

program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Alaska program.

1. 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 Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.s.t. on March 14, 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**. 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 specific date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify 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

1. 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).

2. 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 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 the Federal regulations at 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.

3. 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)).

4. 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.*).

5. 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 that is the subject of this rule is based upon counterpart 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 counterpart Federal regulations.

List of Subjects in 30 CFR Part 902

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 21, 1995.

Peter A. Rutledge,

Acting Assistant Director, Western Support Center.

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30 CFR Part 913

[IL-089]

Illinois Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Illinois regulatory program (hereinafter referred to as the "Illinois program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to 23 parts of Title 62 of the Illinois Administrative Code (IAC) pertaining to permit fees, definitions, coal exploration, permitting, environmental resources, reclamation plans, special categories of mining, small operator assistance, bonding, performance standards, inspection, enforcement, civil penalties, administrative and judicial review, and certification of blasters. The amendment is intended to revise the Illinois program to be consistent with the corresponding Federal regulations, incorporate the additional flexibility afforded by the recently revised Federal regulations, provide additional safeguards, clarify ambiguities, and improve operational efficiency.

DATES: Written comments must be received by 4:00 p.m., [C.S.T.], March 29, 1995. If requested, a public hearing on the proposed amendment will be held on March 24, 1995. Requests to speak at the hearing must be received by 4:00 p.m., [C.S.T.], on March 14, 1995.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Mr.

James F. Fulton, Director, Springfield Field Office, at the address listed below.

Copies of the Illinois program, the proposed amendment, a listing of any scheduled public hearings, 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 amendment by contacting OSM's Springfield Field Office.

James F. Fulton, Director, Springfield Field Office, Office of Surface Mining Reclamation and Enforcement, 511 West Capitol, Suite 202, Springfield, Illinois 62704, Telephone: (217) 492-4495

Illinois Department of Mines and Minerals, 300 West Jefferson Street, Suite 300, Springfield, Illinois 62791, Telephone: (217) 782-4970

FOR FURTHER INFORMATION CONTACT:

James F. Fulton, Director, Springfield Filed Office, Telephone: (217) 492-4495.

SUPPLEMENTARY INFORMATION:

I. Background on the Illinois Program

On June 1, 1982, the Secretary of the Interior conditionally approved the Illinois program. Background information on the Illinois program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the June 1, 1982, Federal Register (47 FR 23883). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 913.15, 913.16, and 913.17.

II. Description of the Proposed Amendment

By letter dated February 3, 1995 (Administrative Record No. IL-1615), Illinois submitted a proposed amendment to its program pursuant to SMCRA. Illinois submitted the proposed amendment in response to an August 5, 1993, letter (Administrative Record No. IL-1400) that OSM sent to Illinois in accordance with 30 CFR 732.17(c), in response to required program amendments at 30 CFR 913.16(s), (t), and (u), and at its own initiative. The provisions of the 23 parts of Title 62 of the IAC that Illinois proposes to amend are discussed below.

A. 62 IAC 1700—General

Illinois proposes the following revisions to Illinois §§ 1700.11 and 1700.16.

1. Section 1700.11—Applicability

Illinois is adding new subsections (f)(1) and (f)(2) pertaining to termination of jurisdiction under the regulatory program over the reclaimed site of a completed surface coal mining and reclamation operation. These amendments mirror Federal regulations at 30 CFR 1700.11 (d)(1) and (d)(2). Subsection (f)(1) specifies under what circumstances the Department may terminate its jurisdiction under the initial program and the permanent program. Subsection (f)(2) specifies under what circumstances the Department shall reassert jurisdiction under the regulatory program. Statutory and regulatory citations were proposed to be updated through the section.

2. Section 1700.16—Fees and Forfeitures

Illinois is amending subsection (a) by requiring that fees collected under the provision of the Surface Coal Mining Land Conservation and Reclamation Act (State Act) be deposited in the Coal Mining Regulatory Fund, rather than the general revenue fund. This proposed amendment reflects recent statutory changes to the State Act at 225 ILCS 720/9.07.

B. 62 IAC 1701. Appendix A—Definitions

Illinois proposes adding definitions for Applicant Violator System, Federal violation notice, land eligible for remaining, ownership or control link, State violation notice, and wetland. It is also revising the definitions for historic lands, substantially disturb, and violation notice.

"Applicant Violator System or AVS" means the computer system maintained by OSM to identify ownership or control links involving permit applicants, permittees, and persons cited in violation notices.

"Federal violation notice" means a violation notice issued by OSM or by another agency or instrumentality of the United States.

A reference to Illinois' regulations at 62 IAC 1762 and 1764 was added to the "Historic lands" definition.

"Land eligible for remaining" means those lands that would otherwise be eligible for expenditures for section 402(g)(4) or section 404 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)(4), 1234).

"Ownership or control link" means any relationship included in the definition of owned or controlled or owns or controls at 62 IAC 1773.5(a) and (b) or in the violations review provisions of 62 IAC 1773.15(b). It

includes any relationship presumed to constitute ownership or control under the definition of "owned or controlled" or "owns or controls" unless such presumption has been successfully rebutted under the provisions of 62 IAC 1773.24 and 1773.25.

"State violation notice" means a violation notice issued by a State regulatory authority or by another agency or instrumentality of State government.

The definition of substantially disturb, for purposes of coal exploration, is revised to exclude impact to air by blasting.

"Violation notice" means any written notification from a governmental entity, whether by letter, memorandum, judicial or administrative pleading, or other written communication, of violation of the Act; any Federal regulation promulgated pursuant thereto; a State program; or any Federal or State law or regulation pertaining to air or water environmental protection in connection with a surface coal mining operation. It includes, but is not limited to, a notice of violation; an imminent harm cessation order; a failure-to-abate cessation order; a final order, bill or demand letter pertaining to a delinquent civil penalty; a bill or demand letter pertaining to delinquent abandoned mine reclamation fees; and a notice of bond forfeiture, where one or more violations upon which the forfeiture was based have not been corrected.

