

the report. The Agency has determined that it is in the public interest to allow interested parties an opportunity to comment. MSHA is reopening the rulemaking record for limited comment on the report.

**DATES:** Submit written comments on the report on or before January 22, 1998.

**ADDRESSES:** Comments on the report may be transmitted by electronic mail, fax, or mail. Comments by electronic mail must be clearly identified as such and sent to: [psilvey@msha.gov](mailto:psilvey@msha.gov). Comments by fax must be clearly identified as such and sent to: MSHA, Office of Standards, Regulations, and Variances, 703-235-5551. Send mail comments to: Mine Safety and Health Administration, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203-1984. Interested persons are encouraged to supplement written comments with computer files or disks.

**FOR FURTHER INFORMATION CONTACT:** Patricia W. Silvey, Director, MSHA, Office of Standards, Regulations, and Variances, 703-235-1910.

**SUPPLEMENTARY INFORMATION:** On December 17, 1996, MSHA published a proposed rule in the **Federal Register** (61 FR 66348) revising its health standards for occupational noise exposure in coal and metal and nonmetal mines.

To confirm the magnitude of the risks of NIHL among miners, MSHA examined evidence of reported hearing loss among miners from a variety of sources—audiometric data bases tracking hearing acuity among coal miners, individual commenter data, hearing loss data reported to MSHA, and workers' compensation data. MSHA also asked NIOSH to examine a body of audiometric data which tracked hearing acuity among coal miners and one which tracked hearing acuity among metal and nonmetal miners. NIOSH completed its analysis of the audiometric data on coal miners and issued a report to MSHA entitled "Analysis of Audiograms for a Large Cohort of Noise-Exposed Miners," (Franks, 1996) which is a part of the existing rulemaking record.

On December 16, 1997, MSHA published a notice in the **Federal Register** (62 FR 65777) announcing the availability of a report from the National Institute for Occupational Safety and Health (NIOSH) entitled "Prevalence of Hearing Loss For Noise-Exposed Metal/Nonmetal Miners." The Agency further stated its intent to supplement the rulemaking record with this report and

to make it available to interested parties upon request.

MSHA received several requests from the mining community that they be provided an opportunity to comment on the report. MSHA has evaluated these requests and believes that a 30 day comment period will provide sufficient time for all interested parties to review the report and comment. All interested members of the mining community are encouraged to submit comments prior to January 22, 1998.

Dated: December 17, 1997.

**J. Davitt McAteer,**

*Assistant Secretary for Mine Safety and Health.*

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BILLING CODE 4510-43-P

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 913

[SPATS No. IL 089-FOR]

#### Illinois Regulatory Program Amendment

**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 a request and additional explanatory information for its reconsideration of two regulations disapproved in a previously 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 disapproved regulations concern the determination of revegetation success for non-contiguous surface disturbance areas less than or equal to four acres. The additional explanatory information is intended to clarify the regulations by specifying procedures and evaluation criteria that would be used in the implementation of the regulations.

**DATES:** Written comments must be received by 4:00 p.m., e.s.t., January 7, 1998.

**ADDRESSES:** Written comments 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, the additional explanatory information, and all written comments received in response to this

document will be available for public review at the 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, Indiana, 46204-1521, Telephone: (317) 226-6700. Illinois Department of Natural Resources, Office of Mines and Minerals, 524 South Second Street, Springfield, Illinois, 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
- II. Discussion of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

#### 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.

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 and at its own initiative. OSM announced receipt of the proposed amendment in the February 27, 1995, **Federal Register** (60 FR 19522), and invited public comment on its adequacy. The public comment period ended March 29, 1995. A public hearing was requested, and it was held on March 24, 1995, as scheduled. OSM identified concerns relating to the proposed amendment, and notified Illinois of these concerns by letters dated April 28 and August 3, 1995 (Administrative Record Nos. IL-1649 and IL-1660, respectively). By letter

dated November 1, 1995 (Administrative Record No. IL-1663), Illinois responded to OSM's concerns by submitting additional explanatory information and revisions to its proposed amendment. OSM reopened the public comment period in the December 5, 1995, **Federal Register** (60 FR 62229). The public comment period closed on January 4, 1996. OSM approved the proposed amendment with certain exceptions and additional requirements on May 29, 1996 (61 FR 26801).

