

Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 23, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY-242-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 the proposed removal of a required amendment to the Kentucky regulatory program (the "Kentucky program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The required amendment is found at 30 CFR 917.16(g). 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. May 29, 2003. If requested, we will hold a public hearing on the amendment on May 27, 2003. We will accept requests to speak at a hearing until 4 p.m., e.s.t. on May 14, 2003.

ADDRESSES: You should mail or hand deliver written comments and requests

to speak at the hearing to Mr. William J. Kovacic at the address listed below.

You may review copies of the Kentucky program, 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.

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.
Department for 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 21434). 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 Required Amendment

Kentucky Administrative Regulations (KAR) currently provide at 405 KAR 16:210 and 18:220 Section 1(1)(a) and (b) the following:

Prior to the final release of performance bond, affected areas shall be restored in a timely manner:

(a) To conditions capable of supporting the uses which the areas were capable of supporting before any mining; or

(b) To conditions capable of supporting higher or better alternative uses as approved by the cabinet [Natural Resources and Environmental Protection Cabinet] under Section 4 of this administrative regulation.

These provisions are substantively identical to their Federal counterparts at 30 CFR 816.133(a) and 817.133(a). The State regulations at Section 2 state, "the premining use of land to which the postmining land use is compared shall be those uses which the land previously supported if the land has not been previously mined." In 1992, when Kentucky submitted Section 2 as a program amendment, OSM stated, "[t]his rule, while similar to the Federal rule at 30 CFR 816.133(b), fails to provide that a postmining land use must be compared to premined land which was properly managed, as set forth in the cited Federal rule." 57 FR 45295, 45306 (October 1, 1992). Thus, in 1992, OSM found the Kentucky rules less effective to the extent Kentucky failed to require a comparison to a premining land use that was properly managed and required an amendment. The required amendment at 30 CFR 917.16(g) requires Kentucky to submit proposed revisions to its regulations to provide that "in determining premining uses of land not previously mined, the land must have been properly managed."

OSM is proposing to remove the required amendment because we believe that, with respect to this issue, the Kentucky program as it currently exists is no less effective than the Federal regulations.

The Kentucky program, like the Federal regulations at 30 CFR 816.133(a) and 817.133(a), requires that all disturbed areas be restored in a timely manner to conditions that are capable of supporting either the (1) uses that they were capable of supporting before any mining or (2) any approved higher or better uses. (The Kentucky program also extends this requirement to all affected areas and does not limit it to disturbed areas.) In general, compliance with this requirement rests on a determination that the site has been restored to a condition capable of supporting the approved postmining land use. This determination consists primarily of two components: Site configuration, which is addressed by the backfilling and grading regulations and is not dependent upon premining land use or management, and revegetation success.