

with the premarket approval requirements of section 515 of the act (21 U.S.C. 360e), and may permit small potential competitors to enter the marketplace by lowering their costs. FDA knows of only one manufacturer of this type of device. The agency therefore certifies that the final rule will not have a significant impact on a substantial number of small entities. In addition, this final rule will not impose costs of \$100 million or more on either the private sector or State, local, and tribal governments in the aggregate, and, therefore, a summary statement of analysis under section 202(a) of the Unfunded Mandates Reform Act is not required.

#### IV. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

#### List of Subjects in 21 CFR Part 876

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 876 is amended as follows:

#### PART 876—GASTROENTEROLOGY-UROLOGY DEVICES

1. The authority citation for 21 CFR part 876 continues to read as follows:

**Authority:** 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

2. Section 876.5310 is added to subpart F to read as follows:

##### **§ 876.5310 Nonimplanted, peripheral electrical continence device.**

(a) *Identification.* A nonimplanted, peripheral electrical continence device is a device that consists of an electrode that is connected by an electrical cable to a battery-powered pulse source. The electrode is placed onto or inserted into the body at a peripheral location and used to stimulate the nerves associated with pelvic floor function to maintain urinary continence. When necessary, the electrode may be removed by the user.

(b) *Classification.* Class II, subject to the following special controls:

(1) That sale, distribution, and use of this device are restricted to prescription use in accordance with § 801.109 of this chapter.

(2) That the labeling must bear all information required for the safe and effective use of the device as outlined in § 801.109(c) of this chapter, including a detailed summary of the clinical

information upon which the instructions are based.

Dated: March 29, 2000.

**Linda S. Kahan,**

*Deputy Director for Regulations Policy, Center for Devices and Radiological Health.*

[FR Doc. 00-8596 Filed 4-6-00; 8:45 am]

BILLING CODE 4160-01-F

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 913

[SPATS No. IL-097-FOR, Part III]

#### Illinois Regulatory Program

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

**ACTION:** Final rule.

**SUMMARY:** OSM is approving part of an amendment to the Illinois regulatory program (Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Illinois proposed revisions to its program concerning subsidence control, water replacement, adjustment of performance bond amounts, administrative review, release of performance bonds, siltation structures, impoundments, hydrologic balance, disposal of noncoal mine wastes, revegetation, backfilling and grading, prime farmland, and State inspections. This final rule document addresses Illinois' revisions concerning release of performance bonds, siltation structures, impoundments, hydrologic balance, disposal of noncoal mine wastes, revegetation, backfilling and grading, and prime farmland. We addressed the remaining program topics in two previous final rule documents. Illinois intends to revise its program to be consistent with the corresponding Federal regulations, to provide additional safeguards, and to improve operational efficiency.

**EFFECTIVE DATE:** April 7, 2000.

#### FOR FURTHER INFORMATION CONTACT:

Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana 46204-1521. Telephone: (317) 226-6700. Internet: INFOMAIL@indgw.osmre.gov.

#### SUPPLEMENTARY INFORMATION:

I. Background on the Illinois Program  
II. Submission of the Amendment  
III. Director's Findings

IV. Summary and Disposition of Comments  
V. Director's Decision  
VI. Procedural Determinations

#### I. Background on the Illinois Program

On June 1, 1982, the Secretary of the Interior conditionally approved the Illinois program. You can find background information on the Illinois program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the June 1, 1982, **Federal Register** (47 FR 23883). You can find later actions concerning the Illinois program and previous amendments at 30 CFR 913.15, 913.16, and 913.17.

#### II. Submission of the Proposed Amendment

By letter dated August 2, 1999 (Administrative Record No. IL-5044), the Illinois Department of Natural Resources (Department) submitted an amendment to the Illinois program under the Federal regulations at 30 CFR 732.17(b). The Department proposed to amend Title 62 of the Illinois Administrative Code (IAC) in response to our letters dated May 20, 1996, June 17, 1997, October 30, 1997, and January 15, 1999 (Administrative Record Nos. IL-1900, IL-2000, IL-2002, and IL-5036, respectively), that we sent to Illinois under 30 CFR 732.17(c). The amendment also includes changes made at the Department's own initiative.

We announced receipt of the amendment in the August 17, 1999, **Federal Register** (64 FR 44674). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment period closed on September 16, 1999. No one requested an opportunity to speak at a public hearing, so no hearing was held.

