TABLE 1.—CONSUMPTION OF ETHYLENE GLYCOL ETHERS, 1999 (MILLIONS OF POUNDS)

	Acetate production	Other U.S. consumption	Exports	Total
2-EE	52	1	0	53
2-EEA	0	1	71	72
2-ME	0	3	0	3
2-MEA	0	0	0	0
Total for all glycol ethers	52 (40.6%)	5 (3.9%)	71 (55.5%)	128 (100%)

Source: Ex. 64–1–1 (citing SRI, Chemical Economics Handbook (September 2000)).

There is now effectively only one producer of these glycol ethers remaining in the United States, Equistar Chemicals (Exs. 64–1; 64–1–1), whose production is virtually limited to closed systems so employees have little opportunity for exposure. According to ACC, Equistar exports the bulk of the glycol ethers it produces (Ex. 64–1). The *Chemical Economics Handbook* confirms this, reporting that the four glycol ethers are no longer sold in the United States (CEH 663.5000R–S). (OSHA notes that Eastman Chemical Company also produces a small amount of 2-EE in a closed system, but only for in-house use as a site-limited intermediate in the production of another product (Ex. 64–1).

Prior to 2001, Dow Chemical Company and Union Carbide, the largest producer of these glycol ethers, produced almost 60 percent of these glycol ethers (CEH 663.5000Q). In 2001, Dow acquired Union Carbide (Exs. 64–1; 64–1–1). Last year, Dow stopped manufacturing these glycol ethers, moving instead to producing less-toxic E-series butyl glycol ethers (*e.g.*, EB) (Exs. 64–1; 64–1–1. CEH 663.5000Q).

III. Substitutes

There is little or no future potential exposure to the four glycol ethers because their use has largely been replaced by less-toxic substitutes. According to ACC, a number of substitutes are available, including other ethylene glycol ethers, propylene glycol ethers and other types of solvents (Ex. 64–1). The *Chemical Economics Handbook* reports that use of the four glycol ethers has been replaced primarily by E-series butyl glycol ethers (EB), P-series glycol ethers, and ethyl-3-ethoxypropionate (EEP). For example, ethylene glycol monobutyl ether acetate, diethylene glycol monobutyl ether acetate, and propylene glycol monomethyl acetate have replaced the use of 2-EEA (CEH 663.5000O). By 1999, the various substitutes accounted for about 80 percent of all glycol ethers consumed domestically (CEH 663.5000E–F). Of these substitutes, EB is now the largest volume glycol ether (64 FR 42127, August 3, 1999), accounting for 44 percent of all glycol ethers consumed domestically (CEH 663.5000E).

Some commenters raised concerns about the potential toxicity of some substitutes, particularly longer chain ethylene glycol ethers, and urged OSHA to promulgate standards addressing these substances (Exs. 64–2, 64–4, 64–5). For example, the California Department of Health Services said the following glycol ethers have been shown to produce adverse reproductive and developmental health effects: ethylene glycol dimethyl ether, ethylene glycol diethyl ether, diethylene glycol dimethyl ether, diethylene glycol diethyl ether, triethylene glycol dimethyl ether, propylene glycol methyl ether-beta, and propylene glycol methyl ether acetate-beta (Ex. 64–5). However, OSHA received little information on the degree to which these substances are used in workplaces and the extent to which employees are currently exposed to them. Therefore, OSHA is not able to determine, based on this rulemaking record, whether those substitutes need to be addressed.

OSHA notes that information submitted to the Environmental Protection Agency indicates that some substitutes do not appear to have the level of toxicity of the four glycol ethers (65 FR 47342, August 2, 2000; 64 FR 42125, August 3, 1999. See also EPA Docket No. A–99–24). Based on such information, EPA is currently considering whether the delist EB from the hazardous air pollutants list established by the Clean Air Act. EB is the most prevalent of the substitutes, accounting for 44 percent of all glycol ether consumed domestically.

In conclusion, given the very limited production, use and exposure to these glycol ethers and the lack of potential future workplace exposure due to the availability and increasing use of less-toxic substitutes, OSHA is withdrawing the proposed standard. Accordingly, OSHA is devoting its resources to rulemaking projects where there is greater potential for employee exposure.

Authority and Signature

This document was prepared under the direction of John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor. It is issued pursuant to section 6 of the Occupational Safety and Health Act of 1970 (84 Stat. 1594, 29 U.S.C. 655), 29 CFR 1911, and Secretary's Order 5–2002 (67 FR 65008).

Signed at Washington, DC, this 23rd day of December, 2003.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 03–32018 Filed 12–30–03; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–243–FOR]

Kentucky Regulatory Program

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

ACTION: Notice of withdrawal of proposed rule.

SUMMARY: We are announcing a decision that House Bill 556, passed by the Kentucky General Assembly on March 15, 2002, designating the ridge top of Pine Mountain as the Pine Mountain Trail State Park, does not meet the criteria to be deemed an amendment to the Kentucky Regulatory Program.

