

abatement or correction of the violation, failure or refusal.

(c) *Service.* For purposes of this section, service shall be performed on the individual to be assessed an individual civil penalty, by certified mail, or by any alternative means consistent with the rules governing service of a summons and complaint under rule 4 of the Federal Rules of Civil Procedure. Service shall be complete upon tender of the notice of proposed assessment and included information or of the certified mail and shall not be deemed incomplete because of refusal to accept.

[53 FR 3675, Feb. 8, 1988, as amended at 56 FR 28446, June 20, 1991; 67 FR 5204, Feb. 5, 2002]

§ 846.18 Payment of penalty.

(a) *No abatement or appeal.* If a notice of proposed individual civil penalty assessment becomes a final order in the absence of a petition for review or abatement agreement, the penalty shall be due upon issuance of the final order.

(b) *Appeal.* If an individual named in a notice of proposed individual civil penalty assessment files a petition for review in accordance with 43 CFR 4.1300 *et seq.*, the penalty shall be due upon issuance of a final administrative order affirming, increasing or decreasing the proposed penalty.

(c) *Abatement agreement.* Where the Office and the corporate permittee or individual have agreed in writing on a plan for the abatement of or compliance with the unabated order, an individual named in a notice of proposed individual civil penalty assessment may postpone payment until receiving either a final order from the Office stating that the penalty is due on the date of such final order, or written notice that abatement or compliance is satisfactory and the penalty has been withdrawn.

(d) *Delinquent payment.* Following the expiration of 30 days after the issuance of a final order assessing an individual civil penalty, any delinquent penalty shall be subject to interest at the rate established quarterly by the U.S. Department of the Treasury for use in applying late charges on late payments to the Federal Government, pursuant to Treasury Financial Manual 6-8020.20. The Treasury current value of funds

rate is published by the Fiscal Service in the notices section of the FEDERAL REGISTER. Interest on unpaid penalties will run from the date payment first was due until the date of payment. Failure to pay overdue penalties may result in one or more of the actions specified in §§870.15 (e)(1) through (e)(5) of this chapter. Delinquent penalties are subject to late payment penalties specified in §870.15(f) of this chapter and processing and handling charges specified in §870.15(g) of this chapter.

PART 847—ALTERNATIVE ENFORCEMENT

Sec.

847.1 Scope.

847.2 General provisions.

847.11 Criminal penalties.

847.16 Civil actions for relief.

AUTHORITY: 30 U.S.C. 1201 *et seq.*

SOURCE: 65 FR 79671, Dec. 19, 2000, unless otherwise noted.

§ 847.1 Scope.

This part governs the use of measures provided in sections 518(e), 518(g) and 521(c) of the Act for criminal penalties and civil actions to compel compliance with provisions of the Act.

§ 847.2 General provisions.

(a) Whenever a court of competent jurisdiction enters a judgment against or convicts a person under these provisions, we must update AVS to reflect the judgment or conviction.

(b) The existence of a performance bond or bond forfeiture cannot be used as the sole basis for determining that an alternative enforcement action is unwarranted.

(c) Each State regulatory program must include provisions for civil actions and criminal penalties that are no less stringent than those in this part and include the same or similar procedural requirements.

(d) Nothing in this part eliminates or limits any additional enforcement rights or procedures available under Federal or State law.

§ 847.11 Criminal penalties.

Under sections 518(e) and (g) of the Act, we, the regulatory authority, will request the Attorney General to pursue

§ 847.16

30 CFR Ch. VII (7-1-04 Edition)

criminal penalties against any person who—

(a) Willfully and knowingly violates a condition of the permit;

(b) Willfully and knowingly fails or refuses to comply with—

(1) Any order issued under section 521 or 526 of the Act; or

(2) Any order incorporated into a final decision issued by the Secretary under the Act (except for those orders specifically excluded under section 518(e) of the Act); or

(c) Knowingly makes any false statement, representation, or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the regulatory program or any order or decision issued by the Secretary under the Act.

§ 847.16 Civil actions for relief.

(a) Under section 521(c) of the Act, we, the regulatory authority, will request the Attorney General to institute a civil action for relief whenever you, the permittee, or your agent—

(1) Violate or fail or refuse to comply with any order or decision that we issue under the Act or regulatory program;

(2) Interfere with, hinder, or delay us in carrying out the provisions of the Act or its implementing regulations;

(3) Refuse to admit our authorized representatives onto the site of a surface coal mining and reclamation operation;

(4) Refuse to allow our authorized representatives to inspect a surface coal mining and reclamation operation;

(5) Refuse to furnish any information or report that we request under the Act or regulatory program; or

(6) Refuse to allow access to, or copying of, those records that we determine necessary to carry out the provisions of the Act and its implementing regulations.

(b) A civil action for relief includes a permanent or temporary injunction, restraining order, or any other appropriate order by a district court of the United States for the district in which the surface coal mining and reclamation operation is located or in which you have your principal office.

(c) Temporary restraining orders will be issued in accordance with Rule 65 of the Federal Rules of Civil Procedure, as amended.

(d) Any relief the court grants to enforce an order under paragraph (b) of this section will continue in effect until completion or final termination of all proceedings for review of that order under the Act or its implementing regulations unless, beforehand, the district court granting the relief sets aside or modifies the order.