During our review of the amendment, we identified concerns relating to siltation structures, impoundments, performance bonds, and State inspections. We also identified some nonsubstantive editorial errors. We notified Illinois of these concerns and editorial errors by letter dated September 21, 1999 (Administrative Record No. IL-5048). We also separated the amendment into three parts in order to expedite the State program amendment process. Part I concerned revisions to Illinois' regulations relating to subsidence control and water replacement. Because we did not identify any concerns relating to Illinois' revisions for subsidence control and water replacement, we made our final decision on them in a final rule on

December 6, 1999 (64 FR 68024). Part II concerned revisions to Illinois' regulations relating to adjustment of performance bond amounts and administrative review. On December 2, 1999, the Department requested that we proceed with our decision on these revisions (Administrative Record No. IL-5049). Because we did not identify any concerns relating to Illinois' revisions for adjustment of performance bond amounts and administrative review, we made our decision on them in a final rule on December 27, 1999 (64 FR 72275). Part III concerns revisions to Illinois' regulations relating to release of performance bonds, siltation structures, impoundments, hydrologic balance, disposal of noncoal mine wastes, revegetation, backfilling and grading,

and prime farmland. This final rule **Federal Register** document addresses IL-097-FOR, Part III revisions.

By letter dated January 27, 2000 (Administrative Record No. IL-5052), Illinois sent us revisions to its proposed program amendment. On February 1, 2000, by telephone, Illinois notified us of additional revisions (Administrative Record No. IL-5053). Based upon Illinois' revisions to its amendment, we reopened the public comment period in the February 14, 2000, **Federal Register** (65 FR 7331). The public comment period closed on February 29, 2000.

### III. Director's Findings

Following, under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are our findings concerning

the revisions to the Illinois program pertaining to definitions, release of performance bonds, siltation structures, impoundments, hydrologic balance, disposal of noncoal mine wastes, revegetation, backfilling and grading, and prime farmland.

#### *A. Revisions to Illinois' Regulations That Are Minor.*

Throughout the amended regulation sections discussed in this final rule, Illinois corrected typographical errors, punctuation, citation references, and other editorial-type errors; made minor wording changes; and simplified its use of numbers. Illinois also made some of the same types of corrections and changes in the sections listed in the table below:

| Topic                               | State regulation                      | Federal regulation              |
|-------------------------------------|---------------------------------------|---------------------------------|
| Definitions .....                   | 62 IAC 1701.Appendix A .....          | 30 CFR 701.5.                   |
| Hydrologic Information .....        | 62 IAC 1784.14(a) .....               | 30 CFR 784.14(a).               |
| Subsidence Control Plan .....       | 62 IAC 1784.20(b), (b)(2) .....       | 30 CFR 784.20(b), (b)(2).       |
| Period of Liability .....           | 62 IAC 1800.13. ....                  | 30 CFR 800.13.                  |
| Hydrologic Balance Protection ..... | 62 IAC 1817.41(c), (d), and (e). .... | 30 CFR 817.41(c), (d), and (e). |
| Availability of Records .....       | 62 IAC 1840.14(b), (c)(2) .....       | 30 CFR 840.14(b) and (c).       |

These minor changes did not alter the requirements of the previously approved provisions in the Illinois regulations. Therefore, we find that they will not make the Illinois regulations less effective than the Federal regulations.

#### *B. 62 IAC 1701.Appendix A, Definitions*

Illinois removed the following definition of "Institute" because it is no longer applicable to the Illinois program:

"Institute" means the Department of Energy and Natural Resources or such other agency as designated by the Director in accordance with Section 7.03 of the State Act.

The Department of Energy and Natural Resources no longer exists. On March 1, 1995, the Governor of Illinois signed Executive Order Number 2 (1995) that merged the Department of Energy and Natural Resources into the Department of Natural Resources. On February 9, 1999 (64 FR 6191), we approved the changes to section 7.03 of the State Act and to Illinois' regulations at 62 IAC Part 1764 that removed references to the Department of Energy

and Natural Resources. Therefore, we find that the removal of this definition will not make the Illinois regulations less effective than the Federal Regulations.

