

accomplished within 180 days of deposition, provided that no more than four (4) spoil ridges remain at any one time.

Subsection (a)(4). In the second sentence, the word "commission" is deleted and is replaced by the word "director."

Subsection (b). The changes to this subsection all involve nonsubstantive wording changes.

Subsection (c). Nonsubstantive wording changes are being made to the first sentence. The second sentence concerning the required commission approval of variances is being deleted in its entirety. With these changes, the revised subsection provides that "[t]he director may grant variances to the limitations of subsection (a) for good cause."

The proposed program amendment submitted by Indiana is available for public inspection at the addresses listed above. The Director now seeks public comment on whether the proposed amendment is no less effective than the Federal regulations. If approved, the amendment will become part of the Indiana program.

III. Public Comment Procedures

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 Indiana 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 Indianapolis Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., E.S.T. on March 6, 1995. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in

advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (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 corresponding 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 corresponding Federal regulations.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 10, 1995.

Richard J. Seibel,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 95-4063 Filed 2-16-95; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 917

Kentucky 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 the receipt of revisions of two previously

proposed amendments to the Kentucky regulatory program (hereinafter referred to as the "Kentucky program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). By letter of January 11, 1995 (Administrative Record No. KY-1332), Kentucky resubmitted a proposed program amendment that completed the Kentucky regulation promulgation process under Kentucky Revised Statutes 9KRS Chapter 13A. The amendment consists of proposed modifications to Kentucky Administrative Regulations (KAR) 10:010, 16:010, 16:020 and 18:010 relating to bonding, outcrop barrier and contemporaneous reclamation. Also, included in this reopening is the Statement of Consideration for these regulations dated October 14, 1994 (Administrative Record No. KY-1321). The Statement of Consideration is Kentucky's response to comments on its proposed regulations. This proposed program amendment replaces an earlier proposed program amendment submitted on August 2, 1994 (Administrative Record No. KY-1305), and portions of Kentucky's submittal of July 19, 1994 (Administrative Record No. KY-1304), containing 405 KAR 10:010 General Requirements for Performance Bond and Liability Insurance and 405 KAR 16:020 Contemporaneous Reclamation. The changes to 405 KAR 7:015, 7:095, 16:200, 18:200, the Penalty Assessment Manual and Technical Reclamation Memorandum #21 identified in the submittal of July 19, 1994 (Administrative Record No. KY-1304), are not included in this proposed amendment. These changes have not completed the Kentucky regulation promulgation process under KRS Chapter 13A. They will be resubmitted to OSM when that process is completed.

DATES: Written comments must be received by 4:00 p.m., E.S.T., on March 20, 1995. If requested, a public hearing on the proposed amendment will be held at 10:00 a.m. on March 14, 1995. Requests to present oral testimony at the hearing must be received on or before 4:00 p.m. on March 6, 1995. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand delivered to: William J. Kovacic at the address listed below.

Copies of the Kentucky program, the proposed amendment, and all written comments received in response to this

document will be available for review at the addresses listed below, Monday through Friday, excluding holidays. Each requestor may receive one free copy of the proposed amendment by contacting OSM's Lexington Field Office.

William J. Kovacic, Director, Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (606) 233-2894

Department for Surface Mining Reclamation and Enforcement, #2/ Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564-6940.

If a public hearing is held, its location will be: The Harley Hotel, 2143 North Broadway, Lexington, Kentucky 40505.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office Telephone (606) 233-2894.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. General background information on the Kentucky program including the Secretary's findings, the disposition of comments, and conditions of approval can be found in the May 18, 1982, **Federal Register** (47 FR 21404). Subsequent actions concerning Kentucky's program can be found at 30 CFR 917.11, 917.15, 917.16 and 917.17.

II. Proposed Amendment

By letter dated July 19, 1994 (Administrative Record No. KY-1304), Kentucky submitted a proposed amendment to its program pursuant to SMCRA. Kentucky submitted the proposed amendment at its own initiative. The provisions of KAR that Kentucky proposed to amend are 405 KAR 7:015—Documents Incorporated by Reference, 405 KAR 7:095—Assessment of Civil Penalties, 405 KAR 10:010—General Requirements for Performance Bond and Liability Insurance, 405 KAR 16:020—Contemporaneous Reclamation, 405 KAR 16:200—Revegetation for Surface Coal Mining, and 405 KAR 18:200 Revegetation for Underground Mining Operations. OSM announced receipt of the proposed amendment in the August 9, 1994, **Federal Register** (59 FR 40503), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy. Because no one requested a public hearing or meeting, none was held. The

public comment period ended on September 6, 1994.

