

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Inspection to Determine Serial Number, and Replacement

(f) Within 60 days after the effective date of this AD: Inspect the nosewheel tires to

determine whether an affected serial number (S/N) is installed, in accordance with the Accomplishment Instructions of Goodyear Aviation Service Bulletin SB-2005-32-004, Revision 5, dated December 22, 2005; and, except as provided by paragraph (g) of this AD, replace any tire with an affected S/N before further flight in accordance with the Accomplishment Instructions of the service bulletin.

Note 1: The Gulfstream Alert Customer Bulletins listed in Table 1 of this AD are additional sources of service information for identifying the affected serial numbers and replacing the tires as applicable.

TABLE 1.—GULFSTREAM ALERT CUSTOMER BULLETINS

Gulfstream model	Alert customer bulletin	Date
G-1159 (GII) and G-1159B (GIIB) series airplanes	G-II and G II-B, Number 30	October 12, 2005.
G-1159A (GIII) series airplanes	G-III, Number 16	October 12, 2005.
G-IV (G-IV, G300, G400) series airplanes	G-IV, Number 34; G300, Number 34; and G400, Number 34.	October 12, 2005.
GIV-X (G450, G350) series airplanes	G350, Number 3; and G450, Number 3	October 12, 2005.
GV series airplanes	GV, Number 24	October 12, 2005.
GV-SP (G550, G500) series airplanes	G500, Number 5; and G550, Number 5	October 12, 2005.

Special Flight Permit

(g) A special flight permit may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) for one flight to operate the airplane to a location where the requirements of this AD can be accomplished, provided no bulge is present on the tire with the affected S/N.

Parts Installation

(h) After the effective date of this AD, no person may install on any airplane a nosewheel tire that has an S/N in the affected range identified in the Accomplishment Instructions of Goodyear Aviation Service Bulletin SB-2005-32-004, Revision 5, dated December 22, 2005.

No Parts Return

(i) Although Goodyear Aviation Service Bulletin SB-2005-32-004, Revision 5, dated December 22, 2005, specifies to return tires to the manufacturer, this AD does not require that action.

Actions Accomplished in Accordance With Original Issue of Service Bulletin

(j) Actions done before the effective date of this AD in accordance with Goodyear Aviation Service Bulletin SB-2005-32-004, dated October 11, 2005, are acceptable for compliance with the requirements of this AD.

Alternative Methods of Compliance (AMOCs)

(k)(1) The Manager, Chicago Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Issued in Renton, Washington, on April 26, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY-250-FOR]

Kentucky Regulatory Program

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

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

SUMMARY: We are announcing receipt of a proposed amendment to the Kentucky regulatory program (hereinafter, the “Kentucky program”) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Kentucky submitted three separate items proposing revisions pertaining to prepayment of civil penalties, easements of necessity for reclamation on bankruptcy sites, and various statutes to eliminate outdated language. Kentucky intends to revise its program to be consistent with the corresponding Federal regulations and SMCRA.

This document gives the times and locations that the Kentucky program and this submittal are available for your inspection, the comment period during which you may submit written

comments, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments until 4 p.m., e.s.t., June 2, 2006. If requested, we will hold a public hearing on May 30, 2006. We will accept requests to speak until 4 p.m., e.s.t., on May 18, 2006.

ADDRESSES: You may submit comments, identified by “KY-250-FOR/ Administrative Record No. 1642” by any of the following methods:

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

• Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency docket number “KY-250-FOR/Administrative Record No. KY-1642” for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Comment Procedures” section in this document. You may also request to speak at a public hearing by any of the methods listed above or by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Docket: You may review copies of the Kentucky program, this submission, a listing of any scheduled public hearings, and all written comments received in response to this document at OSM’s Lexington Field Office at the address listed above during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the submission by

contacting OSM's Lexington Field Office. In addition, you may receive a copy of the submission during regular business hours at the following location: Department for Natural Resources, 2 Hudson Hollow Complex, Frankfort, Kentucky 40601. Telephone: (502) 564-6940.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Telephone: (859) 260-8400. E-mail: bkovacic@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Kentucky Program
- II. Description of the Submission
- III. Public Comment Procedures
- IV. Procedural Determinations

I. Background on the Kentucky Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of 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 Kentucky program on May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Kentucky program in the May 18, 1982, **Federal Register** (47 FR 21434). You can also find later actions concerning Kentucky's program and program amendments at 30 CFR 917.11, 917.12, 917.13, 917.15, 917.16, and 917.17.