EFFECTIVE DATES: December 31, 2003.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, Telephone (859) 260–8400, e-mail: *bkovacic@osmre.gov.*

SUPPLEMENTARY INFORMATION:

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. Submission of the Proposed Amendment

On March 15, 2002, the Kentucky General Assembly enacted House Bill No. 556 (HB 556), which established the Pine Mountain Trail State Park in southeastern Kentucky. The bill provides that HB 556 and its implementing regulations are to be administered by the Kentucky Department of Parks. On October 31, 2002, we requested that Kentucky submit HB 556 as an amendment to the Kentucky regulatory program. The State submitted its response to our request on March 27, 2003, sending HB 556 to us for processing as a State program amendment (Administrative Record No. 1574).

We announced our intent in the June 27, 2003 **Federal Register** (68 FR 38255) to determine whether HB 556 required us to issue a decision on the submission as an amendment to the Kentucky regulatory program and whether, if it is an amendment, HB 556 is consistent with Federal unsuitability provisions contained in the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Because we are answering the first question in the negative, we will not reach the second question.

In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the submission. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on July 28, 2003. We received comments from two Federal agencies (the U.S. Department of the Interior, Fish and Wildlife Service, and the U.S. Department of Labor, Mine Safety and Health Administration). We also received comments from the Kentucky Resources Council, Inc. and the Kentucky Coal Association.

III. OSM's Findings

Federal regulations at 30 CFR 732.17 establish procedures and requirements for processing and requiring State program amendments. That section of the regulations applies to any proposed changes which affect implementation of the approved regulatory program. We have reviewed HB 556 in the context of these criteria and have determined that HB 556 does not require OSM's approval as an amendment to the Kentucky regulatory program as discussed below.

HB 556 establishes the Pine Mountain Trail State Park in Southeastern Kentucky. The bill provides that HB 556 and its implementing regulations are to be administered by the Kentucky Department of Parks. Thus, the bill does not amend or alter the State's law or regulations that constitute the approved program in Kentucky. They remain intact. For this reason, we have determined that HB 556 does not meet any of the criteria contained in 30 CFR 732.17, and, therefore, does not qualify as a program amendment. Although HB 556 refers to the Kentucky regulatory program, it does not change the Kentucky Surface Mining Law or its implementing regulations.

We recognize that this notice leaves unanswered the question of whether or not HB 556 is consistent with SMCRA. However, in not answering this question, we are acting in a manner consistent with our June 27, 2003, **Federal Register** notice, which stated that we would address this question only if we determined that HB 556 constituted a program amendment. In any event, that question would need to be addressed through a separate rulemaking under 30 CFR 730.11, if we should initially determine that HB 556 is inconsistent with SMCRA or the Federal regulations. We have not made such an initial determination, nor do we conclude that we need to address the issue at this time.

Nevertheless, we recognize that the filing of a surface coal mining application for lands within boundaries of the Pine Mountain Trail State Park, or the filing of a petition to declare lands adjacent to or visible from the park unsuitable for surface coal mining operations, could raise the question of whether or not HB 556 adversely affects the implementation of the approved Kentucky regulatory program, with respect to the Pine Mountain Trail State Park. In the event of such an occurrence, we will address the question of whether any portion of HB 556 is inconsistent with SMCRA or the Federal regulations. If we make a preliminary determination in the affirmative, we will subsequently initiate a rulemaking wherein we will announce that preliminary determination and will propose that any offending portions of HB 556 be set aside and thereby rendered unenforceable by the State, in accordance with Section 505(b) of SMCRA, 30 U.S.C. 1255(b), and 30 CFR 730.11(a) of the Federal regulations.

IV. Summary and Disposition of Comments

Public Comments

The Kentucky Coal Association submitted comments dated July 24, 2003, (Administrative Record No. KY–1592) in which it indicated that HB 556 should not be considered an amendment to the Kentucky regulatory program because it does not revise the Kentucky law or regulations related to surface coal mining operations.

OSM agrees with this comment, for the reasons stated above in the findings.

The Kentucky Resources Council, Inc. (KRC) submitted comments dated July 28, 2003 (Administrative Record No. KY–1593). KRC stated that HB 556 must be considered a program amendment, because it ''dramatically affects the administration and enforcement of the unsuitability and buffer zone provisions of the approved state program.'' For the reasons stated in our findings, above, we have concluded that HB 556 does not constitute a State program amendment. Therefore, we disagree with KRC on this point.

KRC further stated that HB 556 is inconsistent with Section 522 of SMCRA because it: (1) Mandates that the Department of Parks waive the 300 foot buffer zone provisions; and (2) precludes the filing of a petition to designate areas as unsuitable for mining within the viewshed of the park.

