

from anchor damage may never occur. Even if optimal conditions for regeneration occur, it would still take hundreds and perhaps thousands of years for the reef to return to its pre-damage condition.

Safety considerations also support establishment of this measure. The area is transited by commercial ships, many of which are en route to and from the U.S. ports in Texas and Louisiana. The safety of a ship can depend on the ability of its anchor to hold. The character of the bottom is of prime importance in determining whether an anchor will hold. Coral provides an unstable anchoring bottom. The scars and damage to the coral in this area evidence that anchors tend to drag along the bottom when deployed in coral rather than hold in the coral.

In July of 2000, the United States delegation to the International Maritime Organization (IMO), submitted a proposal to ban anchoring in the FGBNMS for vessels greater than 100 feet (30.48 meters). The IMO, out of concern for impacts to corals, modified the United States' proposal to prohibit all anchoring, but vessels 100 feet (30.48 meters) and under would be allowed to moor using existing Sanctuary mooring buoys. Implementation of this regulation and the restrictions on anchoring adopted by IMO will prevent further injury to the coral and reef community. The new international measure will also ensure that no-anchoring zones are marked on all charts internationally. This rule will conform the Sanctuary regulations to the IMO action.

Recreational and commercial vessels 100 feet (30.48 meters) and under in length may continue to use existing mooring buoys. There are currently 12 buoys on East and West Flower Garden Banks and 3 buoys on Stetson Banks. Additional buoys will be provided within or adjacent to the Sanctuary if necessary.

The Animal Protection Institute was the only party submitting written comment on the proposed rule (66 FR 26822, May 15, 2001). The Animal Protection Institute stated: "We hope the proposed rule will improve compliance with this restriction by ensuring the Sanctuary is marked on all international charts that identify no-anchoring zone . . . This proposal is a step toward providing the Flower Garden Banks coral reef ecosystems the protection it needs and it reflects the values of a majority of Americans who support strong protections for our nation's protected wild areas."

**II. Miscellaneous Rulemaking Requirements**

*National Marine Sanctuaries Act*

Section 301(b) of the National Marine Sanctuaries Act, 16 U.S.C. 1434, provides authority for comprehensive and coordinated conservation and management of these areas in coordination with other resource management authorities.

*National Environmental Policy Act*

NOAA has concluded that this regulatory action would not have a significant effect, individually or cumulatively, on the human environment. Further, the action is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement in accordance with Section 6.05b.2 of NOAA Administrative Order 216-6. Specifically, this action is not likely to result in significant impacts as defined in 40 CFR 1508.27.

*Executive Order 12866*

This action has been determined to be not significant for the purpose of Executive Order 12866.

*Regulatory Flexibility Act*

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. Vessels 100 meters and under in length, which are those most likely to belong to small entities, will be allowed to moor using Sanctuary mooring buoys. The majority of users in this area are divers either on their own vessels or vessels operated by dive charter organizations in the area. The dive charter operations use the existing Sanctuary moorings and since their vessels are less than 100 feet in length, they are not likely to be effected by this rule. Most of the vessels subject to this rule are foreign flagged vessels that are owned or chartered by large corporations. There is no reason to expect that this regulation will have a measurable impact on the small business community. Accordingly, an initial regulatory flexibility analysis was not prepared. No comments on this certification were received.

*Paperwork Reduction Act*

This rule does not contain any collection of information requirements subject to the Paperwork Reduction Act. (Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

**List of Subjects in 15 CFR Part 922**

Administrative practice and procedure, Coastal zone, Historic preservation, Marine resources, Natural resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Wildlife.

Dated: November 9, 2001.

**Jamison S. Hawkins,**

*Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.*

Accordingly, for the reasons stated above, 50 CFR part 922 is amended as follows:

**PART 922—[AMENDED]**

1. The authority citation for part 922 continues to read as follows:

**Authority:** 16 U.S.C. 1431 *et seq.*

**Subpart L—Flower Garden Banks National Marine Sanctuary**

2. Section 922.122 (a)(2) is revised to read as follows:

**§ 922.122 Prohibited or otherwise regulated activities.**

- (a) \* \* \*
- (2)(i) Anchoring any vessel within the Sanctuary.
- (ii) Mooring any vessel within the Sanctuary, except that vessels 100 feet (30.48 meters) or less in registered length may moor on a Sanctuary mooring buoy.