#### *C. Siltation Structures, Impoundments, Banks, Dams, and Embankments.*

By letters dated June 17, 1997, and January 15, 1999, under 30 CFR 732.17(c), we notified Illinois that it needed to change the Illinois regulations relating to siltation structures, impoundments, banks, dams, and embankments to be no less effective than the changes that were made to the Federal regulations on October 20, 1994 (59 FR 53022). In the October 20, 1994, rulemaking, OSM included standards from the U. S. Department of Agriculture, Soil Conservation Service Technical Release No. 60 (210-VI-TR60, Oct. 1985) as part of the Federal requirements for siltation structures and impoundments. These changes were made as a result of decisions by the U.S. District Court of the *District of Columbia* in *In Re: Permanent Surface Mining Regulation Litigation (II)*, No. 79-1144 (D.D.C. July 15, 1985) and *In Re: NWF*

*v. Lujan*, No. 88-3345 (D.D.C. August 30, 1990). In response to these notifications, Illinois proposed several changes to its regulations at 62 IAC 1780.25, 1816.46, and 1816.49 for surface mining operations and 62 IAC 1784.16, 1817.46, and 1817.49 for underground mining operations.

1. Illinois made minor wording changes, including changing the term "operator" to the term "permittee"; revised all outdated citation references; and revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment. We find that these changes are nonsubstantive and will not make Illinois' regulations less effective than the Federal regulations.

2. *Revisions to Illinois' Regulations That Are Substantively Identical to the Corresponding Provisions of the Federal Regulations.* The changes made to the State regulations listed in the table below contain language that is the same as or similar to the corresponding changes made to the Federal regulations on October 20, 1994. Differences between the State regulations and the Federal regulations are minor.

| Topic                                                                               | State regulation                                                                      | Federal regulation                                                                    |
|-------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| Reclamation Plan: Siltation Structures, Impoundments, Banks, Dams, and Embankments. | 62 IAC 1780.25(a), (a)(1)(A), (a)(2), (a)(2)(A) and (B), (a)(3), (a)(3)(A), (b), (f). | 30 CFR 780.25(a), (a)(1)(i), (a)(2), (a)(2)(i) and (ii), (a)(3), (a)(3)(i), (b), (f). |

| Topic                                                                               | State regulation                                                                                                                                                  | Federal regulation                                                                                                                      |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| Reclamation Plan: Siltation Structures, Impoundments, Banks, Dams, and Embankments. | 62 IAC 1784.16(a), (a)(1)(A), (a)(2), (a)(2)(A) and (B), (a)(3), (a)(3)(A) and (B), (b)(1), (f).                                                                  | 30 CFR 784.16(a), (a)(1)(i), (a)(2), (a)(2)(i) and (ii), (a)(3), (a)(3)(i) and (ii), (b), (f).                                          |
| Hydrologic Balance: Siltation Structures .....<br>Impoundments .....                | 62 IAC 1816.46(c)(2). .....<br>62 IAC 1816.49(a)(1), (a)(4)(A) and (B), (a)(5), (a)(6)(A), (a)(10)(A), (a)(11), (b)(9)(A) and (C), (c)(1), (c)(2)(B)(i) and (ii). | 30 CFR 816.46(c)(2)<br>30 CFR 816.49(a)(1), (a)(4)(i) and (ii), (a)(5), (a)(6)(i), (a)(9)(ii)(A) and (C), (a)(12), (c)(2)(i) and (ii).  |
| Hydrologic Balance: Siltation Structures .....<br>Impoundments .....                | 62 IAC 1817.46(c)(2) .....<br>62 IAC 1817.49(a)(1), (a)(4)(A) and (B), (a)(5), (a)(6)(A), (a)(10)(A), (a)(11), (b)(9)(A) and (C), (c)(1), (c)(2)(B)(i) and (ii).  | 30 CFR 817.46(c)(2).<br>30 CFR 817.49(a)(1), (a)(4)(i) and (ii), (a)(5), (a)(6)(i), (a)(9)(ii)(A) and (C), (a)(12), (c)(2)(i) and (ii). |

Because the changes made to the above State regulations have the same meaning as the changes made to the corresponding Federal regulations, we find that the Illinois regulations are no less effective than the Federal regulations.

#### *D. 62 IAC 1800.40, Requirement To Release Performance Bonds*

1. Illinois revised 62 IAC 1800.40(a)(1) to allow permittees to authorize a person to act on their behalf in filing an application for bond release and to allow the Department to initiate an application for bond release. Illinois also added a provision that requires the Department to undertake the notification and certification requirements of the applicant for bond releases initiated by the Department.