II. Description of the Submission

By letter dated March 28, 2006, Kentucky sent us a proposed amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*) at its own initiative ([KY-250-FOR], administrative record No. KY-1642). The full text of the program amendment is available for you to read at the location listed above under **ADDRESSES**. A summary of the proposed changes follows.

The first proposed change was mandated by the Supreme Court of Kentucky in the case of *Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet v. Kentec Coal Co., Inc.*, No. 2003-SC-000622-DG. The Court issued an

opinion on September 22, 2005, in which it found that the provisions of 405 KAR [Kentucky Administrative Regulations] 7:092 that required a corporate permittee to prepay an assessed civil penalty to get a due process hearing on the penalty amount was an unconstitutional violation of equal protection provisions of the State and Federal constitutions. The court also held that the assessment of the penalty against Kentec without prepayment and without consideration of the permittee's inability to pay was a violation of Section 2 of the Kentucky Constitution and an unreasonable and arbitrary exercise of the Kentucky Environmental and Public Protection Cabinet's (cabinet) authority. The Office of Legal Services filed a petition for rehearing that was denied by the court on December 22, 2005.

The Department for Natural Resources' Division of Mine Reclamation and Enforcement, in response to this ruling, has altered the provisions on its notices of assessment of civil penalties to comply with the ruling. The Division uses the following statement of appeal rights on the assessment notices:

"Should you decide not to negotiate, you have three (3) options remaining to resolve the proposed assessment. You may (1) choose not to contest the amount of the proposed assessment or the violation in which case a final order of the Secretary will be entered. *Note: if an administrative hearing as to the fact of the violation was properly requested under 405 KAR 7:092, the final order will only determine the amount of the penalty and not the fact of the violation;* (2) request an assessment conference to contest the proposed assessment; *Note: The Kentucky Bar Association has determined that the appearance of an individual who is not a licensed attorney, on behalf of a third person, corporation or another entity, at a penalty assessment conference constitutes the unauthorized practice of law. Corporations or other entities must be represented by counsel at penalty assessment conferences. Individuals may represent themselves;* or (3) request an administrative hearing instead of an assessment conference. See 405 KAR 7:092, Section 6. Prepayment of the proposed assessment is no longer required." [emphasis added]

The Office of Administrative Hearings has also altered language on the Penalty Assessment Conference Officer's Report that advises permittees of their rights to an administrative hearing. That language reads as follows:

"Any person issued a proposed penalty assessment may request an administrative hearing to contest the Conference Officer's recommended penalty or the fact of the violation or both by filing with the Office of Administrative Hearings, 35-36 Fountain Place, Frankfort, Kentucky 40601, a petition

under Section 6 of 405 KAR 7:092. The Cabinet may also request under Section 5 of 405 KAR 7:092 an administrative hearing to contest the Conference Officer's recommended penalty. *[Permittee] should take notice that given the decision by the Supreme Court of Kentucky in Environmental and Public Protection Cabinet v. Kentec, 2005 WL 2316191, ___ S.W.3d ___, (2005), the provisions of 405 KAR 7:092, Section 6 (2)(b) requiring prepayment of the proposed penalty ARE NO LONGER IN EFFECT and [Permittee] DOES NOT need to prepay the recommended penalty amount in the event it decides to request a Formal Administrative Hearing.*

If a request for an administrative hearing is not filed with the Office of Administrative Hearings within thirty (30) days of mailing of this Report and Recommendation, the Secretary shall enter an order providing: (a) that [Permittee] has waived all rights to an administrative hearing on the amount of the proposed assessment; (b) that the fact of violation is deemed admitted; and (c) that the penalty assessment contained in this Report and Recommendation is deemed accepted and is due and payable to the Cabinet within thirty (30) days after the entry of the final order. If a petition requesting a hearing as to the fact of the violation has been timely filed pursuant to Section 7 of 405 KAR 7:092, the finding set forth in clause (b) of the preceding sentence shall be omitted from the Secretary's order and the penalty assessment contained in this Report and Recommendation shall be due and payable within thirty (30) days of the mailing of the final order affirming the fact of a violation." [emphasis added]

This is the second time the Supreme Court of Kentucky has ruled that prepayment requirements used by the cabinet for due process hearings regarding surface mining violations are unconstitutional under the Kentucky Constitution. The ruling in *Franklin v. Natural Resources and Environmental Protection Cabinet*, 799 S.W.2d 1 (Ky. 1990) held that a similar prepayment requirement that applied to all persons violated the equal protection clauses of the State and Federal constitutions. Kentucky undertook a major revamp of its hearing procedures in response to that ruling and put the current hearings process in place. That process, insofar as the prepayment requirement is concerned, has now been found unconstitutional.

