

Dated: April 22, 2019.

**Uttam Dhillon,**

*Acting Administrator.*

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 913

[SATS No. IL-109-FOR; Docket ID: OSM-2019-0003 S1D1S SS08011000 SX064A000 190S180110; S2D2S SS08011000 SX064A000 19XS501520]

#### Illinois Regulatory Program

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

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

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are announcing receipt of a proposed amendment to the Illinois regulatory program (Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Illinois proposes revisions to its regulations, including allowing the extraction of coal as an incidental part of a government-financed construction project, revising its Ownership and Control rules, and clarifying land use changes requiring a significant permit revision. Illinois intends to revise its program to be as effective as the Federal regulations. This document gives the times and locations where the Illinois program documents and this proposed amendment to that program are available for your inspection, establishes the comment period during which you may submit written comments on the amendment, and describes the procedures that we will follow for the public hearing, if one is requested.

**DATES:** We will accept written comments on this amendment until 4:00 p.m., CST, May 31, 2019. If requested, we will hold a public hearing on the amendment on May 28, 2019. We will accept requests to speak at a hearing until 4:00 p.m., CST on May 16, 2019.

**ADDRESSES:** You may submit comments, identified by SATS No. IL-109-FOR, by any of the following methods:

- *Mail/Hand Delivery:* Paul Ehret, Acting Chief, Alton Field Division, Office of Surface Mining Reclamation and Enforcement, 501 Belle Street, Suite 216, Alton, Illinois 62002-6169.

- *Fax:* (618) 463-6470
- *Federal eRulemaking Portal:* The amendment has been assigned Docket ID OSM-2019-0003. If you would like to submit comments go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

*Instructions:* All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Comment Procedures” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket to review copies of the Illinois program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSMRE’s Alton Field Division, or the full text of the program amendment is available for you to review at [www.regulations.gov](http://www.regulations.gov). Paul J. Ehret, Acting Chief, Alton Field Division, Office of Surface Mining Reclamation and Enforcement, 501 Belle Street, Suite 216, Alton, Illinois 62002-6169, Telephone: (618) 463-6463, Email: [pehret@osmre.gov](mailto:pehret@osmre.gov).

In addition, you may review a copy of the amendment during regular business hours at the following location: Office of Mines and Minerals, Illinois Department of Natural Resources, One Natural Resources Way, Springfield, IL 62702-1271, Telephone: (618) 439-9111.

**FOR FURTHER INFORMATION CONTACT:** Paul Ehret, Acting Chief, Alton Field Division, Telephone: (618) 463-6463, Email: [pehret@osmre.gov](mailto:pehret@osmre.gov).

#### **SUPPLEMENTARY INFORMATION:**

- I. Background on the Illinois Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. 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, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Illinois program effective 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 of the Illinois program in the June 1, 1982, **Federal Register** (47 FR 23858). You can also find later actions concerning the Illinois program and program amendments at 30 CFR 913.10, 913.15, and 913.17.

#### **II. Description of the Proposed Amendment**

By letter dated December 5, 2018 (Administrative Record No. IL-5100), Illinois sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*) at its own initiative. By email dated December 11, 2018, Illinois requested that OSMRE’s review be put on hold until they could resubmit the proposed amendment due to editorial changes requested by the Illinois Joint Committee on Administrative Rules. Illinois resubmitted the proposed amendment to OSMRE on February 20, 2019. OSMRE will use this date for its review. Below is a summary of the changes proposed by Illinois. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

Illinois proposes to revise the Illinois Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720), Section 1.06, “Scope of the Act,” by adding language allowing coal extraction as an incidental part of a government-financed project. The language added is nearly identical to that found in Section 528 of SMCRA (30 U.S.C. 1278).

Illinois also proposes to revise the following Parts of Title 62 of the Illinois Administrative Code:

#### *Section 1701 Appendix A. Definitions*

Illinois proposes to revise its regulation at section 1701 Appendix A, amending a number of its definitions, including those for “ownership,” “control,” and “violations,” to conform with the Federal definitions at 30 CFR 701.5 and 707.5.

#### *Section 1703 Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction*

Illinois proposes adding a new section 1703 to allow the extraction of coal as an incidental part of a government-financed construction project, which incorporates language identical to the Federal regulations at 30 CFR part 707.

### *Section 1773 Requirements for Permits and Permit Processing*

Illinois proposes to amend section 1773.15, "Review of Permit Applications" to comport with changes made to the Federal regulations at 30 CFR 773.12. These changes preclude the Department from considering violations upstream of the permit applicant by removing "person who owns or controls the applicant" from this section.

Illinois also proposes to amend section 1773.25, "Standards for Challenging Ownership or Control Links and the Status Violations," to update a subsection reference.

### *Section 1774 Permit Revisions*

Illinois proposes to amend section 1774.13, "Permit Revisions," to provide further clarification as to which reclamation plan land use changes require a significant revision for a permit application. Illinois proposes to remove the requirement for a significant revision for land use changes involving greater than five percent of the total permit acreage after finding the five percent limitation to be unduly restrictive and burdensome. Instead, the Department will consider changes in the reclamation plan for post-mining land use in determining whether a significant revision to the permit must be obtained. These changes are proposed in order to make the Illinois rules as effective as the Federal regulations at 30 CFR 774.13.

### *Section 1778 Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information*

Illinois proposes adding a new section 1778.9, "Certifying and Updating Existing Permit Application Information," which incorporates language identical to the Federal regulations at 30 CFR 778.9.

Illinois proposes to amend section 1778.13, "Identification of Interests," to comport with changes made to the Federal regulations at 30 CFR 778.11 and 778.12.

Illinois proposes to amend section 1778.14, "Violation Information," to comport with changes made to the Federal regulations at 30 CFR 778.14.

Illinois proposes to amend section 1778.15, "Right of Entry Information," to add language found in the Federal regulations at 30 CFR 778.13 related to property interest information to the existing right of entry language in this section, which corresponds to 30 CFR 778.15, so that all property related rules are located in one section.

### **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.

#### *Electronic or Written Comments*

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final program will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

#### *Public Availability of Comments*

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### *Public Hearing*

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., CST on May 16, 2019. If you are disabled and need reasonable 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 12866—Regulatory Planning and Review*

Pursuant to Office of Management and Budget (OMB) Guidance and dated October 12, 1993, the approval of state program amendments is exempted from OMB review under Executive Order 12866.

#### *Other Laws and Executive Orders Affecting Rulemaking*

When a State submits a program amendment to OSMRE for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

#### **List of Subjects in 30 CFR Part 913**

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 22, 2019.

**Alfred L. Clayborne,**

*Regional Director, Mid-Continent Region.*

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