

(3) Then go north along the section line, crossing onto the Northwestern Lake map, to the northwest corner of section 33, T4N, R10E;

(4) Then go east on the section line to the northeast corner of section 33, T4N, R10E;

(5) Then go north on the section line to the northwest corner of section 27, T4N, R10E;

(6) Then go east on the section line to the northeast corner of section 27, T4N, R10E;

(7) Then go north on the section line to its intersection with the township line between T4N and T5N;

(8) Then go east on the township line, crossing onto the Husum map, to the northeast corner of section 5, T4N, R11E;

(9) Then go south on the section line to the southwest corner of section 9, T4N, R11E;

(10) Then go east on the section line to the northeast corner of section 15, T4N, R11E;

(11) Then go south on the section line to the southwest corner of section 26, T4N, R11E;

(12) Then go east on the section line, crossing onto the Appleton map, to the range line between R11E and R12E;

(13) Then go south on the range line approximately 1.25 miles to its intersection with the 2,000-foot contour line near the northeast corner of section 1, T3N, R11E;

(14) Then go south along the 2,000-foot contour line through sections 1 and 12; then generally east through sections 7, 18, 8, and 9 to section 10; then generally north, weaving back and forth between sections 3, 4, 33, and 34; then south to section 3, until the 2,000-foot contour line first intersects the section line between sections 2 and 3, T3N, R12E, near a creek and an unnamed light duty road;

(15) Then go south on the section line, crossing onto the Lyle map, and continuing south until it intersects with the Klickitat River;

(16) Then go generally southwest along the Klickitat River until it joins the Columbia River, then continue southwest in a straight line to the Washington-Oregon State line in the center of the Columbia River;

(17) Then follow the State line generally southeast until it intersects with a northward extension of the range line between R12E and R13E;

(18) Then go south on the range line, crossing onto the Brown Creek map, to the point where the range line intersects the base line between T1N and T1S;

(19) Then go west along the base line, crossing on to the Ketchum Reservoir map, to its intersection with the range line between R11E and R12E in T1N;

(20) Then go north on the range line to its intersection with the township line between T1N and T2N;

(21) Then go west on the township line, crossing on to the Parkdale map, to its intersection with the range line between R10E and R11E;

(22) Then go south on the range line approximately 2 miles to its intersection with the 2,000-foot contour line near the southern border of section 12, T1N, R10E;

(23) Then go along the 2,000-foot contour line generally southwest through sections 12, 13, 14, 23, 22, 26, 27, and 34 in T1N, and section 4 in T1S, to the 2,000-foot contour line's intersection with the section line between sections 4 and 9, T1S, R10E;

(24) Then go west along the section line to its intersection with the range line between R9E and R10E in T1S;

(25) Then go north along the range line to its intersection with the base line between T1S and T1N;

(26) Then go west along the baseline, crossing onto the Dee map, to its intersection with the range line between R9E and R10E;

(27) Then go north along the range line to the southeast corner of section 13, T1N, R9E;

(28) Then go west along the section line to the southwest corner of section 14, T1N, R9E;

(29) Then go north along the section line to the northwest corner of section 14, T1N, R9E;

(30) Then go east along the section line to the northeast corner of section 14, T1N, R9E;

(31) Then go north along the section line until its intersection with the township line between T1N and T2N;

(32) Then follow the township line east to its intersection with the range line between R9E and R10E;

(33) Then go north along the range line, crossing on to the Mt. Defiance map, to the Washington-Oregon State line in the Columbia River;

(34) Then go northeast along the State line, crossing onto the Hood River map, to its intersection with a southward extension of the range line between R9E and R10E;

(35) Then go due north along that extension approximately 0.5 mile to the starting point.

Signed: June 18, 2003.

John J. Manfreda,
Acting Administrator.

[FR Doc. 03-16324 Filed 6-26-03; 8:45 am]

BILLING CODE 4810-31-P

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: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, OSM, are announcing the receipt of a proposed amendment to the Kentucky regulatory program (the "Kentucky program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or "the Act"). Kentucky's proposed amendment consists of legislation passed by the Kentucky General Assembly in 2002 designating the ridge top of Pine Mountain as the Pine Mountain Trail State Park. Because the legislation designating the park expressly provides that it does not affect mining rights, it may raise issues concerning Federal unsuitability rules.

We are seeking public comments on two issues. First, we are seeking comments on whether, based on the discussion found in Section II of this notice, the Kentucky legislation constitutes an amendment to the approved regulatory program. Second, should the legislation constitute an amendment to the approved program, we are seeking public comments on whether the State legislation is consistent with Federal unsuitability provisions.

This document gives the times and locations that the Kentucky program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., e.s.t. July 28, 2003. If requested, we will hold a public hearing on the amendment on July 22, 2003. We will accept requests to speak at a hearing until 4 p.m., e.s.t. on July 14, 2003.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Mr. William J. Kovacic at the address listed below.

You may review copies of the Kentucky program, a listing of any scheduled public hearings, and all

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

William J. Kovacic, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (859) 260-8400. E-mail: bkovacic@osmre.gov.

Department for Surface Mining Reclamation and Enforcement, 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564-6940.

FOR FURTHER INFORMATION CONTACT:

William J. Kovacic, Telephone: (859) 260-8400. Internet: bkovacic@osmre.gov.

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.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting as part of the administrative record.

