

(h) The State shall provide for non-metropolitan local official participation. The State shall have a documented process(es) for consulting with non-metropolitan local officials representing units of general purpose local government and/or local officials with responsibility for transportation that results in their effective participation in the statewide transportation planning process and development of the statewide transportation improvement program.

5. Amend § 450.214 by adding a paragraph (f) to read as follows:

**§ 450.214 Statewide transportation plan.**

\* \* \* \* \*

(f) In developing the statewide transportation plan, affected local officials with responsibility for transportation shall be involved on a consultation basis for the portions of the plan in non-metropolitan areas of the State.

6. Amend § 450.216 by adding a paragraph (e) to read as follows:

**§ 450.216 Statewide transportation improvement program (STIP).**

\* \* \* \* \*

(e) In developing the statewide transportation improvement program, affected local officials with responsibility for transportation shall be involved on a consultation basis for the portions of the program in non-metropolitan areas of the State.

7. Amend § 450.224 by designating the existing text as paragraph (a) and by adding a new paragraph (b) to read as follows:

**§ 450.224 Phase-in of new requirements.**

\* \* \* \* \*

(b) The State has a period of six months after [30 days after publication of the final rule in the **Federal Register**] to document and implement the consultation process discussed in § 450.212(h).

[FR Doc. 02-15280 Filed 6-17-02; 4:45 pm]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-248110-96]

RIN 1545-AY48

#### Guidance Under Section 817A Regarding Modified Guaranteed Contracts; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** This document contains a correction to a notice of proposed rulemaking and notice of public hearing (REG-248110-96) that was published in the **Federal Register** on Monday, June 3, 2002 (67 FR 38214). These regulations affect insurance companies that define the interest rate to be used with respect to certain insurance contracts that guarantee higher returns for an initial, temporary period.

**FOR FURTHER INFORMATION CONTACT:** Ann H. Logan, (202) 622-3970 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

The notice of proposed rulemaking and notice of public hearing that is the subject of this correction is under section 817A of the Internal Revenue Code.

##### Need for Correction

As published REG-248110-96 contains an error which may prove to be misleading and is in need of clarification.

##### Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking and notice of public hearing (REG-248110-96), which is the subject of FR Doc. 02-13848, is corrected as follows:

On page 38215, column 2, in the preamble under the paragraph heading “*Interest Rates Affecting Modified Guaranteed Contracts*” first paragraph, lines twelve through fifteen, the language “The temporary guarantee may be a fixed rate (non-equity indexed modified guaranteed contracts) or a rate based on bond or equity yields (equity-indexed)” is corrected to read “The temporary guarantee may be a rate based on stocks, other equity instruments, or equity-based derivatives (equity-indexed modified guaranteed contracts) or a rate that is not related to equity performance (non-equity-indexed modified guaranteed contracts).”.

**Cynthia Grigsby,**

*Chief, Regulations Unit, Associate Chief Counsel (Income Tax and Accounting).*

[FR Doc. 02-15353 Filed 6-18-02; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 917

[KY-238-FOR]

#### Kentucky Regulatory Program

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

**ACTION:** Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

**SUMMARY:** We are announcing a proposed amendment to the Kentucky regulatory program (the “Kentucky program”) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Kentucky proposes additions to its statutes about permittees’ access to land to abate violations and intends to revise its program to be consistent with SMCRA. This document gives the times and locations that the Kentucky program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

**DATES:** We will accept written comments on this amendment until 4 p.m., e.s.t. July 19, 2002. If requested, we will hold a public hearing on the amendment on July 15, 2002. We will accept requests to speak at a hearing until 4 p.m., e.s.t. on July 5, 2002.

**ADDRESSES:** You should mail or hand deliver written comments and requests to speak at the hearing to William J. Kovacic at the address listed below.

You may review copies of the Kentucky program, this 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 Lexington Field Office.

William J. Kovacic, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (859) 260-8400. E-mail: [bkovacic@osmre.gov](mailto:bkovacic@osmre.gov).

