

1772.12(b)(14) do not affect the meaning of these regulations, we included the regulations in the table above.

Because the State regulations listed in the table have the same meaning as the counterpart Federal regulations, we find that they are no less effective than the Federal regulations.

*C. 62 IAC 1761.11 Areas Where Mining is Prohibited or Limited*

Illinois deleted existing subsection (b), which prohibited surface coal mining on specified Federal lands unless called for by Acts of Congress. Illinois also redesignated subsections (a)(1) through (a)(7) as subsections (a) through (g), corrected citation references, and simplified its use of numbers.

We are approving Illinois' deletion of 62 IAC 1761.11(b) because it is consistent with OSM's deletion of the counterpart Federal regulation at 30 CFR 761.11(h). See 64 FR 70766, dated December 17, 1999. We are also approving the other changes made to 62 IAC 1761.11 because they are minor and will not make Illinois' regulations less effective than the corresponding Federal regulations.

*D. 62 IAC 1800.40 Requirement to Release Performance Bonds*

Illinois revised 62 IAC 1800.40(b)(2) to allow the Department, when no public hearing is held, to make its final administrative decision regarding a bond release application either 60 days after the application is filed or 5 days after the close of the comment period, whichever is later.

The counterpart Federal regulation at 30 CFR 800.40(b)(2) requires the regulatory authority to make its final decision within 60 days from the filing of the bond release application if no public hearing is held. The Federal regulation at 30 CFR 800.40(a)(2) and the State regulation at 62 IAC 1800.40(a)(2) require that the notice announcing the bond release be placed at least once a week for four successive weeks in a newspaper of general circulation in the locality of the surface coal mining operation. When Illinois submitted this amendment on April 8, 2002, it explained that because its public comment period extends to 30 days after the last publication of the notice announcing the bond release, it is possible for the public comment period to expire after the 60-day time limit required by 30 CFR 800.40(b)(2). We recognize that in many small communities in Illinois, the newspapers of general circulation in the locality of the surface coal mining operations may publish only one or two days a week. If

the bond release applicant does not get the newspaper advertisement placed in a timely manner, it is possible that the 60-day time limit required by 30 CFR 800.40(b)(2) would expire before the public comment period ends. We find that Illinois' proposed rule would allow a bond release decision to be issued in a timely manner while ensuring consideration of all public comments before a final bond release decision is made. Illinois' proposed rule therefore adheres to the spirit of the Federal requirements at 30 CFR 800.40 in ensuring that the State makes a final decision on the bond release application in a timely manner. Based on the above discussion, we are approving Illinois' revisions at 62 IAC 1800.40(b)(2).

**IV. Summary and Disposition of Comments**

*Public Comments*

We asked for public comments on the amendment, but did not receive any.

*Federal Agency Comments*

On April 12, 2002, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Illinois program (Administrative Record No. IL-5079). We did not receive any comments.

*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.*). None of the revisions that Illinois proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

On April 17, 2002, under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from EPA (Administrative Record No. IL-5079). EPA did not respond to our request.

*State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On April 12, 2002, we requested comments on Illinois' amendment (Administrative Record No. IL-5079), but neither responded to our request.

**V. OSM's Decision**

Based on the above findings, we approve the amendment as submitted by Illinois on April 8, 2002, and as revised on March 14, 2003.

We approve the regulations proposed by Illinois with the provision that they be fully promulgated in identical form to the regulations submitted to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 913, which codify decisions concerning the Illinois program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

**VI. Procedural Determinations**

*Executive Order 12630—Takings*

In this rule, the State is adopting valid existing rights standards that are similar to the standards in the Federal definition at 30 CFR 761.5. Therefore, these provisions have the same takings implications as the Federal valid existing rights rule. The takings implications assessment for the Federal valid existing rights rule appears in Part XXIX.E of the preamble to that rule. See 64 FR 70766, 70822-27, December 17, 1999. The provisions in the rule based on other counterpart Federal regulations do not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

*Executive Order 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget (OMB) 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. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each 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 the Federal regulations at 30 CFR