While the counterpart Federal regulation at 30 CFR 800.40(a)(1) allows a permittee to file an application for bond release, the Federal regulations are silent as to whether a regulatory authority may initiate bond release proceedings. However, a similar provision was approved for the Kentucky program on December 31, 1990 (55 FR 53490). Under Illinois' proposal, bond release proceedings initiated by the Department must conform with the same procedural steps as a bond release initiated by the permittee. Thus, the public participation and notification requirements of section 519 of SMCRA and the Federal regulations at 30 CFR 800.40 would still apply when the regulatory authority initiated a bond release in Illinois. There are also circumstances, such as the release of jurisdiction from an abandoned but fully reclaimed site, where it may be necessary for a party other than the permittee to initiate bond release. For the above reasons, we find that allowing the regulatory authority to initiate bond release does not make the Illinois regulations at 62 IAC 1800.40 less effective than the Federal regulations at 30 CFR 800.40.

2. Illinois removed its reference to the "operator" in the first sentence of 62 IAC 1800.40(a)(2) and added a reference to the "applicant." Illinois removed its reference to the "operator's" in the second sentence of 62 IAC 1800.40(a)(2) and added a reference to the "permittee's." Illinois removed its reference to the "permittee" in 62 IAC 1800.40(a)(3) and added a reference to the "applicant." These changes were appropriate and further clarified that the notification and certification requirements for bond release must be completed, regardless of whether the application was initiated by the permittee, a person authorized to act for the permittee, or the Department. We find that the changes made to 62 IAC 1800.40(a)(2) and (a)(3) will not make Illinois' regulations less effective than the counterpart Federal regulations at 30 CFR 800.40(a)(2) and (a)(3).

3. At 62 IAC 1800.40(b)(2), Illinois added a requirement that the Department notify, by certified mail, the municipality and county in which the surface coal mining operation is located of the Department's final administrative decision to release or not to release all or part of the performance bond. The counterpart Federal regulation requirement at 30 CFR 800.40(e) also requires the regulatory authority to notify the municipality by certified mail before the release of all or a portion of the bond. We find that Illinois' new requirement is consistent with and no less effective than the counterpart requirement in the Federal regulation at 30 CFR 800.40(e).

#### *E. 62 IAC 1816.89 (Surface Mining Operations) and 1817.89 (Underground Mining Operations) Disposal of Noncoal Mine Wastes*

At 62 IAC 1816.89(b) and 1817.89(b), Illinois is requiring that noncoal mine waste disposal areas reclaimed to cropland capability have a minimum of four feet of suitable soil cover. There is no counterpart Federal requirement for a minimum of four feet of soil cover at 30 CFR 816.89(b) and 817.89(b).

However, the Federal and State regulations for soil replacement on prime farmland at 30 CFR 823.14(b) and 62 IAC 1823.14(a), respectively, require a minimum depth of four feet of soil and substitute soil material in most cases. Also, at 62 IAC 1825.14(a)(3), the Illinois regulation for soil replacement on high capability lands requires a minimum depth of four feet of darkened surface soil and agricultural root medium with specified exceptions. Based on the above discussion, we find that Illinois' requirement for soil cover depth at 62 IAC 1816.89(b) and 1817.89(b) is consistent with the Federal regulation requirement and other Illinois regulation requirements for cropland capable land. Therefore, we are approving this requirement.

#### *F. 62 IAC 1817.101 (Underground Mining Operations)—Backfilling and Grading: General Requirements*

Illinois revised 62 IAC 1817.101(a) to require that coal operators backfill and grade surface areas disturbed incident to underground mining activities in accordance with the time schedule approved by the Department in the permit, but not later than 12 months after cessation of active use as determined by the Department.

There is no specific Federal regulation counterpart. However, the Federal regulation at 30 CFR 817.100 requires that reclamation efforts, including backfilling and grading, occur as contemporaneously as practicable with underground coal mining operations. It also allows the regulatory authority to establish schedules that define contemporaneous reclamation. We find that Illinois' regulation requirements at 62 IAC 1817.101(a) are consistent with and no less effective than the Federal regulation requirements for contemporaneous reclamation at 30 CFR 817.100.

