

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## NORTHEAST DAIRY COMPACT COMMISSION

### 7 CFR Part 1301

#### Notice of Meeting

**AGENCY:** Northeast Dairy Compact Commission.

**ACTION:** Notice of meeting.

**SUMMARY:** The Compact Commission will hold its monthly meeting to consider whether to adopt as a Final Rule the Proposed Rule to exempt from the compact over-order price regulation fluid milk utilized for child nutrition programs and distributed by handlers during the 1998–1999 contract year. The Commission will also deliberate and make a final ruling on a handler petition for exemption from the price regulation. Certain matters relating to administration will also be considered and acted upon.

**DATES:** The meeting is scheduled for January 16, 1998 commencing at 10:00 a.m. to adjournment.

**ADDRESSES:** The meeting will be held at the Holiday Inn, Capitol Room, 172 North Main Street, Concord, NH (exit 14 off Interstate 93).

**FOR FURTHER INFORMATION CONTACT:** Daniel Smith, Executive Director, Northeast Dairy Compact Commission, 43 State Street, PO Box 1058, Montpelier, VT 05601. Telephone (802) 229-1941.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the Northeast Dairy Compact Commission will hold its regularly scheduled monthly meeting. The Compact Commission will deliberate and act upon whether to adopt as a Final Rule the Proposed Rule to exempt from the regulation fluid milk distributed by handlers during the 1998–1999 contract year under competitive bid contracts with School Food Authorities in New England for Child Nutrition Programs qualified for reimbursement under the National School Lunch Act of 1946 and the Child Nutrition Act. See 62 FR 65226

(December 11, 1997). The Commission will also deliberate and make a final ruling on Horizon Organic Dairy's petition for exemption from the price regulation. Docket #HEP-97-009. Certain matters relating to administration, including final approval of the contract with participating universities to conduct the market impact study required by the price regulation, will also be considered and acted upon.

(Authority: (a) Article V, Section 11 of the Northeast Interstate Dairy Compact, and all other applicable Articles and Sections, as approved by Section 147, of the Federal Agriculture Improvement and Reform Act (FAIR ACT), Pub. L. 104-127, and as thereby set forth in S.J. Res. 28(1)(b) of the 104th Congress; Finding of Compelling Public Interest by United States Department of Agriculture Secretary Dan Glickman, August 8, 1996 and March 20, 1997. (b) Bylaws of the Northeast Dairy Compact Commission, adopted November 21, 1996)

**Daniel Smith,**

*Executive Director.*

[FR Doc. 98-588 Filed 1-8-98; 8:45 am]

BILLING CODE 1650-01-P

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 904

[SPATS No. AR-031-FOR]

#### Arkansas 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 Arkansas regulatory program (hereinafter the "Arkansas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to and additions of regulations pertaining to revegetation success standards and selective husbandry practices that would not extend the period of responsibility for revegetative success and bond liability. The amendment is intended to revise the Arkansas program to be consistent with the corresponding

Federal regulations and improve operational efficiency.

This document sets forth the times and locations that the Arkansas 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.s.t. on February 9, 1998. If requested, a public hearing on the proposed amendment will be held on February 3, 1998. Requests to speak at the hearing must be received by 4:00 p.m., c.s.t. on January 26, 1998.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Michael C. Wolfrom, Director, Tulsa Field Office, at the address listed below.

Copies of the Arkansas 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 Tulsa Field Office.

Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135-6547, Telephone: (918) 581-6430.

Arkansas Department of Pollution Control and Ecology, Surface Mining and Reclamation Division, 8001 National Drive, Little Rock, Arkansas 72219-8913. Telephone (501) 682-0744.

**FOR FURTHER INFORMATION CONTACT:** Michael C. Wolfrom, Director, Tulsa Field Office, Telephone: (918) 581-6430.

#### SUPPLEMENTARY INFORMATION:

##### I. Background on the Arkansas Program

On November 21, 1980, the Secretary of the Interior conditionally approved the Arkansas program. Background information on the Arkansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in

the November 21, 1980, **Federal Register** (45 FR 77003). Arkansas amended its program by submitting provisions that satisfied all of the conditions of the Secretary's approval of November 21, 1980. Effective January 22, 1982, OSM removed the conditions of the approval of the Arkansas permanent regulatory program. Information on the removal of the conditions can be found in January 22, 1982, **Federal Register** (47 FR 3108). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 904.12, 904.15, and 904.16.

