''significantly upgraded'' because the carrier corrected the problem at its own expense within a reasonable period of time.

Example 13 (Failure to Correct Hampering Modifications): On January 2, 2000, a carrier installed a software upgrade on some of its preexistent equipment which improved the functionality of the call forwarding feature. The improved call forwarding feature added a hindrance to law enforcement's ability to obtain intercepted communications and reasonably available call-identifying information. One month later, a local law enforcement agency attempted to activate a lawfully authorized electronic surveillance on the preexistent equipment. The carrier determined that the changes it made to the preexistent equipment hampered the delivery of intercepted communications and reasonably available call-identifying information to law enforcement. The carrier failed to correct the additional hindrance caused by the improved call forwarding feature at its own expense within a reasonable period of time. The Federal Communications Commission determined in its Memorandum Opinion and Order, adopted on September 10, 1998, that manufacturers should be able to produce equipment that will be generally available for carriers to meet the assistance capability requirements by December 31, 1999. The preexistent equipment was ''significantly upgraded'' because the carrier failed to correct the problem at its own expense within a reasonable period of time.

Example 14 (Modifications Mandated by Federal or State Statute or Regulation): On January 2, 2000, a carrier made changes to its preexistent equipment that provided local number portability to its network and were mandated by federal statute and regulations. The preexistent equipment was not ''significantly upgraded'' because the changes were mandated by federal statute and regulations regardless of their effect on law enforcement's ability to intercept communications and reasonably available call-identifying information.

Example 15 (Effect of ''Significant Upgrade'' on Preexistent Equipment): On January 2, 2000, a carrier ''significantly upgraded'' some of its preexistent equipment. The preexistent equipment now has the same status as equipment, facilities, or services installed after January 1, 1995.

* * * * *

Dated: September 26, 2001.

Thomas J. Pickard,

Deputy Director, Federal Bureau of Investigation, Department of Justice.

[FR Doc. 01–24942 Filed 10–4–01; 8:45 am]

BILLING CODE 4410–02–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

[SPATS No. AR–036–FOR]

Arkansas Abandoned Mine Land Reclamation Plan and Regulatory Programs

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Arkansas abandoned mine land reclamation plan (Arkansas plan) and the Arkansas regulatory program (Arkansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Arkansas proposes revisions to its abandoned mine land program regulations concerning eligible lands and water, reclamation objectives and priorities, and reclamation project evaluation. Arkansas also proposes to revise its regulatory program regulations concerning procedures for assessment conference and to add revegetation success standards for grazing land and prime farmland. Arkansas intends to revise its program to be consistent with the corresponding Federal regulations.

This document gives the times and locations that the Arkansas plan and Arkansas program and the proposed amendments to the plan and program are available for public inspection, the comment period during which you may submit written comments on the amendment, and the procedures we will follow for the public hearing, if one is requested.

DATES: We will accept written comments until 4:00 p.m., c.d.t., November 5, 2001. If requested, we will hold a public hearing on the amendment on October 30, 2001. We will accept requests to speak at the hearing until 4:00 p.m., c.d.t. on October 22, 2001.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Michael C. Wolfrom, Director, Tulsa Field Office, at the address listed below.

You may review copies of the Arkansas plan and Arkansas program, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office.

Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6547, Telephone: (918) 581–6430.

Arkansas Department of Environmental Quality, Surface Mining and Reclamation Division, 8001 National Drive, Little Rock, Arkansas 72219, Telephone (501) 682–0809.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office. Telephone: (918) 581–6430. Internet: mwolfrom@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Arkansas Plan and the Arkansas Program

The Abandoned Mine Land Reclamation Program was established by Title IV of the Act, (30 U.S.C. 1201 *et seq.*) in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded by a reclamation fee collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal mines and for other authorized activities. Section 405 of the Act allows States and Indian tribes to assume exclusive responsibility for reclamation activity within the State or on Indian lands if they develop and submit to the Secretary of the Interior for approval, a program (often referred to as a plan) for the reclamation of abandoned coal mines. On May 2, 1983, the Secretary of the Interior approved the Arkansas plan. You can find background information on the Arkansas plan, including the Secretary's findings, the disposition of comments, and the approval of the plan in the May 2, 1983, **Federal Register** (48 FR 19710). You can find later actions on the Arkansas plan at 30 CFR 904.25 and 904.26.

