

“Application to Section 4958.....19” immediately after “Effective Date.....18”.

**Par. 10.** In § 301.7611-1, an undesignated centerheading and Q-19 and A-19 are added to read as follows:

**§ 301.7611-1 Questions and answers relating to church tax inquiries and examinations.**

\* \* \* \* \*

**Application to Section 4958**

Q-19: When do the church tax inquiry and examination procedures described in section 7611 apply to a determination of whether there was an excess benefit transaction described in section 4958?

A-19: See § 53.4958-7(b) of this chapter for rules governing the interaction between section 4958 excise taxes on excess benefit transactions and section 7611 church tax inquiry and examination procedures.

**Michael P. Dolan,**

*Deputy Commissioner of Internal Revenue.*  
[FR Doc. 98-20419 Filed 7-30-98; 8:45 am]  
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**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:** Proposed rule; Reopening and extension of public comment period on proposed amendment.

**SUMMARY:** OSM is announcing receipt of revisions pertaining to a previously proposed amendment to the Arkansas regulatory program (hereinafter referred to as the “Arkansas program”) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions for Arkansas’s proposed rules pertain to ASCMRC 701.5, Definitions; ASCMRC 780.14, Operations Plan: Maps and Plans; ASCMRC 816.46, Hydrologic Balance: Siltation Structures; ASCMRC 816.56, Hydrologic Balance: Postmining Rehabilitation of Sedimentation 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. Arkansas also

proposes to change the old name of the “U.S. Soil Conservation Service” to its new name of “Natural Resources Conservation Service” throughout its regulations. The amendment is intended to revise the Arkansas program to be consistent with the corresponding Federal regulations and to enhance enforcement of the State program.

**DATES:** Written comments must be received by 4:00 p.m., c.d.t., August 19, 1998.

**ADDRESSES:** Written comments 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, 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, Arkansas 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
- II. Discussion of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

**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 the 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. Discussion of the Proposed Amendment**

By letter dated February 6, 1998 (Administrative Record No. AR-561), Arkansas submitted a proposed amendment to its program pursuant to SMCRA. Arkansas submitted the proposed amendment in response to a June 17, 1997, letter (Administrative Record No. AR-559) that OSM sent to Arkansas in accordance with 30 CFR 732.17(c), and at its own initiative. The provisions of Arkansas Surface Coal Mining and Reclamation Code (ASCMRC) that Arkansas proposes to amend are: ASCMRC 761.5, Definitions; ASCMRC 780.25, Reclamation Plan: Siltation Structures, Impoundments, Banks, Dams, and Embankments; ASCMRC 780.35, Disposal of Excess Spoil; ASCMRC 785.17, Prime Farmlands; ASCMRC 816.21, Topsoil: General Requirements; ASCMRC 816.22, Topsoil: Removal; ASCMRC 816.23, Topsoil: Storage; ASCMRC 816.24, Topsoil: Redistribution; ASCMRC 816.25, Topsoil: Nutrients and Soil Amendments; ASCMRC 816.56, Hydrologic Balance: Postmining Rehabilitation of Sedimentation Ponds, Diversions, Impoundments, and Treatment Facilities; ASCMRC 816.74, Disposal of Excess Spoil: Pre-existing Benches; ASCMRC 816.102, Backfilling and grading: General Grading Requirements; ASCMRC 816.103, Backfilling and grading: Covering Coal and Acid and toxic forming materials; ASCMRC 816.104-S, Backfilling and Grading: Thin Overburden; ASCMRC 816.105-S, Backfilling and Grading: Thick Overburden; ASCMRC 816.106, Backfilling and Grading: Steep Slopes; ASCMRC Part 826, Special State Program Performance Standards—Operations on Steep Slopes; ASCMRC 816.107, Backfilling and Grading Previously Mined Areas; ASCMRC Part 823, Special State Program Performance Standards—Operations on Prime Farmland; ASCMRC 845.18, Procedures for Assessment Conference; and ASCMRC 845.19, Request for Adjudicatory Public Hearing. Arkansas also proposed to make editorial and reference changes in the following sections of ASCMRC: 780.18(b)(7), Reclamation plan: general requirements; 785.15(b) and (c), Steep slope mining; 785.16(a), (c)(6), and (d)(1), Permits incorporating variances from approximate original contour restoration requirements for steep slope mining;

815.15(k), Performance standards for coal exploration; 816.11(g), Signs and markers; 816.43(e) and (f)(5), Hydrologic balance: diversions and conveyance of overland flow, shallow groundwater flow, (and ephemeral streams); 816.44(c), Hydrologic balance: stream channel diversions; 816.48(b), Hydrologic balance: acid-forming and toxic-forming spoil; and 816.107, Backfilling and grading previously mined areas.

OSM announced receipt of the proposed amendment in the February 26, 1998, **Federal Register** (63 FR 9747) and invited public comment on its adequacy. The public comment period ended March 30, 1998.

During its review of the amendment, OSM identified concerns relating to 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 823.14(a), Revegetation and Restoration of Soil Productivity. OSM notified Arkansas of the concerns by fax dated July 6, 1998 (Administrative Record No. AR-561.06). Arkansas responded in a letter dated July 15, 1998, (Administrative Record No. AR-561.07) by submitting a revised amendment.