\* \* \* \* \*

[FR Doc. 01-28907 Filed 11-20-01; 8:45 am]

**BILLING CODE 3510-08-M**

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 913**

**[SPATS No. IL-100-FOR]**

**Illinois Regulatory Program**

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) is approving an amendment to the Illinois regulatory program (Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Illinois proposed revisions to and additions of statutory provisions concerning lands eligible for remining, the Illinois Interagency Committee on Surface Mining Control and

Reclamation, lands unsuitable petitions, and rulemaking procedures. Illinois intends to revise its program to be consistent with SMCRA and to clarify ambiguities.

**EFFECTIVE DATE:** November 21, 2001.

**FOR FURTHER INFORMATION CONTACT:**

Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana 46204-1521. Telephone: (317) 226-6700. Internet: [IFOMAIL@osmre.gov](mailto:IFOMAIL@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Illinois Program
- II. Submission of the Amendment
- III. Director's Findings
- IV. Summary and Disposition of Comments
- V. Director's Decision
- VI. Procedural Determinations

**I. Background on the Illinois Program**

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 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 this criteria, the Secretary of the Interior conditionally approved the Illinois program on June 1, 1982. You can find background information on the Illinois program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the June 1, 1982, **Federal Register** (47 FR 23883). You can find later actions concerning the Illinois program at 30 CFR 913.15, 913.16, and 913.17.

**II. Submission of the Amendment**

By letter dated June 28, 2001 (Administrative Record No. IL-5068), the Illinois Department of Natural Resources (Department) sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). The proposed amendment consists of changes made to the Illinois Surface Coal Mining Land Conservation and Reclamation Act (State Act) at 225 Illinois Compiled Statutes (ILCS) 720. The statutory changes were enacted through Public Act 90-0490 and became effective on August 17, 1997. Illinois sent the amendment at its own initiative.

We announced receipt of the amendment in the August 15, 2001, **Federal Register** (66 FR 42813). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment period closed on September 14, 2001. We did not receive any public comments. Because no one requested a public hearing or meeting, we did not hold one.

**III. Director's Findings**

Following, under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the amendment to the Illinois program.

Any revisions that we do not discuss below concern minor wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

**A. 225 ILCS 720/1.03 Definitions**

Public Act 90-0490 amended subsection (a) by adding the following definition of “lands eligible for remining”:

(9-a) “Lands eligible for remining” means those lands that would otherwise be eligible for expenditures under the Abandoned Mined Lands and Water Reclamation Act.

On October 24, 1992, the Energy Policy Act of 1992 amended SMCRA by adding a definition for the term “lands eligible for remining” at section 701(34). The Illinois definition of “lands eligible for remining” is the same as the Federal definition at section 701(34) of SMCRA with one exception. The Federal definition limits lands eligible for remining to those that would be eligible for expenditures under section 404 or section 402(g)(4) of SMCRA. Although the Illinois Abandoned Mined Lands and Water Reclamation Act contains counterparts to both section 404 and section 402(g)(4) of SMCRA, the proposed definition does not limit eligibility to those counterparts. But, Illinois' implementing regulatory definition of “lands eligible for remining” at 62 Illinois Administrative Code (IAC) 1701.5, Appendix A, does contain the Federal limitation. So, we find that Illinois' definition at 225 ILCS 720/1.03(a)(9-a), as implemented by its regulatory definition at 62 IAC 1701.5, Appendix A, is no less stringent than section 701(34) of SMCRA.

**B. 225 ILCS 720/1.04 Advisory Council on Reclamation**

1. Public Act 90-0490 revised 225 ILCS 720/1.04(a) by adding the language

“or his or her designee” at the end of the first sentence. The revised sentence reads as follows:

(a) There is created the Surface Mining Advisory Council to consist of 9 members, plus the Director or his or her designee.