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these

criteria, the Secretary of the Interior conditionally approved the Arkansas program on November 21, 1980. You can find background information on the Arkansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the November 21, 1980, **Federal Register** (45 FR 77003). You can find later actions on the Arkansas program at 30 CFR 904.10, 904.12, 904.15, and 904.16.

II. Description of the Proposed Amendment

By letter dated August 13, 2001 (Administrative Record No. AR–568), Arkansas sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Arkansas sent the amendment in response to our letters dated November 26, 1985, and October 14, 1997 (Administrative Record Nos. AR–332 and AR–559.02, respectively), that we sent to Arkansas under 30 CFR 732.17(c). The amendment also includes a change made at Arkansas' own initiative. Arkansas proposes to amend the Arkansas Surface Coal Mining and Reclamation Code. Below is a summary of the changes proposed by Arkansas. The full text of the program amendment is available for your inspection at the locations listed above under **ADDRESSES.**

A. Section 845.18 Procedures for Assessment Conference

In paragraph (a) of this section, Arkansas proposes to remove the department's old name of ''Arkansas Department of Pollution Control and Ecology'' and to replace it with the department's new name of ''Arkansas Department of Environmental Quality.''

B. Section 874.12 Eligible Lands and Water

Arkansas proposes to revise paragraph (b)(4) of this section to read as follows:

(4) Moneys allocated to the State under Section 402(g)(1) and (5) of Public Law 95–87 are available for the work.

C. Section 874.13 Reclamation Objectives and Priorities

Arkansas proposes to delete paragraph (d) of this section regarding research and demonstration projects relating to the development of surface coal mining reclamation and water quality control program methods and techniques. By deleting this paragraph, the above projects will no longer have priority as abandoned mine land reclamation projects.

D. Section 874.14 Reclamation Project Evaluation

Arkansas proposes to revise paragraph (a)(2) of this section by deleting the last sentence. The revised sentence will read as follows:

The availability of technology to accomplish the reclamation work with reasonable assurance of success.

E. Phase III Revegetation Success Standards for Grazingland

Arkansas proposes to add Phase III revegetation success standards for grazingland to its regulatory program.

F. Phase II and III Revegetation Success Standards for Prime Farmland

Arkansas proposes to add Phase II and III revegetation success standards for prime farmland to its regulatory program.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Arkansas program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS NO. AR–036–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Tulsa Field Office at (918) 581–6430.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at OSM's Tulsa Field Office (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing: If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., c.d.t. on October 22, 2001. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

If you are disabled and need a special accommodation to attend a public hearing, contact the person 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. If you wish to meet with us to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will also make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

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

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and because it is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget 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.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

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 904

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 5, 2001.

Malcolm B. Ahrens,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 01–25005 Filed 10–4–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 93

[FRL–7075–6]

RIN 2060–AJ70

Transportation Conformity Rule Amendments: Minor Revision of 18-Month Requirement for Initial SIP Submissions and Addition of Grace Period for Newly Designated Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing two minor revisions to the transportation conformity rule. Transportation conformity is required by the Clean Air Act to ensure that federally supported highway and transit project activities are consistent with (''conform to'') the purpose of a state air quality implementation plan (SIP). Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards. EPA's transportation conformity rule establishes the criteria and procedures for determining whether transportation activities conform to the state air quality plan.

Today's proposal would implement a recent Clean Air Act amendment that provides a one-year grace period before conformity is required in areas that are designated nonattainment for a given air quality standard for the first time. This Clean Air Act amendment was enacted on October 27, 2000. Today's proposal formally adds the one-year conformity grace period to the conformity rule, but the grace period can already be used by