## II. Description of the Proposed Amendment

By letter dated November 24, 1997 (Administrative Record No. AR-560), Arkansas submitted a proposed amendment to its program pursuant to SMCRA. Arkansas submitted the proposed amendment at its own initiative. Arkansas proposes to amend the Arkansas Surface Coal Mining and Reclamation Code to include revegetation success standards at section 816.116. Arkansas also submitted copies of the parts of the United States Department of Agriculture, Natural Resources Conservation Service (NRCS) Arkansas Field Office Technical Guide to which the proposed amendment refers. The full text of the proposed program amendment and the parts of the Technical Guide submitted by Arkansas are available for public inspection at the locations listed above under **ADDRESSES**. A brief discussion of the proposed amendment is presented below.

### 1. ASCMRC Subsection 816.116(a) General Revegetation Success Standards

Arkansas proposes to delete existing paragraph (1) and redesignate existing paragraph (2) as (1). Arkansas also proposes to revise the second sentence of redesignated paragraph (1) to read, "Ground cover, production, or stocking shall be considered equal to the approved success standard when they are not less than 90 percent of the success standards in paragraphs (b)(1), and (2) of this section."

### 2. ASCMRC Subsection 816.116(b)(1) Revegetation Success Standards for Areas Developed for Use as Grazing and Pasture Land

Arkansas proposes to delete the existing language at subsection 816.116(b)(1) and replace it with the following language:

(1) Areas developed for use as a grazing land or pasture land shall be maintained using proper management practice as set

forth in the United States Department of Agriculture, Natural Resources Conservation Service (NRCS) Arkansas Field Office Technical Guide Section IV, Codes 342, 510, and 512) and this subsection until the end of the responsibility period. Production for proof of productivity purposes shall be initiated within five years after completion of backfilling and final grading; and (i) The ground cover and production of living plants on the revegetated area shall be at least equal to that of a reference area, except for erosion control devices and other structure (i.e., levees, ditches, waterways, impounding structures, etc.). The productivity and ground cover figures shall have a 90-percent statistical confidence (i.e., one-sided test with a 0.10 alpha error) derived from any two years of the five year responsibility period prior to release of the performance bond, except for the first year; or (ii) When no reference area is employed, productivity success [tons of grass, animal unit months (A.U.M.), and/or legumes per acre, etc.], except for erosion control devices and other structures (i.e., levees, ditches, waterways, impounding structures, etc.), shall be considered successful if it is 90 percent of the predicted yields under improved management established by the NRCS's respective county District Conservationist, County Soil Manual, and/or Soil Survey Database for the vegetation type(s) planted on the soil series present before the area was disturbed. Ground cover shall be considered successful if it is 90 percent. The productivity and ground cover figures shall have a 90-percent statistical confidence (i.e., one-sided test with a 0.10 alpha error) derived from any two years of the five responsibility period prior to release of the performance bond, except for the first.

### 3. ASCMRC Subsection 816.116(b)(2) Proof of Productivity Standards for Area Developed for Use as Cropland

Arkansas proposes to delete the existing language at subsection 816.116(b)(2) and replace it with the following language:

(2) For those areas developed for use as cropland, production for proof of productivity purposes shall be initiated within ten years after completion of backfilling and final grading, and (i) Production on the revegetated areas shall be at least equal to that of a reference area, except for erosion control devices and other structures (i.e., levees, ditches, waterways, impounding structures, etc.) With a 90-percent statistical confidence (i.e., one-sided test with a 0.10 alpha error) for a minimum of any two crop years of ten year responsibility period prior to release of the performance bond, except the first year of the five year responsibility period; or (ii) When no reference area is employed, 90 percent of that crop production established in NRCS's respective county District Conservationist, County Soil Survey Manual, and/or the Soil Survey Database for the soil series present prior to disturbance with a 90-percent statistical confidence (i.e., one-sided test with a 0.10 alpha error) for a minimum of any two crop years of a ten year

responsibility period prior to release of the performance bond, except the first year of the five year responsibility period. (iii) During the extended five year responsibility period, erosion from cropland must be minimized using equivalent or better management practices than surrounding unmined cropland. The five responsibility period shall begin after the last year of augmented seeding, fertilizing, or soil treatment and at the time of the planting of the crop(s) to be grown for the productivity showing or crops grown in rotation.