IV. Procedural Determinations

Executive Order 12630—Takings

If HB 556 is approved as a state program amendment, it would not have takings implications because “* * * 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 * * *”.

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 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. Section 503(a)(7) requires that State programs contain rules and regulations “consistent with” regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. This proposed rule applies only to the Kentucky program and therefore does not affect tribal programs.

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 (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by 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, shall not 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 * * *”. If it is approved as a state program amendment, it would not have a significant economic effect upon a substantial number of small entities.

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 governmental 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: April 22, 2003.

Brent Wahlquist,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 03-16354 Filed 6-26-03; 8:45 am]

BILLING CODE 4310-05-P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 3

[Docket No.: 2003-P-019]

RIN 0651-AB63

Clarification of Power of Attorney Practice, and Revisions to Assignment Rules

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rule making.

SUMMARY: The United States Patent and Trademark Office (Office) is proposing changes to the rules of practice to allow for more efficient processing of powers of attorney and assignment documents within the Office. For example, the Office proposes to require applicants to use the Office's Customer Number practice if a power of attorney is to be given to more than ten registered patent practitioners. In addition, the Office proposes to discontinue the current Office practice of returning patent and trademark assignment documents submitted by mail for recording in the assignment database, and to dispose of the documents according to a record retention schedule after scanning.

DATES: To be ensured of consideration, written comments must be received on or before August 26, 2003. No public hearing will be held.

ADDRESSES: Comments should be sent by electronic mail over the Internet addressed to:

AB63.comments@uspto.gov. Comments may also be submitted by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O.

Box 1450, Alexandria, VA 22313-1450; or by facsimile to (703) 872-9411, marked to the attention of Karin Ferriter. Although comments may be submitted by mail or facsimile, the Office prefers to receive comments via the Internet. If comments are submitted by mail, the Office would prefer that the comments be submitted on a DOS formatted 3½-inch disk accompanied by a paper copy.

The comments will be available for public inspection at the Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, located at Room 3D65 of Crystal Plaza 3/4, 2201 South Clark Place, Arlington, Virginia, and will be available through anonymous file transfer protocol (ftp) via the Internet (address: <http://www.uspto.gov>). Since comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT:

Karin Ferriter ((703) 306-3159) (Office of the Deputy Commissioner for Patent Examination Policy, Mary Hannon ((703) 308-8910, ext. 137) (Office of the Commissioner for Trademarks), or Robert J. Spar ((703) 308-5107) (Office of the Deputy Commissioner for Patent Examination Policy), directly by phone, or by facsimile to (703) 872-9411, or by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

SUPPLEMENTARY INFORMATION: The rules pertaining to access to assignment documents and other records related to assignments are proposed to be clarified. In addition, the rules pertaining to power of attorney are proposed to be revised to reflect Customer Number practice, a practice wherein an applicant or an assignee of the entire interest in an application can give power of attorney to a list of registered patent practitioners associated with a Customer Number. See *Manual of Patent Examining Procedure* (8th ed. 2001) (Rev. 1, Feb. 2003) (MPEP), Section 403 for a description of Customer Number practice. The rules are also proposed to be revised to explain the requirements of a power of attorney and to limit the number of attorneys who may be given a power of attorney without using Customer Number practice.

Furthermore, the rules are proposed to be amended to discontinue the "associate" power of attorney practice, to clarify the procedures related to

revocation of power of attorney, and to clarify how a registered practitioner may sign a document in a representative capacity.

Documents affecting the title to a patent or trademark property (e.g., assignments, or security interests) are currently recorded in the Office's assignment database, upon submission of the document with the appropriate cover sheet and the fee required by 35 U.S.C. 41(d)(1). In addition, Government Interests are recorded, upon submission of the document, as required by Executive Order 9234 of February 18, 1944 (9 FR 1959, 3 CFR 1943-1948 Comp., p. 303). Since 1995, assignment documents have been recorded in the Office's Assignment database without stamping or otherwise marking the document that was submitted for recordation. The automated system that receives documents for recordation assigns the reel and frame number to the document and places the recordation stampings on the images that are stored in the automated system.

Currently, the Office returns an assignment document only if it was mailed to the Office. The Office does not return assignment documents that are submitted by facsimile or electronically. When the Office returns the document submitted by mail for recordation, the document that is returned is exactly the same as the document that was submitted, except that assignment documents submitted with an application may also contain a bar code for the application number and a mail room date stamp. The Office does not stamp or otherwise indicate the reel and frame number on the actual document that is submitted for recordation. See *Facsimile Submission of Assignment Documents is Now Available to PTO Customers* posted on the Office's Internet Web site at: <http://www.uspto.gov/web/offices/ac/ido/opr/ptasfax.pdf> (Jan. 5, 2000), and *Update on Facsimile Submission of Assignment Documents to the USPTO*, 1237 Off. Gaz. Pat. Office 81 (Aug. 15, 2000). The Office's electronic filing system for patent applications is discussed at *Legal Framework for the Use of the Electronic Filing System*, 1263 Off. Gaz. Pat. Office 60, 61 (Oct. 8, 2002).

As part of an effort to transform the Office into a quality-focused, highly productive, responsive organization supporting a market-driven intellectual property system, the Office is migrating to electronic files from paper files. See *Changes To Implement Electronic Maintenance of Official Patent Application Record*, 68 FR 14365 (Mar. 25, 2003), 1269 Off. Gaz. Pat. Office 166 (Apr. 22, 2003) (proposed rule). As part