Department of Surface Mining Reclamation and Enforcement, 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564-6940.

**FOR FURTHER INFORMATION CONTACT:**  
William J. Kovacic, Telephone: (859)  
260-8400. Internet:  
bkovacic@osmre.gov.

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Kentucky Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

**I. Background on the Kentucky 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 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 Kentucky program on May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Kentucky program in the May 18, 1982, *Federal Register* (47 FR 21404). You can also find later actions concerning Kentucky's program and program amendments at 30 CFR 917.11, 917.12, 917.13, 917.15, 917.16, and 917.17.

**II. Description of the Proposed Amendment**

By letter dated April 25, 2002 (Administrative Record No. KY-1530), Kentucky sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Kentucky sent the amendment at its own initiative. A summary of the amended language follows. It amends the Kentucky Revised Statutes (KRS) at 350.280 and is referenced as Kentucky House Bill 809.

*Emergencies:* If Kentucky issues a cessation order requiring the immediate abatement of a violation based on imminent danger to the health and safety of the public or significant environmental harm, and the order requires access to property for which the permittee does not have legal right of entry and has been denied access to abate the violation, an easement of necessity is recognized on behalf of the permittee for the limited purpose of abating the violation. The easement becomes effective and the permittee is authorized to enter the property to

undertake immediate action to abate the violation if he/she concurrently: (a) Provides to the property owner or legal occupant a copy of the cessation order; (b) provides to the owner an affidavit that the permittee has been denied access to the property; and (c) provides to the owner a statement that within three days of his entry to the property the permittee will obtain a qualified appraisal of the property damages, including loss of use, that will result from the violation as abated and those that are likely to result from the permittee's entry to abate the violation, and that the permittee will, at that time, pay the owner the amount of the damages specified in the appraisal.

The permittee must deliver the appraisal as promised, and the owner has three days to accept or reject it in writing. If the owner does not accept or reject the permittee's appraisal and offer, the permittee must pay the appraised damages to the County Circuit Clerk within three business days of the non-acceptance. The funds will be placed in an interest-bearing bank account until the issue is resolved.

If the owner rejects the permittee's appraisal, he/she may obtain his/her own appraisal and provide it to the permittee within seven days after receipt of the permittee's appraisal. The permittee must pay for the owner's appraisal, up to the amount the permittee paid for his/her own appraisal. If the owner's appraised damages are greater than the permittee's and agreement is not reached, the permittee must pay the owner the amount of the permittee's appraised damages and pay the difference to the County Circuit Clerk. The funds will be placed in an interest-bearing bank account until the issue is resolved.

*Non-emergencies:* The procedures are generally the same as those described above for emergencies. However, the easement of necessity is initially recognized only for the limited purpose of allowing the permittee's appraiser to enter the property to conduct the appraisal, which the permittee must provide within seven days instead of three. After the required procedures and payments are satisfied, the permittee may enter the property to abate the violation.

**III. Public Comment Procedures**

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

*Written Comments*

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (*see DATES*). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Lexington Field Office may not be logged in.

*Electronic Comments*

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS No.KY-231-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 Lexington Field Office at (859) 260-8400.

*Availability of Comments*

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their 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 review 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., e.s.t. July 5, 2002. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

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 comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be 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 everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

#### *Public Meeting*

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please 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 make a written summary of each meeting a part of the administrative record.

#### **IV. Procedural Determinations**

##### *Executive Order 12630—Takings*

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

##### *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 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 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 the Federal regulations at 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 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. Section 503(a)(7) requires that State programs contain rules and regulations “consistent with” regulations issued by the Secretary pursuant to SMCRA.

##### *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*

This rule does not require an environmental impact statement because 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 certifies 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. 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 governmental agencies or geographic regions; and (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 an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. 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 did not impose an unfunded mandate.

##### **List of Subjects in 30 CFR Part 917**

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 15, 2002.

**Allen D. Klein,**

*Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 02-15484 Filed 6-18-02; 8:45 am]

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