

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 948

[WV-092-FOR]

#### West Virginia Regulatory Program

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

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

**SUMMARY:** OSM is announcing receipt of a proposed amendment to the West Virginia regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The program amendment consists of changes to the West Virginia Surface Coal Mining and Reclamation Act as contained in Senate Bill 603. The amendment concerns reclamation plan requirements and authorizes the submittal of a master land use plan for postmining land use. The amendment also revises the provisions concerning the Office of Coalfield Community Development. The amendment is intended to improve the effectiveness of the West Virginia program.

**DATES:** If you submit written comments, they must be received on or before 4:00 p.m. (local time), on July 20, 2001. If requested, a public hearing on the proposed amendments will be held at 1:00 p.m. (local time), on July 16, 2001. Requests to speak at the hearing must be received by 4:00 p.m. (local time), on July 5, 2001.

**ADDRESSES:** Mail or hand-deliver your written comments and requests to speak at the hearing to Mr. Roger W. Calhoun, Director, Charleston Field Office at the address listed below.

You may review copies of the West Virginia program, the proposed amendment, a listing of any scheduled hearings, and all written comments received in response to this document at

the addresses below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the proposed amendment by contacting OSM's Charleston Field Office.

Mr. Roger W. Calhoun, Director,  
Charleston Field Office, Office of  
Surface Mining Reclamation and  
Enforcement, 1027 Virginia Street,  
East, Charleston, West Virginia 25301  
Telephone: (304) 347-7158. E-mail:  
chfo@osmre.gov.

West Virginia Department of  
Environmental Protection, 10  
McJunkin Road, Nitro, West Virginia  
25143, Telephone: (304) 759-0515.  
The proposed amendment will be  
posted at the Department's Internet  
page: <http://www.dep.state.wv.us>.

In addition, you may review copies of the proposed amendment during regular business hours at the following locations:

Office of Surface Mining Reclamation  
and Enforcement, Morgantown Area  
Office, 75 High Street, Room 229, P.O.  
Box 886, Morgantown, West Virginia  
26507, Telephone: (304) 291-4004.

(By Appointment Only)

Office of Surface Mining Reclamation  
and Enforcement, Beckley Area  
Office, 323 Harper Park Drive, Suite 3,  
Beckley, West Virginia 25801,  
Telephone: (304) 255-5265.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger W. Calhoun, Director, Charleston Field Office; Telephone: (304) 347-7158.

#### SUPPLEMENTARY INFORMATION:

##### I. Background on the West Virginia Program

On January 21, 1981, the Secretary of the Interior conditionally approved the West Virginia program. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the January 21, 1981, **Federal Register** (46 FR 5915-5956). You can find later actions concerning the conditions of approval and program amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

##### II. Discussion of the Proposed Amendment

By letter dated May 21, 2001 (Administrative Record Number WV-

1217), the West Virginia Department of Environmental Protection (WVDEP) submitted an amendment to its program. The program amendment consists of changes to the West Virginia Surface Coal Mining and Reclamation Act as amended by Senate Bill 603. The amendment concerns reclamation plan requirements at section 22-3-10, and authorizes the submittal of a master land use plan for postmining land use. The amendment also revises the provisions concerning the Office of Coalfield Community Development at chapter 5B-2A sections 5 and 9. The amendment is intended to improve the effectiveness of the West Virginia program.

You will find West Virginia's program amendment presented below.

#### *W.Va. Code 22-3-10. Reclamation Plan Requirements*

The style of this section is amended in various locations by deleting the word "such" and by replacing that word with the word "the." In addition, at subsection (a)(14), the word "Such" is deleted and replaced by the word "Any." As amended, subsection (a)(14) provides as follows: "(14) Any other requirements as the director may prescribe by rule."

New subsection 22-3-10(b) is added, and existing subsection (b) is relettered as (c). New subsection (b) is added to read as follows.

(b) Any surface mining permit application filed after the effective date of this subsection may contain, in addition to the requirements of subsection (a) of this section, a master land use plan, prepared in accordance with article two-a, chapter five-b of this code, as to the post-mining land use. A reclamation plan approved but not implemented may be amended to provide for a revised reclamation plan consistent with the provisions of this subsection.

#### *W. Va. Code 5B-2A Office of Coalfield Community Development*

Section 5B-2A-5 is amended by deleting the words "shall have and" that appear in the first sentence, and by replacing those words with the words, "has and may." In addition, section 5B-2A is amended by adding new paragraph (9) as follows:

(9) On its own initiative or at the request of a community in close proximity to a mining operation, or a mining operation, offer assistance to facilitate the development of economic or community assets. Such

assistance may include the preparation of a master land use plan pursuant to the provisions of section nine of this article.

