

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 12988*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (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.

##### *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 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 23, 1997.

##### **Brent Wahlquist,**

*Regional Director, Mid-Continent Regional Coordinating Center.*

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#### DEPARTMENT OF THE INTERIOR

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

##### 30 CFR Part 925

[SPATS No. MO-032-FOR]

##### Missouri 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 Missouri regulatory program (hereinafter the "Missouri program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to Missouri's revegetation success guidelines pertaining to the use of county average yields for prime farmland areas and special requirements for ground cover density on previously mined areas. The amendment is intended to revise the Missouri program to be consistent with the corresponding Federal regulations and improve operational efficiency.

This document sets forth the times and locations that the Missouri program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed

amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

**DATES:** Written comments must be received by 4:00 p.m., c.d.t. May 29, 1997. If requested, a public hearing on the proposed amendment will be held on May 27, 1997. Requests to speak at the hearing must be received by 4:00 p.m., c.d.t. on May 14, 1997.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Michael C. Wolfrom, Mid-Continent Regional Coordinating Center, at the address listed below.

Copies of the Missouri 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 address 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 Mid-Continent Regional Coordinating Center.

Michael C. Wolfrom, Mid-Continent Regional Coordinating Center, Office of Surface Mining Reclamation and Enforcement, Alton Federal Building, 501 Belle Street, Alton, Illinois, 62002, Telephone: (618) 463-6460.

Missouri Department of Natural Resources, Land Reclamation Program, 205 Jefferson Street, P.O. Box 176, Jefferson City Missouri 65102, Telephone: (573) 751-4041.

**FOR FURTHER INFORMATION CONTACT:** Michael C. Wolfrom, Mid-Continent Regional Coordinating Center, Telephone: (618) 463-6460.

##### SUPPLEMENTARY INFORMATION:

##### I. Background on the Missouri Program

On November 21, 1980, the Secretary of Interior conditionally approved the Missouri program. General background information on the Missouri program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Missouri program can be found in the November 21, 1980, **Federal Register** (45 FR 77017). Subsequent actions concerning Missouri's program and program amendments can be found at 30 CFR 925.12, 925.15, and 925.16.

##### II. Description of the Proposed Amendment

By letter dated April 16, 1997 (Administrative Record No. MO-649), Missouri submitted a proposed amendment to its program pursuant to SMCRA. Missouri submitted the proposed amendment at its own

initiative. Missouri proposes to amend its revegetation success guidelines by adding procedures to allow for the use of county average yields when determining how the production on reclaimed prime farmland compares to the production on unmined prime farmland and by referencing the special requirements for ground cover density on previously mined areas in each land use section of the guidelines. A brief discussion of the proposed amendment is presented below.

### *1. Phase II/III Revegetation Success Standards for Prime Farmland*

Missouri proposes to revise section II.C.5 and to add Appendix N. The revision to section II.C.5 specifies that if county average yields are selected as the success standard, the Natural Resource Conservation Service (NRCS) will determine the yield comparisons at their office in Columbia, Missouri. The operator is to submit the yield data from mined areas to the Missouri Land Reclamation Program. The yield data will then be submitted to the NRCS for comparisons. The NRCS will use the calculation procedure in Appendix N to make yield comparisons between unmined prime soils within the county to those that have been mined. Appendix N contains a four step procedure to determine the required post-mined productivity levels. It includes plotting the recent 10 year average yield, including the year in question, from the appropriate "County Agri-Facts" and ranking the averages from highest to lowest; comparing the yield in the year in question to the highest yield recorded in the 10 year period to determine percentage of yield for the specific year to the highest 10 year yield; multiplying the Productivity Index for the soil mapping unit from the "Productivity of Missouri Soils" publication by the percentage figure; and converting the final figure to bushels per acre. Appendix N also contains an example of the use of the calculation. Existing Appendix N was redesignated Appendix O.

### *2. Phase III Revegetation Success Standards for Pasture*

At section I, Missouri proposes to revise its requirements for ground cover on previously mined lands reclaimed to a land use of pasture. Where pasture was the premining use, the ground cover shall be restored to at least original density, but not less than that necessary to control erosion. If the premining use was not pasture or the premining ground cover density was not recorded before redisturbance, the permittee shall establish a ground cover

density of 90 percent. The ground cover shall be determined during the last year of the five-year liability period. Productivity testing is not required on pasture land that was previously mined.

