

FEDERAL REGISTER: 50 FR 7274 (February 21, 1985)

DEPARTMENT OF THE INTERIOR

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

30 CFR Parts 701, 779, 780, 783, 784, 800, 816, 817, and 823

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Compliance With Court Order

ACTION: Notice of suspension.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is suspending certain portions of its regulations which: (1) Define "agricultural activities or farming" on alluvial valley floors (AVF's); (2) set the areal extent and activities for the bond that operators must post to insure reclamation of surface coal mining operations; (3) set forth performance standards applicable to the construction, maintenance and reclamation of roads associated with surface coal mining operations; (4) require underground mine operators to handle earth materials and runoff so as to restore approximate premining recharge capacity; (5) require operators to redress material damage to structures caused by subsidence only to the extent required by State law; and (6) provide exemptions to the special permanent program standards applicable to operations on prime farmlands. In addition, OSM is removing a previous suspension addressing fish and wildlife information requirements in permit applications, thereby reinstating the fish and wildlife information rules originally promulgated in 1979. OSM is taking these actions chiefly as a result of a District Court decision in Round II of the present litigation on OSM's permanent program regulations. The suspension of the provision relating to the restoration of hydrologic recharge capacity for underground mines implements a representation the Secretary of the Interior made in a brief filed with a U.S. District Court. The suspensions will be effective until proposed and final rules can be promulgated.

EFFECTIVE DATE: March 25, 1985.

FOR FURTHER INFORMATION CONTACT: Brent Wahlquist, Assistant Director for Technical Services and Research, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Ave., NW., Washington, D.C. 20240; (202) 343-4264.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Discussion of Rules Suspended
- III. Procedural Matters

I. BACKGROUND

The Surface Mining Control and Reclamation Act of 1977, *30 U.S.C. 1201* et seq. (the Act), sets forth general regulatory requirements governing surface coal mining and the surface operations and surface impacts of underground coal mining. OSM has by regulation implemented or clarified many of the general requirements of the Act and set performance standards to be achieved by different operations. See 30 CFR Chapter VII.

On March 13, 1979, OSM published regulations implementing the permanent regulatory program of Title V of the Act. *44 FR 14902* et seq. A number of these regulations were challenged by States, coal industry representatives and citizen and environmental groups. In *Re: Permanent Surface Mining Regulation Litigation*, No. 79-1144 (D.D.C. 1980) (In *Re: Permanent (I)*). The District Court issued decisions in February 1980 and in May 1980. The parties appealed the District Court's decisions in *In Re: Permanent (I)* but the D.C. Circuit Court remanded the case on motion of the parties pending the outcome of OSM's program of regulatory reform. In *Re: Permanent (I)*, Order, February 1, 1983 (D.C. Cir).

Many of the regulations originally promulgated in 1979 were revised and repromulgated during 1983 as part of OSM's extensive program of regulatory reform. Citizen and environmental groups as well as States and industry representatives again challenged some of these new regulations in *In Re: Permanent Surface Mining Regulation Litigation (II)*, No. 79-1144 (D.D.C. 1984) (In *Re: Permanent (II)*). In that case the Court divided its consideration of the challenged regulations into four rounds of briefing and oral argument. This notice of suspension addresses those regulations

remanded by the October 1, 1984 Memorandum Opinion in Round II of In Re: Permanent (II). An amended Order was filed on December 10, 1984, specifying which rules were remanded.

An explanation of each of the regulations to be suspended, the basis upon which the Court remanded them to the Secretary and the effect of the suspension of each regulation is provided below. Where necessary, OSM intends to propose revisions to the remanded rules consistent with the Court's Round II opinion.

It is important to recognize that this suspension notice, although affecting the Code of Federal Regulations, is an interpretative statement which describes how the Secretary is already implementing Court's decision. Even in the absence of this notice, the Secretary's actions must be consistent with the Court Order.

Most State programs were approved prior to the promulgation of the 1983 rules, and are generally based on OSM's 1979 rules. In a few instances, State program amendments were approved based on the 1983 revisions. State programs will remain in effect until the Director of OSM has examined the provisions of each State program to determine whether changes are necessary and has notified the State regulatory authority pursuant to 30 CFR 732.17(d) that a State program amendment is required.

