

A notice of the extension of the comment period and the rescheduling of the public hearing was published on January 20, 1995 (60 FR 4132 *et seq.*). This notice extended the public comment period for the proposal to April 14, 1995. The date for submitting a notice of intention to appear at the hearing to testify was extended to March 31, 1995. The public hearings were rescheduled to start on June 6, 1995. On March 23, 1995 (60 FR 15263) OSHA extended the period to submit testimony until May 15, 1995.

Extension of Date for Submitting Comments

Several parties who will be testifying at the OSHA hearings have requested an extension of time to file comments to May 15, 1995 because they need additional time to prepare comments. Since the period for submitting testimony has been extended this will not result in further delays. Accordingly OSHA is extending the time for testifiers to submit comments until May 15, 1995. The times to submit testimony and the start of the hearing remain unchanged. See the earlier **Federal Register** notices for the hearing procedures.

Authority and Signature

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655).

Signed at Washington, DC., this 12th day of April, 1995.

Joseph A. Dear,

Assistant Secretary of Labor.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY-208]

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 receipt of revisions pertaining to a previously

proposed amendment to the Kentucky regulatory program (hereinafter, the "Kentucky program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions for Kentucky's proposed rules pertain to documents, assessment of civil penalties, and revegetation for surface and underground mining. This amendment is intended to revise the Kentucky program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4:00 p.m., E.D.T., May 2, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. 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 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 Lexington Field Office.

Mr. William J. Kovacic, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (606) 233-2896
Department for Surface Mining Reclamation and Enforcement, #2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564-6940.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, Telephone: (606) 233-2896.

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 the conditions of approval of the Kentucky program can be found in the May 18, 1982, **Federal Register** (47 FR 21404). Subsequent actions concerning Kentucky's program and program amendments can be found at 30 CFR 917.11, 917.15, 917.16, and 917.17.

II. Description of the Proposed Amendment

By letter dated July 19, 1994, Kentucky submitted a proposed amendment to its program pursuant to

SMCRA (Administrative Record No. 1304). Kentucky submitted the proposed amendment at its own initiative. The provisions of the Kentucky Administration Regulations (KAR) Kentucky proposed to amend were: 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 (Administrative Record No. 1322). Because no one requested a public hearing or meeting, none was held. The public comment period ended on September 8, 1994.

On March 2, 1995, Kentucky submitted additional revisions to 405 KAR 7:095—Assessment of Civil Penalties, and 405 KAR 16:200 and 18:200—Revegetation (Administrative Record No. 1347). 405 KAR 7:095 section 5(2) is proposed to be revised to clarify that the penalty which can be assessed under this section is in addition to the civil penalty which can be assessed under section 5(1), and to add section 7 which incorporates by reference Kentucky's January 6, 1995, "Procedures for Assessment of Civil Penalties". Several revisions were made to proposed 405 KAR 16:200 and 18:200—Revegetation. Proposed section 1(4) is being revised to clarify that this section does not negate the requirement at 405 KAR 16:180 and 18:180 section 3(2) that "where cropland is intended to be the postmining land use, and where appropriate for wildlife and crop-management practices, the permittee shall intersperse the fields with tree, hedges, or fence rows throughout the harvested area to break up large blocks of monoculture and to diversify habitat types for birds and other animals." Proposed section 5(2)(b)2 is being revised to specifically identify the "Kentucky Agricultural Statistics" documents being relied upon (except for prime farmland) for average county yields of row crops. Proposed section 6 is being revised to reduce the stocking rates for trees from 450 to 300 plants per acre, and to require all permit applications submitted after February 22, 1995, which propose to plant trees and shrubs for wildlife habitat, to use species listed in Appendix A of New

Technical Reclamation Memorandum #21 and stocking densities set in section 6(2)(b)1, or optionally to use species and stocking densities recommended specifically for the permit area by the Kentucky Department of Fish and Wildlife Resources. Sections 9(3)(c) and 9(6), regarding use of productivity test areas rather than statistical evaluation of productivity, are being deleted.

III. Public Comment Procedures

Written Comments

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 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 Lexington Field Office will not necessarily be considered in the final rulemaking or included in 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 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 12550) 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 CRR 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 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 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 10, 1995.

Richard J. Seibel,

Acting Assistant Director, Eastern Support Center.

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30 CFR Part 935

[OH-204; Amendment No. 54R]

Ohio Regulatory and AML Programs

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

ACTION: Proposed rule; reopening and extension of public comment period.

SUMMARY: OSM is reopening the public comment period for a revised amendment to the Ohio permanent regulatory and Abandoned Mined Land (AML) programs (hereinafter referred to as the Ohio programs) under the Surface Mining Control and Reclamation Act of 1977. The revised amendment proposes additional changes to ten sections of the Ohio Revised Code (ORC) to clarify those sections of State law, to conform those sections to current State practices, and to make those sections equivalent to corresponding Federal laws. The proposed revisions concern lands eligible for remining, public roadways, average wage rates, deletion of obsolete language on interim continuance of underground coal mining operations, activities eligible for Small Operator Assistance, refund of excess permit fees to operators, use of the Reclamation Supplemental Forfeiture Fund for non-coal reclamation, interfund transfers, and required staff training.

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.d.t. on May 17, 1995. If requested, a public hearing on the proposed amendments will be held at 1:00 p.m., e.d.t. on May 12, 1995. Requests to speak at the hearing must be received on or before 4:00 p.m., e.d.t. on May 2, 1995.

ADDRESSES: Written comments and requests to speak 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) 866-0578.