

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. Hence, 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; 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: October 28, 2002.

Allen D. Klein,
Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 917—KENTUCKY

1. The authority citation for part 917 continues to read as follows:

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

2. Section 917.12 is amended by adding paragraph (d) to read as follows:

§ 917.12 State regulatory program and proposed program amendment provisions not approved.

* * * * *

(d) The phrase “* * * coal mining activities and * * *” in KRS 350.445(3)(g) is not approved.

3. Section 917.15 is amended in the table by adding a new entry in chronological order by “Date of final publication” to read as follows:

§ 917.15 Approval of Kentucky regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * *	* * *	* * *
May 9, 2000	January 16, 2003	House Bill 792, KRS 350.445(3) (except for a portion of (3)(g))

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY-240-FOR]

Kentucky Regulatory Program

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

ACTION: Final rule; technical amendment.

SUMMARY: We are announcing the removal of two instructions to Kentucky pertaining to required amendments to the Kentucky regulatory program (the “Kentucky program”). The Kentucky program was established under the

Surface Mining Control and Reclamation of 1977 (SMCRA or the Act) and authorizes Kentucky to regulate surface coal mining and reclamation operations in Kentucky. We are removing the instructions because the actions we required are no longer applicable and nothing further is required from the State.

EFFECTIVE DATE: January 16, 2003.

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

- SUPPLEMENTARY INFORMATION:**
- I. Background on the Kentucky Program
 - II. OSM’s Findings
 - III. Summary and Disposition of Comments
 - 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 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 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 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. OSM's Findings

During the course of implementing SMCRA, we occasionally issue new regulations. As a result, States may have to amend their approved programs in order to be consistent with the new Federal regulations. In addition, States may submit proposed amendments to their approved programs on their own initiative. In either event, we must determine whether the amendment submitted by the State meets the requirements of SMCRA. When it does, the amendment is approved and when it does not, it is not approved and the State may be instructed to further amend its program. These instructions are codified in our regulations at 30 CFR 917.16 for the Kentucky program. For the reasons that follow, we are removing two such instructions to the State of Kentucky.

At 30 CFR 917.16 (c)(2), Kentucky was required to submit proposed regulations to implement the program changes contained in Senate Bill (SB) 374. SB 374 added a new section to Kentucky's statutes pertaining to the issuance of special permits for the re-mining of previously affected mined areas. However, SB 374 specifically prohibits its own implementation until implementing regulations are promulgated by Kentucky and approved by OSM. In addition, 30 CFR 732.17(g) prohibits states from implementing proposed amendments to their programs until OSM approves the amendments. Because Kentucky has never submitted these implementing regulations, and because OSM determined that SB 374 could not be implemented without accompanying regulations, SB 374 is not a functioning part of the approved State program. See 51 FR 26002, 26005 (July 18, 1986). For these reasons, the requirement codified at 30 CFR 917.16(c)(2) is unnecessary and the instruction should be removed. Senate Bill 374 cannot take effect, of course, until Kentucky submits implementing regulations and we approve them.

At 30 CFR 917.16(o), Kentucky was required to submit a program change to the Kentucky Revised Statutes (KRS) at 350.060 to: (1) Clarify that a person may not continue to conduct surface coal mining operations under an expired permit unless the permittee filed a complete application for renewal at least 120 days before the permit expired and the regulatory authority had not yet approved or disapproved the application when the permit expired, and (2) require the issuance of an imminent harm cessation order to any person conducting surface coal mining operations under an expired permit

unless the permittee filed a complete application for renewal at least 120 days before the permit expired and the regulatory authority had not yet approved or disapproved the application when the permit expired. On September 6, 2000, we announced the preemption and supersession of KRS 350.060(16) because it was inconsistent with the requirements of SMCRA (30 CFR 917.13(c); 65 FR 53909). Because both our disapproval and subsequent supersession of the quoted provisions of the statute prevent Kentucky from implementing those provisions, and because the Kentucky program otherwise requires issuance of imminent harm cessation orders to persons conducting surface coal mining operations under expired permits, we believe that the requirements codified at 30 CFR 917.16(o) are no longer necessary and the instruction should be removed.

III. Summary and Disposition of Comments

Public Comments

In the July 15, 2002, **Federal Register** (67 FR 46432), we asked for public comments on our proposal to remove the two instructions (administrative record no. KY 1562), but did not receive any.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from 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.*). Because the instructions proposed for removal did not pertain to these subjects, we did not request EPA concurrence.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the proposal from EPA (administrative record No. KY 1562). EPA did not respond to our request.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule is a technical amendment and does not have takings implications.