"Wetland" means land that has a predominance of hydric soils (soils which are usually wet and where there is little or no free oxygen) and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation (plants typically found in wet habitats) typically adapted for life in saturated soil conditions. Areas which are restored or created as the result of mitigation or planned construction projects and which function as a wetland are included within this definition even when all three wetland parameters are not present.

C. 62 IAC 1761.11—Areas Where Mining is Prohibited or Limited

At subsection (d)(2), Illinois is proposing to delete the phrase "including surface areas by planned subsidence."

D. 62 IAC 1772—Requirements for Coal Exploration

Illinois is proposing to revise the following sections of part 1772.

1. Section 1772.11—Notice of Requirements for Exploration Removing 250 Tons of Coal or Less

Subsection (b)(5) is proposed to be amended in order to clarify that the referenced forms are required to be submitted with a coal exploration notice only if such forms are required by the Department's Oil and Gas Division.

2. Section 1772.12—Permit Requirements for Exploration Removing More than 250 Tons of Coal

Subsection (d)(2) is proposed to be amended by replacing the word "operation" with the word "permit."

Subsection (d)(2)(C) is proposed to be amended by replacing the reference "agency with jurisdiction over State Historic Preservation" with "Illinois Historic Preservation Agency."

E. 62 IAC 1773—Requirements for Permits and Permit Processing

Illinois is proposing to revise or add the following sections of part 1773, with the exception of section 1773.15(a)(1), consistent with changes made to the Federal regulations at 30 CFR 773 on October 28, 1994 (59 FR 54306).

1. Section 1773.15—Review of Permit Applications

Illinois is proposing to revise subsection (a)(1) by removing reference to its informal conference at § 1773.13(c) and adding a reference to its public hearing at § 1773.14.

Illinois is proposing to revise subsection (b)(1) to assure a decision with respect to permit issuance or denial is based upon complete information relating to ownership, control, and violations by requiring its review to include information obtained pursuant to §§ 1773.22, 1773.23, 1778.13, and 1778.14.

Illinois is proposing to revise subsection (b)(2) to read as follows. "(2) Any permit that is issued on the basis of a presumption supported by certification under 62 IAC 1778.14 that a violation is in the process of being corrected, on the basis of proof submitted under subsection (b)(1)(A) of this section that a violation is in the process of being corrected, or pending the outcome of an appeal described in subsection (b)(1)(B) of this section, shall be conditionally issued."

2. Section 1773.20—Improvidently Issued Permits: General Procedures

Subsection (b)(2)(B) is proposed to be revised to read as follows. "(B) Is not the subject of a good faith appeal, or of an abatement plan or payment schedule with which the permittee or other person responsible is complying to the

satisfaction of the responsible agency; and * * *."

Existing subsection (b)(3) is proposed to be redesignated (b)(2)(C). New subsection (b)(3) is proposed to be added to read as follows. "(3) The provisions of § 1773.25 shall apply when the Department determines: (A) Whether a violation, penalty or fee existed at the time that it was cited, remains unabated or delinquent, has been corrected, is in the process of being corrected, or is the subject of a good faith appeal; and (B) whether any ownership or control link between the permittee and the person responsible for the violation, penalty or fee existed, still exists, or has been severed."

The proposed revision to subsection (c)(4) read as follows. "(4) Rescind the permit. If the Department decides to rescind the permit, it shall give at least 30 days written notice to the permittee. If the Department decides to rescind the permit, it shall issue a notice in accordance with § 1773.21. In either case, the permittee shall be given the opportunity to request review of the notice under 62 IAC 1847.3. The Department's decision shall remain in effect during the pendency of the review, unless temporary relief is granted under 62 IAC 1847.3(k)."

3. Section 1773.21—Improvidently Issued Permits: Rescission Procedures

At subsection (a), Illinois proposes to add the phrase "consistent with the provisions of section 1773.25" after the words "and the Department finds."

Subsection (c) is proposed to be deleted.

4. Section 1773.22—Verification of Ownership or Control Application Information

New § 1773.22 requires the Department, prior to the issuance of a permit, to verify ownership or control information through manual data sources and through automated data sources, including the Applicant Violator System. Upon completion of the review, the Department shall update all ownership or control information on the Applicant Violator System.

5. Section 1773.23—Review of Ownership or Control and Violation Information

New § 1773.23 requires the Department to review all reasonably available information concerning violation notices connected with ownership or control links. The Department shall not approve the application unless and until it determines that violations have been corrected or are in the process of being

corrected. Following the Department's decision on the application, the Department shall enter all relevant information related to such decision or withdrawal into the Applicant Violator System.

6. Section 1773.24—Procedures for Challenging Ownership or Control Shown in the Applicant Violator System

New § 1773.24 establishes the procedures to be followed if a person wishes to challenge an ownership or control link between a person and any other person shown in the Applicant Violator System. The section provides procedures for direct appeals of such links to OSM by persons who have been so linked. The section also provides for challenges concerning the status of violations to which persons shown on the Applicant Violation System have been linked. The section further provides information on the challengers right for appeal of OSM's decision to the Department of the Interior's Office of Hearings and Appeals and the opportunity for those persons making a challenge to obtain a temporary relief from any adverse use of the challenged link or violation information during the pendency of such challenge.

7. Section 1773.25—Standards for Challenging Ownership or Control Links and the Status of Violations

New § 1773.25 establishes standards for challenges to ownership or control links and for challenges to the status of violations. The section allocates responsibilities between OSM and State regulatory authorities for resolving issues related to ownership and control and provides the standards for evidence to resolve such issues.