With respect to Federal lands, the Secretary is continually required to make programmatic decisions, such as whether and under what conditions to issue a Federal lands permit. Although 30 CFR 740.11 makes State programs applicable on Federal lands, the Secretary will not take any action which is inconsistent with the Court's October 1, 1984 opinion regardless of the provisions of the applicable State program.

This suspension notice has a direct effect on Federal Program States, except as provided below, and on Indian lands, the rules for which directly reference the remanded sections.

Additionally, this suspension notice is no reflection on the Secretary's intent to appeal the Court's decision on any of these regulations.

II. DISCUSSION OF RULES SUSPENDED

SECTION 701.5 - DEFINITION OF "AGRICULTURAL ACTIVITIES OR FARMING" AS RELATED TO ALLUVIAL VALLEY FLOORS

On June 28, 1983, OSM promulgated its permanent regulatory program rules governing surface coal mining operations on or near alluvial valley floors. *48 FR 29802*. The rules included a definition for "agricultural activities or farming." Congress used the term "agricultural activities" in the definition of alluvial valley floors in Section 701(1) of the Act and the term "farming" in section 510(b)(5)(A) of the Act in describing permit requirements. The Court remanded the definition in Section 701.5 which treats the terms "agricultural activities" and "farming" as synonymous because it believed the use of different terms might indicate a congressional intent to prescribe different meanings to those terms. In *In Re: Permanent (II)* (Memorandum Opinion filed October 1, 1984) at 31. (Mem. Op.) Accordingly, OSM suspends the definition at this time pending proposal of a rule which is consistent with the Court's Order.

REINSTATEMENT OF SECTIONS 779.20, 780.16, 783.20, AND 784.21 FISH AND WILDLIFE INFORMATION REQUIREMENTS

Among the provisions at issue in *In Re: Permanent (I)* was former 30 CFR 779.20 (1979), which required each surface mining permit application to contain specified fish and wildlife resources information, including a study of fish and wildlife habitat within the proposed mine plan area and the portions of the adjacent area where effects on such resources could reasonably be expected to occur. Former 30 CFR 783.20 (1979) set forth an identical requirement for the underground mining permit application. The purpose of these regulations was to aid the permit applicant in demonstrating to the regulatory authority how it would comply with the performance standards set forth at 30 CFR 816.97 for the protection of fish, wildlife and related environmental values. See the discussion in the preamble to the 1979 rules, *44 FR 14902, 15037-15038* (March 13, 1979).

Plaintiffs in the *In Re: Permanent (I)* suit also challenged former 30 CFR 780.16 (1979) which required each applicant to submit a fish and wildlife reclamation plan consistent with the performance standards prescribed in Section 816.97.

Former Section 780.16 (1979) required the applicant to explain how it planned to minimize the adverse effects of its mining operations on fish, wildlife and related environmental values and how it intended to enhance such resources when practicable. The regulation also required statements covering all species and habitats identified through the consultation process conducted pursuant to Section 779.20 (1979). Under former 30 CFR 784.21 (1979), a similar plan had to be submitted with underground mining permit applications. OSM promulgated these regulations to prevent harm to threatened or endangered species and other wildlife, or their habitats, which are protected under State, Federal or international laws. See *44 FR at 15052*.

Apart from their specific challenge to the fish and wildlife requirements, industry plaintiffs also argued that the Secretary did not have the power to prescribe uniform standards for permit processing and bonding requirements because section 501(b), which grants the Secretary authority to promulgate regulations pursuant to "procedures and requirements for preparation, submission and approval of State programs," fails to explicitly list permitting and bonding.

The District Court rejected industry's challenge to the Secretary's general authority to promulgate uniform permit processing and bonding requirements, stating that specific listing of these requirements was not necessary since "the structure of the Act, the general grants of rulemaking authority, and section 501(b) support the Secretary's power to develop permitting and bonding regulations." In Re: Permanent (I), February 26, 1980 Memorandum Opinion at 31. However, the District Court proceeded to strike down both Section 779.20 and Section 780.16 because it could find no authority in the permitting and bonding sections of the Act for the Secretary to require fish and wildlife information in the permit application or the reclamation plan. In Re: Permanent (I), February 26, 1980 Memorandum Opinion at 38-39. Accordingly, pursuant to the Court's February 1980 Memorandum Opinion, OSM suspended these provisions, together with Sections 783.20 and 784.21, the corresponding regulations for underground mining permit applications. *45 FR 51547* (August 4, 1980).