#### *G. Revegetation*

1. 62 IAC 1816.111 (*Surface Mining Operations*) and 1817.111

(*Underground Mining Operations*)—*Revegetation: General Requirements.* a. Illinois revised citation references in 62 IAC 1816.111(b)(5) for the Illinois Noxious Weed Law, the Illinois Seed Law, and the Illinois Pesticide Act. These changes did not alter the requirements of the previously approved provisions in the Illinois regulations. Therefore, we find that they will not make the Illinois regulations less effective than the Federal regulations.

b. Previously at 62 IAC 1816.111(d) and 1817.111(d), Illinois required that prime farmlands granted an exemption in accordance with 62 IAC 1785.17(a)(5) must meet the requirements of 62 IAC 1823.15. (Illinois' regulation at 62 IAC 1823.15 contains the revegetation requirements for prime farmland soils.) Illinois removed this requirement. We approved Illinois' removal of its exemption at 62 IAC 1785.17(a)(5) on May 29, 1996 (61 FR 26801). Therefore, the requirement at 62 IAC 1816.111(d) and 1817.111(d) is moot, and its removal is appropriate. We find that Illinois' revised regulations at 62 IAC 1816.111(d) and 1817.111(d) are consistent with and no less effective than the counterpart Federal regulations at 30 CFR 816.111(d) and 817.111(d).

2. 62 IAC 1816.116 (*Surface Mining Operations*) and 1817.116 (*Underground Mining Operations*)—*Success of Revegetation.* For areas which have incurred five unsuccessful attempts to meet the production required by 62 IAC 1816.116/1817.116(a)(3)(C), 1816.116/1817.116(a)(3)(E), or 62 IAC 1823.15, Illinois added a provision at 62 IAC 1816.116(b)(2) and 1817.116(b)(2) that requires the person who conducts mining activities to initiate a soil compaction and fertility testing plan, subject to the approval of the Department. If the plan is not initiated, the person who conducts mining activities must initiate deep tillage on the areas. Sections 1816.116(a)(3)(C) and 1817.116(a)(3)(C) provide the production standards for cropland areas. Sections 1816.116(a)(3)(E) and 1817.116(a)(3)(E) contain the production standards for pasture, hayland, and grazing land. Section 1823.15 provides the revegetation requirements for prime farmland.

The Federal regulations at 30 CFR 816.116(b)(1) and 817.116(b)(1) provide the revegetation success standards for grazing land and pasture land. The Federal regulations at 30 CFR 816.116(b)(2) and 817.116(b)(2) contain the revegetation success standards for cropland. The Federal regulations at 30 CFR 823.15 provide the revegetation

success standards for prime farmland. None of these regulations contain a counterpart to Illinois' proposed provision. However, we have always maintained that the primary responsibility for regulating surface coal mining and reclamation operations should rest with the States. The Federal regulations for revegetation were specifically written to allow States to account for regional diversity in terrain, climate, soils, and other conditions where mining occurs. In the May 12, 1983, final rule for 30 CFR Part 823, we recognized the possibility of alternative reclamation approaches by the operator if soil productivity was not restored within five or six years after initial planting (48 FR 21446). On November 25, 1998, we approved a provision for the Arkansas program that required the permittee to submit a mitigation plan if he or she could not demonstrate revegetation success in the fifth year after completion of initial seeding on cropland areas (63 FR 65062). The permittee had to include a statement of the problem and a discussion of methods to correct the problem. We have historically recognized that compaction of soil horizons decreases vegetative growth and crop yields and that deep tillage alleviates compaction (30 CFR 823.14(d); 48 FR 21452, 21457, May 12, 1983). For the reasons discussed above, we find that the proposed revegetation requirements at 30 CFR 816.116(b)(2) and 817.116(b)(2) will not make the Illinois regulations less effective than the Federal regulations at 30 CFR 816.116, 817.116, and 823.15.

#### H. 62 IAC 1823.14 *Prime Farmland: Soil Replacement*

Illinois revised subsection (d) by adding the following new requirement:

In those areas where the B or C horizons were not removed but may have been compacted or otherwise damaged during the mining operation, the permittee shall engage in deep tillage or other appropriate means to restore premining capabilities.

We find that Illinois' proposed requirement is substantively identical to the counterpart Federal regulation requirement at 30 CFR 823.14(d), and we are approving it.

### IV. Summary and Disposition of Comments

#### *Federal Agency Comments*

On August 10, 1999, and February 3, 2000, we asked for comments from various Federal agencies who may have an interest in the Illinois program amendment (Administrative Record Nos. IL-5045 and IL-5054,

respectively). We requested comments under section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the Federal regulations.