## II. Discussion of the Proposed Amendment

By letter dated August 5, 1997 (Administrative Record No. IL-1670), Illinois requested that OSM reconsider its May 29, 1996, disapproval of the following regulatory language at 62 IAC 1816.116(a)(3)(F) and 1817.116(a)(3)(F).

Non-contiguous areas less than or equal to four acres which were disturbed from activities such as, but not limited to, signs, boreholes, power poles, stockpiles and substations shall be considered successfully revegetated if the operator can demonstrate that the soil disturbance was minor, i.e., the majority of the subsoil remains in place, 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.

In its letter of August 5, 1997, Illinois provided explanatory information to clarify the regulatory language by specifying the procedures and evaluation criteria that would be used in the implementation of the regulations. By letters dated September 26 and November 3, 1997 (Administrative Record Nos. IL-1671 and IL-1672), Illinois provided additional explanatory information. Following is a summary of these procedures and evaluation criteria:

1. Illinois proposed to interpret the regulatory language of 62 IAC 1816.116(a)(3)(F) and 1817.117(a)(3)(F) as follows:

Non-contiguous, surface disturbance areas, with an approved land use of cropland or pasture/hayland, less than or equal to four acres which have:

1. Minor soil disturbances from activities such as signs, boreholes, power poles, stockpiles and substations;

2. The majority of the subsoil remains in place; and

3. Were not affected by coal or toxic material handling, may use the following procedures for determination of revegetation success, in lieu of Section (a)(4).

(i) The operator must document the required three criteria of (F) above have been met.

(ii) The affected area is successfully supporting its approved post mining land use when compared to the similar, adjacent

unaffected areas at the end of the responsibility period.

The Department will evaluate areas requested by the operator, using qualified individuals, and determine them successfully revegetated, if it finds subsection (i) and (ii) have been met.

2. Illinois would differentiate the minor disturbances into three main types: (1) Areas where topsoil was left in place, usually less than .25 areas, (2) areas where topsoil was removed and stockpiled and the subsoil was left in place, usually less than one acre, and (3) areas where the topsoil was removed and stockpiled and portions of the area were excavated for foundations or for shaft construction, usually four acres or less.

3. Illinois would ensure all non-toxic contaminants are either prevented from mixing with the subsoil or are adequately removed without significant loss of the in-place subsoil.

4. Illinois would require at a minimum the area to be tilled with an agricultural subsoiler, preferably before topsoil replacement. In the event of poor crop performance on areas being evaluated, Illinois will require tillage to greater depths as deemed appropriate, based on timing, soil handling techniques, and equipment used for reclamation.

5. Illinois would assess the success of the area by the determination the area is supporting is postmining use and there were no observable differences between these areas and adjacent unaffected areas. All determinations of the success of these small areas would be done by qualified individuals experienced in the field of agronomy and soils. The evaluation of the crop would be done near the time of the harvest of the crop grown. The observation would be done for a minimum of two years of the responsibility period, excluding the first year. No phase III bonds would be released before the fifth year of the responsibility period.

## III. Public Comment Procedures

OSM is reopening the comment period on the proposed Illinois 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 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.

## IV. Procedural Determinations

### Executive Order 12866

This proposed 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: December 12, 1997.

**Brent Wahlquist,**

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

[FR Doc. 97-33430 Filed 12-22-97; 8:45 am]

BILLING CODE 4310-05-M

**DEPARTMENT OF THE INTERIOR****Office of Surface Mining Reclamation and Enforcement****30 CFR Part 946**

[VA-112-FOR]

**Virginia 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 Virginia regulatory program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment revises numerous provisions of the Virginia program for

surface coal mining and reclamation operations. The amendment is intended to revise the State program to be consistent with the Federal regulations.