F. 62 IAC 1774.13—Permit Revisions

At subsection (b)(2)(E), a significant revision shall be required for land use changes involving greater than 5 percent of the "total permit acreage" instead of the "original total permit acreage."

Exceptions to the 5 percent cumulative total limit were added at new subsections (b)(2)(E)(i) and (ii). The proposed addition of subsection (b)(2)(E)(i) would allow the accumulation of the 5 percent limit to restart upon issuance of a significant revision that addresses all previous land use changes approved via insignificant revisions. The proposed addition of subsection (b)(2)(E)(ii) would allow acreage added by incidental boundary revisions to be included in the total permit acreage used to determine the 5 percent limit if the acreage has been addressed previously in a significant revision.

New subsection (d)(6) provides for public notice of and a ten-day comment period for incidental boundary revision applications which propose new surface acreage or planned subsidence shadow area to the original permit.

G. 62 IAC 1778.15—Right of Entry Information

At subsection (a), Illinois is proposing to eliminate the requirement for underground coal mining applications to contain a description of the documents upon which the applicant bases his or her legal right to enter and mine for underground mining areas (shadow areas), including the right to subside within the shadow area. Right of entry information would still be required for the permitted surface areas at underground mines.

At subsection (e), Illinois is proposing to add the phrase "including planned subsidence operations."

Illinois is proposing to add new subsection (f) to require applications for additions to the underground mining areas (shadow areas) to contain a notarized statement by a responsible official of the applicant attesting that all necessary mining rights, including the right to subside, if applicable, have been or will be obtained prior to mining.

H. 62 IAC 1779—Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources

Illinois is proposing to revise the following sections of part 1779 for consistency with changes made to the Federal regulations at 30 CFR 779 on May 27, 1994 (59 FR 27932).

1. Section 1779.22—Land Use Information

Section 1779.22 pertains to surface mining permit application requirements for pre-mining land use information. Illinois is proposing to delete § 1779.22 and to reorganize the repealed provisions at subsection (a) into 62 IAC 1780.23(a).

2. Section 1779.25—Cross Sections, Maps and Plans

Subsections (a)(11) (A), (B), and (C) are proposed to be deleted. Subsection (a)(11)(D) is proposed to be deleted from this section and relocated to 62 IAC 1780.23(a)(3).

Statutory citations in subsection (b) are updated.

I. 62 IAC 1780.23—Reclamation Plan: Pre-Mining and Post-Mining Information

Illinois is revising this section for consistency with changes made to the Federal regulations at 30 CFR 780 on

May 27, 1994 (59 FR 27932). The section title is changed from "Reclamation Plan: Post-mining Land Uses" to "Reclamation Plan: Pre-Mining and Post-Mining Information."

New subsections (a), (a)(1), and (a)(2) contain the pre-mining land use information provisions of existing 62 IAC 1779.22(a) with one addition. At new subsection (a)(1), one new provision was added which requires that in the case of previously mined land, the use of the land prior to any mining shall also be described to the extent such information is available.

New subsection (a)(3) contains the soil map provision of existing 62 IAC 1779.25(a)(11)(D). The substantive provisions of existing subsections (a), (a)(1), (a)(3), and (a)(4) are redesignated new subsections (b), (b)(1), (b)(2), and (b)(3). Existing subsection (a)(2) pertaining to detailed management plans for a post-mining use of grazing is deleted.

Existing subsection (b) is redesignated new subsection (c).

J. 62 IAC 1783—Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources

Illinois is proposing to revise the following sections of part 1783 for consistency with changes made to the Federal regulations at 30 CFR 783 on May 27, 1994 (59 FR 27932).

1. Section 1783.22—Land Use Information

Section 1783.22 pertains to underground mining permit application requirements for pre-mining land use information. Illinois is proposing to delete § 1783.22 and to reorganize the repealed provisions at subsection (a) into 62 IAC 1784.15(a).

2. Section 1783.25—Cross Sections, Maps and Plans

Subsections (a)(11) (A), (B), and (C) are proposed to be deleted. Subsection (a)(11)(D) is proposed to be deleted from this section and relocated to 62 IAC 1784.15(a)(3).

Statutory citations in subsection (b) are updated.

K. 62 IAC 1784.15—Reclamation Plan: Pre-Mining and Post-Mining Information

Illinois is proposing to revise this section for consistency with changes made to the Federal regulations at 30 CFR 784 on May 27, 1994 (59 FR 27932). The section title is changed from "Reclamation Plan: Post-Mining Land Uses" to "Reclamation Plan: Pre-Mining and Post-Mining Information."

New subsections (a), (a)(1), and (a)(2) contain the substantive pre-mining land use information provisions of existing 62 IAC 1783.22(a) with one addition. At new subsection (a)(1), one new provision was added which requires that in the case of previously mined land, the use of the land prior to any mining shall also be described to the extent such information is available.

New subsection (a)(3) contains the soil map provision of existing 62 IAC 1783.25(a)(11)(D). The substantive provisions of existing subsections (a), (a)(1), (a)(2), and (a)(3) are redesignated new subsections (b), (b)(1), (b)(2), and (b)(3).

Existing subsection (b) is redesignated new subsection (c).

L. 62 IAC 1785—Requirements for Permits for Special Categories of Mining

Illinois is proposing to revise the following sections of part 1785.

1. Section 1785.17—Prime Farmlands

At subsection (a), Illinois is proposing to delete the following language: "Nothing in this section shall apply to any permit issued prior to the date of enactment of the Federal Act, or to any revisions or renewals thereof, or to any existing surface mining operations for which a permit was issued prior to the date of enactment of the Federal Act, as determined by the Department prior to September 29, 1981. For lands for which a request for exemption was initially made or pending on or after September 29, 1981."