In response, we note that because we have determined that HB 556 is not a

program amendment, we need not decide at this time whether any or all portions of the bill are inconsistent with SMCRA or the Federal regulations. As such, we need not respond to these KRC comments at this time.

However, the KRC also argues that we cannot defer our decision on the consistency of HB 556 with SMCRA until actual harm, *i.e.,* surface coal mining within the 300 feet buffer zone or within the viewshed of the Park, becomes imminent. We disagree. Neither SMCRA nor the Federal regulations place time limits on decisions as to whether State laws or regulations are inconsistent with SMCRA, and therefore must be set aside. Rather, 30 CFR 730.11(a) merely requires us to ''publish a notice of proposed action * * * setting forth the text or a summary of the text of any State law or regulation *initially determined * * * to be inconsistent with the Act or this chapter.*'' (Emphasis added) We have yet to make such an initial determination, nor do we need to do so at this time. However, should the State or others initiate actions that would warrant our addressing the consistency question, there will be ample time during the State's administrative processing of these actions for us to address the question and, if warranted, to institute set-aside proceedings pursuant to 30 CFR 730.11(a). We also note that the KRC is free to seek injunctive relief against the State or any mining applicant, to prevent mining within 300 feet of the Park, while our set-aside determination is pending, should KRC believe such mining would be inconsistent with the approved Kentucky program.

Federal Agency Comments

The U.S. Department of Labor, Mine Safety and Health Administration (MSHA) submitted a letter dated July 22, 2003, that it had no comments (Administrative Record No. KY–1591).

The U.S. Department of the Interior, Fish and Wildlife Service submitted comments dated July 31, 2003, (Administrative Record No. KY–1594) in which it indicated concern for the waiver of the 300 foot buffer zone.

As discussed in our findings, above, we have determined that HB 556 is not a program amendment. We will consider the buffer zone waiver issue only if and when it is ripe for a decision.

Dated: December 2, 2003.

Brent Wahlquist,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 03–32106 Filed 12–30–03; 8:45 am]

BILLING CODE 4310–05–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 32

[WC Docket No. 02–269; CC Docket No. 00–199; CC Docket No. 80–286; CC Docket No. 99–301; FCC 03–326]

Federal-State Joint Conference on Accounting Issues

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document seeks comment on recommendations by the Federal-State Joint Conference on Accounting Issues (Joint Conference).

DATES: Comments are due on January 30, 2004, and reply comments are due on February 17, 2004.

FOR FURTHER INFORMATION CONTACT: Jane E. Jackson, Associate Chief, Wireline Competition Bureau, (202) 418–1500.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking adopted on December 17, 2003, and released on December 23, 2003. The full text of the document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, e-mail *qualexint@aol.com*.

Synopsis of Order

In this Notice of Proposed Rulemaking, comment is sought on recommendations of the Joint Conference. The Commission convened the Joint Conference on August 27, 2002, as a Federal-State partnership to reexamine regulatory accounting requirements, and recommend additions and modifications thereto. On October 9, 2003, the Joint Conference submitted the result of a year-long study of the Commission's accounting rules and on-going proceedings related to the Commission's accounting requirements. Here, comment is sought on those recommendations. Comment also is sought on further delaying the implementation of four accounting and reporting rule changes, to allow time for receipt and consideration of comments responding to the Joint Conference's recommendations with regard to the four rule changes.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 03–32148 Filed 12–30–03; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 390 and 396

[Docket No. FMCSA–98–3656]

RIN 2126–AA38

General Requirements; Inspection, Repair, and Maintenance; Intermodal Container Chassis and Trailers

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Withdrawal of advance notice of proposed rulemaking (ANPRM).

SUMMARY: FMCSA withdraws its February 17, 1999, ANPRM relating to responsibilities for the inspection, repair, and maintenance of intermodal container chassis and trailers. After reviewing the public comments received in response to the ANPRM, transcripts from three listening sessions held in November 1999, comments submitted in response to the agency's November 29, 2002, notice of intent to consider a negotiated rulemaking, and the neutral convenor's final report, the agency has determined that it would be inappropriate to move forward with a Notice of Proposed Rulemaking at this time. FMCSA believes there is insufficient data concerning the relationship between the mechanical condition of intermodal container chassis and trailers, and commercial motor vehicle accidents to quantify the extent to which the condition of container chassis or trailers contributed, in whole or in part, to accidents. Furthermore, the neutral convenor hired by the agency to interview individuals or organizations that might represent interests that are most likely to be substantially affected by a rulemaking concerning this subject, has concluded that a negotiated rulemaking process seeking to produce a set of consensus recommendations to FMCSA should not be undertaken. Therefore, no further consideration will be given to conducting a negotiated rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor, Chief of the Vehicle and Roadside Operations Division (MC–PSV), (202) 366–4009, Federal Motor Carrier Safety Administration, 400