### 4. ASCMRC Subsection 816.116(b)(3) Revegetation Success Standards for Areas to be Developed for Fish and Wildlife Habitat

At existing subsection 816.116(b)(3), Arkansas proposed to delete the language, "success of vegetation shall be determined on the basis of tree and shrub stocking and vegetative ground cover. Such parameters are described as follows:"

Arkansas proposes to redesignate existing paragraphs 816.116(b)(3)(i), (ii), and (iii), as 816.116(b)(3)(i)(A), (B), and (C), respectively, and to add the following language at proposed new paragraph 816.116(b)(3), "Success of vegetation shall be determined on the basis of tree and shrub stocking and vegetative ground cover using proper management practices set forth in the NRCS's Arkansas Field Office Technical Guide (Section IV, Codes 612, and 645) and such parameters described as follows:"

### 5. ASCMRC Subsection 816.116(b)(4) Revegetation Success Standards for Areas to be Developed for Industrial, Commercial, or Residential Use

Arkansas proposes to revise subsection 816.116(b)(4) by adding the phrase, "and shall not be less than 70 percent."

### 6. ASCMRC Subsection 816.116(b)(5) Revegetation Success for Areas Previously Disturbed by Mining

Arkansas proposes to revise subsection 816.116(b)(5) to require that vegetative ground cover shall not be less than the greater 70 percent or the percentage of the ground cover existing before redisturbance, and shall be adequate to control erosion during the last year of responsibility.

### 7. ASCMRC Subsection 816.116(b)(6) Revegetation Success for Non-contiguous Areas

Arkansas proposes to add a new subsection at 816.116(b)(6) as follows:

Non-contiguous areas less than or equal to four acres which we disturbed from activities such as, but no limited to, signs, boreholes, power poles, stockpiles and substations shall

be considered successfully revegetated if the operator can demonstrate the soil disturbance was minor, i.e., the majority of the subsoil remains in place, the soil has been returned to its original capability and the area is supporting its approved postmining use at the end of the responsibility period.

**8. ASCMRC Subsection 816.116(c)**  
*Vegetative Ground Cover Measurement Technique*

Arkansas proposes to redesignate existing (c) as (d), and replace it with new subsection (c) as follows:

(c) Vegetative ground cover shall be measured by the following technique: (1) Ten (10) random points shall be identified in the area to be tested. (2) A twenty (20) foot engineer's tape shall be extended directly south of each point. If the tape extends beyond the boundary of the area to be tested or extends into an area where herbaceous ground cover has been controlled with herbicides to minimize competition with woody plants, the tape shall be rotated in ninety (90) degree increments until the entire twenty (20) foot length is within the boundary of the area to be tested or area not treated with herbicides. (3) A measurement shall be taken at each two: tenths (0.2) foot increment directly above or below the tape. A Ground cover shall be determined to be present if any vegetation identified in the NRCS's Arkansas Field Office Technical Guide (Section IV, Codes 342, 510, and 512) and the approved reclamation plan, including ten percent (10%) site-produced litter and/or other desirable annual species described in (Section IV, Code 342, Table 2) is measured at the increment. (5) A percentage of ground cover shall be established for the area tested by taking the total number of measurements where ground cover was determined to be present.

**9. ASCMRC Subsection 816.116(d)**  
*Period of Extended Responsibility for Revegetation Success*

Arkansas proposes to revise redesignated subsection 816.116(d) by deleting (d)(3) and by making non-substantive language changes and paragraph notation changes to reflect the revisions made by this amendment.

**10. ASCMRC Subsection 816.116(e)**  
*Selective Husbandry Practices*

Arkansas proposes to add new subsection (e) as follows:

(e) Selective husbandry practices which will not extend the period of responsibility for revegetative success and bond liability, if such practices can be expected to continue as part of the postmining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetative success, include: (1) Augmented seeding, fertilization, liming, mulching, mowing, or irrigation; (2) Temporary erosion control structures such as silt fencing, straw, or hay bale dikes; (3) Practices such as disease, pest, and vermin control; and any pruning,

reseeding and/or transplanting specifically necessitated by such action; (4) Land smoothing and reseeding, provided the cumulative acreage is no greater than ten percent (10%) of the disturbed area of the permit; (5) Rip-rap repair and maintenance; (6) Terrace repair and maintenance; (7) Rill and gully repair on noncropland-capable or cropland-capable reclaimed land will be considered a husbandry practice if an operator has an approved erosion control plan in place in the field, and shortly after the first rainfall event after the repair, the Department makes the following determination: (i) The area is a minor erosional feature; (ii) The area is small; (iii) The erosion is not expected to recur; and (iv) The area is stable. The Department shall notify the permittee in writing whether or not a repair is an augmentation. Such written notice shall be in the form of an inspection report or other document issued by the Department.