This is a nonsubstantive change that allows the Director of the Department of Natural Resources to designate a person to serve as a member of the Advisory Council in his or her place. Because this change to the previously approved statute at 225 ILCS 720/1.04(a) is nonsubstantive, we find that it will not make the Illinois State Act less stringent than SMCRA.

2. Public Act 90-0490 revised the first sentence of 225 ILCS 720/1.04(c) by adding the language “Office of Mines and Minerals within the.” The revised sentence reads as follows:

(c) The Council shall act solely as an advisory body to the Director and to the Land Reclamation Division of the Office of Mines and Minerals within the Department.

This revision clarifies that the Land Reclamation Division is a division of the Office of Mines and Minerals within the Illinois Department of Natural Resources. Because the change to the previously approved statute at 225 ILCS 720/1.04(c) is for clarification purposes only, we find that it will not make the Illinois State Act less stringent than SMCRA.

**C. 225 ILCS 720/1.05 Interagency Committee**

Public Act 90-0490 amended 225 ILCS 720/1.05 by adding a provision that abolished the Interagency Committee on Surface Mining Control and Reclamation (Interagency Committee). The provision reads as follows:

The Interagency Committee on Surface Mining Control and Reclamation shall be abolished on June 30, 1997. Beginning July 1, 1997, all programmatic functions formerly performed by the Interagency Committee on Surface Mining Control and Reclamation shall be performed by the Office of Mines and Minerals within the Department of Natural Resources, except as otherwise provided by Section 9.04 of this Act.

The Interagency Committee was originally created to review permit applications and provide comments to the Department on protection of the hydrologic system, water pollution control, the reclamation plan, soil handling techniques, dams and impoundments, and postmining land use. These programmatic functions are now performed by the Office of Mines and Minerals. We find that the abolishment of the Interagency Committee will not make the Illinois

program less stringent than SMCRA or less effective than the Federal regulations because the Office of Mines and Minerals has increased its technical expertise in all areas needed to perform these programmatic functions in-house. Also, under 225 ILCS 720/9.04, the Department may delegate responsibilities, other than final action on permits, to other State agencies with the authority and technical expertise to carry out such responsibilities if necessary.

#### *D. 225 ILCS 720/2.08 Standards for Approval of Permits and Revisions*

Public Act 90-0490 added 225 ILCS 720/2.08(e) concerning lands eligible for remining. This new subsection reads as follows:

(e) After the effective date of this amendatory Act of 1997, the prohibition of subsection (d) shall not apply to a permit application due to any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining under a permit held by the person making such application. As used in this subsection:

(1) "unanticipated event or condition" means an event or condition encountered in a remining operation that was not contemplated in the applicable surface coal mining and reclamation permit; and

(2) "violation" has the same meaning as such term has under subsection (d).

On October 24, 1992, the Energy Policy Act of 1992 amended SMCRA by adding sections 510(e) and 701(33) that contain substantively the same requirements for lands eligible for remining with one exception. Section 510(e) provides that its authority terminates on September 30, 2004, and Illinois' statute at 225 ILCS 720/2.08(e) does not include this termination clause. However, we are approving 225 ILCS 720/2.08(e) because Illinois can provide this termination clause in its implementing regulations. To date, Illinois has not developed regulations to implement this statute. For any implementing regulations that are developed in the future, we will require Illinois to include a clause that terminates their authority on September 30, 2004. We notified Illinois of this requirement in our letter dated August 22, 2001 (Administrative Record No. IL-5072).

#### *E. 225 ILCS 720/6.07 Forfeiture*

Public Act 90-0490 added a new subsection (f) concerning lands eligible for remining. This new subsection reads as follows:

(f) In the event the bond or deposit for a surface coal mining operation on lands eligible for remining is forfeited, funds appropriated for expenditure under the

Abandoned Mined Lands and Water Reclamation Act may be used if the amount of the bond or deposit is not sufficient to provide for adequate reclamation or abatement.

