

FEDERAL REGISTER: 45 FR 71816 (October 30, 1980)

DEPARTMENT OF THE INTERIOR

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

30 CFR Part 900

Surface Coal Mining Reclamation Operations; State or Federal Programs

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining is proposing to establish a new Subchapter T which will contain the final actions of the Secretary of the Interior regarding State or Federal Programs governing surface mining and reclamation operations. This document provides an introductory Part (Part 900) to Subchapter T. This part explains the purpose of Subchapter T and identifies the information that will be published in Parts 901-950 of this title.

DATE: Comments are due December 1, 1980.

ADDRESS: Comments should be submitted to: Boyd Lewis, Program, Assistant, Room 122, Department of the Interior, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT:

R. Bruce Carroll, Department of the Interior, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240 (202) 343-5351.

SUPPLEMENTARY INFORMATION:

Title V of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) requires the implementation of permanent programs to regulate coal exploration and surface coal mining and reclamation operations in each State. The Office of Surface Mining and Enforcement (OSM) promulgated national permanent program regulation in 30 CFR Chapter VII which establish the minimum standards for the regulatory programs in each State.

Under Sections 501-503 of the Act and 30 CFR Part 731, the States were provided the opportunity to submit programs for approval by the Secretary and thus achieve primary responsibility for regulating coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands. A deadline of August 3, 1979, was established by 30 CFR 731.12 for submittal of State programs. The deadline for submissions was extended to March 3, 1980, by an opinion on August 22, 1979, of the District Court for the District of Columbia (see *In Re: Permanent Surface Mining Reclamation Litigation*, 13 ERC 1586). By March 3, 1980, 24 of the States with known coal reserves had submitted programs to obtain primary regulatory responsibility.

Under Section 504 of SMCRA and 30 CFR 736.11, OSM must promulgate and implement a Federal program in each State that did not submit a program by March 3, 1980, and in which the Director reasonably expects coal exploration or surface coal mining and reclamation operations to exist on non-Federal and non-Indian lands at any time before June, 1985.

Each State and each Federal program will be codified under Subchapter T, Parts 901-950. For each State program, OSM proposes that the complete text not appear. Rather, a notification of approval of a State program is proposed to be codified as well as the addresses where the State program may be inspected and reviewed. This alternative was chosen because of the burdensome cost that would be imposed on the Federal government to publish the full text of each State program, estimated for all programs to be around \$1,500,000. Incorporating the program by reference was not recommended by the Federal Register as problems had arisen when other agencies incorporated by reference their State program approvals. However, OSM is still investigating its chosen alternative, in light of the possibility that Federal enforcement of the provisions of a State program may be facilitated by incorporation by reference of the program's provisions in the Code of Federal Regulations. OSM requests comments on this alternative from the public and on information it feels may be useful to codify.

For Federal programs, the complete text of the Federal regulations for each program will be codified.

This regulation will not have significant effect on the human environment and an environmental impact statement will therefore not be prepared.

The Director of the Office of Surface Mining has determined that this regulation does not constitute a significant rule set forth in 40 CFR Part 14. The regulation will not impose any recordkeeping and reporting requirements nor will it cause any economic impacts on the nationwide economy or the coal industry in particular.

Dated: October 23, 1980.
Joan M. Davenport,

Assistant Secretary for Energy and Minerals.

A new Subchapter T -- Programs For the Conduct of Surface Mining Operations Within Each State, is proposed to be added to Chapter VII of Title 30 of the Code of Federal Regulations, consisting at this time of Part 900, to read as follows:

SUBCHAPTER T -- PROGRAMS FOR THE CONDUCT OF SURFACE MINING OPERATIONS WITHIN EACH STATE

PART 900 -- INTRODUCTION

SECTION

900.1	Scope.
900.2	Objectives.
900.4	Responsibilities.
900.11	Organization of the subchapter.
900.12	State programs.
900.13	Federal programs.
900.14	Abandoned mine land programs.
900.15	Federal lands program cooperative agreements.

Authority: Secs. 102, 201, 405, 503, 504, and 523 of Pub. L. 95-87 (30 U.S.C. 1202, 1211, 1235, 1253, 1254, and 1273).

SECTION 900.1 - SCOPE.

This part sets forth the purpose and organization of Parts 901-950 of this subchapter.

SECTION 900.2 - OBJECTIVES.

The objective of this part is to provide an introduction to the synopsis of the approved State programs, the Abandoned Mined Lands Reclamation programs, and the full texts of the Federal programs and State and Federal cooperative agreements for regulation of mining on Federal lands. The introduction is to explain the content and authority of the permanent regulatory programs.

SECTION 900.4 - RESPONSIBILITIES.

- (a) Each State that has surface coal mining and reclamation operations or coal exploration activities must have either an approved State program or a promulgated Federal program as required by Title V of the Act and 30 CFR Chapter VII, Subchapter C. Approval of a State program and promulgation of a Federal program are described in the paragraphs below.
- (b) Under Section 503 of the Act and 30 CFR Part 731 a State in which there are coal exploration activities and surface mining and reclamation operations must submit a State program to the Secretary for approval if it wishes to assume exclusive regulatory jurisdiction on non-Federal and non-Indian lands. The State programs must meet the requirements of the Act and 30 CFR Chapter VII, Subchapter C.
- (c) Pursuant to Section 504 of SMCRA and 30 CFR 736.11, OSM must promulgate and implement a Federal program in each State in which the Director reasonably expects coal exploration or surface coal mining and reclamation operations to exist on non-Federal and non-Indian lands at any time before June, 1985, and either (1) the State does not submit a State program, (2) the Secretary of the Interior finally disapproves the program submitted by the State, or (3) the Secretary of the Interior withdraws approval of the State program.
- (d) States with approved program may enter into a cooperative agreement with OSM for the regulation of coal mining on Federal lands, in accordance with 30 CFR Chapter VII, Subchapter D.

SECTION 900.11 - ORGANIZATION OF SUBCHAPTER.

Parts 901-950 are reserved for each State alphabetically. A part is reserved for each State regardless of whether it is likely there will be surface coal mining and reclamation operations or coal exploration activities in that State. The programs applicable solely within each State will be codified in the applicable Part for that State under this subchapter.

SECTION 900.12 - STATE PROGRAMS.

Upon approval of a State program the Secretary will publish a final rule to be codified under the applicable part number assigned to the State. The full text will not appear below. Notification of the approval of the program and the dates on which any amendments were submitted will appear. In addition, the addresses where copies of the approved program are available will appear.

SECTION 900.13 - FEDERAL PROGRAMS.

The full text of the final rules for each Federal program is codified below under the assigned Part for the particular State.

SECTION 900.14 - ABANDONED MINE LAND PROGRAM.

Programs for reclamation of abandoned mine lands are codified under the applicable part for the State. The date of submittance and approval and the addresses at which copies of the program are available appear in the applicable part for each State below.

SECTION 900.15 - FEDERAL LANDS PROGRAM.

The full text of any State and Federal cooperative agreement for the regulation of coal exploration and mining on Federal lands is published below under the applicable part. In addition, these requirements of a State program which are applicable on Federal lands in the State shall be specified.

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