

Public meetings: Upon request OSM staff will be available to meet with interested persons, individually or in groups, during the comment period. In addition to public meetings scheduled by request, OSM has scheduled meetings at seven locations. See **SUPPLEMENTARY INFORMATION** for the dates, times and locations.

For planning purposes, participants must call 1-800-643-9748 to confirm their attendance. If no confirmations are received for any location where a meeting has been scheduled, that meeting will not be held. Any individual who requires special accommodation to attend a meeting should contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Earl D. Bandy, Jr., Office of Surface Mining Reclamation and Enforcement, 2679 Regency Road, Lexington, Kentucky 40503. Telephone: (606) 233-2796 or (800) 643-9748. E-mail: ebandy@osmre.gov.

SUPPLEMENTARY INFORMATION: On October 29, 1997 (62 FR 56139), OSM published a notice that it would hold public meetings in order to solicit comments, concerns, and new ideas regarding the drafting of new ownership or control, permit information, and improvidently issued permit regulations to implement certain provisions of the Surface Mining Control and Reclamation Act of 1977. The notice also invited written comments regarding the drafting of these regulations and

advised that a concept/issue paper has been prepared to assist those interested in commenting or preparing for the meetings. The re-design of these regulations is underway in order to fulfill the commitment made in the publication of the interim final rules on April 21, 1997 (62 FR 19450). The commitment was to seek public comment on proposed regulatory changes that would precede final rules adopted to reflect the January 31, 1997, decision of the U.S. Court of Appeals for the District of Columbia Circuit that invalidated previous ownership or control and related rules.

Public meetings have been scheduled at the following locations on the dates specified.

Date	Time	Location
12/2/97	9 a.m.-12 noon	Holiday Inn South, 5332 Athens-Boonesboro Road, Lexington, KY.
12/3/97	9 a.m.-12 noon	Heart O Town Hotel, 1000 Washington Street, East, Charleston, WV.
12/4/97	10 a.m.-12 noon	OSM Conference Room, 10 Parkway Center, Building #3, Pittsburgh, PA.
12/5/97	10 a.m.-12 noon	OSM Conference Room 220, 1951 Constitution Ave., NW., Washington, DC.
12/8/97	10 a.m.-12 noon	OSM Conference Room, 2nd Floor, 530 Gay Street, Knoxville, TN.
12/9/97	10 a.m.-12 noon	OSM Conference Room, 1st Floor, 501 Belle Street, Alton, IL.
12/10/97	10 a.m.-12 noon	OSM Conference Room, 34th Floor, 1999 Broadway, Denver, CO.

Dated: November 21, 1997.

Mary Josie Blanchard,

Assistant Director, Program Support.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

[SPATS No. IL-098-FOR]

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 the "Illinois program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of a revision to the Illinois regulations pertaining to administrative review. The amendment is intended to revise the Illinois program to be consistent with the corresponding Federal regulations.

This document sets forth the times and locations that the Illinois 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.s.t., December 26, 1997. If requested, a public hearing on the proposed amendment will be held on December 22, 1997. Requests to speak at the hearing must be received by 4:00 p.m., c.s.t. on December 11, 1997.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Andrew R. Gilmore, Director, Indianapolis 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 Indianapolis Field Office.

Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204, Telephone: (317) 226-6700.

Illinois Department of Natural Resources, Office of Mines and Minerals, 524 South Second Street, Springfield, IL 62701-1787, Telephone (217) 782-4970.

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Director, Indianapolis Field Office, Telephone: (317) 226-6700.

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 November 3, 1997 (Administrative Record No. IL-5000), Illinois submitted a proposed amendment to its program pursuant to SMCRA. Illinois submitted the proposed amendment at its own initiative. In its submission letter, Illinois stated the amendment was necessitated by a permit review case wherein the hearing officer found that the Department's burden of proof standard was improper. The hearing officer ruled that a preponderance of the evidence standard was the appropriate standard to apply in a permit review proceeding. On a subsequent appeal of the administrative case, the circuit court agreed that the clearly erroneous standard was invalid, and that the preponderance of the evidence standard was the correct standard to apply (*Citizens Organizing Project v. IDNR*, 96-MR-126, Sangamon County Circuit Court). The provision of Title 62, Illinois Administrative Code (IAC) that Illinois proposes to amend is at 62 IAC 1847.3(g), permit hearings. Specifically, Illinois proposes to delete the existing language at 62 IAC 1847.3(g) and replace it with the following language.

The standard of proof in a hearing conducted under this Section shall be the preponderance of the evidence.

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

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.s.t. on December 11, 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.

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

OSM has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 20, 1997.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

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