Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2004–25–51 Raytheon Aircraft Company: Amendment 39–13913; Docket No. FAA–2004–19896; Directorate Identifier 2004–CE–44–AD.

When Does This AD Become Effective?

(a) This AD becomes effective on December 21, 2004, to all affected persons who did not receive emergency AD 2004–25–51, issued December 10, 2004. Emergency AD 2004–25–51 contained the requirements of this amendment and became effective immediately upon receipt.

Are Any Other ADs Affected By This Action?

(b) None. For clarification, this AD provides no relief from the requirements of AD 2001–13–18 R1.

What Airplanes Are Affected by This AD?

(c) This AD affects Beech Models 45 (YT–34), A45 (T–34A, B–45), and D45 (T–34B) airplanes, all serial numbers, that are certificated in any category.

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of cracks found in a location that was previously inspected and found to comply with AD 2001–13–18 R1; and two new locations. We are issuing this AD to detect and correct such cracking, which could result in the wing separating from the airplane with consequent loss of control of the airplane.

What Must I Do To Address This Problem?

(e) The following specifies actions you must do per this AD and other pertinent information to address this problem:

Actions	Compliance
(1) Perform an inspection and/or modification program approved specifically for this AD by the FAA Wichita Aircraft Certification Office (ACO).	Prior to further flight after December 21, 2004 (the effective date of this AD), except that this action was already required prior to further flight upon receipt for those who received emergency AD 2004–25–51.
(2) To return/position the airplane to a home base, hangar, maintenance facility, etc., you may operate the airplane provided you follow the limitations in paragraph (f) of this AD.	You may operate the airplane up to 10 hours time-in-service (TIS) provided the flight(s) occur(s) no later than 30 days after December 21, 2004, except that this provision was already given to those who received emergency AD 2004–25–51. This is a one-time provision.
(3) Special flight permits are allowed for this AD. See paragraph (f) of this AD for restrictions.	Use the procedures in 14 CFR part 39 and the restrictions in paragraph (f) of this AD.
(4) To help in the long-term airworthiness solution for the safety and continued airworthiness of these airplanes, FAA is requesting data from every owner/operator on the following on these airplanes: (i) Service/Repair History (cracked/fatigued structure); (ii) Maintenance Schedule; and (iii) Total Hours Time-In-Service (TIS).	Send to Paul Nguyen, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4125; facsimile: (316) 946–4107; e-mail: *paul.nguyen@faa.gov.*

What Are the Flight Restrictions Specified in Paragraph (e)(2) and (e)(3) of This AD?

(f) During the time allowed before compliance with paragraph (e)(1) of this AD or for any approved special flight permit, you must adhere to the following limitations:

(1) NEVER EXCEED SPEED, VNE–175 MPH (152 knots).

(2) NORMAL ACCELERATION (G) LIMITS −0, and +2.5.

(3) ACROBATIC MANEUVERS PROHIBITED.

(4) FLIGHT INTO KNOWN OR FORECAST MODERATE OR SEVERE TURBULENCE IS PROHIBITED.

(5) DAY VISUAL FLIGHT RULES (VFR) OPERATION ONLY.

(6) PILOT AND ANY ADDITIONAL FLIGHT CREW MEMBER REQUIRED FOR SAFE OPERATION.

Who Do I Contact for Further Information?

(g) If you need additional information relating to this AD, contact: Paul Nguyen, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4125; facsimile: (316) 946–4107; e-mail: *paul.nguyen@faa.gov.*

Issued in Kansas City, Missouri, on December 14, 2004.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–27708 Filed 12–17–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

Operating Requirements: Domestic, Flag, and Supplemental Operations

CFR Correction

In Title 14 of the Code of Federal Regulations, parts 60 to 139, revised as of January 1, 2004, on page 474, § 121.385 is corrected by adding paragraph (d) to read as follows:

§ 121.385 Composition of flight crew.

