§ 301.6103(j)(5)–1 Disclosures of return information to officers and employees of the Department of Agriculture for certain statistical purposes and related activities.

* * * * *

(b) * * *

(2) * * *

(xiv) Taxpayer telephone number.

* * * * *

(d) *Effective dates.* This section is applicable on July 31, 2001, except paragraph (b)(2)(xiv) which is applicable on June 19, 2002.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: June 10, 2002.

Pamela F. Olson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 02–15351 Filed 6–18–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–222–FOR]

Kentucky Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving a proposed amendment to the Kentucky regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Kentucky proposed to revise the Kentucky Administrative Regulations (KAR) pertaining to the general requirements for mining on steep slopes. The approved amendment revises the Kentucky program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: June 19, 2002.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Field Office Director. Address: Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503. Telephone: (859) 260–8400.

Email: *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 the conditions of approval in the May 18, 1982, **Federal Register** (47 FR 21404). You can also find later actions concerning the Kentucky program and previous amendments at 30 CFR 917.11, 917.12, 917.13, 917.15, 917.16, and 917.17.

II. Submission of the Amendment

By letter dated January 28, 2000, Kentucky sent us an amendment to its program (KY–222–FOR, Administrative Record No. KY–1469) under SMCRA (30 U.S.C. 1201 *et seq.*). Kentucky sent the amendment in response to the required program amendment at 30 CFR 917.16(d)(5). The proposed amendment establishes special performance standards and limited variance procedures for operations conducted on steep slopes by revising 405 KAR 20.060—Section 3(3)(b) and (c). The amendment is intended to revise the Kentucky program to be no less effective than the Federal regulations.

We announced receipt of the proposed amendment in the February 18, 2000, **Federal Register** (65 FR 8327). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on March 20, 2000. We did not receive any public comments.

By letter dated May 25, 2000 (Administrative Record No. KY–1476), Kentucky submitted the promulgated version of the regulation. No substantive changes were made from the original submission. Therefore, we did not reopen the comment period.

We received comments from two Federal agencies.

III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. As discussed below, we are approving the amendment.

Any revisions that we do not specifically discuss below concern nonsubstantive wording or editorial changes.

Kentucky's amendment is responding to the required program amendment codified at 30 CFR 917.16(d)(5). 30 CFR 917.16(d)(5) provides that Kentucky must amend its program to:

> Clarify that the total volume of flow from the proposed permit area, during every season of the year, will not vary in a way that adversely affects the ecology of any surface water or any existing or planned use of surface or ground water; and to require the appropriate State environmental agency to approve the plan.

Kentucky has amended its program by establishing special performance standards and limited variance procedures for operations conducted on steep slopes by revising 405 KAR 20.060—Section 3(3)(b) and (c). Kentucky is requiring that the total volume of flow from the proposed permit area, during every season of the year, not vary in a way that adversely affects the ecology of any surface water or any existing or planned use of surface or ground water. Kentucky is also requiring that the Natural Resources and Environmental Protection Cabinet (Cabinet) consider any agency comments under subsection (2) of this section regarding watershed improvement.

405 KAR 20:060 Section 3(3)(b)

Kentucky is revising this paragraph by adding the words ''water or any existing or planned use of surface.'' As amended, paragraph (b) at section 3(3) provides that the total volume of flow from the proposed permit area, during every season of the year, will not vary in a way that adversely affects the ecology of any surface water or any existing or planned use of surface or ground water. We find that as amended, the Kentucky provision is identical to and, therefore, no less effective than the counterpart Federal regulations at 30 CFR 785.16(a)(3)(ii) and can be approved. This amendment satisfies part of the required regulatory program amendment codified in the Federal regulations at 30 CFR 917.16(d)(5).

405 KAR 20:060 Section 3(3)(c)

Kentucky is adding this new paragraph to provide that the Cabinet must have considered any agency comments under subsection (2) of 405 KAR 20:060 section 3, regarding watershed improvement. Subsection (2), which is part of the existing Kentucky program, offers Federal, State and local government agencies with an interest in the proposed land use an opportunity to review and comment on the proposed use. While there is no Federal counterpart to the Kentucky proposal, the amendment is consistent with the general permitting requirements at 30 CFR 773.6, which provides certain Federal, State and local governmental entities with notice and opportunity to comment on permit applications. Thus, the amendment is hereby approved.