By letter dated August 2, 1994 (Administrative Record No. KY-1305), Kentucky submitted a proposed amendment to its program pursuant to SMCRA. Kentucky submitted the proposed amendment at its own initiative. The provisions of the regulations that Kentucky proposed to amend are 405 KAR 16:010 and 405 KAR 18:010. OSM announced receipt of the proposed amendment in the September 6, 1994, **Federal Register** (59 FR 46013), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy. Because no one requested a public hearing or meeting, none was held. The public comment period ended on October 6, 1994.

By letter dated January 11, 1995 (Administrative Record No. KY-1332), Kentucky resubmitted a proposed program amendment that completed the Kentucky regulation promulgation process under KRS Chapter 13A. This resubmission contains proposed modifications to 405 KAR 10:010 General Requirements for Performance Bond and Liability Insurance, 405 KAR 16:010 General Provisions, 405 KAR 16:020 Contemporaneous Reclamation, and 405 KAR 18:010 General Provisions. Also, included in this reopening is the Statement of Consideration for these regulations dated October 14, 1994 (Administrative Record No. KY-1321). The Statement of Consideration is Kentucky's response to comments on its proposed regulations. This proposed program amendment replaces an earlier proposed program amendment submitted on August 2, 1994 (Administrative Record No. KY-1305), and portions of Kentucky's submittal of July 19, 1994 (Administrative Record No. KY-1304), containing 405 KAR 10:010 General Requirements for Performance Bond and Liability Insurance and 405 KAR 16:020 Contemporaneous Reclamation. Specifically, Kentucky proposes the following changes:

405 KAR 10:010—General Requirements for Performance Bond and Liability Insurance

New Section 2(4) resulted from recommendations in the July 1993, report of the joint steering committee on reclamation bonding, a work group consisting of representatives of the Department of Surface Mining Reclamation and Enforcement, OSM, the Kentucky coal industry, public and environmental interests, and the surety industry. Coupled with the amendments

to 405 KAR 16:020 (see discussion below), this amendment is intended to reduce the chances that a forfeited bond will be inadequate to reclaim the minesite. New Section 2(4) requires that if a permit revision adds a coal washer, a crush and load facility, a refuse pile, or a coal mine waste impoundment to the existing permit, or alters the boundary of a permit area or increment, the permittee must submit a rider to his performance bond, confirming coverage of the revision.

New Section 5 incorporates by reference the various forms in use pertaining to performance bonds and liability insurance.

405 KAR 16:020—Contemporaneous Reclamation

The amendments to this regulation also resulted from the recommendations in the July 1993, bonding report discussed above. The amendments to Section 2 and new Section 6 require a permittee to post *supplemental assurance* (certificate of deposit, letter of credit, surety guarantee, etc.) in addition to the normal performance bond whenever he obtains approval of alternate distance limits for backfilling and grading or if additional pits are approved. When the backfilling and grading has progressed to the point that the alternate distance limits are no longer needed, the supplemental assurance is then returned to the person that submitted it. This supplemental assurance is not subject to the normal bond release requirements of 405 KAR 10:040. Supplemental assurance is also required if the permittee wishes to open more than one pit on the permit area.

Section 2 permits an approved backfilling and grading plan to include more than one pit per permit area if certain demonstrations are made by the permittee. Sections 2(1) through 2(5) place limits on the number of mining operations per permit area. Section 2(6) requires that if a mountaintop removal operation begins by mining a contour cut around all or part of the mountaintop, the time and distance limits for contour mining shall apply to that cut unless alternate limits are approved.

New Section 6(7) makes the supplemental assurance requirements applicable to all permit applications submitted on or after December 12, 1994. *Existing operations must come into compliance with the supplemental assurance requirements 180 days after December 12, 1994.*

New Section 7 incorporates by reference two new forms used for supplemental assurance. These are the supplemental assurance form itself,

SME-42 (SA), and the escrow agreement form SME-64 (SA).