Existing subsections (a)(5) and (6) pertaining to an acreage limitation on the amount of exempted prime farmland are deleted. Existing subsection (a)(7)(A) was redesignated subsection (a)(5). Existing subsection (a)(7)(B) pertaining to a preliminary exemption review is deleted.

At subsection (d)(1), the sentence "The State recognizes that the permit cannot be issued without the required consultation with USDA" is deleted.

2. Section 1785.23—Minor Underground Mine Facilities Not at or Adjacent to the Processing or Preparation Facility or Area

Illinois proposes to revise subsection (d)(3) by requiring written comments be filed within the public comment period.

The revision to subsection (e)(1) requires the Department to make its final decision to approve, deny, or modify the complete application for a permit within 20 days following the close of the public comment period.

Subsection (g)(1) is proposed to be amended to require the Department to notify persons who filed comments or

objections to the application of its final decision, to replace the word "disapprove" with the word "deny" for consistency with other sections of the regulations dealing with approval and denial of application, and to delete the requirement that it publish a public notice of its final action. The regulatory citation in subsection (g)(2) is corrected.

M. 62 IAC 1795—Small Operator Assistance

Illinois is proposing to revise the following sections of part 1795 to implement recently amended sections of the State Act at 225 ILCS 720/2.02 and 3.15 and for consistency with revisions made to the Federal regulations at 30 CFR 795 on May 31, 1994 (59 FR 28136).

1. Section 1795.1—Scope and Purpose

Illinois proposes to amend the purpose statement at subsection (b) to read as follows. "The purpose of the program is to provide for eligible operators a determination of probable hydrologic consequences including the engineering analysis and designs necessary for the determination; cross-sections, maps and plans; geologic drilling and statement of results of test borings and samplings; archaeological and historical information collection and relevant plan preparation; pre-blast surveys and pre-blast survey reports; and site specific resource information collection and relevant plan preparation which are required components of the permit application under 62 IAC 1772 through 1785."

2. Section 1795.4—Definitions

At subsection (b) the definition of qualified laboratory is revised by deleting the language "statement of results of test borings or core samples under the Small Operator Assistance Program and which meets the standards of section 1795.10" and adding the language "or other studies and/or reports or plans under the Small Operator Assistance Program which meet the standards of section 1795.10."

3. Subsection 1779.6—Eligibility for Assistance

At subsection (a), the statute citation is updated.

At subsection (b), the criteria for eligibility for assistance is revised to read as follows. "Establishes that his or her probable total attributed annual production from all locations on which the operator is issued the surface coal mining and reclamation operations permit will not exceed 300,000 tons.

At subsection (b)(1) and (b)(2), Illinois proposes changing the percentage of

ownership of applicant from 5 percent to 10 percent with respect to the baseline above which ownership will play a role in determining attributed coal production.

5. Section 1795.9—Program Services and Data Requirements

Illinois proposes to revise subsection (a) by adding studies, reports, and plans to the types of services referenced in subsection (b) that are available to eligible operators.

Subsection (b) lists the specific technical services authorized for the Small Operator Assistance Program (SOAP). At subsection (b)(1), Illinois proposes to include engineering analysis and designs necessary for the determination of probable hydrologic consequences. At subsection (b)(2), Illinois proposes to add drilling as an authorized SOAP service. Illinois proposes to add new subsection (b)(3) which provides for cross-sections, maps and plans required by 62 IAC 1779.25 and 1783.25. New subsection (b)(4) provides for collection of archaeological and historical information and related plans required by 62 IAC 1779.12(b), 1780.31, 1783.12(b) and 1784.17, and any other archaeological and historical information required by the Department. New subsection (b)(5) provides for preblast surveys and reports pursuant to the provisions of 62 IAC 1816.62. New subsection (b)(6) provides for site specific resource information and protection and enhancement plans for fish and wildlife habitats and other environmental values required by the Department under 62 IAC 1779.19, 1780.16, 1783.19, and 1784.21, and information and plans for any other environmental values required by the Department under the State Act.

6. Section 1795.12—Applicant Liability

At subsection (a)(1), the word "report" is replaced by the word "reports."

At subsection (a)(2), the applicant shall reimburse the Department if the program administrator finds that the applicant's actual and attributed production of coal for all locations exceeds 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit.

At subsection (a)(3), the applicant and its successor shall reimburse the Department if the permit is sold, transferred, or assigned to another person and the original permittee's and transferee's total actual and attributed production exceeds 300,000 tons during the 12 months immediately following

the date on which the permit was originally issued. If the permit is transferred during the 12-month period immediately following the permit issuance date, the determination of adherence to the 12-month, 300,000 ton limit shall be performed by combining the actual and attributed production of both parties for the 12-month period immediately following the date of original permit issuance.

At subsection (b), the definition of good faith is deleted.

N. 62 IAC 1800—Bonding and Insurance Requirements for Surface Coal Mining and Reclamation Operations

1. Section 1800.5—Definitions

Subsection (b)(4) is revised to allow Illinois to accept letters of credit from banks organized or authorized in other states and from banks organized or authorized in the United States by national charter provided that if the bank does not have an office for collection in Illinois, there shall be a confirming bank designated with an office in Illinois that is authorized to accept, negotiate, and pay the letter upon presentment in Illinois.

2. Section 1800.20—Surety Bonds

Subsections (b)(2) through (b)(5), which contained surety bond conditions, are deleted.

3. Section 1800.21—Collateral Bonds

Subsection (b)(1) is revised to allow Illinois to accept letters of credit from banks organized or authorized to do business in Illinois, in other States, and from banks organized or authorized in the United States by national charter provided that if the bank does not have an office for collection in Illinois, there shall be a confirming bank designated with an office in Illinois.