* * * * *

(d) On each flight requiring a flight engineer at least one flight crewmember, other than the flight engineer, must be qualified to provide emergency performance of the flight engineer's functions for the safe completion of the flight if the flight engineer becomes ill or is otherwise incapacitated. A pilot need not hold a flight engineer's certificate to perform the flight engineer's functions in such a situation.

[FR Doc. 04–55529 Filed 12–17–04; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–247–FOR]

Kentucky Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: We are approving an amendment to the Kentucky regulatory program (the ''Kentucky program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Kentucky proposes to revise its statutes regarding easements of necessity and submitted the amendment at its own initiative.

EFFECTIVE DATE: December 20, 2004.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Telephone: (859) 260–8400. Telefax number: (859) 260–8410.

SUPPLEMENTARY INFORMATION:

VI. Procedural Determinations

I. Background on the Kentucky Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * * and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Kentucky program on May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and conditions of approval 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

By letter dated May 14, 2004, Kentucky sent us an amendment to its program (KY–247–FOR, Administrative Record No. KY–1624). Kentucky submitted House Bill (HB) 537 promulgated by the 2004 Kentucky General Assembly. It amends the Kentucky Revised Statutes (KRS) at 350.280 pertaining to easements of necessity. Easements are proposed when a notice or cessation order directs abatement of a violation and the permittee or operator does not have the legal right of entry to the property to abate the violation and the owner or legal occupant has refused access. Easements authorize the permittee or operator to enter the property to abate the violation and an appraiser to enter the property to appraise damages that likely will result from the violation.

We announced receipt of the proposed amendment in the July 19, 2004, **Federal Register** (69 FR 42939), and in the same document invited public comment and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on August 18, 2004. We received one Industry comment.

III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. Relevant to our findings in this document are two previous **Federal Register** notices in which we addressed Kentucky's easement of necessity provisions. On June 20, 2001, we approved the creation of an easement of necessity for a permittee or operator who lacks legal right of entry, or permission to enter land to abate conditions that create imminent danger to the public or imminent significant environmental harm as cited in a notice or order of cessation under the approved Kentucky program (66 FR 33020). On November 6, 2002, we approved the creation of an easement of necessity for a permittee or operator who lacks legal right of entry, or permission to enter land to abate conditions that result in a violation that does not cause imminent danger to the public or imminent significant environmental harm. In the same notice, we approved Kentucky's property damage appraisal procedures, which follow the effective date of an easement of necessity, to the extent that the appraisal processes do not delay the abatement of violations (67 FR 67524). The appraisal processes provide for the appraisal of damages, including loss of use, that will result from the violations, as abated, and those that are likely to occur to the property if the permittee or operator is allowed to enter the property to abate the violation.

Any revisions that we do not specifically discuss below concern nonsubstantive wording or editorial changes. The following subsections represent the changes to KRS 350.280.

Easements of Necessity for Notices or Cessation Orders Directing Abatement of a Violation on the Basis of an Imminent Danger to Health and Safety of the Public or Significant Imminent Environmental Harm

Subsection (1)(b)—Kentucky proposes to delete the language within the parentheses in the following paragraph:

If a permittee or operator has been issued a notice or order directing abatement of a violation on the basis of an imminent danger to health and safety of the public or significant imminent environmental harm (and the violation involves an order of cessation and immediate compliance or an order to abate and alleviate in which the cabinet directs the permittee or operator to begin immediate abatement of the violation), and the notice or order requires access to property for which the permittee or operator does not have the legal right of entry necessary in order to abate that violation, and the owner or legal occupant of the property has refused access, an easement of necessity is recognized on behalf of the permittee or operator for the limited purpose of abating that violation. The easement of necessity becomes effective, and the permittee or operator is authorized to enter the property to undertake immediate action to abate the violation if he or she takes the actions specified in (1)(b)1 through 3.