**DATES:** Written comments must be received by 4:00 p.m., on January 22, 1998. If requested, a public hearing on the proposed amendment will be held on January 20, 1998. Requests to speak at the hearing must be received by 4:00 p.m., on January 7, 1998.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Mr. Robert A. Penn, Director, Big Stone Gap Field Office at the first address listed below.

Copies of the Virginia 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 requestor may receive one free copy of the proposed amendment by contacting OSM's Big Stone Gap Field Office.

Office of Surface Mining Reclamation and Enforcement, Big Stone Gap Field Office, 1941 Neeley Road, Suite 201, Compartment 116, Big Stone Gap, Virginia 24219, Telephone: (703) 523-4303

Virginia Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, Virginia 24219, Telephone: (703) 523-8100

**FOR FURTHER INFORMATION CONTACT:**

Mr. Robert A. Penn, Director, Big Stone Gap Field Office, Telephone: (703) 523-4303.

**SUPPLEMENTARY INFORMATION:****I. Background on the Virginia Program**

On December 15, 1981, the Secretary of the Interior conditionally approved the Virginia program. Background information on the Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the December 15, 1981, **Federal Register** (46 FR 61085-61115). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 946.12, 946.13, 946.15, and 946.16.

**II. Discussion of the Proposed Amendment**

By letter dated December 1, 1997 (Administrative Record VA-938), the Virginia Department of Mines, Minerals and Energy (DMME) submitted numerous amendments to the Virginia

program. The DMME stated that the purpose of the amendments is to address issues identified by OSM pursuant to 30 CFR 732.17(d). The DMME stated that the proposed amendments are intended to be materially consistent with the corresponding Federal standards.

The proposed amendments are as follows:

**4VAC 25-130-701.5 Definitions.**

Two definitions are amended: "Previously mined area" and "other treatment facilities."

**4VAC 25-130-779.22** Land use information. This provision is proposed for deletion.

**4VAC 25-130-779.25** Cross sections, maps, and plans. Subsections (a) and (b) are amended.

**4VAC 25-130-780.23** Reclamation Plan; Land Use Information. Subsections (a), (b), and (c) are amended.

**4VAC 25-130-780.25** Reclamation Plan: Siltation Structures, Impoundments, Banks, Dams and Embankments. Subsections (a), (b), (c), and (f) are amended.

**4VAC 25-130-780.35** Disposal of excess spoil. Subsection (b) is amended.

**4VAC 25-130-783.25** Cross sections, maps and plans. Subsection (a) is amended and renumbered.

**4VAC 25-130-784.15** Reclamation Plan: Land Use Information. The existing language is deleted and replaced with new language.

**4VAC 25-130-784.16** Reclamation Plan: Siltation Structures, Impoundments, Banks, Dams, and Embankments. Subsections (a), (b), (c), and (f) are amended.

**4VAC 25-130-784.23** Operation plan; maps and plans. Subsections (b) and (c) are amended.

**4VAC 25-130-800.40** Requirements for release of performance bond. New subsection (a)(3) is added.

**4VAC 25-130-816.46** Hydrologic balance; siltation structures. Subsections (a), (b), and (c) are amended.

**4VAC 25-130-816.49** Impoundments. Subsections (a) and (c) are amended.

**4VAC 25-130-816.74** Disposal of excess spoil; preexisting benches. Subsections (a) through (g) are amended.

**4VAC 25-130-816.81** Coal mine waste; general requirements. Subsections (a) and (c) are amended.

**4VAC 25-130-816.89** Disposal of noncoal mine wastes. Subsection (d) is deleted.

**4VAC 25-130-816.104** Backfilling and grading; thin overburden. The existing introductory paragraph is