By letter dated September 2, 1999, the Natural Resources Conservation Services (NRCS) provided two comments (Administrative Record No. IL-5047). The NRCS commented that:

(1) For clarity, references to the "U.S. Department of Agriculture, Soil Conservation Service Technical Release No. 60 (210-VI-TR60, Oct. 1985), Technical Release No. 60 (TR-60)" should be recorded to read "U.S. Department of Agriculture, Soil Conservation Service Technical Release No. 60 (210-VI-TR60, Oct. 1985), herein after referred to as TR-60."

(2) In more than one instance, NRCS IL Technical Standard IL-378, "Ponds," June 1992 is cited. The NRCS may revise that standard at any time and does not archive Technical Guide Standards. The State will need to archive a copy of the IL-378, June 1992 for future reference.

The references cited in comment (1) are substantively identical to the Federal counterpart references. However, both comments were provided to Illinois for its consideration.

By letter dated February 14, 2000 (Administrative Record No. IL-5056), the NRCS commented on Illinois' duplication of the design requirements under sections 1780.25(a)(2) and 1780.25(a)(3). The NRCS recommend that Illinois eliminate subsection (a)(3) and state at subsection (a)(2) that all impoundments shall meet the design requirements under subsection (a)(2).

Illinois' regulations at sections 1780.25(a)(2) and 1780.25(a)(3) are not inconsistent with the counterpart Federal requirements. However this comment was provided to Illinois for its consideration.

#### *Environmental Protection Agency (EPA)*

Under 30 CFR 732.17(h)(11)(i) and (ii), OSM is required to request comments and get the written concurrence of the EPA with respect to those provisions of the program amendment that relate to air or water quality standards promulgated 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. However, by letters dated August 10, 1999, and February 3, 2000, we requested comments from the EPA on the State's amendment (Administrative Record Nos. IL-5045 and IL-5054, respectively). The 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 August 10, 1999, and February 3, 2000, we requested comments on Illinois' amendment (Administrative Record Nos. IL-5045 and IL-5054, respectively), but neither responded to our request.

*Public Comments*

We requested public comments on the proposed amendment, but did not receive any.

**V. Director's Decision**

Based on the above findings, we are approving the amendments to the Illinois program as submitted by the Department on August 2, 1999, and as revised on January 27 and February 1, 2000.

We approve the regulations that Illinois proposed with the provision that they be published 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 are making this final rule effective immediately to expedite the State program amendment process and to encourage Illinois to bring its program into conformity with the Federal standards. SMCRA requires consistency of State and Federal standards.

**VI. Procedural Determinations**

*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 12630—Takings*

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

*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 under SMCRA.

*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, to the extent allowed by law, 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 since each such 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 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.

*National Environmental Policy Act*

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

*Paperwork Reduction Act*

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

*Regulatory Flexibility Act*

The Department of the Interior has determined 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. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. 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 regulation.

*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.

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 a cost of \$100 million or more in any given year on any governmental entity or the private sector.

**List of Subjects in 30 CFR Part 913**

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 17, 2000.

**Charles E. Sandberg,**

*Acting Regional Director, Mid-Continent Regional Coordinating Center.*

For the reasons set out in the preamble, 30 CFR part 913 is amended as set forth below:

**PART 913—ILLINOIS**

1. The authority citation for part 913 continues to read as follows:

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

2. Section 913.15 is amended in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

**§ 913.15 Approval of Illinois regulatory program amendments.**

\* \* \* \* \*

| Original amendment submission date | Date of final publication | Citation/description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|------------------------------------|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| August 2, 1999 .....               | April 7, 2000             | 62 IAC 1701.Appendix A; 1780.25(a), (a)(1)(A), (a)(2), (a)(2)(A) and (B), (a)(3), (a)(3)(A), (b), (f); 1784.14(a); 1784.16(a), (a)(1)(A), (a)(2), (a)(2)(A) and (B), (a)(3), (a)(3)(A) and (B), (b)(1), (f); 1784.20(b), (b)(2); 1800.13(c), (d)(2); 1800.40(a)(1), (2), and (3), (b)(2); 1816.46(c)(2); 1816.49(a)(1) and (2), (a)(4)(A) and (B), (a)(5), (a)(6)(A), (a)(10)(A) and (C), (a)(11), (b)(9)(A) and (C), (c)(1) and (2), (c)(2)(B), (c)(2)(B)(i) and (ii); 1816.89(b); 1816.111(b)(5), (d); 1816.116(a), (b)(2); 1817.41(c), (d), (e); 1817.46(c)(2); 1817.49(a)(1) and (3), (a)(4)(A) and (B), (a)(5), (a)(6)(A), (a)(10)(A), (B), and (C), (a)(11), (b)(7) and (8); (b)(9)(A) and (C), (c)(1), (c)(2), (c)(2)(B)(i) and (ii); 1817.89(b); 1817.101(a); 1817.111(d); 1817.116(a)(2)(C), (b)(2); 1823.14(d); 1840.14(b), (c)(2). |