O. 62 IAC 1816—Permanent Program Performance Standards—Surface Mining Activities and 62 IAC 1817 Permanent Program Performance Standards—Underground Mining Activities

Illinois proposed revisions to the following sections. Regulatory citations were updated, as necessary, throughout the sections. Since most of the surface mining and underground mining regulations in these sections are identical, the revisions are being combined for discussion purposes, unless otherwise noted.

1. Section 1816.13—Casing and Sealing of Drilled Holes: General Requirements; Section 1817.13—Casing and Sealing of Exposed Underground Openings: General Requirements

Illinois is proposing to require that exposed underground openings be backfilled. The references to “cased, sealed, or otherwise managed” and “closed” are replaced with the reference to “backfilled.”

2. Section 1816.15—Casing and Sealing of Drilled Holes: Permanent; Section 1816.15—Casing and Sealing of Underground Openings: Permanent

Illinois is proposing to require that exposed underground openings be backfilled. The references to “capped, sealed, backfilled, or otherwise properly managed” are replaced with the reference to “backfilled.”

3. Sections 1816.22/1817.22—Topsoil and Subsoil

Illinois is proposing to delete subsection (b)(2) to eliminate the acreage restriction on topsoil substitutes that may be approved through the insignificant permit revision process. Therefore, existing subsection (b)(1) is redesignated subsection (b).

4. Sections 1816.41/1817.41—Hydrologic Balance Protection

Illinois proposes to revise subsection (c)(2) by specifying that ground water monitoring reports shall be submitted by the first day of the second month following the reporting period, unless the Department specifies an alternative reporting schedule.

Illinois proposes to revise subsection (e)(2) by removing the requirement to send National Pollutant Discharge Elimination System (NPDES) reports to the Department concurrently with those sent to the Illinois Environmental Protection Agency and adding the requirement that NPDES reports are to be sent to the Department by the first day of the second month following the reporting period.

5. Sections 1816.46/1817.46—Hydrologic Balance: Siltation Structures

The introductory sentence in subsection (e) is being changed to read “Exemptions to the requirements to pass all drainage from disturbed areas through a siltation structure may be granted if * * *.” Subsection (e) is proposed to be revised to provide for a second exemption. The exemption provided by new subsection (e)(2)(A) will allow the use of the alternative sediment control measures described in § 1816.45(b) in lieu of siltation structures. The permittee will have to

demonstrate that these measures are the best technology currently available (BTCA) to meet the effluent limitations and water quality standards for the receiving waters set forth in § 1816.42. Existing subsection (e)(2) is redesignated as (e)(2)(B).

6. Section 1816.79—Protection of Underground Mining

Section 1816.79 is reorganized. The word “coal” is proposed to be removed from existing subsection (a), and the subsection reference is removed. Existing subsection (a)(1) is redesignated subsection (b), and existing subsection (a)(2) is redesignated subsection (a).

7. Sections 1816.97/1817.97—Protection of Fish, Wildlife, and Related Environmental Values

Illinois is proposing to delete the reference to the Illinois Endangered Species Protection Act at subsection (b).

8. Sections 1816.116/1817.116—Revegetation: Standards for Success

The State Act was recently amended at 225 ILCS 720/3.15 to change the revegetation responsibility period from five years to two years for areas eligible for re-mining. Sections 1816/1817.116(a)(2)(B) are proposed to be amended to implement this statute by adding the phrase “except that on lands eligible for re-mining, the period of responsibility (until September 30, 2004) shall be two (2) full years.”

Existing § 1816/1817.116(a)(2)(F), concerning augmentation requirements for high capability cropland areas, are proposed to be deleted and replaced with new provisions pertaining to wetlands augmentation. New §§ 1816/1817.116(a)(2)(F) specify that wetlands shall be considered augmented when significant alterations are made to the size or character of the watershed, pumping is used to maintain water levels, or neutralizing agents, chemical treatments or fertilizers are applied to the wetland area. Water level management using permanent water control structures is considered a normal husbandry practice.

Sections 1816/1817.116(a)(3)(E) are proposed to be amended to clarify that pasture and/or hayland or grazing land on non-previously disturbed areas are subject to a 90 percent ground cover standard for a minimum of any 2 years of a 10-year period prior to the release of the performance bond, except the first year of the 5-year extended responsibility period. The 1-year attempt limit for substituting corn productivity for 1 year of hay productivity is proposed to be removed

from subsection (a)(3)(E). Sections 1816/1817.116(a)(3)(E) are also being revised to allow 1 year substitution of crops in lieu of hay on limited capability land, provided the Department determines that the practice is proper management.

New §§ 1816/1817.116(a)(3)(F) specify that small isolated areas which were disturbed from activities such as, but not limited to, signs, boreholes and power poles, shall be considered successfully revegetated if the operator can demonstrate that the soil disturbance was minor, the soil has been returned to its original capability, and the area is supporting its approved post-mining land use at the end of the responsibility period.

Section 1816.116(a)(4)(A)(ii) is proposed to be amended to allow the Department to approve a field to represent small isolated areas of the same capability if it determines that the field is representative of reclamation of such areas. The small isolated areas shall maintain a successful ground cover as determined by subsection (a)(3)(E). Productivity results on the field shall be applicable to the small isolated areas.

New §§ 1816/1817.116(a)(5)(A) specify that wetland revegetation criteria shall be deemed successful when the wetland vegetation criteria in the Corps of Engineers Wetlands Delineation Manual have been achieved following sampling procedures specified in that manual. New §§ 1816/1817.116(a)(5)(B) further specify that areas designed to support vegetation in the approved plan shall have a minimum aerial coverage of 30 percent. The testing procedure in §§ 1816/1817.117(d)(1) through (3) shall be used to evaluate the extent of cover. Aerial cover shall be determined to be present if any approved wetland species is measured at the increment. The percentage of aerial cover shall be established for the area tested by taking the total number of measurements where aerial cover was determined to be present.