Kentucky has also submitted an accompanying document entitled ''Federal Mandate Analysis Comparison'' (Administrative Record No. KY–1469). In that document, Kentucky acknowledges that its regulation does not include the requirement, contained in 30 CFR 785.16(a)(3)(iii), that ''the appropriate State environmental agency approves the [watershed improvement] plan,'' but contends that the ''Federal language is indefinite regarding the identity of the agency and regarding what 'plan' must be approved * * *'' Furthermore, Kentucky contends that this language is unnecessary for its program, because the Cabinet, which approves mining permits, is also the agency charged with approving watershed improvement plans. Therefore, the State argues, approval of any such plans, where necessary, will be ''accomplished by the Cabinet'' as part of the permit decision-making process. We believe that Kentucky's explanation of its watershed improvement plan approval procedure is sufficient to satisfy the remaining portion of the required regulatory program amendment codified in the Federal regulations at 30 CFR 917.16(d)(5). As such, the required amendment will be removed.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (Administrative Record No. KY–1475), but did not receive any.

Federal Agency Comments

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 Kentucky program (Administrative Record No. KY–1492). The request for comments was made on February 18, 2000.

Two comments were received. The Mine Safety and Health Administration concurred without comment. The Fish and Wildlife Service commented that the proposed amendment: (1) Disregards the Federal mandate to develop and implement a plan to improve watershed conditions; (2) is based on an apparent misinterpretation of the Federal mandate for the appropriate State environmental agency to review and approve the watershed improvement plan; and (3) disregards the Federal mandate to require reduced pollution or reduced flood hazards during peak discharges.

In response, we disagree with the commenter's contention that the amendment is inconsistent with the intent of 30 CFR 785.16(a)(3) because it omits the specific requirement to develop and implement a comprehensive watershed plan where steep slope variances are permitted. To the contrary, we believe the existing State program requirements are consistent with the Federal regulations. While subdivision 30 CFR 785.16(a)(3)(iii) refers to approval of a ''plan,'' the Federal regulations are otherwise silent as to what should be contained in the plan. Moreover, the current Kentucky program at 405 KAR 20:060 Section 3(3) requires the permit applicant to demonstrate that the watershed of lands within the proposed permit and adjacent areas will be improved by the operations. Because this demonstration, which is identical to the one required in the Federal regulations at 30 CFR 785.16(a)(3), must be contained in the permit application, it is tantamount to a ''plan'' for watershed improvement. Therefore, in this respect, the State program remains consistent with the corresponding Federal regulations.

The commenter next stated that the intent of 30 CFR 785.16 is for the State agency with the responsibility for general protection of aquatic systems to approve the watershed improvement plan. According to the commenter, the ''appropriate State environmental agency'' is required to approve the watershed improvement plan in order to maintain checks and balances within the permit review process. The commenter stated that the appropriate agency in Kentucky to approve watershed improvement plans is the Kentucky Division of Water (DOW), since that is the agency with responsibility for general protection of aquatic systems. The commenter believes that because the proposed amendment fails to specifically designate the DOW, as opposed to the Department for Surface Mining Reclamation and Enforcement (DSMRE), as the ''appropriate State environmental agency,'' the amendment ''appears to be based upon a misrepresentation of the Federal mandate for the 'appropriate State environmental agency' to approve the watershed improvement plan. We disagree with this comment for the reasons discussed below.

The preamble to the September 1, 1983, **Federal Register** notice announcing our approval of 30 CFR 785.16 states, in part, that ''[i]t is not possible on a national basis to specify precisely which environmental agencies must approve the planned improvement of the watershed. Within particular states, the regulatory authority should have little difficulty in discerning the particular agencies with expertise and /or responsibility for the watershed.'' 48 FR 39892, 39896. As noted above in the finding for 405 KAR 20:060 Section 3(3)(c), Kentucky has explained that the Cabinet is the agency with statewide environmental responsibilities. Three departments are under jurisdiction of the Cabinet, one of which is the DSMRE. The DOW is under the Department for Environmental Protection, a department also under the jurisdiction of the Cabinet. The Cabinet considers any comments from Federal, State, or local agencies that address the issue of watershed improvement.

The DSMRE has responsibility for implementing SMCRA. If a plan for watershed improvement is part of a SMCRA permit, DSMRE is responsible for its review. The proposed program amendment includes a request for comments by other agencies to ensure that the SMCRA plan demonstrates watershed improvement. In Kentucky, the DOW is given the opportunity to review and comment on all SMCRA permits. This would include watershed improvement plans. Therefore, we believe that the revised regulation at 405 KAR 20:060 Section 3(3)(c) is no less effective than 30 CFR 785.16(a)(3)(iii).