405 KAR 16:010—General Provisions. (Surface Mines)

405 KAR 18:010—General Provisions. (Underground Mines)

The amendments to these two administrative regulations are intended to reduce occurrences of a rapid release to the land surface of a large volume of water impounded in underground mine workings, often called a "blowout." Blowouts have caused considerable damage to property and the environment, and create a hazard to persons in the areas where they occur. Additionally, an underground mine can become a source of acid mine drainage after a blowout.

Blowouts usually result from underground workings that extend too close to the land surface, leaving an unmined barrier of coal that is too weak to withstand the buildup of water pressure against it. New Section 6 of 405 KAR 18:010 requires that adequate coal barriers be left in areas with blowout potential. Except where surface openings are approved in the permit, the underground mine must leave an unmined barrier of coal where the underground workings dip toward and approach the land surface. This requirement will be waived if accumulation of water in the underground workings cannot reasonably be expected to occur, or if adequate measures to prevent an unmined barrier of coal is required, it must be of sufficient width to prevent failure and sudden release of water. The cabinet may determine on a case-by-case basis the width of the barrier that is necessary. The width must not be less than the width given by the formula: $W=50+H$, where W is the minimum width in feet and H is the maximum hydrostatic head in feet that can build up on the outcrop barrier pillar; unless the cabinet approves a lesser width based upon the applicant's demonstration that a lesser width is adequate.

A blowout can also result from surface mining activities that remove coal from and thereby weaken, a coal barrier left by underground mining. New Section 8 of 405 KAR 16:010 requires that surface mining activities not remove coal from barriers left by underground mining where the underground workings dip toward and approach the land surface, except when approved by the cabinet. The cabinet will approve the removal if it meets all other applicable requirements and at least one of the following conditions:

(1) The removal will not adversely affect the stability of the barrier;

(2) The removal will completely eliminate or significantly reduce existing underground workings;

(3) The removal will eliminate or significantly reduce an existing or potential threat to the health or safety of the public resulting from the underground workings;

(4) The removal will eliminate or significantly reduce existing or potential adverse impacts of the underground working to the quantity or quality of ground water or surface water; or

(5) The barrier is not necessary to protect the health or safety of the public or to protect the quantity of ground water or surface water.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Kentucky 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 Kentucky program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commentator's recommendations. Comments received after the time indicated under DATES or at locations other than the Lexington Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m. on March 6, 1995. If no one requests an opportunity to comment at a public hearing, the hearing will not be held. Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who

wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the OSM Lexington Field Office listed under **ADDRESSES** by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (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 his 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 corresponding 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 corresponding Federal regulations.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 9, 1995.

Tim L. Dieringer,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 95-4064 Filed 2-16-95; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 935

[OH-234; Amendment Number 63R]

Ohio Regulatory and AML Programs; Reduction and Reorganization of Engineering Staff

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

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: OSM is reopening the public comment period for a proposed amendment to the Ohio regulatory program and AML program (hereinafter referred to as the Ohio programs) under the Surface Mining Control and Reclamation Act of 1977. This amendment is intended to reduce and reorganize the engineering staff of the Ohio programs in response to recent drops in Ohio coal production. Ohio has resubmitted this amendment in response to OSM's deferral of its

decision on the engineering portion of Ohio's overall staffing proposal in the previous submissions of this program amendment.

This document sets forth the times and locations that the Ohio programs and the proposed amendments to those programs will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m., e.s.t., on March 20, 1995. If requested, a public hearing on the proposed amendments will be held at 1:00 p.m., e.s.t., on March 14, 1995. Requests to present oral testimony at the hearing must be received on or before 4:00 p.m., e.s.t., on March 6, 1995.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand-delivered to Mr. Robert H. Mooney, Acting Director, Columbus Field Office, at the address listed below.

Copies of the Ohio programs, the proposed amendments, 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 amendments by contacting OSM's Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 4480 Refugee Road, Suite 201, Columbus, Ohio 43232, Telephone: (614) 886-0578

Ohio Department of Natural Resources, Division of Reclamation, 1855 Fountain Square Court, Building H-3, Columbus, Ohio 43224, Telephone: (614) 265-6675.

FOR FURTHER INFORMATION CONTACT: Mr. Robert H. Mooney, Acting Director, Columbus Field Office, (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background of the Ohio Program

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio programs. Information on the general background of the Ohio program submissions, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio programs, can be found in the August 10, 1982, **Federal Register** (47 FR 34688). Subsequent actions concerning