

written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays.

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SUPPLEMENTARY INFORMATION:

- I. Background on the Kentucky Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- V. 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 Proposed Amendment

On March 15, 2002, the Kentucky General Assembly enacted House Bill Number 556 (HB 556), which established the Pine Mountain Trail State Park in southeastern Kentucky. The bill provides that the Act and its implementing regulations are to be administered by the Kentucky

Department of Parks. On March 27, 2003, Kentucky submitted HB 556 to us for processing as a State program amendment.

Federal regulations at 30 CFR 732.17 establish guidelines for processing and requiring State program amendments. This section of the Federal regulations applies to any proposed changes which affect implementation of the approved regulatory program. The regulations state, in part:

* * * proposed changes which affect the implementation, administration or enforcement of the approved State program. At a minimum, notification shall be required for—

(1) Changes in the provisions, scope or objectives of the State program;

(2) Changes in the authority of the regulatory authority to implement, administer or enforce the approved program; * * *

(3) Changes in the State law and regulations from those contained in the approved State program;

Because HB 556 does not directly revise Kentucky's approved State program and because HB 556 is to be implemented by the Kentucky Department of Parks and not by the Kentucky Department of Surface Mining Reclamation and Enforcement, we are soliciting public comment on whether HB 556 amends the approved program and thus requires approval of OSM for implementation.

Should we determine that it does amend the approved regulatory program, we are also seeking comments on the legislation as it relates to compatibility with the Federal unsuitability requirements. Both section 522(e)(5) of SMCRA and section 350.085(3) of the Kentucky Revised Statutes (KRS) preclude, subject to valid existing rights, mining operations within three hundred feet of any public park. Section 4(2) of HB 556 states that "notwithstanding the provisions in KRS 350.085(3) * * * in acquiring any interests the Commonwealth [Kentucky] or its agencies shall waive the three hundred (300) foot restriction contained in KRS 350.085(3) * * *". In HB 556 Section 11(1), the State legislature also recognized that " * * * nothing in Sections 1 to 12 of this Act shall be construed or interpreted as affecting, in any way, the legitimate use of surface and subsurface property adjacent to or visible from the trail, whether such use was in effect upon the designation of the trail or not, including but not limited to "mining, both by surface and underground mining means * * *".

III. Public Comment Procedures

Written Comments

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (see **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Lexington Field Office may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: SATS No. KY-243-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 Lexington Field Office at (859) 260-8400.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their 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 review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., e.s.t. on July 14, 2003. If you are disabled and need special 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.