OSM. Decisions on proposed State and Tribal abandoned mine land reclamation plans and revisions thereof submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231-1243) and the Federal regulations at 30 CFR Parts 884 and 888.

### National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State and Tribal abandoned mine land reclamation plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior [516 DM 6, appendix 8, paragraph 8.4B(29)].

### Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget 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 submittal which is the subject to 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. In making the

determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analysis for the corresponding Federal regulations.

**List of Subjects in 30 CFR Part 901**

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 3, 1995.

**Brent Wahlquist,**

*Regional Director Mid-Continent Regional Coordinating Center.*

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

**PART 901—ALABAMA**

1. The authority citation for Part 901 continues to read as follows:

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

2. Section 901.25 is amended to add paragraph (e) to read as follows:

**§ 901.25 Amendment to approved Alabama abandoned mine land reclamation plan.**

\* \* \* \* \*

(e) The Alabama amendment pertaining to the Alabama abandoned mine land reclamation plan, as submitted to OSM on December 5, 1994, and revised on March 27, 1995, and April 18, 1995, is approved effective August 15, 1995.

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**DEPARTMENT OF THE TREASURY**

**31 CFR Part 0**

**Department of the Treasury Employee Rules of Conduct**

**AGENCY:** Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** On Thursday, June 1, 1995, the Department of the Treasury published the Employee Rules of Conduct as an interim rule. The rule became effective upon publication and comments were invited from the public until July 3, 1995. The Department did not receive any comments on the interim rule. Accordingly, the Department adopts the interim rule as a final rule without amendment.

**EFFECTIVE DATE:** This rule is effective as a final rule on August 15, 1995.

**FOR FURTHER INFORMATION CONTACT:** Stephen J. McHale, Henry H. Booth, or R. Peter Rittling, Office of the Assistant General Counsel (General Law and

Ethics), Department of the Treasury, telephone (202) 622-0450, FAX (202) 622-1176, e-mail Peter.Rittling@treas.sprint.com.

**SUPPLEMENTARY INFORMATION:**

**I. Matters of Regulatory Procedure**

*Executive Order 12866, Regulatory Planning and Review*

This rule is limited to agency organization, management and personnel matters; therefore, it is not subject to Executive Order 12866.

*Regulatory Flexibility Act*

It is hereby certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. This rule affects only Federal employees.

**List of Subjects in 31 CFR Part 0**

Government employees.

Dated: August 8, 1995.

**Edward S. Knight,**

*General Counsel, Department of the Treasury.*

**PART 0—DEPARTMENT OF THE TREASURY EMPLOYEE RULES OF CONDUCT**

The interim rule revising 31 CFR Part 0 which was published at 60 F.R. 28535, on June 1, 1995, is adopted as a final rule without change.

**Authority:** 5 U.S.C. 301.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[OH40-1-5784a; AD-FRL-5276-7]

**Approval and Promulgation of Small Business Assistance Program; Ohio**

**AGENCY:** United States Environmental Protection Agency (USEPA).

**ACTION:** Final rule.

**SUMMARY:** USEPA is approving the State Implementation Plan (SIP) revision submitted by the State of Ohio for the purpose of establishing a Small Business Assistance Program (SBAP). The implementation plan was submitted by the State to satisfy the Federal mandate, found in section 507 of the Clean Air Act (CAA), to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the CAA.

**DATES:** This action will be effective October 16, 1995 unless notice is

received by September 14, 1995, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR-18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal and USEPA's technical support document are available for inspection during normal business hours at the following location: Regulation Development Section, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** John Summerhays, Regulation Development Branch, Regulation Development Section (AR-18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone (312) 886-6067.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Implementation of the provisions of the Clean Air Act (CAA), as amended in 1990, will require regulation of many small businesses, both to provide for attainment of the national ambient air quality standards (NAAQS) in the areas in which they are located and to reduce the emission of air toxics. Small businesses frequently lack the technical expertise and financial resources necessary to evaluate such regulations and to determine the appropriate mechanisms for compliance. In anticipation of the impact of these requirements on small businesses, the CAA requires that States adopt a Small Business Assistance Program (SBAP) and submit this SBAP as a revision to the Federally approved SIP. In addition, the CAA directs the USEPA to oversee these small business assistance programs and report to Congress on their implementation.

The requirements for establishing a SBAP are set out in section 507 of the CAA. In January 1992, USEPA issued Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments, in order to delineate the Federal and State roles in meeting the new statutory provisions and to provide further guidance to the States on submitting acceptable SIP revisions. This guidance specifies that the State submittal must provide for each of the