

WHEREAS, the 72nd General Assembly of the State of Arkansas recognized by enactment of the Arkansas Surface Coal Mining and Reclamation Act of 1979, Act 134 of 1979 as Amended by Act 647 of 1979 (hereinafter "the Act") that there is a need to establish a program of regulations over all aspects of surface coal mining and reclamation operations, and to assume exclusive jurisdiction over the regulation of surface coal mining and reclamation operations by developing and implementing a State program pursuant to §503 of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87 (hereinafter "SMCRA") which includes regulations consistent with but no more restrictive than the regulations issued by the Secretary of the Interior pursuant to the SMCRA; and

WHEREAS, §5(b)(1) of the Act provides that the Commission on Pollution Control and Ecology has the following powers and duties:

To adopt, amend and issue rules and regulations in accordance with the procedures set forth herein, pertaining to surface coal mining and reclamation operations in accordance with but no more restrictive than Public Law 95-87, consistent with the general intent and purposes of this Act, and consistent with but no more restrictive than the regulations issued by the Secretary of the Interior pursuant to Public Law 95-87, as required for the state to develop an approved state program and to assume and retain exclusive jurisdiction over the regulation of surface coal mining and reclamation operations pursuant to §503 of Public Law 95-87; provided, that the Commission may, by regulation, include, modify or omit permit application requirements, permit approval or denial procedures, bond requirements and environmental protection performance standards as it deems appropriate for surface coal mining operations affecting two acres or less;

Pursuant to the above duty and pursuant to §§27 and 28 of the Act, the Commission gave notice of public hearings for the purpose of promulgating rules and regulations governing surface coal mining and reclamation operations in Arkansas. Said hearings were held on the 28th day of January, 1980 and on the 8th day of July, 1980.

NOW, THEREFORE, upon consideration of the purposes and requirements of the Act, the regulations issued by the Department of the Interior, Office of Surface Mining Reclamation and Enforcement, all matters of fact, written and verbal testimony and statements made prior to, during, and subsequent to the hearings, the Commission finds that it should adopt regulations to enable the Department to assume permanent regulatory authority over surface coal mining and reclamation operations in this state pursuant to the SMCRA; IT IS, THEREFORE, DETERMINED AND ORDERED by the Commission that:

1. There is a need for regulations governing surface coal mining and reclamation operations in the State of Arkansas; and the Commission has been given authority and is required by the Act to issue such rules and regulations; and
2. The matter has been held open for public comment in accordance with the Act; and
3. The Commission has held public hearings concerning the promulgation of such rules and regulations; and
4. The Commission based its determination on the following:
  - a. Consideration of written statements presented to the Commission prior to, during and subsequent to the public hearing;
  - b. Consideration of testimony during the hearing;
  - c. Consideration of regulations needed in order to qualify the Department of Pollution Control and Ecology to adopt, administer and enforce the permanent regulatory program pursuant to §503 of the SMCRA, and other purposes and requirements of the Act; and
  - d. Consideration of current and proposed regulations of the Department of the Interior, Office of Surface Mining Reclamation and Enforcement;

The Arkansas Surface Coal Mining and Reclamation Code, attached hereto, be, and is hereby adopted this date as the final rules of the Commission governing surface coal mining and reclamation operations in the State of Arkansas, effective as specified in the said Code.

COMMISSIONERS

[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]

[Signature]  
Chairman

Submitted by \_\_\_\_\_

Date Passed 7/25/80