New §§ 1816/1817.116(c) are proposed to be added to provide for the use of reference areas to establish target yields in lieu of the Agricultural Lands Productivity Formula (ALPF) for cropland and hayland. Other requirements and procedures of 62 IAC 1816.116(a)(4) shall be applicable. Reference areas used to establish success standards must meet the requirements in paragraphs (1) through (8).

Paragraph (1) requires that if the fields to be represented contain in total 800 acres or more, the reference area shall contain at least 40 acres. If the field(s)

to be represented is smaller than 800 acres, the reference area shall be the greater of 5 percent of the field(s) to be represented or 1 acre.

Paragraph (2) requires that each reference area be representative of the soils of the field(s) to be represented. The permittee shall provide adequate documentation of the soils and soil quality present in the reference area.

Paragraph (3) requires that each year the permitted provide a statement by a Federation of Certifying Boards in Agriculture, Biology, Earth and Environmental Sciences-certified professional or a certified agronomist that the management of the reference area is equivalent to the field(s) to be represented. The permittee shall describe the proposed management of the reference area in a proposal.

Paragraph (4) requires that reference areas be located within six miles of the field(s) to be represented.

Paragraph (5) requires right-of-entry on the reference area for authorized representatives of the Department and the Illinois Department of Agriculture be secured by written agreement or consent for the entire time period in which the reference area will be used.

Paragraph (6) requires that proposed reference areas be submitted for Department approval no later than February 15 of the year in which they are proposed to be used.

Paragraph (7) requires that the reference areas have yields established by whole field harvest and shall be documented by the Illinois Department of Agriculture. Paragraph (8) requires that yields determined for the reference area be those used for determination of success of revegetation unless the Department determines that management practices have not been equivalent during the course of the year or the Department determines that growing conditions have not been representative of the fields to be tested.

9. Sections 1816.117/1817.117— Revegetation: Tree and Shrub Vegetation

The State Act was amended at 225 ILCS 720/3.15 to change the revegetation responsibility period from five years to two years for areas eligible for re-mining. Sections 1816/1817.117(a)(1) are proposed to be amended to implement this statute by requiring that on lands eligible for re-mining, the period of responsibility (until September 30, 2004) shall be two full years for trees and shrubs. Also, until September 30, 2004, on lands eligible for re-mining, trees and shrubs need not have been in place for three years; however, such trees and shrubs

shall not be counted in determining success during the same calendar year in which they were planted.

Sections 1816/1817.117(a)(3) are proposed to be amended to clarify that erosion control structures, including pond embankments, shall not require the planting of trees and shrubs.

Sections 1816/1817.117(b) are proposed to be amended to clarify that planting arrangements such as hedgerows, border plantings, clump plantings, shelterbelts, and open herbaceous areas which increase diversity and edge effect within wildlife areas may be approved by the Department on a case-by-case basis prior to planting such areas.

Sections 1816/1817.117(c)(1) are proposed to be revised by replacing the word "area" with the word "field." These sections are also revised by adding a requirement that once field boundaries are established in a submittal, the boundaries shall not be changed unless the Department approves a request in accordance with 62 IAC 1774.13.

10. Section 1817.121—Subsidence Control

Illinois proposes to add new subsection (c)(3) to require operators to promptly replace any drinking, domestic, or residential water supply from a well or spring in existence prior to the application for a surface coal mining and reclamation operations permit, which has been affected by contamination, diminution, or interruption resulting from underground coal mining operations.

11. Section 1817.131—Cessation of Operations: Temporary

At subsection (b), three typographical errors were corrected. The word "conduct" was changed to "conducts" in the first sentence. The word "affected" was added and the word "are" was corrected to the word "area" in the second sentence.

12. Sections 1816.133/1817.133—Post- Mining Land Capability

At subsection (a)(2)(C) a typographical error was corrected by replacing the word "bound" by the word "found."

13. Sections 1816.151/1817.151— Primary Roads

At subsection (a), Illinois proposes to specify that the certification shall be submitted within 30 days after completion of construction. Illinois also defines completion of construction to mean that the road is being used for its intended purpose as determined by the Department.

14. Section 1817.182—Minor Underground Mine Facilities Not at or Adjacent to the Processing or Preparation Facility or Area

At subsection (a), Illinois corrected a typographical error by replacing the word "is" with the word "if."

At subsection (d)(4), Illinois corrected a typographical error by replacing the word "existing" with the word "restore."

At subsection (l), Illinois corrected the regulatory citation by replacing "1817.103" with "1817.102."

15. Sections 1816.190/1817.190— Affected Acreage Map

At subsection (a), Illinois is proposing to delete the phrase "and to the county clerk."

At subsection (b), Illinois is requiring the permittee to submit an additional copy of the affected acreage report, which the Department will then forward to the county clerk. Illinois is also requiring that one of the copies contain the original signature of a company official. Also, statutory citations are being updated in subsection (b).

16. Section 1816.Appendix A— Agricultural Lands Productivity Formula—Permit Specifics Yield Standard

Illinois proposed several changes for the "Permit Specifics Yield Standard" section. The two existing paragraphs are amended and reorganized into subsections (a) and (b), respectively, and new provisions were added at subsections (c) through (f).

Language is added at redesignated subsection (a) to clarify that ALPF target calculation procedures are applicable to limited capability lands and that targets are to be based on the soils which are disturbed within the permit area.

The existing provisions in redesignated subsection (b) are now subject to the provisions of subsections (c) through (f).

New subsection (c) specifies that the Department shall provide for establishment of specific yield standards for the individual capability groups to be weighted for an individual pit (geographically distinct mining area) if multiple permits are adjacent and confined to a single continuous pit, or multiple pits are not adjacent but are within an individual permit.

New subsection (d) specifies that if an individual mining pit is present in more than one county, annual target yield adjustments shall be based on the county with the greater permit acreage.

