

should have been eligible for a vessel permit because of hardship or other factors. The RA will notify the applicant of the decision and the reason for it, in writing, within 15 days of receiving the recommendations from the Application Oversight Board members. The RA's decision will constitute the final administrative action by NMFS.

(e) *Transfer of an endorsement.* A limited access endorsement for South Atlantic rock shrimp is valid only for the vessel and owner named on the permit/endorsement. To change either the vessel or the owner, an application for transfer must be submitted to the RA. An owner of a vessel with an endorsement may request that the RA transfer the endorsement to another vessel owned by the same entity, to the same vessel owned by another entity, or to another vessel with another owner. A transfer of an endorsement under this paragraph will include the transfer of the vessel's entire catch history of South Atlantic rock shrimp to a new owner; no partial transfers are allowed.

(f) *Renewal.* The RA will not reissue a limited access endorsement for South Atlantic rock shrimp if the endorsement is revoked or if the RA does not receive a complete application for renewal of the endorsement within 1 year after the endorsement's expiration date.

(g) *Non-renewal of inactive endorsements.* In addition to the sanctions and denials specified in § 622.4(j)(1), a limited access endorsement for South Atlantic rock shrimp that is inactive for a period of 4 consecutive calendar years will not be renewed. For the purpose of this paragraph, "inactive" means that the vessel with the endorsement has not landed at least 15,000 lb (6,804 kg) of rock shrimp from the South Atlantic EEZ in a calendar year.

(h) *Reissuance of non-renewed permits.* A permit that is not renewed under paragraph (g) of this section will be made available to a vessel owner randomly selected from a list of owners who had documented landings of rock shrimp from the South Atlantic EEZ prior to 1996 but who did not qualify for an initial limited access endorsement. To be placed on the list, an owner must submit a written request to the RA postmarked or hand-delivered not later than January 16, 2004. The written request must contain documentation of each specific landing claimed, i.e., date, quantity of rock shrimp, name and official number of the harvesting vessel, ownership of the vessel at the time of landing, and name and address of the purchasing dealer. Claimed landings that are not verified by comparison with

state trip ticket or dealer records will not be recognized.

8. In § 622.41, the heading of paragraph (g) is revised and paragraph (j) is added to read as follows:

§ 622.41 Species specific limitations.

* * * * *

(g) *Penaeid shrimp in the South Atlantic.* * * *

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(j) *Rock shrimp in the South Atlantic off Georgia and Florida.* The minimum mesh size for the cod end of a rock shrimp trawl net in the South Atlantic EEZ off Georgia and Florida is 1 7/8 inches (4.8 cm), stretched mesh. This minimum mesh size is required in at least the last 40 meshes forward of the cod end drawstring (tie-off rings), and smaller-mesh bag liners are not allowed. A vessel that has a trawl net on board that does not meet these requirements may not possess a rock shrimp in or from the South Atlantic EEZ off Georgia and Florida.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY-234-FOR]

Kentucky Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: We are approving, with one exception, 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 proposed revisions to the Kentucky Revised Statutes (KRS) at 350.445 pertaining to the construction of a road above a highwall. Kentucky revised its program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: January 16, 2003.

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

SUPPLEMENTARY INFORMATION:

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

By letter dated May 9, 2000 (administrative record no. KY-1473), Kentucky submitted a proposed amendment to its approved permanent regulatory program. Three house bills were included in the submission. House Bill (HB) 502 continues in effect the current administrative regulations on ownership and control. HB 599 creates a new section of KRS Chapter 350 and pertains to an easement of necessity. HB 792 amends KRS 350.445(3) and is the subject of this rule. We previously announced our decisions on HB 502 and 599 in the April 30, 2002 **Federal Register** (67 FR 21173), and the June 20, 2001 **Federal Register** (66 FR 33020), respectively.

We announced receipt of the proposed amendment in the May 31, 2000, **Federal Register** (65 FR 34625), invited public comment, and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on June 30, 2000.