Section 5B-2A-9 is amended by adding new subsection (f) as follows:

(f) In addition to the coal field community development statement cited in subsection (a) of this section, the office may secure developable land and infrastructure for a development office or county through the preparation of a master land use plan for inclusion into a reclamation plan prepared pursuant to the provisions of section ten, article three, chapter twenty-two of this code. Participation in a master land use plan is voluntary.

(1) State, local, county or regional development authorities may determine land and infrastructure needs within their jurisdictions through the development of a master land use plan which incorporates post-mining land use needs that include industrial uses, commercial uses, agricultural uses, public facility uses or recreational facility uses.

(2) A master land use plan must be reviewed by the office of coalfield community development before the master land use plan can be approved.

(3) The required infrastructure component standards needed to accomplish the designated post-mining land uses identified in subdivision one of this subsection shall be developed by the relevant state, local, county or regional development authority. The standards must be in place before the respective state, local, county or regional development authority can accept ownership of property donated pursuant to a master land use plan. Acceptance of ownership of such property by a state, local, county or regional development authority may not occur unless it is determined that: (a) The Property use is compatible with adjacent land uses; (b) the use satisfies the relevant development authority's anticipated need and market use; (c) the property has in place necessary infrastructure components needed to achieve the anticipated use; (d) the use is supported by all other appropriate public agencies; and (e) the use is feasible. Required infrastructure component standards require approval of the relevant county commission or commissions before such standards are accepted. County commission approval may be rendered only after a reasonable public comment period.

### III. Public Comment Procedures

In accordance with 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 the amendment is deemed adequate, it will become part of the West Virginia program.

#### Written Comments

If you submit written or electronic comments on the proposed amendment 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, Word Perfect, or Word file avoiding the use of special characters and any form of encryption. Please also include Attn: SPATS NO. WV-092-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 Charleston Field office at (304) 347-7158.

#### Availability of Comments

Our practice is to make comments, including names and home addresses of respondents, available for public review during our regular business hours at the OSM Administrative Record Room (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking 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, you should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m. (local time), on July 5, 2001. The location and time of the hearing will be arranged 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 testifies at a 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.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual 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 OSM representatives to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made 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 regulation.

#### 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 pursuant to 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 such 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.

#### *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 regulation.

#### *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 948**

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 8, 2001.

**Allen D. Klein,**

*Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 01-15499 Filed 6-19-01; 8:45 am]

**BILLING CODE 4310-05-P**

## **POSTAL RATE COMMISSION**

### **39 CFR Part 3001**

**[Docket No. RM2001-2; Order No. 1317]**

#### **Rules of Practice and Procedure**

**AGENCY:** Postal Rate Commission.

**ACTION:** Request for comments and technical conference.

**SUMMARY:** The Commission is soliciting comments on electronic filing procedures. The objective is to develop a rule that makes use of modern technology, reduces the burden and expense of paper filing, and facilitates public access to data filed with the Commission.

**DATES:** Comments are due by July 9, 2001; a technical conference is scheduled for July 11, 2001 at 10 a.m.

**ADDRESSES:** Send comments to Steven W. Williams, Acting Secretary, Postal Rate Commission, 1333 H Street, NW., Suite 300, Washington, DC 20268-0001. The technical conference will be held at the above address.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, 202-789-6820.

**SUPPLEMENTARY INFORMATION:** The Commission is issuing this document to solicit comments on procedures, currently under consideration, to permit the filing of documents electronically (filing online). In addition, the Commission hereby gives notice of a technical conference to address the filing online process. Following the technical conference, the Commission expects to issue a notice of proposed rulemaking to revise its rules of practice and procedure to reflect the availability of filing online.

Consistent with government-wide initiatives to allow for the electronic filing and storage of documents in lieu of paper (hardcopy),<sup>1</sup> the Commission is in the process of developing procedures to accept the filing of documents electronically (filing online). To that end, the Commission recently updated its web site (www.prc.gov) by introducing a new option to enable parties to download multiple documents simultaneously. This feature simplifies and expedites the downloading process.

While participation will not be mandatory, the Commission anticipates general use of filing online given the significant savings associated with electronic filing coupled with the widespread and growing access to the Internet. Filing online should reduce the cost of participating in proceedings before the Commission substantially because the need to serve parties will be virtually, if not entirely, eliminated. Thus, substantial preparation costs will be avoided. In addition, filing online should enable participants to operate more efficiently. For example, the process of submitting documents for filing will be greatly simplified; transaction costs associated with the actual filing of a hard copy, in addition to those for printing and postage, will be eliminated; any confusion over service dates will be avoided; and participants will have access to documents sooner, in both a PDF (portable document format) that accurately reflects the document filed and that is more efficient to download, and an RTF (rich text format) that can be more easily used in preparing other documents (such as discovery responses). Moreover, the system will contain safeguards ensuring participants' control over their documents prior to filing and that only documents that a participant wishes to file will be filed.

<sup>1</sup> See, e.g., the Government Paperwork Elimination Act, Pub. L. No. 105277, 17021704.