

to” is corrected to read “but allow a participant or beneficiary”.

§ 1.457–7 [Corrected]

■ 10. On page 41244, column 2, § 1.457–7, paragraph (i), of Example 1, line 18, the language “participant K, a calendar year taxpayer, has” is corrected to read “K, a calendar year taxpayer, has”.

§ 1.457–8 [Corrected]

■ 11. On page 41245, column 3, § 1.457–8, paragraph (b)(2), line 2, the language “purposes of a paragraph (b)(1) of this” is corrected to read “purposes of paragraph (b)(1) of this”.

§ 1.457–9 [Corrected]

■ 12. On page 41246, column 1, § 1.457–9, paragraph (a), line 7, the language “1.457–8 or 1.447–10. However, the plan” is corrected to read “§ 1.457–8 or § 1.447–10. However, the plan”.

§ 1.457–10 [Corrected]

■ 13. On page 41246, column 1, § 1.457–10, paragraph (a)(2), line 8, the language “under a paragraph (a)(2)(ii) of this” is corrected to read “under paragraph (a)(2)(ii) of this”.

■ 14. On page 41246, column 3, § 1.457–10, paragraph (b), line 6, the language “the conditions in paragraph (b)(2), (3),” is corrected to read “the conditions in paragraphs (b)(2), (3),”.

LaNita Van Dyke,

Acting Chief, Publication and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA–142–FOR]

Pennsylvania Regulatory Program

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

ACTION: Final rule.

SUMMARY: We are removing a required amendment to the Pennsylvania regulatory program (the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The amendment required a review and approval of the configuration and species composition for reclaimed forest land on either a site-by-site basis or a program wide basis by

the Pennsylvania Bureau of Forestry. By removing the amendment, we find that the identified Pennsylvania regulations are no less effective than the corresponding Federal Regulations.

EFFECTIVE DATE: August 27, 2003.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

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- I. Background on the Pennsylvania Program
- II. Submission of the Proposed Amendment
- III. OSM’s Findings
- IV. Summary and Disposition of Comments
- V. OSM’s Decision
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I. Background on the Pennsylvania 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 Pennsylvania program on July 30, 1982. You can find background information on the Pennsylvania program, including the Secretary’s findings, the disposition of comments, and conditions of approval in the July 30, 1982, **Federal Register** (47 FR 33050). You can also find later actions concerning Pennsylvania’s program and program amendments at 30 CFR 938.11, 938.12, 938.15 and 938.16.

II. Submission of the Proposed Amendment

By letter dated January 30, 2002 (Administrative Record No. PA 803.23), the Pennsylvania Department of Environmental Protection (PADEP) submitted a comparison of the State regulations at 25 Pennsylvania (Pa.) Code sections 87.151(d), 89.86(e)(2)(ii)(C), and 90.155(d) and the corresponding Federal regulations along with its explanation of why Pennsylvania’s regulations are no less effective than their Federal counterparts regarding approval of the configuration and species composition for reclaimed forest land. This letter was submitted in

response to the required amendment to the Pennsylvania program codified at 30 CFR 938.16(fff). Following this correspondence, OSM’s Harrisburg Field Office, by letter dated February 22, 2002 (Administrative Record No. PA 803.24), submitted a request to the Pennsylvania Department of Conservation and Natural Resource’s Bureau of Forestry that it review the regulations at issue. By letter dated March 20, 2002 (Administrative Record No. PA 803.25), the Bureau of Forestry approved the subject regulations. The Bureau of Forestry also noted that it supported the use of native species when practical and discourages the use of invasive species.

We announced our proposal to remove the required amendment in the June 3, 2003, **Federal Register** (68 FR 33037). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on removing the required amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on July 3, 2003. We received comments from two Federal agencies (the United States Environmental Protection Agency, Region III, and the United States Department of Labor, Mine Safety and Health Administration’s New Stanton and Wilkes-Barre Offices). We also received comments from two State agencies (the Pennsylvania Game Commission and the Pennsylvania Historical and Museum Commission, Bureau for Historic Preservation).

III. OSM’s Findings

Following are the findings we made concerning removing the required amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are removing the required amendment because in the March 20th letter, the Bureau of Forestry stated that it “approve[d] of the Pennsylvania DEP Protection Regulations, particularly the relevant portions of Sections 87.151(d), 89.86(e)(2)(ii)(C), 90.155(d), 90.155(c), 87.155(b)(2), 89.86(e)(2)(ii), and 90.159(b)(2).” The former three regulations approved in the Bureau’s letter contain species composition and configuration rules that apply to reclaimed forest land. Because the Bureau has approved the configuration and species composition for reclaimed forest land, as required under 30 CFR 938.16(fff), we have found that Pennsylvania has met the conditions of the required amendment and we are removing it.