On October 24, 1992, the Energy Policy Act of 1992 amended SMCRA by revising section 404 to add a substantively identical requirement for lands eligible for remining with one exception. Illinois' statute at 225 ILCS 720/6.07(f) does not contain an exception clause for emergency restoration, reclamation, abatement, control, or prevention of adverse effects of coal mining practices. The counterpart provision in section 404 of SMCRA provides that "except that if conditions warrant the Secretary shall immediately exercise his authority under section 410." However, Illinois' implementing abandoned mine land plan regulation at 62 IAC 2501.10(h) includes a counterpart to the Federal exception clause. So, we find that Illinois' statute at 225 ILCS 720/6.07(f), as implemented by its regulation at 62 IAC 2501.10(h), is no less stringent than the same provision in section 404 of SMCRA.

#### *F. 225 ILCS 720/6.08 Release of Bonds*

Public Act 90-0490 added new subsection (i) concerning lands eligible for remining. This new subsection reads as follows:

(i) Surface coal mining operations on lands eligible for remining shall not affect the eligibility of those lands for reclamation and restoration under the Abandoned Mined Lands and Water Reclamation Act after the release of the bond or deposit for any such operation under this Section.

On October 24, 1992, the Energy Policy Act of 1992 amended SMCRA by revising section 404 to add a substantively identical requirement for lands eligible for remining. Therefore, we find that 225 ILCS 720/6.08(i) is no less stringent than the same provision in section 404 of SMCRA.

#### *G. 225 ILCS 720/7.03 Procedure for Designation*

Public Act 90-0490 amended subsection (b) by adding the language "unless the petition is rejected by the Department as incomplete, frivolous, or submitted by a person lacking an interest which is or may be adversely affected by surface coal mining operations" to the end of the subsection. The revised subsection reads as follows:

(b) Immediately after a petition under this Section is received, the Department shall prepare a land report in accordance with Section 7.04, unless the petition is rejected by the Department as incomplete, frivolous, or submitted by a person lacking an interest

which is or may be adversely affected by surface coal mining operations.

We find that the language added at 225 ILCS 720/7.03(b) is consistent with the requirements of Illinois' approved implementing regulation at 62 IAC 1764.15(a)(3) and the counterpart Federal regulation at 30 CFR 764.15(a)(3). The State regulation and the Federal regulation require that a petition be returned to the petitioner if the regulatory authority determines that the petition is incomplete, frivolous, or that the petitioner is not a person having an interest which is or may be adversely affected. We also find that the requirements of 225 ILCS 720/7.03(b) are no less stringent than the requirements of section 522 of SMCRA for designating areas as unsuitable for surface coal mining.

#### *H. 225 ILCS 720/7.04 Land Report*

Public Act 90-0490 amended the third sentence of subsection (a) to clarify that each Land Report must contain a detailed statement on the potential coal resources of the area by adding the word "coal" between the words "potential" and "resources." It also amended the last sentence of subsection (a) by clarifying that petitions to have an area designated as unsuitable for surface coal mining operations are filed under 225 ILCS 720/7.03, Procedure for Designation.

The counterpart Federal statute at section 522(d) of SMCRA requires, among other things, that the regulatory authority prepare a detailed statement on the potential coal resources of the area prior to designating any land areas as unsuitable for surface coal mining operations. Because the changes to 225 ILCS 720/704(a) only clarify Illinois' previously approved statute, we find that it remains no less stringent than section 522(d) of SMCRA.

#### *I. 225 ILCS 720/9.01 Rules*

Public Act 90-0490 amended Section 9.01 by deleting existing subsections (c) through (g) and the first sentence of subsection (h). The balance of subsection (h) was redesignated as subsection (c) and subsection (i) was redesignated as subsection (d). Existing subsections (c) and (d) contain procedures for public notice of and comment on a rule-making proceeding. Existing subsections (e) through (g) contain agency procedures for adoption of rules. The first sentence of existing subsection (h) contains information on when an adopted rule is effective.