The second proposed change is Senate Bill 219, recently passed by the General Assembly and delivered to the Governor for his signature. The bill creates an easement of necessity to conduct reclamation operations by entities who have assumed the reclamation obligations of a bankrupt permittee and where the rights of entry held by the permittee have been terminated. The terms only apply to those areas where *only* reclamation is

being performed. It does not apply to areas where coal removal is planned by a successor to the permittee. The legislation calls for payment of a sum certain to rights holders and allows the parties to take any disputes about the sufficiency of the payment to court for an adjudication of an appropriate amount. The provisions of Senate Bill 219 will expire on July 15, 2008, and will likely be signed into law.

The third proposed change is Senate Bill 136 which deletes certain language from Chapter 350 of the Kentucky Revised Statutes (KRS), the chapter containing the Kentucky surface mining laws. This bill eliminates language in: KRS 350.060 relating to the two-acre exemption and to permit renewal applications that were not timely filed; KRS 350.075 calling for submission of regulations before August 1, 1986; KRS 350.090 relating the exceptions for applications or renewals submitted in compliance with KRS 350.060(2); KRS 350.093 dealing with bond coverage exceptions for third party actions; KRS 350.445 that deals with roads above highwalls that "support coal mining activities;" and KRS 350.285 relating to removal of coal on private lands. Each of these amendments to statutes eliminates language from the chapter that is outdated or was disapproved by OSM in previous years.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the submission satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Kentucky program. We cannot ensure that comments received after the close of the comment period (see **DATES**) or at locations other than those listed above (see **ADDRESSES**) will be considered or included in the Administrative Record.

Written Comments

Send your written 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.

Electronic Comments

Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: KY-250-FOR/Administrative Record No. KY-1642" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message,

contact the Lexington Field Office at (859) 260-8400.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., e.s.t. on May 18, 2006. 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 the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a 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 submission, 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 regulations.

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, to the extent allowable 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 the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

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

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential

effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. The basis for this determination is that our decision is on a State regulatory program and does not involve a Federal program involving 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. 4321 *et seq.*).

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 that is the subject of this rule is based on 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, geographic regions, or Federal, State or local governmental agencies; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 4, 2006.

H. Vann Weaver,

Acting Regional Director.

[FR Doc. E6-6654 Filed 5-2-06; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

RIN 1029-AC50

Tennessee Federal Program

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

ACTION: Proposed rule; extension of comment period and notice of hearing.

SUMMARY: We are extending the public comment period on the proposed Tennessee Federal Program rule published on April 6, 2006. The comment period is being extended in order to afford the public more time to comment and to allow enough time to hold a public hearing which has been requested by several individuals. We are also notifying the public of the date, time, and location for the public hearing.

DATES: Comments on the proposed rule must be received on or before 4 p.m., local time on June 30, 2006. The public hearing will be held on June 1, 2006, at 7 p.m. local time.

ADDRESSES: *Written or Electronic Comments:* you may submit comments identified by RIN 1029-AC50, by any of the following methods:

- E-Mail: tdieringer@osmre.gov. Include docket number 1029-AC50 in the subject line of the message.
- Mail/Hand-Delivery/Courier: Knoxville Field Office, Office of Surface Mining Reclamation and Enforcement, 710 Locust Street, 2nd Floor, Knoxville, Tennessee 37902.
- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

For detailed instructions on submitting comments and additional information on the rulemaking process, see "III. Public Comment Procedures" in the **SUPPLEMENTARY INFORMATION** section of the proposed rule published on April 6, 2006.

Public Hearing: The public hearing will be held at Holiday Inn Select Downtown, 525 Henley Street, Knoxville, Tennessee 37902, telephone: 865-522-2800, on June 1, 2006, at 7 p.m. local time.

FOR FURTHER INFORMATION CONTACT: Tim Dieringer, Field Office Director, Telephone: 865-545-4103; e-mail: tdieringer@osmre.gov.

SUPPLEMENTARY INFORMATION: On April 6, 2006 (71 FR 17682), we published a proposed rule that would revise the Tennessee Federal Program. The revisions would: (1) Provide regulations establishing trust funds or annuities to fund the treatment of long-term postmining pollutional discharges; (2) delete the minimum requirements of eighty percent (80%) ground cover for certain postmining land uses and provide that herbaceous ground cover be limited to that necessary to control erosion and support the postmining land use; and (3) exempt areas developed for wildlife habitat, undeveloped land, recreation, or forestry from the requirements that bare