

**DEPARTMENT OF THE INTERIOR****Office of Surface Mining Reclamation and Enforcement****30 CFR Part 915****[Docket No. IA-014-FOR]****Iowa Regulatory Program****AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.**ACTION:** Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of a proposed amendment to the Iowa regulatory program (Iowa program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Iowa proposes revisions to its April 1999 revegetation success guidelines titled, "Revegetation Success Standards and Statistically Valid Sampling Techniques." Iowa intends to revise its program in response to required program amendments.

This document gives the times and locations that the Iowa 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., c.s.t., March 10, 2005. If requested, we will hold a public hearing on the amendment on March 7, 2005. We will accept requests to speak at a hearing until 4 p.m., c.s.t. on February 23, 2005.

**ADDRESSES:** You may submit comments, identified by Docket No. IA-014-FOR, by any of the following methods:

- E-mail: [MCR\\_AMEND@osmre.gov](mailto:MCR_AMEND@osmre.gov). Include Docket No. IA-014-FOR in the subject line of the message.
- Mail/Hand Delivery: Andrew R. Gilmore, Chief, Alton Field Division, Office of Surface Mining Reclamation and Enforcement, 501 Belle Street, Alton, Illinois 62002.
- Fax: (618) 463-6470.
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

**Instructions:** All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Comment Procedures" heading

of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** For access to the docket to review copies of the Iowa program, this amendment, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Alton Field Division.

Andrew R. Gilmore, Chief, Alton Field Division, Office of Surface Mining Reclamation and Enforcement, 501 Belle Street, Alton, Illinois 62002, telephone: (618) 463-6460, e-mail: [MCR\\_AMEND@osmre.gov](mailto:MCR_AMEND@osmre.gov).

In addition, you may review a copy of the amendment during regular business hours at the following location: Iowa Department of Agriculture and Land Stewardship, Division of Soil Conservation, Henry A. Wallace Building, Des Moines, Iowa 50319, telephone: (515) 281-6147.

**FOR FURTHER INFORMATION CONTACT:**

Andrew R. Gilmore, Chief, Alton Field Division. Telephone: (618) 463-6460. E-mail: [MCR\\_AMEND@osmre.gov](mailto:MCR_AMEND@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Iowa Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

**I. Background on the Iowa 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 this Act \* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to this 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 Iowa program effective April 10, 1981. You can find background information on the Iowa program, including the Secretary's findings, the disposition of comments, and the conditions of approval, in the January 21, 1981, **Federal Register** (46 FR 5885). You can also find later actions concerning the Iowa program and program amendments at 30 CFR 915.10, 915.15, and 915.16.

**II. Description of the Proposed Amendment**

By letter dated December 27, 2004 (Administrative Record No. IA-449), Iowa sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Iowa sent the amendment in response to required program amendments codified at 30 CFR 915.16(a) and (c). Below is a summary of the changes proposed by Iowa. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

The required program amendment codified at 30 CFR 915.16(a) calls for Iowa to submit for our approval evidence that the U.S. Natural Resources Conservation Service concurs with its provisions to allow the use of reference areas for determining success of productivity on prime farmland as proposed at Section III., Part F and Section IV., Part A.2 of its revegetation success guidelines. At 30 CFR 915.16(c), Iowa is required to either remove Section IV., Part G from its revegetation success guidelines or submit for our approval evidence that the U.S. Natural Resources Conservation Service concurs with the provisions in Part G. Part G, pertaining to control areas, contains the requirements and methods for making climate-based adjustments to the prime farmland average yields shown in the County Soil Map Unit Yield Data tables.

In response to the above two required program amendments, Iowa proposes to amend Section III., Part F and Section IV., Parts A and G of its April 1999 revegetation success guidelines titled, "Revegetation Success Standards and Statistically Valid Sampling Techniques," by removing all text related to prime farmland reference areas and all text related to control area adjustments of prime farmland and revegetation success standards.