### *3. Phase III Revegetation Success Standards for Wildlife Habitat*

At section I, Missouri proposes to add requirements for ground cover on previously mined lands reclaimed to a land use of wildlife habitat. Where wildlife habitat was the premining use, the ground cover shall be restored to at least original density, but not less than that necessary to control erosion. If the premining use was not wildlife habitat or the premining ground cover density was not recorded before redisturbance, the permittee shall establish a ground cover density of 70 percent. The ground cover shall be determined during the last year of the five-year liability period.

### *4. Phase III Revegetation Success Standards for Woodland*

At section I, Missouri proposes to add requirements for ground cover on previously mined lands reclaimed to a land use of woodland. Where woodland was the premining use, the ground cover shall be restored to at least original density, but not less than that necessary to control erosion. If the premining use was not woodland or the premining ground cover density was not recorded before redisturbance, the permittee shall establish a ground cover density of 70 percent. The ground cover shall be determined during the last year of the five-year liability period.

### *5. Phase III Revegetation Success Standards for Industrial/Commercial*

At section I, Missouri proposes to add requirements for ground cover on previously mined lands reclaimed to a land use of industrial/commercial. Where industrial/commercial was the premining use, the ground cover shall be restored to at least original density, but not less than that necessary to control erosion. If the premining use was not industrial/commercial or the premining ground cover density was not recorded before redisturbance, the permittee shall establish a ground cover density of 70 percent. The ground cover shall be determined during the last year of the five-year liability period.

### *6. Phase III Revegetation Success Standards for Residential*

At section I, Missouri proposes to add requirements for ground cover on previously mined lands reclaimed to a land use of residential. Where residential was the premining use, the ground cover shall be restored to at least

original density, but not less than that necessary to control erosion. If the premining use was not residential or the premining ground cover density was not recorded before redisturbance, the permittee shall establish a ground cover density of 70 percent. The ground cover shall be determined during the last year of the five-year liability period.

### *7. Phase III Revegetation Success Standards for Recreation*

At section I, Missouri proposes to add requirements for ground cover on previously mined lands reclaimed to a land use of recreation. Where recreation was the premining use, the ground cover shall be restored to at least original density, but not less than that necessary to control erosion. If the premining use was not recreation or the premining ground cover density was not recorded before redisturbance, the permittee shall establish a ground cover density of 70 percent. The ground cover shall be determined during the last year of the five-year liability period.

## **III. Public Comment Procedures**

In accordance with the provisions of 330 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 Missouri 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 Mid-Continent Regional Coordinating Center 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.d.t. on May 14, 1997. The location and time of the hearing will be arranged with those persons requesting the hearing. 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**. 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.

#### *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 location 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 12988*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (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.

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#### *Paperwork Reduction Act*

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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 925**

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 23, 1997.

#### **Brent Wahlquist,**

*Regional Director, Mid-Continent Regional Coordinating Center.*

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#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52 and 81**

[VA068-5018b and VA066-5018b; FRL-5817-6]

#### **Approval and Promulgation of Air Quality Implementation Plans; Virginia: Reopening of the Public Comment Period on the Redesignation of the Hampton Roads Ozone Nonattainment Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; reopening of the comment period.

**SUMMARY:** EPA is reopening the comment period for a notice of proposed rulemaking published on March 12, 1997 (62 FR 11405). In that document EPA proposed to approve the Commonwealth of Virginia's request to redesignate the Hampton Roads area from marginal ozone nonattainment to attainment. The document also proposed to approve, as a state implementation plan (SIP) revision, the 10 year maintenance plan and mobile emissions budget developed for the Hampton Roads area and submitted by the Commonwealth. EPA received adverse comments on the action and a request to extend the public comment period on the proposed rulemaking. EPA is, therefore, reopening the public comment period on the March 12, 1997 notice of proposed rulemaking on the redesignation of the Hampton Roads ozone nonattainment area for a period of two weeks.

**DATES:** Comments must be received in writing on or before May 13, 1997. Commenters are advised that EPA does not intend to grant additional extensions or reopenings of the comment period on the March 12, 1997 proposed rulemaking.

**ADDRESSES:** Written comments may be mailed to David L. Arnold, Chief, Ozone/Carbon Monoxide & Mobile Sources Section, Mailcode 3AT21, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Persons interested in examining these documents should contact the EPA staff person listed below at least 24 hours prior to visiting the Regional office. Copies of the documents relevant