Peabody Coal Company appealed the District Court's decision rejecting industry's challenge to the Secretary's general rulemaking authority under the Surface Mining Act. It asserted that the Secretary has no authority to require permit applicants to submit any items of information beyond those specifically enumerated in the Act. See In Re: *Permanent Surface Mining Regulation Litigation*, *653 F.2d 514, 517* (D.C. Cir.), cert. denied, *454 U.S. 822 (1981)*. The Circuit Court found that the District Court was correct in holding that the Act's explicit listing of information requirements is not exhaustive and does not preclude the Secretary from requiring additional information needed to insure compliance with the Act. *Id. at 527*. The Circuit Court was careful to note that challenges to individual regulations were separately adjudicated in the District Court and that the Circuit Court was not assessing the Secretary's justifications for individual regulations. *Id. at 517-18*.

Relying on the District Court's February 1980 Opinion, in 1983 OSM did not repromulgate regulations calling for fish and wildlife information in the permit application and reclamation plan when OSM revised the performance standards found in Section 816.97 for the protection of fish, wildlife and related environmental values. See *48 FR 30312, 30316* (June 30, 1983).

In Round II of In Re: Permanent (II), which gives rise to the present suspension notice, the environmental plaintiffs challenged the Secretary's 1983 regulations claiming they fail to require operators to supply information on fish and wildlife resources in permit applications. In his Round II brief, the Secretary agreed with the plaintiffs that the Circuit Court's decision supports his authority to require fish and wildlife data. However, the Secretary did not ask the District Court to reinstate the previously suspended fish and wildlife information rules, but rather urged the Court to allow OSM the opportunity to propose a rule requiring the information the Secretary deems necessary for permit approval. (Government brief at 130.) Instead, the District Court held that the Circuit Court's decision upholding the District Court's February 1980 decision relating to permitting and bonding had effectively reinstated the fish and wildlife information rules remanded in that decision. Thus, the Court ordered the Secretary to reinstate the remanded regulations. In Re: Permanent (II), October Op. at 58.

The Court held that the Secretary could not revoke the reinstated regulations until he conducted a new rulemaking and articulated a rational explanation for his actions. *Id. at 57*. The effect of this suspension notice is formally to reinstate 30 CFR 779.20, 780.16, 783.20 and 784.21. pursuant to the Court's October 1, 1984 Opinion in In Re: Permanent (II).

OSM intends to propose new rules delineating the permit application information requirements for fish and wildlife resources.

SECTIONS 800.11(b) AND 800.13(a)(2) - INCREMENTAL BONDING AND PHASE BONDING

OSM promulgated final permanent program rules on bonding and insurance requirements on July 19, 1983. *48 FR 32932*. Section 800.11(a) requires the permit applicant to file with the regulatory authority (RA) a bond made payable to the RA and conditioned upon faithful performance of all requirements of the Act, the regulatory program and the permit. The Court remanded two provisions of the bonding rules to the Secretary in its October 1, 1984 decision. Mem. Op. at 46, 47.

Section 800.11(b) allows an operator to post a bond for an area smaller than the entire area to be mined in a given permit term. This practice is often referred to as "incremental bonding." The Court remanded Section 800.11(b) to the Secretary holding that it contradicts the Act "to the extent that it allows the bond to be posted for an area less than the entire area to be mined within the initial permit term." Mem. Op. at 46. Accordingly, OSM is suspending Section 800.11(b) to be consistent with the Court Order.

As a result of the Court's decision, all bonds must apply to the entire area within the permit area upon which surface coal mining and reclamation operations will be conducted during the initial permit term.

Section 800.13(a)(2) allows miners to post bonds separately to guarantee specific phases of reclamation within the permit area. The Court remanded the rule, holding that nothing in section 509 of the Act authorizes the Secretary to split the bond into specific phases of reclamation as contemplated by Section 800.13(a)(2). Mem. Op. at 47. Thus, OSM is suspending the rule to comply with the Court Order and will subsequently propose its removal from the Code of Federal Regulations.

