that exposed coal seams and combustible materials, including coal processing waste, be covered with a minimum of 4 feet of nontoxic- and nonacid-producing materials unless otherwise demonstrated; (4) 10 CSR 40-3.110(6)(B) to provide that the regulations for repair of rills and gullies at 10 CSR 40-3.110(6)(A) apply, on areas that have been previously mined, only after final grading of the area when topsoil or a topsoil substitute is not available; (5) 10 CSR 40-6.010(2)(H) to add a definition of "Secretary;" (6) 10 CSR 40-6.020 (2)(A) and (3)(A) to clarify that these regulations concern exploration activities outside of a permit area; (7) 10 CSR 40-6.120 (7)(C) and (D) and (12)(C) and (D) to specify the information that must be included in a fish and wildlife plan and that, when the plan does not include enhancement measures, it must include an explanation of why enhancement is not practicable; (8) 10 CSR 40-6.070(8)(M) to require that the Director of the Missouri program must find, prior to permit approval for a proposed remaining operation where the applicant intends to reclaim in accordance with the requirements of 10 CSR 40-4.080, that the site of the operation is a previously mined area; (9) at 10 CSR 40-8.010(1)(A)72 the definition of "previously mined area;" (10) at 10 CSR 40–8.010(1)(A)84 the definition of "road;" (11) 10 CSR 40-8.030(7)(A) to delete the requirement that modification, termination, or vacating of notice of violations must be in accordance with the regulation at 10 CSR 40-8.040; (12) 10 CSR 40-8.040(9) to delete the definition of "habitual violator;" and (13) 10 CSR 40–8.050(2)(B) to change the eligibility requirement of coal production of 100,000 tons per year to 300,000 tons per year for a small operator assistance applicant.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Missouri program.

Written Comments

Wrriten comments should be specific, pertain only to the issue proposed in this rulemaking, and include explanations in support of the commenter's recommendations.

Comments received after the time indicated under DATES or at locations other than the Kansas City Field Office

will not necessarily be considered in the final rulemaking or included in the administrative record.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under FOR FURTHER INFORMATION CONTACT by 4:00 p.m., c.s.t. [March 17, 1995]. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment having been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under FOR FURTHER INFORMATION CONTACT.

Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the OSM office listed under FOR FURTHER INFORMATION CONTACT. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under ADDRESSES. A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

Compliance With the National Environmental Policy Act

No environmental impact statement is required for this rule since 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 of 1969, 42 U.S.C. 4332(2)(C).

Compliance With Executive Order No. 12866

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions related to approval or conditional approval of State regulatory programs, actions, and program amendments. Therefore, preparation of a Regulatory Impact Analysis is not necessary and OMB regulatory review is not required.

Compliance With the Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic effect 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. Hence, 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 regulations.

Compliance With Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsection (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 requirements of 30 CFR parts 730, 731, and 732 have been met.