

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

#### Cost Impact

The FAA estimates that 213 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspections, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$12,780, or \$60 per airplane, per inspection.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

#### Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

### **PART 39—AIRWORTHINESS DIRECTIVES**

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

#### **§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

Israel Aircraft Industries (IAI), Ltd.: Docket 96-NM-173-AD.

*Applicability:* All IAI, Ltd., Model 1123, 1124, and 1124A series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent excessive wear of the aileron push-pull tube, which could result in uneven movement of the control wheel, perforation of the aileron push-pull tube, and consequent reduced roll control of the airplane; accomplish the following:

(a) Within 50 hours time-in-service after the effective date of this AD, inspect the left and right aileron push-pull tubes for wear and the guide rollers for smoothness of rotation, in accordance with Astra Jet Service Bulletin SB 1123-27-043, dated June 12, 1995 (for Model 1123 series airplanes); or Service Bulletin SB 1124-27-129, dated June 12, 1995 (for Model 1124 and 1124A Series airplanes); as applicable.

(1) If no wear is detected or if wear is within the limits specified in the applicable service bulletin, repeat the inspections thereafter at intervals not to exceed 600 hours time-in-service.

(2) If any wear is detected and that wear is outside the limits specified in the applicable service bulletin, prior to further flight, replace the tube with serviceable parts in accordance with the applicable service bulletin. Thereafter, repeat the inspections at intervals not to exceed 600 hours time-in-service.

(3) If the guide rollers do not rotate smoothly, accomplish either paragraph (a)(3)(i) or (a)(3)(ii) of this AD. Thereafter, repeat the inspections at intervals not to exceed 600 hours time-in-service.

(i) Prior to further flight, repair the guide roller in accordance with the applicable service bulletin. Or

(ii) Prior to further flight, replace the guide roller with serviceable parts in accordance with the applicable service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on August 28, 1996.

Darrell M. Pederson,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 96-22473 Filed 9-3-96; 8:45 am]

**BILLING CODE 4910-13-U**

### **DEPARTMENT OF THE INTERIOR**

#### **Office of Surface Mining Reclamation and Enforcement**

#### **30 CFR Part 917**

[KY-210]

#### **Kentucky 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 Kentucky regulatory program (hereinafter the "Kentucky program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Kentucky statutes pertaining to bonds, permitting, coal waste disposal, administrative hearings, and civil penalties. The 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.], October 4, 1996. If requested, a public hearing on the proposed amendment will be held on September 30, 1996. Requests to speak at the hearing must be received by 4:00 p.m., [E.D.T.], on September 18, 1996.

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

Copies of the Kentucky 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 Lexington Field Office.

William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (606) 233-2896.  
Department of 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. Background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the May 18, 1982, Federal Register (47 FR 21404). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 917.11, 917.13, 917.15, 917.16, and 917.17.

**II. Description of the Proposed Amendment**

By letter dated August 15, 1996, (Administrative Record No. KY-1371) Kentucky submitted a proposed amendment to its program pursuant to SMCRA at its own initiative. Senate Bill 231 and House Bill 764 enacted on March 28, 1996, revised the following provisions of the Kentucky Revised Statutes (KRS): KRS 350.131(3); KRS 350.150(1); KRS Chapter 350 Section (3); KRS 350.0301(1); and KRS 350.990(1).

Specifically, Kentucky proposes to make the following changes. Senate Bill 231 creates a new subsection at KRS 350.131(3) that allows Kentucky to use money from a forfeited bond, other than

a surety bond or letter credit, to enter a contract with an overlapping permittee to perform reclamation on the forfeited permit area. KRS 350.150(1) is amended to exempt contracts negotiated under new subsection KRS 350.131(3) from the requirement that reclamation contracts be awarded to the lowest responsible bidder upon competitive bids. KRS Chapter 350 Section (3) is added to allow Kentucky to negotiate improved coordination among Federal and State agencies in reviewing proposals for reinjection or backstowing of coal processing waste and underground development waste. House Bill 764 amends KRS 350.0301(1) to allow a person contesting a failure-to-abate cessation order to also contest the underlying noncompliance at the hearing on the cessation order. KRS 350.990(1) is amended to require that Kentucky assess up to \$5,000 on each violation in a noncompliance underlying an imminent danger cessation order but prohibits the assessment of a separate penalty on the cessation order itself.

**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 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 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.

*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.D.T.] on September 19, 1996. The location and time of the hearing will be arranged with those persons requesting the hearing. If on 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 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.

*Unfunded Mandates*

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

## List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 27, 1996.

Vann Weaver,

*Acting Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 96-22446 Filed 9-3-96; 8:45 am]

BILLING CODE 4310-05-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Health Care Financing Administration****42 CFR Part 418**

[BPD-820-P]

RIN 0938-AG93

**Medicare Program; Hospice Wage Index**

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would establish a methodology to update the wage index used to adjust Medicare payment rates for hospice care. The wage index is used to reflect local differences in wage levels. A new wage index is needed because the index currently applied is based on 1981 wage and employment data and has not been updated since 1983. The methodology is based on the recommendations of a negotiated rulemaking advisory committee comprised of persons who represent interests affected by the hospice rules.

**DATES:** Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on November 4, 1996.

**ADDRESSES:** Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD-820-P, P.O. Box 7517, Baltimore, MD 21207-0519.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses: Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, or Room C5-09-26, 7500 Security Boulevard, Baltimore, MD 21244-1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD-820-P. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309-G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690-7890).

**FOR FURTHER INFORMATION CONTACT:** Jennifer Carter, (410) 786-4615.

**SUPPLEMENTARY INFORMATION:**

## I. Background

A. *Statute and Regulations*

Hospice care is an approach to treatment that recognizes that the impending death of an individual warrants a change in focus from curative care to palliative care (relief of pain and other uncomfortable symptoms). The goal of hospice care is to help terminally ill individuals continue life with minimal disruption to normal activities while remaining primarily in the home environment. A hospice uses an interdisciplinary approach to deliver medical, social, psychological, emotional, and spiritual services through the use of a broad spectrum of professional and other caregivers, with the goal of making the individual as physically and emotionally comfortable as possible. Counseling and respite services are available to the family of the hospice patient. Hospice programs consider both the patient and the family as a unit of care.

Section 122 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) (Public Law 97-248) added section 1861(dd) to the Social Security Act (the Act) to provide coverage for hospice care for terminally ill Medicare beneficiaries who elect to receive care from a participating hospice. The statutory authority for payment to hospices participating in the Medicare program is contained in section 1814(i) of the Act.

On December 16, 1983, we published a final rule in the Federal Register (48 FR 56008) that, effective for hospice services furnished on or after November 1, 1983, established eligibility requirements and payment standards and procedures, defined covered services, and delineated the conditions a hospice must meet to be approved for participation in the Medicare program.

Regulations at 42 CFR part 418, subpart G, Payment for Hospice Care, provide for payment to hospices based on one of four prospectively determined rates for each day in which a qualified Medicare beneficiary is under the care of a hospice. The four rate categories are routine home care, continuous home care, inpatient respite care, and general inpatient care. Payment rates are established for each category.

The final rule of December 16, 1983 (48 FR 56034) included the following provisions with regard to payment:

- Provision for adjustment to the payment rates to reflect differences in area wage levels. Since hospice care is labor-intensive, adjustment was necessary to permit payment of higher