New subsection (e) specifies that after mining operations have ceased and at

the request of the permittee, the Department shall recalculate the yield standards for the permit (pit) based solely on the soils which were disturbed. Recalculated targets shall be applicable to all areas tested for productivity, after approval of the recalculation. Approved significant revisions after permanent cessation of mining shall cause the targets to be recalculated.

New subsection (f) specifies that at the request of the permittee, the Department shall consolidate prime farmland and high capability targets, provided the Department determines that the soil reconstruction of the high capability land is equal to or better than the prime farmland.

17. Section 1816. Appendix A—Agricultural Lands Productivity Formula—Agricultural Lands Productivity Formula Sampling Method

Illinois proposed changes for the “Agricultural Lands Productivity Formula Sampling Method” section. In the last paragraph of this section, a revision was made to require the Department and the Illinois Department of Agriculture to jointly request the operator to verify yields by harvest weight. Reason Number 3 for this verification request was deleted.

P. 62 IAC 1825.14—High Capability Lands: Soil Replacement

At subsection (e), Illinois proposes adding the title of “Compaction.”

Subsection (e)(1) is revised by adding the word “above” after the regulatory citation “Section 1825.14(a). Illinois added new subsection (e)(1)(E) to specify that excessive compaction is also indicated by other diagnostic methods approved by the Department, in consultation with the Illinois Department of Agriculture and the U.S. Department of Agriculture, Soil Conservation Service.

At subsection (e)(2), Illinois is proposing an additional method for the Department to evaluate excessive compaction. The permittee will have a choice between the existing provision and the new provision which specifies that compaction alleviation is required unless the permittee can demonstrate that the requirements of 62 IAC 1816.116 or 1816.117, as applicable, have been met without compaction alleviation on areas reclaimed in a similar manner. A second new provision in subsection (e)(2) requires the Department to retain sufficient bond at the time of Phase II bond release if it determines that compaction alleviation may be needed to achieve the revegetation success requirements.

Q. 62 IAC 1840—Department Inspections

1. Section 1840.11—Inspections by the Department

At subsection (d) the heading “Aerial inspections” was added.

Illinois proposed new subsections (g) and (h) to address inspections at sites which have been abandoned without completion of reclamation or abatement of violations. The proposed amendments are consistent with 30 CFR 840.11 (g) and (h), as amended on November 28, 1994 (59 FR 60876).

New subsection (g) contains the criteria required for classifying a site as abandoned. Before a site can qualify for a change in inspection frequency, Illinois must make a written finding that the site meets the abandoned site definition criteria.

New subsection (h) contains the criteria for selecting an alternate inspection frequency commensurate with the public health and safety and environmental considerations present at each specific site. Illinois must conduct a complete inspection of the abandoned site and provide public notice of its findings. A written finding, which addresses all the criteria contained in this section, justifying the alternative inspection frequency selected must be prepared and maintained for public review.

2. Section 1840.17—Review of Decision Not to Inspect or Enforce

Subsection (a) is proposed to be revised by requiring the request for review to be submitted within 30 days from the date the citizen is notified of the decision. Failure to file a request for informal review within this time period shall result in a waiver of the right to such review.

Subsection (c) is proposed to be amended to reference 62 IAC 1847.3 of the regulations for formal review of the Department’s decision not to inspect or enforce, rather than section 8.07 of the State Act.

R. 62 IAC 1843—State Enforcement

Illinois proposes revisions to the following sections of part 1843.

1. Section 1843.13—Suspension or Revocation of Permits

At subsection (a)(1), the phrase “Except as provided in subsection (b) below” is deleted.

At subsection (a)(3), the existing provisions are deleted. New provisions were added which specify that the Department shall promptly review the history of violations of any permittee who has been cited for violations of the

same or related requirements of the Federal Act, the State Act, 62 IAC 1700 through 1850 or the permit during 3 or more State inspections of the permit area within any 12-month period. If after such review, the Department determines that a pattern of violations exists or has existed, an order to show cause as provided in subsection (a)(1) shall be issued.

Existing subsection (b) was deleted, and existing subsection (c), (d), (e), and (f) were redesignated as (b), (c), (d), and (e), respectively.

2. Section 1843.23—Enforcement Actions at Abandoned Sites

This new section specifies that the Department may refrain from issuing a notice of violation or cessation order for a violation at an abandoned site, as defined in 62 IAC 1840.11(g), if abatement of the violation is required under any previously issued notice or order.

S. 62 IAC 1845.12—When Penalty Will be Assessed

Illinois is proposing to amend subsection (d) by adding a requirement that the Department take into account the factors set forth in § 1845.13 in determining whether to assess a penalty below \$1,100. Illinois is also codifying its long-standing policy of assessing a penalty below \$1,100 if it is the permittee’s second or more related violation within a 12-month period.

T. 62 IAC 1847—Administrative and Judicial Review

Illinois proposes revisions to the following sections of part 1847.

1. Section 1847.3—Hearings

The section heading is changed from “Permit Hearings” to “Hearings.”

At subsection (a), Illinois is specifying that administrative review under this section also applies to decisions not to inspect or enforce under 62 IAC 1840.17 and permit decisions issued pursuant to 62 IAC 1785.23.

At subsection (i), Illinois is proposing to change the time period from 15 to 10 days for filing of written exceptions and responses. Also, they are to be filed with the hearing officer instead of the Director.

At subsection (j), Illinois is proposing to have the proposed decision become final in 10 days instead of 15 if no written exceptions are filed. Illinois is also proposing that the hearing officer instead of the Director issue the final administrative decision affirming or modifying or vacating the proposed decision if written exceptions are filed.

At subsection (l)(2), Illinois is adding the provision that judicial review may be requested if the Department also failed to act within specified time limits.