We find that the deletion of 225 ILCS 720/9.01(c) through (g) and the first sentence of subsection (h) is appropriate because the provisions were either

inconsistent with or duplicative of the rulemaking procedures in the Illinois Administrative Act at 5 ILCS 100/5–40. Existing subsection (i), which was redesignated as subsection (d), provides that the provisions of the Illinois Administrative Procedure Act apply to the adoption of rules under the State Act. All Illinois State agencies must comply with the provisions of the Illinois Administrative Act at 5 ILCS 100/5 when adopting, amending, or repealing administrative rules. While there is no direct Federal counterpart to the removed provisions, section 102(i) of SMCRA and the Federal regulation at 30 CFR 732.15(b)(10) require State programs to provide for public participation in the development and revision of State regulations. The Illinois Administrative Act at 5 ILCS 100/5 provides for the publication in the Illinois Register of proposed rulemaking and provides for public participation in the rulemaking process. So, we find that the deletion of the existing provisions at 225 ILCS 720/9.01(c) through (g) and the first sentence of subsection (h) does not make the Illinois program less stringent than SMCRA or less effective than the Federal regulations.

#### IV. Summary and Disposition of Comments

##### *Federal Agency Comments*

On July 13, 2001, under section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the Federal regulations, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Illinois program (Administrative Record No. IL–5069). We did not receive any comments.

##### *Environmental Protection Agency (EPA)*

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain the written concurrence of the EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Illinois proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask the EPA for its concurrence.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record No. IL–5069). The EPA responded on July 24, 2001 (Administrative Record No. IL–5070), that it had reviewed the program amendment and had no comments to offer.

##### *State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On July 13, 2001, we requested comments on Illinois' amendment (Administrative Record No. IL–5069), but neither responded to our request.

##### *Public Comments*

We asked for public comments on the amendment, but did not receive any.

#### V. Director's Decision

Based on the above findings, we approve the amendment as submitted by Illinois on June 28, 2001.

However, as discussed in finding No. III.D, if Illinois ever proposes regulations to implement 225 ILCS 720/2.08(e), we will require Illinois to add a provision that terminates the authority of the regulations on September 30, 2004.

To implement this decision, we are amending the Federal regulations at 30 CFR part 913, which codify decisions concerning the Illinois program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrates that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule effective immediately will expedite that process.

#### VI. 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 because 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 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 913**

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 27, 2001.

**Charles E. Sandberg,**

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

For the reasons set out in the preamble, 30 CFR part 913 is amended as set forth below:

**PART 913—ILLINOIS**

1. The authority citation for Part 913 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

2. Section 913.15 is amended in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

**§ 913.15 Approval of Illinois regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
* * * * *	* * * * *	* * * * *
June 28, 2001 .....	November 21, 2001 .....	225 ILCS 720/1.03(a)(9-a), 1.04(a) and (c), 105, 2.08(e), 6.07(f), 6.08(i), 7.03(b), 7.04(a), 9.01.

[FR Doc. 01-29028 Filed 11-20-01; 8:45 am]  
BILLING CODE 4310-05-P

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 926**

[SPATS No. MT-022-FOR]

**Montana Regulatory Program**

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) is approving a proposed amendment to the Montana regulatory program (hereinafter, the Montana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or "the Act"). Montana proposed a statutory revision concerning transfer of

a revoked permit. HB-495 was passed by the Montana legislature and signed into law by the Governor to enable the transfer of a revoked permit to a new party so as to continue the original proposed coal mining and reclamation operation. The State intends to revise its program to improve operational efficiency.

**EFFECTIVE DATE:** November 21, 2001.

**FOR FURTHER INFORMATION CONTACT:** Guy Padgett, Director, Casper Field Office; Telephone: 307-261-6550; e-mail address: *gpadgett@osmre.gov*.

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Montana Program
- II. Submission of the Proposed Amendment
- III. Director's Findings
- IV. Summary and Disposition of Comments
- V. Director's Decision
- VI. Procedural Determinations

**I. Background on the Montana Program**

Section 503(a) of SMCRA 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 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 the Act \* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to the 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 Montana program on April 1, 1980. You can find background information on the Montana program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Montana regulatory program in the April 1, 1980, **Federal Register** (45 FR 21560). You can also find later actions concerning Montana's program and program amendments at 30 CFR 926.15, 926.16, and 926.30.

**II. Submission of the Proposed Amendment**

By letter dated April 27, 2001, Montana sent us a proposed amendment