Subsection (1)(b)1—Kentucky proposes to add the italicized language in the following subsection, which immediately follows the language above:

Provides to the property owner or legal occupant a copy of the cabinet's order *and a plan of action reasonably calculated to result in abatement of the violation, repair of the damage, and restoration of the property, and provides proof of liability insurance and workers' compensation insurance covering any accidents or injuries occurring on the property during the remedial work.*

Subsections (1)(b) and (1)(b)1 were originally approved on June 20, 2001, as no less stringent than Section 521 of SMCRA and consistent with 30 CFR 843.11 because they provided a method for ensuring the abatement of an imminent danger that is in addition to the methods provided for in the Federal rules. The revisions Kentucky proposes in this amendment do not alter that finding. Therefore, subsections (1)(b) and (1)(b)1 are approved in accordance with Section 505(b) of SMCRA.

Subsection (1)(b)3—Kentucky proposes to add the italicized language and delete the language within the parentheses in the following subsection:

Provides to the property owner or legal occupant a statement that he or she, the permittee or operator, *will diligently pursue abatement of the violation, and* will obtain an appraisal completed by a (certified) real estate appraiser *certified under KRS 324A* (or other qualified appraiser) of the damages to the property, including loss of use, that *have resulted* (will result) from the violation, (as abated, and those that are likely to occur to the property when the permittee or operator enters the property in order to abate the violation,) that the appraisal will be completed and provided to the property owner or legal occupant within three days of *abatement of the violation* by (entry of) the operator or permittee . . .

Subsection (1)(c)—Kentucky proposes to delete the language within the parentheses in the following paragraph:

Following the effective date of the easement of necessity, the following procedure shall be followed with respect to the appraisal of the damages (that will result from the violation, as abated, and those that are likely to occur to the property when the permittee or operator enters the property in order to abate the violation).

Subsection (1)(c)1—Kentucky proposes to require that an appraiser be certified and that the appraisal be completed and submitted to property owner or legal occupant within three days of abatement of the violation. The current language, proposed for deletion, requires completion of the appraisal and its submission to the property owner or legal occupant within three days of ''entry on the property.''

Subsection (1)(c)2—Kentucky proposes to extend the timeframe from three days to seven days for the property owner or legal occupant to accept or reject the appraisal.

Subsection (1)(c)3—Kentucky proposes to stipulate that a property owner may hire a real estate appraiser certified under KRS Chapter 324A if he/she rejects the permittee's appraisal. The following italicized language replaces the language within the parentheses: . . . *and this such appraisal shall be completed and provided to the permittee or operator within thirty days of receipt of the permittee's or operator's completed appraisal.* The appraisal will address damages, including loss of use that *have resulted* (will result) from the violation (as abated, and those that are likely to occur to the property if the permittee or operator is allowed to enter the property to abate the violation).

Subsection (1)(c)4—Kentucky proposes to replace the language within the parentheses with the italicized language. If the property owner or legal occupant *accepts the permittee or operator's appraisal, the permittee or operator shall promptly pay the property owner or legal occupant the amount of the damages reflected therein* (has the appraisal done, he or she shall have it completed and provided to the permittee or operator within seven days of receipt of the permittee's or operator's completed appraisal).

Subsection (1)(e)—Kentucky proposes to require that the appraisal and offer shall be considered accepted if the property owner or legal occupant does not accept or reject said appraisal and offer within the timeframe specified in subsection (1)(c)2 above. The requirement that the operator pay the appraised damages to a circuit court within three days of nonacceptance is deleted.

Subsection (1)(f)—Kentucky proposes to add a new subsection that requires an appraiser to calculate damages to the property, including loss of use, that resulted from the violation. It will be calculated as the difference between the fair market value of the property before the violation and after abatement of the violation, plus the reasonable rental value of the property between the effective date of the easement of necessity and the date of abatement of the violation.