**III. Public Comment Procedures**

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

**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 Alton Field Division may not be logged in.

#### *Electronic Comments*

Please submit e-mail comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: Docket No. IA-014-FOR" and your name and return address in your e-mail message. If you do not receive a confirmation that we have received your e-mail message, contact the Alton Field Division at (618) 463-6460.

#### *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., c.s.t. on February 23, 2005. 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 a part of the administrative record.

#### **IV. 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 (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, 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 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 determination is based on the fact that the Iowa program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Iowa program has no effect on federally-recognized Indian tribes.

##### *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, 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 915**

Intergovernmental relations, Surface mining, Underground mining,

Dated: January 14, 2005.

**Charles E. Sandberg,**

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

[FR Doc. 05-2410 Filed 2-7-05; 8:45 am]

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 050125017-5017-01; I.D. 011905E]

**RIN 0648-AR57**

**Fisheries of the Northeastern United States; Atlantic Bluefish Fishery**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed 2005 specifications for the Atlantic bluefish fishery; request for comments.

**SUMMARY:** NMFS proposes 2005 specifications for the Atlantic bluefish fishery, including state-by-state commercial quotas, a recreational harvest limit, and recreational possession limits for Atlantic bluefish off the East Coast of the United States. The intent of the specifications is to conserve and manage the bluefish resource and provide for sustainable fisheries.

**DATES:** Public comments must be received no later than 5 p.m., Eastern Standard Time, on February 23, 2005.

**ADDRESSES:** Copies of supporting documents, including the Environmental Assessment (EA), Initial Regulatory Flexibility Analysis (IRFA), and the Essential Fish Habitat Assessment (EFHA) are available from: Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904-6790. The EA, IRFA, and EFHA are accessible via the Internet at <http://www.nero.noaa.gov>.

Comments on the proposed specifications should be sent to: Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298. Please mark the envelope, "Comments 2005 Bluefish Specifications." Comments also may be sent via facsimile (fax) to 978-281-9135. Comments on the specifications may be submitted by e-mail. The

mailbox address for providing e-mail comments is [2005\\_Bluefish\\_Specs@noaa.gov](mailto:2005_Bluefish_Specs@noaa.gov). Include in the subject line of the e-mail comment the following document identifier: "Comments-2005 Bluefish Specifications." Comments may also be submitted electronically through the Federal e-Rulemaking portal: <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Don Frei, Fishery Management Specialist, (978) 281-9221, e-mail at [Don.Frei@noaa.gov](mailto:Don.Frei@noaa.gov), fax at (978) 281-9135.

**SUPPLEMENTARY INFORMATION:**

Regulations implementing the Atlantic Bluefish Fishery Management Plan (FMP) prepared by the Mid-Atlantic Fishery Management Council (Council) appear at 50 CFR part 648, subparts A and J. Regulations requiring annual specifications are found at 648.160. The FMP requires that the Council recommend, on an annual basis, a level of total allowable catch (TAC) consistent with the rebuilding program in the FMP. An estimate of annual discards is deducted from the TAC to calculate the total allowable landings (TAL) that can be made during the year by the commercial and recreational fishing sectors combined. The TAL is comprised of a commercial quota and a recreational harvest limit. The FMP rebuilding program requires the TAC for any given year to be set based either on the fishing mortality rate (F) resulting from the stock rebuilding schedule specified in the FMP, or the estimated F in the most recent fishing year, whichever is lower.

The FMP further requires 17 percent of the TAL to be allocated to the commercial fishery as a quota, with the remaining 83 percent allocated as a recreational harvest limit, with the stipulation that, if 17 percent of the TAL is less than 10.5 million lb (4.8 million kg) and the recreational fishery is not projected to land its harvest limit for the upcoming year, the commercial fishery may be allocated up to 10.5 million lb (4.8 million kg) as its quota. The combination of the projected recreational landings and the commercial quota may not exceed the TAL.

In addition, the FMP allows the Council and NMFS to allocate up to 3 percent of the TAL as a Research Set-Aside (RSA), to support fishery research. This RSA is deducted proportionally from the amounts allocated to the commercial quota and recreational harvest limit.

The Council's recommendations must include supporting documentation, as