2. Section 1847.4—Citation Hearings

At subsection (j), Illinois is proposing to change the time period from 15 to 10 days for filing of written exceptions and responses. Also, they are to be filed with the hearing officer instead of the Director.

At subsection (k), Illinois is proposing to have the proposed decision become final in 10 days instead of 15 if no written exceptions are filed. Illinois is also proposing that the hearing officer instead of the Director issue the final administrative decision affirming or modifying or vacating the proposed decision if written exceptions are filed.

3. Section 1847.5—Civil Penalty Assessment Hearings

At subsection (m), Illinois is proposing to change the time period from 15 to 10 days for filing of written exceptions and responses. Also, they are to be filed with the hearing officer instead of the Director.

At subsection (n), Illinois is proposing to have the proposed decision become final in 10 days instead of 15 if no written exceptions are filed. Illinois is also proposing that the hearing officer instead of the Director issue the final administrative decision affirming or modifying or vacating the proposed decision if written exceptions are filed.

4. Section 1847.6—Show Cause Hearings

At subsection (k), Illinois is proposing to change the time period from 15 to 10 days for filing of written exceptions and responses. Also, they are to be filed with the hearing officer instead of the Director.

At subsection (l), Illinois is proposing to have the proposed decision become final in 10 days instead of 15 if no written exceptions are filed. Illinois is also proposing that the hearing officer instead of the Director issue the final administrative decision affirming or modifying or vacating the proposed decision if written exceptions are filed.

5. Section 1847.7—Bond Forfeiture Hearings

At subsection (j), Illinois is proposing to change the time period from 15 to 10 days for filing of written exceptions and responses. Also, they are to be filed with the hearing officer instead of the Director.

At subsection (k), Illinois is proposing to have the proposed decision become

final in 10 days instead of 15 if no written exceptions are filed. Illinois is also proposing that the hearing officer instead of the Director issue the final administrative decision affirming or modifying or vacating the proposed decision if written exceptions are filed.

U. 62 IAC 1848.5—Notice of Hearing

Proposed new subsection (f) implements a July 7, 1993, amendment to § 2.11 of the State Act pertaining to permit hearing notices. If the hearing concerns review of a permit decision under 62 IAC 1847.3, a notice containing the information set forth in subsection (a) and (b) shall be published in a newspaper of general circulation published in each county in which any part of the area of the affected land is located. The notice shall appear no more than 14 days nor less than 7 days prior to the date of the hearing. The notice shall be no less than 1/8 page in size, and the smallest type used shall be 12 point and shall be enclosed in a black border no less than 1/4 inch wide. The notice shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. Any deviations from the requirements of this subsection attributable to the publishing newspaper shall not be grounds for postponement or continuance of the hearing, nor will such errors necessitate that the notice be republished.

V. 62 IAC 1850—Training, Examination and Certification of Blasters

Illinois proposes revisions to the following sections of part 1850.

1. Section 1850.13—Training

At subsection (a), a typographical error was corrected by replacing the word "person" with the word "persons."

At subsection (b)(14), various regulation and statute citations were corrected.

2. Section 1850.14—Examination

Illinois proposed to amend subsection (a) by removing the requirement that notification of a scheduled examination be made in writing.

Illinois proposed to amend subsection (b) by removing the requirement that notification of a scheduled reexamination be made by letter.

3. Section 1850.15—Application and Certification

Subsection (a) is proposed to be amended by shortening the deadline for receipt of applications from 45 days to 30 days and by shortening the deadline

for review of applications from 30 to 15 days.

4. Section 1850.16—Denial, Issuance of Notice of Infraction, Suspension, Revocation, and other Administrative Actions

Subsection (b) is proposed to be entitled "Notice of Infraction." At subsections (b)(1)(A) and (b)(1)(D), various regulatory and statute citations are corrected. Subsection (b)(3) is revised by requiring the blaster to file a request for review with the Department and removing the existing forwarding provision. The requirement to include specified information in the request was removed. The hearing regulation reference was corrected. The hearing is proposed to be held at one of the Department's offices, and the existing location provision is removed.

Subsection (c) is proposed to be entitled "Notice of Show Cause." At subsection (c)(2), the word "public" was deleted, and the hearing regulation citation was corrected. At subsection (c)(3), the hearing regulation citation was corrected.

5. Section 1850.17—Judicial Review

This section is proposed to be repealed as the provision for judicial review is contained elsewhere in Illinois' regulations.

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 Illinois 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 Springfield 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., [C.S.T.], on March 14, 1995. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak

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 counterpart 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 counterpart Federal regulations.

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 16, 1995.

Richard Seibel,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 95-4681 Filed 2-24-95; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 944

Utah Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Utah regulatory program (hereinafter, the "Utah program") under the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*, SMCRA). The proposed amendment consists of revisions to rules pertaining to civil penalties. The amendment is intended to revise Utah's rules to be consistent with recently promulgated revisions to the Utah Coal Reclamation Act of 1979 (Utah Administrative Code (UCA) 40-10 *et seq.*).

DATES: Written comments must be received by 4:00 p.m., m.s.t., March 29, 1995. If requested, a public hearing on the proposed amendment will be held on March 24, 1995. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.s.t. on March 14, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Thomas E. Ehmett at the address listed below.

Copies of the Utah program, the proposed amendment, 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 amendment by contacting OSM's Albuquerque Field Office.

Thomas E. Ehmett, Acting Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue, NW., Suite 1200, Albuquerque, New Mexico 87102

Utah Coal Regulatory Program, Division of Oil, Gas and Mining, 355 West North Temple, 3 Triad Center, Suite 350, Salt Lake City, Utah 84180-1203, Telephone: (801) 538-5340

FOR FURTHER INFORMATION CONTACT: Thomas E. Ehmett, Telephone: (505) 766-1486.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program. General background information on the Utah program,