**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 Arkansas 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 Tulsa 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.s.t. on January 26, 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. 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 904**

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 31, 1997

#### **Brent Wahlquist,**

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

[FR Doc. 98-530 Filed 1-8-98; 8:45 am]

BILLING CODE 4310-05-M

### DEPARTMENT OF THE INTERIOR

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

#### **30 CFR Part 936**

[SPATS No. OK-017-FOR]

#### **Oklahoma Regulatory Program**

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

**ACTION:** Proposed rule; withdrawal of proposed amendment.

**SUMMARY:** OSM is announcing the withdrawal of a proposed amendment to the Oklahoma regulatory program (hereinafter the "Oklahoma program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment concerned protected activities. Oklahoma is withdrawing the amendment at its own initiative.

**FOR FURTHER INFORMATION CONTACT:** Michael C. Wolfrom, Director, Tulsa Field Office, Telephone: (918) 581-6430.

**SUPPLEMENTARY INFORMATION:** By letter dated February 21, 1996 (Administrative Record No. OK-973), Oklahoma submitted a proposed amendment to its program to SMCRA. Oklahoma submitted the proposed amendment at its own initiative. The provisions of the Oklahoma regulations that Oklahoma proposed to amend were at Oklahoma Administrative Code (OAC) 460:20-15-7 concerning permit conditions. Specifically, Oklahoma proposed to revise OAC 460:20-15-7 by adding a new permit condition at subsection (5) concerning protected activities.

OSM announced receipt of the proposed amendment in the March 5, 1996, **Federal Register** (61 FR 8536) and invited public comment on its adequacy. The public comment period ended April 4, 1996.

During its review of the amendment, OSM identified concerns relating to Oklahoma's proposed addition at OAC 460:20-15-7(5). OSM was specifically concerned that the existing state enforcement and citizens complaint regulations did not contain the procedures necessary to implement the requirements of the Federal regulations dealing with protected activities at 30 CFR Part 865. OSM notified Oklahoma of the concerns by letter dated June 25, 1996 (Administrative Record No. OK-973.06). Oklahoma responded in a letter dated August 28, 1996 (Administrative Record No. OK-973.08), by submitting a revised amendment. Oklahoma proposed the addition of a new subchapter at OAC 460:20-16, concerning protection of employees, to replace the changes originally proposed for OAC 460:20-15-7.

Based upon the proposed revision to the program amendment submitted by Oklahoma, OSM reopened the public comment period in the September 19, 1996, **Federal Register** (61 FR 49282). The public comment period closed on October 4, 1996.

On December 12, 1997 (Administrative Record No. OK-973.14), Oklahoma requested that the proposed amendment be withdrawn. Oklahoma

has decided not to add the provisions contained in OAC 460:20-16 concerning protection of employees to its approved program at this time. Therefore, the proposed amendment announced in the March 5, and September 19, 1996, **Federal Register** is withdrawn.

#### **List of Subjects in 30 CFR Part 936**

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 31, 1997.

#### **Brent Wahlquist,**

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

[FR Doc. 98-531 Filed 1-8-98; 8:45 am]

BILLING CODE 4310-05-M

### DEPARTMENT OF JUSTICE

#### **48 CFR Chapter 28**

#### **Justice Acquisition Regulations; Rewrite of the Justice Acquisition Regulation (JAR). Regarding: Implementation of the Federal Acquisition Streamlining Act and the National Performance Review Recommendations**

**AGENCY:** Justice Management Division, Justice.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Department of Justice is proposing to rewrite 48 CFR Chapter 28, the Justice Acquisition Regulations, in its entirety in order to implement regulatory changes resulting from the Federal Acquisition Streamlining Act and to further implement recommendations of the National Performance Review. This effort will create a new JAR that is simpler and less burdensome. This 1998 version of the JAR supersedes the 1985 version and all amendments (Justice Acquisition Circulars 85-1 through 97-1) issued prior to the date of publication of a final rule.

**DATES:** Comments must be submitted on or before March 10, 1998.

**ADDRESSES:** Send written comments to Procurement Executive, 1331 Pennsylvania Avenue, NW., National Place Bldg., Room 1400, Washington, DC 20530.

**FOR FURTHER INFORMATION CONTACT:** Janis Sposato, Procurement Executive, Justice Management Division (202) 514-3103.

**SUPPLEMENTARY INFORMATION:** The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted agency procurement regulations from review