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.

Executive Order 13132—Federalism

This rule is a technical amendment and does not have Federalism implications.

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.*). This rule is a technical amendment that does not impose any additional requirements on small entities.

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. For the reasons previously stated, 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; 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.

Unfunded Mandates

This rule is a technical amendment and 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.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 8, 2002.

Brent Wahlquist,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR part 917 is amended as set forth below:

PART 917—KENTUCKY

1. The authority citation for part 917 continues to read as follows:

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

§ 917.16 [Amended]

2. § 917.16 is amended by removing and reserving paragraphs (c)(2) and (o).

[FR Doc. 03-978 Filed 1-15-03; 8:45 am]

BILLING CODE 4310-05-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07-03-005]

Drawbridge Operation Regulations: Hobe Sound Bridge (SR 708), Atlantic Intracoastal Waterway, Mile 996.0, Hobe Sound, Martin County, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Hobe Sound Bridge (SR 708) at Hobe Sound across the Atlantic Intracoastal Waterway, mile 996.0 in Hobe Sound, Martin County, Florida. This deviation allows the drawbridge to open only a

single-leaf on the hour, 20 minutes after the hour, and 40 minutes after the hour from 7 a.m. to 6 p.m. for two days, with a double-leaf openings available with two-hour notice to the bridge tender. This temporary deviation is required to allow the bridge owner to safely complete repairs to the bridge.

DATES: This deviation is effective from 7 a.m. on January 15, 2003 until 6 p.m. on January 16, 2003.

ADDRESSES: Material received from the public, as well as comments indicated in this preamble as being available in the docket, are part of docket [CGD07-03-005] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, FL 33131 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Lieberum, Project Manager, Seventh Coast Guard District, Bridge Branch at (305) 415-6744.

SUPPLEMENTARY INFORMATION: The existing regulations of the Hobe Sound Bridge (SR 708), mile 996, at Hobe Sound, Martin County, Florida, published in the **Federal Register** [CGD07-02-104, 67 FR 55115], require the bridge to open on signal, except that from 7 a.m. to 6 p.m. the bridge will open on the hour, 20 minutes after the hour, and 40 minutes after the hour. On December 4, 2002, the Commissioners of Martin County, the drawbridge owner, requested a deviation from the current operating regulations by allowing the bridge to only open a single-leaf of the bridge to safety effect repairs. A double-leaf opening will be available with two-hour advance notice to the bridge tender.

The District Commander has granted a temporary deviation from the operating requirements listed in CGD07-02-104, 67 FR 55115 to complete repairs to the bridge. Under this deviation, the Hobe Sound Bridge (SR 708) need open only a single-leaf on the hour, 20 minutes after the hour, and 40 minutes after the hour from 7 a.m. to 6 p.m. on January 15, 2002 and January 16, 2002. A double-leaf opening will be provided with a two-hour advance notice to the bridge tender.

Dated: January 9, 2003.

Greg Shapley,

Chief, Bridge Administration, Seventh Coast Guard District.

[FR Doc. 03-1007 Filed 1-15-03; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD05-02-103]

RIN 2115-AE84

Regulated Navigation Area; Chesapeake Bay Entrance and Hampton Roads, VA and Adjacent Waters

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Commander, Fifth Coast Guard District is adding vessel speed limits, for certain vessels operating in the vicinity of Naval Station Norfolk, to the existing regulated navigation area found at 33 CFR 165.501. This temporary rule is necessary to ensure the safety and security of naval vessels that are moored at Naval Station Norfolk. The temporary rule will require all vessels of 300 gross tons and greater to reduce speed to eight knots in the vicinity of Naval Station Norfolk, in order to improve security measures and reduce the potential threat to Naval Station Norfolk security that may be posed by these vessels.

DATES: This temporary final rule is effective from December 20, 2002 to June 15, 2003.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05-02-103 and are available for inspection or copying at USCG Marine Safety Office Hampton Roads, 200 Granby Street, Norfolk, Virginia, 23510 between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Monica Acosta, USCG, project officer, USCG Marine Safety Office Hampton Roads, telephone number (757) 441-3453.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this temporary regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Upon request by the Navy, immediate action is necessary to ensure the safety and security of naval vessels moored at Naval Station Norfolk during large merchant vessel transits of the Elizabeth River. Due to their large size and substantial momentum while underway, these merchant vessels pose