SECTIONS 816.150, 816.151, 817.150, 817.151, AND 701.5 - ROADS

On April 16, 1982, OSM proposed permanent program regulations addressing the design, construction, use and maintenance of roads used in surface coal mining operations. *47 FR 16592*. The proposal included a road classification system for primary and ancillary roads used in surface mining activities and underground mining activities based on frequency of road use. As a result of comments received, OSM determined that a classification based on the purpose of the road instead of the frequency of road use would more accurately categorize as primary the roads which have the potential for greater adverse environmental impacts. See *48 FR 22111-22112* (May 16, 1983). Therefore, the final rule promulgated on May 16, 1983 categorizes roads according to the purposes for which the roads are used. See 30 CFR 816.150(a) and 817.150(a); *48 FR 22110*.

The Court held that the promulgation of the classification system in 30 CFR 816.150(a) violated the Administrative Procedure Act (APA), *5 U.S.C. 553*, and remanded this section of the rule to the Secretary for proper notice and comment. Mem. Op. at 28. In the amended Order filed December 10, 1984, the Court remanded Sections 816.150, 816.151, 817.150(a) and 817.151 which are all dependent upon the roads classification system, as well as the definition of road set forth in Section 701.5. This suspension implements that Order. OSM intends to propose new regulations which define the term "road" and which address the design, construction, use and maintenance of roads used in surface coal mining operations.

The Tennessee Federal program, 30 CFR Part 942, adopted at *49 FR 38874* (October 1, 1984), was the subject of a separate notice and comment period subsequent to the promulgation of the roads rules, during which time the public was apprised of the specific content of the national regulations. See *49 FR 26898* (June 29, 1984). Sections 942.816 and 942.817 of the Tennessee Federal program, as finally adopted, incorporate by reference Parts 816 and 817 of Chapter VII, including the roads rules. Additionally, specific roads performance standards were added in Tennessee to augment the national rules. Thus, although the Court remanded Section 816.150(a) because OSM's final rule promulgated on May 16, 1983 was based on inadequate notice and comment, the public had adequate opportunity to comment on the roads rules as they apply in Tennessee. Accordingly, all of the roads regulations suspended by this notice remain in effect in the Tennessee Federal program.

SECTION 817.41(b)(2) - RESTORATION OF RECHARGE CAPACITY

Section 817.41(b)(2) provides for the protection of groundwater quantity by requiring underground miners to handle earth materials and runoff in a manner designed to allow movement of water to the groundwater system so as to restore approximate premining recharge capacity of the reclaimed area, excluding coal mine waste disposal areas and fills. Industry plaintiffs challenged this new provision (which had not been included in the Secretary's 1979 rules) because the specific provision in section 515(b)(10) of the Act requiring the restoration of recharge capacity interrupted by surface mining does not appear in the corresponding provision of the Act, section 516(b)(9), for underground mining. The Federal Register preamble to Section 817.41(b)(2) did not address this issue. See *48 FR 43997* (September 26, 1983). Therefore, in his Round III brief in *In Re: Permanent (II)* filed December 17, 1984, the Secretary stated his intention to suspend the rule pending development of a more complete administrative record concerning the legal and policy considerations associated with requiring underground mine operators to restore hydrologic recharge capacity. (Government brief at 5.) In accordance with the statement in the December 17, 1984 brief, this notice suspends Section 817.41(b)(2).

As was made clear to the District Court, the suspension of 817.41(b)(2) does not affect the applicability of any of OSM's other reclamation requirements, such as the requirement in 30 CFR 817.41 (1983) to conduct underground mining and reclamation activities in a manner to minimize disturbances and prevent material damage to the hydrologic balance, or the obligation in 30 CFR 817.133(a) (1983) to restore disturbed areas to conditions capable of supporting premining or higher or better uses.

The Secretary intends to initiate further rulemaking proceedings on the issue of restoration of recharge capacity associated with underground mines.

SECTION 817.121(c)(2) - REMEDIES FOR SUBSIDENCE DAMAGE LIMITED BY STATE LAW

On June 1, 1983, OSM promulgated 30 CFR 817.121(c)(2) which requires an operator to redress material damage to surface structures or facilities resulting from subsidence only to the extent required by State law. *48 FR 24638*. This rule represented a change from previous Section 817.124 (1979) which required the operator to redress subsidence-caused material damage irrespective of State law. *44 FR 15440* (March 13, 1979).