Subsections (1)(b)3 and (1)(c) through (f), as amended, revise a property damage appraisal procedure that has no Federal counterpart. On November 6, 2002, we approved this procedure to the extent it does not delay the abatement of imminent dangers to the public or create environmental harm. The revisions Kentucky proposes in this amendment require that the appraisal be completed within three days of abatement of the violation.

We therefore find the revisions do not change the basis for our November 6, 2002, approval. That is, the revisions discussed above are approved to the extent that they do not cause a delay in the abatement of imminent dangers to the public or of significant, imminent environmental harm.

Easements of Necessity for Abatement of Violations That Do Not Cause Imminent Danger to the Public or Significant Imminent Environmental Harm

Subsection (2)—Kentucky proposes to specify that an appraiser be certified under KRS Chapter 324. Damages are described as those that likely will result from the violation. The following language within the parentheses describing damages has been deleted: * * * damages, including loss of use, that likely will result from the violation (as abated, and those that are likely to occur to the property if the permittee or operator is allowed to enter the property in order to abate the violation).

Subsection (3)(a)—Kentucky proposes to add a reference to subsection (2) pertaining to an easement for the limited purpose of allowing an appraisal.

Subsection (3)(a)4—Kentucky proposes to make the same changes as those specified in subsection (2) above. Kentucky is also requiring an entry fee to be calculated as one-half of the amount of the appraisal or $500, whichever is greater, for the privilege to enter the property and conduct the appraisal.

Subsection (3)(b)—Kentucky proposes to add a new subsection to specify that upon payment of the entry fee, an easement of necessity will be recognized on behalf of the permittee or operator for the limited purpose of abating the violation. Entry is authorized to enter the property to undertake immediate action to abate the violation, provided that the landowner has been provided a plan of action reasonably calculated to result in abatement of the violation, repair of the damage, and restoration of the property. The permittee or operator must provide proof of liability insurance and workers' compensation.

Subsection (3)(c)—Kentucky proposes to specify that following the effective date of the easement of necessity to abate the violation, the procedures in subsection (1)(c)–(f) will apply. Entry fee stipulations are provided. They require that the entry fee be deducted from any subsequent payment deemed due the property owner or legal occupant as a result of the post-abatement appraisal. If the entry fee exceeds the amount of all appraisals, the property owner or legal occupant is entitled to retain the fee in its entirety. The following sentence has been deleted. ''When the easement takes effect, the property owner or legal occupant shall allow access for the permittee's or operator's certified real estate appraiser or other qualified appraiser to conduct the appraisal.''

Subsection (4)—Kentucky proposes to clarify that the provisions of Section 1 of KRS 350.280 do not affect the right to bring a civil action for damages. The existing language pertaining to the appraisal of damages at subsections (4) through (8) is deleted, presumably because the appraisal procedures in subsections (1)(c) through (1)(f) will now likewise apply to violations that do not cause imminent damages to the public or significant, imminent environmental harm.

Like subsection (1) above, subsection (2) creates an appraisal procedure that has no Federal counterpart. Subsection (2) also provides for an entry fee with no Federal counterpart. On November 6, 2002, we approved the appraisal process to the extent that it does not delay the abatement of violations beyond 90 days as required by 30 CFR 843.12(c). We make the same finding in this notice. We further find that Kentucky's proposed entry fees are not inconsistent with SMCRA. Finally, because the deleted provisions at subsections (4) through (8) have been addressed in the revisions at subsections (1) and (2) above, we find that the deletions do not render the Kentucky program less stringent than SMCRA or the Federal regulations.

IV. Summary and Disposition of Comments

Public Comments

We solicited public comments on July 19, 2004, and provided an opportunity for a public hearing on the amendment. Because no one requested an opportunity to speak, a hearing was not held. The Kentucky Coal Association (KCA) submitted comments by electronic mail dated August 2, 2004 (Administrative Record No. KY–1633). The KCA supports the revisions proposed by Kentucky because it believes coal operators will have reasonable access to property when they ''inadvertently impact land off their permitted property.''