Arkansas proposes revisions to ASCMRC 701.5, Definitions; ASCMRC 780.14, Operations Plan: Maps and Plans; ASCMRC 816.46, Hydrologic Balance: Siltation Structures; ASCMRC 816.56, Hydrologic Balance: Postmining Rehabilitation of Sedimentation 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. Arkansas also proposes to change the old name of the "U.S. Soil Conservation Service" to its new name of "Natural Resources Conservation Service" throughout its regulations.

Specifically, Arkansas proposes the following changes to its regulations.

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

Arkansas proposes to amend sections 701.5 and 816.46 by transferring to section 701.5, the definition of "siltation structure" that is in section 816.46(a)(1) and by reserving section 816.46(a)(1).

**2. ASCMRC 780.14, Operations Plan: Maps and Plans**

Arkansas proposes to amend this section by adding a designation for paragraph (b)(6), pertaining to water diversions, collection, conveyance, treatment, storage, and discharge facilities, to the list of paragraphs requiring maps, plans, and cross sections.

**3. ASCMRC 816.56, Hydrologic Balance: Postmining Rehabilitation of Sedimentation Ponds, Diversions, Impoundments, and Treatment Facilities**

Arkansas proposes to amend this section to read as follows:

Before abandoning the permit area or seeking bond release, the person who conducts the (surface mining activities) [underground mining activities] shall ensure that all temporary structures are removed and reclaimed, and that all permanent sedimentation ponds, diversions, impoundments, and treatment facilities meet the requirements of this Chapter for permanent structures, have been maintained properly, and meet the requirements of the detailed design plan for permanent structures and impoundments. The operator shall renovate such structures if necessary to meet the requirements of this Chapter and to conform to the approved reclamation plan.

**4. ASCMRC 816.102, Backfilling and Grading: General Grading Requirements**

Arkansas proposes to revise paragraph (d) to read as follows:

Spoil may be placed on the area outside the mined-out [surface] area in nonsteep slope areas to restore the approximate original contour by blending the spoil into the surrounding terrain if the following requirements are met:

**5. ASCMRC 823.11, Applicability**

Arkansas proposes to revise the editorial note to read as follows:

[Ed. note: Section 823.11(a) is suspended "insofar as it excludes from the requirements of Part 823 those coal preparation plants, support facilities, and roads that are part of surface mining activities".]

**6. ASCMRC 823.15, Revegetation and Restoration of Soil Productivity**

Arkansas proposes to revise paragraph (b)(6) to read as follows:

The reference crop on which restoration of soil productivity is proven shall be selected from the crops most commonly produced on the surrounding prime farmland. Where row crops are the dominant crops grown on prime farmland in the area, the row crop requiring the greatest rooting depth shall be chosen as one of the reference crops.

**7. Reference Change**

Arkansas proposes to change the old name of the "U.S. Soil Conservation

Service" to its new name of "Natural Resources Conservation Service" throughout its regulations.

**III. Public Comment Procedures**

OSM is reopening the comment period on the proposed Arkansas 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 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.

**IV. Procedural Determinations**

**Executive Order 12866**

This proposed 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: July 28, 1998.

**Brent Wahlquist,**

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

[FR Doc. 98-20716 Filed 8-3-98; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 62**

[Region 2 Docket No. NY28-2-180a, FRL-6134-6]

**Approval and Promulgation of State Plans for Designated Facilities; New York**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve the State Plan submitted by New York to fulfill the requirements of sections 111(d)/129 of the Clean Air Act for Municipal Waste Combustors (MWC). The State Plan addresses the implementation and enforcement of the Emissions Guidelines (EG) applicable to existing large MWCs with capacity to combust more than 250 tons per day of municipal solid waste. The State Plan imposes emission limits and control requirements for the existing MWC's in New York which will reduce the designated pollutants. In the final rules section of this **Federal Register**, EPA is approving New York's MWC State Plan as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no relevant adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to that direct final rule no further activity is contemplated in relation to this proposed rule. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule.

The EPA will not institute a second comment period on this action. Any parties interested in commenting should do so at this time.

**DATES:** Comments must be received on or before September 3, 1998.

**ADDRESSES:** All comments should be addressed to: Ronald J. Borsellino, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866.

Copies of the State submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,  
Region 2 Office, 290 Broadway, 25th

Floor, New York, New York 10007-1866.

New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.

**FOR FURTHER INFORMATION CONTACT:**

Christine DeRosa or Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10278, (212) 637-4249.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: July 24, 1998.

**William J. Muszynski,**

*Acting Regional Administrator, Region 2.*

[FR Doc. 98-20772 Filed 8-3-98; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 63**

[IL-64-2-5807; FRL-6132-5]

RIN 2060-AF29

**National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rules; notice of public hearing.

**SUMMARY:** This action proposes national emission standards for hazardous air pollutants (NESHAP) for ferroalloys production, which is comprised of ferronickel production facilities and ferromanganese, silicomanganese, and ferrochromium production facilities. The EPA has identified these facilities as major sources of hazardous air pollutant (HAP) emissions such as nickel and manganese. Nickel compounds such as nickel carbonyl and nickel subsulfate are some of the most toxic compounds of nickel. They can affect the lungs and the kidneys. Symptoms such as headaches, vomiting, chest pains, dry coughing, and visual disturbances have been reported from short-term exposure in humans. Additionally, human and animal studies reveal an increased risk of lung and nasal cancers from exposure to nickel refinery dusts and nickel subsulfate. Chronic exposure to nickel in humans also results in respiratory effects such as asthma due to primary irritation or an allergic response, and an increased risk of chronic respiratory tract infections.