[FR Doc. 00-8665 Filed 4-6-00; 8:45 am]

BILLING CODE 4310-05-P

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 117**

[CGD 07-00-023]

RIN 2115-AE47

**Drawbridge Operation Regulations; Ortega River, Jacksonville, FL****AGENCY:** Coast Guard, DOT.**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** Notice is hereby given that the Commander, Seventh Coast Guard District has approved a temporary deviation from the regulations governing the operation of the CSX Railroad Drawbridge across Ortega River, mile 1.1, which parallels U.S. 17, at Jacksonville, Duval County, Florida. This deviation allows the drawbridge owner or operator to close the bridge from 7 a.m. to 7 p.m. each day on April 11 and 12, 2000, with alternative dates of April 18, 2000 and April 19, 2000. The draw shall open as soon as possible for public vessels of the United States, State and local vessels used in public safety, vessels in distress where a delay would endanger life or property, commercial vessels engaged in rescue or emergency salvage operations, and vessels seeking shelter from severe weather. This temporary deviation is issued to allow the bridge owner to safely conduct necessary repairs to the drawbridge.

**DATES:** This deviation is effective from 7 a.m. on April 11, 2000, to 7 p.m. on April 19, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Brodie Rich, Project Manager, Seventh

Coast Guard District, Bridge Section at (305) 536-5117.

**SUPPLEMENTARY INFORMATION:** The CSX railroad drawbridge across Ortega River at Jacksonville, has a vertical clearance of 2 feet above mean high water (MHW) and 3 feet above mean low water (MLW) measured at the fenders in the closed position. On March 6, 2000, TIC The Industrial Company, the contractor representing the drawbridge owner, requested a deviation from the current operating schedule in 33 CFR 117.5. This temporary deviation was requested to allow necessary repairs to the drawbridge in a critical time sensitive manner. The contractor has advised us that the drawbridge is likely to suffer failure of operation and increase the intensity and length of time in order to complete the necessary repairs.

The District Commander has granted a temporary deviation from the operating requirements listed in 33 CFR 117.5 for the purpose of conducting repairs to the drawbridge. During this deviation period, the CSX Railroad Drawbridge need not open for the passage of vessels from 7 a.m. to 7 p.m. each day on April 11 and 12, 2000, with an alternate date of April 18 and 19, 2000, if inclement weather prevents repairs on April 11 and 12. The deviation period begins on April 11, 2000 and ends on April 19, 2000.

Dated: March 22, 2000.

**T.W. Allen,**

*Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.*

[FR Doc. 00-8658 Filed 4-6-00; 8:45 am]

BILLING CODE 4910-15-P

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 162**

[CGD17-99-002]

RIN 2115-AF81

**Anchorage Ground; Safety Zone; Speed Limit; Tongass Narrows and Ketchikan, AK****AGENCY:** Coast Guard, DOT.**ACTION:** Interim rule; request for comments.

**SUMMARY:** The Coast Guard is revising its 1999 interim rule on the Tongass Narrows seven-knot speed limit and is requesting additional public comment before finalizing the rule. Numerous public comments received during 1999 criticized the speed limit exemption applicable to "non-commercial, open skiffs of less than 20 feet in length" as too restrictive. The Coast Guard is revising the exemption to include all small vessels of 23 feet or less, registered length. This change allows an increased number of small vessels that create little wake to transit crowded areas of Tongass Narrows more quickly, thereby relieving congestion.

**DATES:** The interim rule becomes effective May 8, 2000. Comments regarding this interim rule must be received by October 31, 2000.

A public hearing will be held on August 19, 2000 at 7 p.m. AST.

**ADDRESSES:** You may mail comments to Commander (m), Seventeenth Coast Guard District, Federal Building, 709 West 9th Street, seventh floor, room 753, Juneau, Alaska, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is 907-463-2187. The Seventeenth Coast Guard District, Marine Safety Division, maintains the public docket