The Court held that it was improper for OSM to adopt without sufficient notice a final rule that represented a complete reversal of policy from the 1979 regulation. Mem. Op. at 11. Accordingly, the Court remanded the regulation to be repromulgated in accordance with the notice and comment requirements of the APA. By this notice, OSM suspends the portion of Section 817.121(c)(2) which the Court remanded. OSM intends to repropose the suspended rule.

The Tennessee Federal program, 30 CFR Part 942, *49 FR 38874* (October 1, 1984) was the subject of a separate notice and comment period subsequent to the adoption of Section 817.121(c)(2). See *49 FR 26898* (June 29, 1984). Section 942.817 incorporates 30 CFR Part 817 by reference, thereby adopting Section 817.121(c)(2) for the Tennessee program. Because the public had an adequate opportunity to comment on Section 817.121(c)(2) as it applies in the State of Tennessee, the portion of Section 817.121(c)(2) suspended by this notice will remain effective in Tennessee until the completion of the national rulemaking reproposing Section 817.121(c)(2).

SECTION 823.11(a) - EXEMPTION FROM SPECIAL PRIME FARMLAND PERFORMANCE STANDARDS FOR COAL PREPARATION PLANTS, SUPPORT FACILITIES AND ROADS

Under 30 CFR 823.11(a), land occupied by coal preparation plants, support facilities, and roads associated with surface and underground mines, which are actively used over an extended time period and which affect a minimal amount of land, is excluded from the special prime farmland performance standards of 30 CFR Part 823. See *48 FR 21446, 21452-21454* (May 12, 1983). These performance standards address soil removal and stockpiling, soil replacement, and the revegetation and restoration of soil productivity. The exemption for such facilities associated with underground mining was suggested by the Court in its May 16, 1980 opinion. *In Re: Permanent (I)*, May 16, 1980 Memorandum Opinion at 1-3. In extending the exemption to listed surface facilities of both surface and underground coal mining operations, OSM reasoned that these long term uses and their effects were similar for both types of mining. See *48 FR at 21452* (May 12, 1983).

The Court held that the Secretary ignored basic differences between surface and underground mining operations when he promulgated the rule. According to the Court, in underground mining the surface facilities are used for an extended period of time and that, consequently, the soil removed incident to their construction must be maintained and stored for that same time period. By contrast, the Court stated that in surface mining, the topsoil need not be stored for many years, but rather it could be redistributed over areas disturbed by surface operations as surface mining activity progresses. The Court, therefore, remanded the regulation to the Secretary insofar as it addressed facilities used in surface mining. Mem. Op. at 22-23. This suspension implements that direction. The suspension of the exemption as it relates to facilities used in surface mining means that prime farmland occupied by all coal preparation plants, support facilities and roads that are part of the surface mining activities must meet the applicable prime farmland performance standards.

With respect to underground mining, the Court found that the exemption properly applies to the enumerated surface facilities that are "actively used over extended periods of time where such uses affect a minimal amount of land." 30 CFR 823.11(a); Mem. Op. at 23. Thus, the exemption remains applicable to the specified surface facilities of underground mines. However, the Court found that the regulation does not specify what constitutes an "extended" period of time or a "minimal" amount of land. Mem. Op. at 23. The Court therefore directed the Secretary to provide guidelines limiting the scope of this exception for listed facilities related to underground mining. Id. OSM intends to propose a rule to clarify the scope of the exemption as it applies to underground mine surface facilities in accordance with the Court's opinion.

SECTION 823.11(b) - EXEMPTION FROM SPECIAL PRIME FARMLAND PERFORMANCE STANDARDS FOR IMPOUNDMENTS

Under the Act and its implementing regulations, prime farmland must be returned to its premining capability after the mining operation is completed. See section 519(c); 30 CFR 785.17(e)(1), 800.40(c)(2) and 823.15. However, in 30 CFR 823.11(b), *48 FR 21446* (May 12, 1983), OSM created an exception to that requirement for certain water bodies left by operators after mining.

On October 1, 1984, the Court held that the regulation as written provided an impermissibly broad variance from the post-mining use of prime farmland. Mem. Op. at 21. Accordingly, OSM suspends Section 823.11(b). The suspension of this rule will mean that the regulatory authority cannot approve the retention of impoundments as satisfying the operator's obligation to restore prime farmland to premining equivalent levels of yield.