The commenter stated that the proposed amendment disregards the Federal regulations to require reduced pollution or reduced flood hazards during peak discharges. According to the commenter, ''[t]he amended State regulations would circumvent this requirement by allowing its substitution with increased streamflow during low flow periods.'' The language claimed by the commenter to be inconsistent with the Federal regulations is contained in the phrase ''* * * or there will be an increase in streamflow during times of the year when streams within the

watershed are normally at low flow or dry and the increase in streamflow is determined by the cabinet to be beneficial to public or private users or to the ecology of the streams.''

In response, we note that the quoted language is not newly proposed, as the commenter has asserted, but rather is already contained in the approved State program. Thus, comments on the language are not germane to this rulemaking.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(i) and (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.*). This amendment does not contain provisions that relate to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

On March 1, 2000, we requested comments from EPA on the amendment (administrative record no. KY–1492). EPA did not respond to our request.

State Historic Preservation Officer (SHPO) and the Advisory Council or Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from SHPO and ACHP on amendments that may have an effect on historic properties. This amendment does not contain provisions that relate to historic properties. Therefore, we did not ask SHPO or ACHP to comment on this amendment.

V. OSM's Decision

Based on the above findings, we approve the amendment Kentucky sent us on January 28, 2000. In addition, we are removing the required program amendment codified at 30 CFR 917.16(d)(5).

To implement this decision, we are amending the Federal regulations at 30 CFR Part 917, which codify decisions concerning the Kentucky 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 Kentucky program demonstrate that Kentucky has the capability of carrying out the provisions of the Act and meeting its purpose. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of Kentucky and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget 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 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact

that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 14, 2002.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 917—KENTUCKY

1. The authority citation for Part 917 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 917.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 917.15 Approval of Kentucky regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	*
January 28, 2000	June 19, 2002	405 KAR 20:060 § 3(3)(b) 2000 and (c).

3. Section 917.16 is amended by removing and reserving paragraph (d)(5).

[FR Doc. 02–15483 Filed 6–18–02; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Los Angeles–Long Beach 02–010]

RIN 2115–AA97

Security Zones; Liquefied Hazardous Gas Tank Vessels, San Pedro Bay, CA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing moving and fixed security zones around liquefied hazardous gas (LHG) tank vessels located on San Pedro Bay, California, near the ports of Los Angeles and Long Beach. These actions are necessary to ensure public safety and prevent sabotage or terrorist acts against these vessels. Persons and vessels are prohibited from entering these security zones without permission of the Captain of the Port.

DATES: This rule is effective from 11:59 p.m. PDT on June 15, 2002 to 11:59 p.m. PST on December 21, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket COTP Los Angeles-Long Beach 02–010 and are available for inspection or copying at Coast Guard Marine Safety Office Los Angeles-Long Beach, 1001 South Seaside Avenue, Building 20, San Pedro, California, 90731, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Rob Griffiths, Chief of Waterways Management Division, at (310) 732–2020.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Due to the terrorist attacks on September 11, 2001 and the warnings given by national security and intelligence officials, there is an increased risk that further subversive or terrorist activity may be launched against the United States. A heightened level of security has been established around all liquefied hazardous gas (LHG) tank vessels near the ports of Los Angeles and Long Beach. These security zones are needed to protect the United States and more specifically the people, waterways, and properties near San Pedro Bay. The original TFR was urgently required to prevent possible terrorist strikes against the United States and more specifically the people, waterways, and properties in the ports of Los Angeles-Long Beach. It was anticipated that we would assess the security environment at the end of the effective period to determine whether continuing security precautions were required and, if so, propose regulations responsive to existing conditions. We have determined the need for continued security regulations exists.

The Coast Guard will utilize the effective period of this TFR to engage in notice and comment rulemaking to develop permanent regulations tailored to the present and foreseeable security environment with the Captain of the Port (COTP) Los Angeles-Long Beach. Therefore, the public will still have the opportunity to comment on this rule. The measures contemplated by the rule were intended to facilitate ongoing response efforts and prevent future terrorist attack. In this case, doing a NPRM will be repetitious in nature and since delay is inherent in the NPRM process, any delay in the effective date of this rule, is contrary to the public interest insofar as it may render individuals and facilities within and adjacent to LHG tank vessels vulnerable to subversive activity, sabotage or terrorist attack. Immediate action is required to accomplish these objectives and necessary to continue safeguarding these vessels and the surrounding area. Any delay in the effective date of this rule is impractical and contrary to the public interest.

The Coast Guard will be publishing a NPRM to establish permanent security zones that are temporarily effective under this rule. This revision preserves the status quo within the Port while permanent rules are developed.

For the reasons stated in the paragraphs above under 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.