Federal Agency Comments

According to 30 CFR 732.17(h)(11)(i), on July 29, 2004, we solicited comments on the proposed amendment submitted on May 14, 2004, from various Federal agencies with an actual or potential interest in the Kentucky program (Administrative No. KY–1631). We received no responses.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed 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.*). Because the provisions of this amendment do not relate to air or water quality standards, we did not request EPA's concurrence.

V. OSM's Decision

Based on the above findings, we are approving the amendment as submitted by Kentucky on May 14, 2004.

To implement this decision, we are amending the Federal regulations at 30 CFR part 917 which codify decisions concerning the Kentucky program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that Kentucky's program demonstrate that it has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

The provisions in the rule based on counterpart Federal regulations do not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation. The revisions made at the initiative of the State that do not have Federal counterparts have also been reviewed and a determination made that they do not have takings implications. This determination is based on the fact that the provisions are administrative and procedural in nature and are not expected to have a substantive effect on the regulated industry.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

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

Executive Order 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. The basis for this determination is that our decision is on a State regulatory program and does not involve a Federal regulation involving Indian lands.

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 a portion of the provisions in 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.*) because they are 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. The Department of the Interior also certifies that the provisions in this rule that are not based upon counterparts Federal regulations 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.*). This determination is based on the fact that the provisions are administrative and procedural in nature and are not expected to have a substantive effect on the regulated industry.

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 a portion of the State provisions are 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. For the portion of the State provisions that is not based upon counterpart Federal regulations, this determination is based upon the fact that the State provisions are administrative and procedural in nature and are not expected to have a substantive effect on the regulated industry.

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 a portion of 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. For the portion of the State provisions that is not based upon counterpart Federal regulations, this determination is based upon the fact that the State provisions are administrative and procedural in nature and are not expected to have a substantive effect on the regulated industry.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 18, 2004.

Brent Wahlquist,

Regional Director, Appalachian Regional Coordinating Center.

■ For the reasons set out in the preamble, 30 CFR part 917 is amended as set forth below:

PART 917—KENTUCKY

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

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

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

§ 917.15 Approval of Kentucky regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* *	* *	* * *
May 14, 2004	December 20, 2004	KRS 350.280, subsections (1) (b), (1) (c), 1(e), 1(f), (2), (3), (4); subsections 4(a)–(d), (5), (6), (7) and (8) are deleted.

[FR Doc. 04–27754 Filed 12–17–04; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 10

[TD 9165]

RIN 1545–BA70

Regulations Governing Practice Before the Internal Revenue Service

AGENCY: Office of the Secretary, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations revising the regulations governing practice before the Internal Revenue Service (Circular 230). These regulations affect individuals who practice before the Internal Revenue Service. These final regulations set forth best practices for tax advisors providing advice to taxpayers relating to Federal tax issues or submissions to the IRS. These final regulations also provide standards for covered opinions and other written advice.

DATES: *Effective Date:* These regulations are effective December 20, 2004.

Applicability Date: For dates of applicability, see §§ 10.33(c),10.35(g), 10.36(b), 10.37(b), 10.38(b), 10.52(b), and 10.93.

FOR FURTHER INFORMATION CONTACT: Heather L. Dostaler at (202) 622–4940, or Brinton T. Warren at (202) 622–7800 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1871. The collections of information (disclosure requirements) in these final regulations are in § 10.35(e). Section 10.35(e) requires a practitioner providing a covered opinion to make certain disclosures in the beginning of marketed opinions, limited scope opinions and opinions that fail to conclude at a confidence level of at least more likely than not. In addition, certain relationships between the practitioner and a person promoting or marketing a tax shelter must be disclosed. A practitioner may be required to make one or more disclosures. The collection of this material helps to ensure that taxpayers who receive a tax shelter opinion are informed of any facts or circumstances that might limit the use of the opinion. The collection of information is mandatory.