The Court did not reach the issue of whether or not water bodies would be allowable under the Act as a beneficial part of prime farmland use. OSM is, therefore, considering proposing a new rule which would allow impoundments that are beneficial to agricultural activity.

III. PROCEDURAL MATTERS

Executive Order 12291

The DOI has examined this suspension notice according to the criteria of Executive Order 12291 (February 17, 1981) and has determined that it is not major and does not require a regulatory impact analysis. The promulgation in 1983 of the rules being suspended was not a major action and for the same reasons, neither is this suspension.

Regulatory Flexibility Act

The DOI also has determined, pursuant to the Regulatory Flexibility Act, *5 U.S.C. 601* et seq., that the suspension will not have a significant economic impact on a substantial number of small entities for the same reasons that the promulgation of the rules in 1983 did not have such an impact.

National Environmental Policy Act

The effect of the suspensions covered by this notice is covered in two environmental impact statements prepared by the Department of the Interior. These are the Final Environmental Impact Statement OSM-EIS-1 and the Final Environmental Impact Statement OSM-EIS-1: Supplement. These are on file at the OSM Administrative Record at 1100 L Street, NW., Washington, D.C.

Paperwork Reduction Act

No new information collection requirements are imposed by these suspensions. The reinstated information collection requirements of Sections 779.20, 780.16, 783.20 and 784.21 were previously approved by the Office of Management and

Budget under *44 U.S.C. 3507* and assigned clearance numbers 1029-0035, 1029-0036, 1029-0038, and 1029-0039, respectively.

LIST OF SUBJECTS

30 CFR Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

30 CFR Part 779

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 780

Coal mining, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 783

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 784

Coal mining, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 800

Coal mining, Insurance, Reporting and recordkeeping requirements, Surety bonds, Surface mining, Underground mining.

30 CFR Part 816

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 817

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 823

Agriculture, Coal mining, Environmental protection, Surface mining, Underground mining.

In consideration of the foregoing, the following regulations in 30 CFR Parts 701, 779, 780, 783, 784, 800, 816, 817 and 823 are amended.

Dated: February 14, 1985.

Leona A. Power, Acting Assistant Secretary for Land and Minerals Management.

PART 701 -- [AMENDED]

SECTION 701.5 [Amended]

1. In Section 701.5, the definition of "agricultural activities or farming" is suspended.
2. In Section 701.5, the definition of "road" is suspended except as cross-referenced in Section 942.701 of this chapter.

PART 779 -- [AMENDED]

SECTION 779.20 [Amended]

3. The Note suspending Section 779.20 is removed.

PART 780 -- [AMENDED]

SECTION 780.16 [Amended]

4. The Note suspending Section 780.16 is removed.

PART 783 -- [AMENDED]

SECTION 783.20 [Amended]

5. The Note suspending Section 783.20 is removed.

PART 784 -- [AMENDED]

SECTION 784.21 [Amended]

6. The Note suspending Section 784.21 is removed.

PART 800 -- [AMENDED]

SECTION 800.11 [Amended]

7. Section 800.11(b) is suspended insofar as it allows the bond to be posted for less than the entire area within the permit area upon which surface coal mining and reclamation operations will be conducted during the initial permit term.

SECTION 800.13 [Amended]

8. Section 800.13(a)(2) is suspended.

PART 816 -- [AMENDED]

SECTIONS 816.150 and 816.151 [Amended]

9. Sections 816.150 and 816.151 are suspended except as cross-referenced in Section 942.816 of this chapter.

PART 817 -- [AMENDED]

SECTION 817.41 [Amended]

10. Section 817.41(b)(2) is suspended.

SECTION 817.121 [Amended]

11. In Section 817.121(c)(2), the phrase "[t]o the extent required under State law" is suspended except as cross-referenced in Section 942.817 of this chapter.

SECTIONS 817.150 and 817.151 [Amended]

12. Sections 817.150 and 817.151 are suspended except as cross-referenced in Section 942.817 of this chapter.

PART 823 -- [AMENDED]

SECTION 823.11 [Amended]

13. 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 surface mining activities.

SECTION 823.11 [Amended]

14. Section 823.11(b) is suspended.

(30 U.S.C. 1201 et seq.)

[FR Doc. 85-4152 Filed 2-20-85; 8:45 am]
BILLING CODE 4310-05-M