

program (hereinafter referred to as the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The additional revisions pertain to a previously proposed amendment (WV-074) to West Virginia's Surface Mining Reclamation Regulations. The proposed revisions concern the definition of chemical treatment, ownership and control files, roads, as-built designs, noncoal mine waste, durable rock fills, small operator assistance and other matters. The amendment is intended to improve operational efficiency and revise the West Virginia program to be consistent with the corresponding Federal regulations and SMCRA.

DATES: Written comments must be received on or before 4 p.m. on July 20, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to James C. Blankenship, Jr., Director, Charleston Field Office at the address listed below.

Copies of the proposed amendment, the West Virginia program, and the administrative record are available for public review and copying at the addresses below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Charleston Field Office.

James C. Blankenship, Jr., Director,
Charleston Field Office, Office of
Surface Mining Reclamation and
Enforcement, 1027 Virginia Street,
East, Charleston, West Virginia 25301,
Telephone: (304) 347-7158

West Virginia Division of
Environmental Protection, 10
McJunkin Road, Nitro, West Virginia
25143, Telephone (304) 759-0515

In addition, copies of the proposed amendments are available for inspection during regular business hours at the following locations:

Office of Surface Mining Reclamation
and Enforcement, Morgantown Area
Office, 75 High Street, Room 229, PO
Box 886, Morgantown, West Virginia
26507, Telephone: (304) 291-4004

Office of Surface Mining Reclamation
and Enforcement, Beckley Area
Office, 323 Harper Park Drive, Suite 3,
Beckley, West Virginia 25801,
Telephone: (304) 255-5265

Office of Surface Mining Reclamation
and Enforcement, Logan Area Office,
313 Hudgins Street, 2nd Floor, PO
Box 506, Logan, West Virginia 25601,
Telephone: (304) 752-2851

FOR FURTHER INFORMATION CONTACT:
Mr. James C. Blankenship, Jr., Director,
Charleston Field Office; Telephone:
(304) 347-7158.

SUPPLEMENTARY INFORMATION:

I. Background

SMCRA was passed in 1977 to address environmental and safety problems associated with coal mining. Under SMCRA, OSM works with States to ensure that coal mines are operated in a manner that protects citizens and the environment during mining, that the land is restored to beneficial use following mining, and that the effects of past mining at abandoned coal mines are mitigated.

Many coal-producing States, including West Virginia, have sought and obtained approval from the Secretary of the Interior to carry out SMCRA's requirements within their borders. In becoming the primary enforcers of SMCRA, these "primacy" states accept a shared responsibility with OSM to achieve the goals of the Act. Such States join with OSM in a shared commitment to the protection of citizens—our primary customers—from abusive mining practices, to be responsive to their concerns, and to allow them full access to information needed to evaluate the effects of mining on their health, safety, general welfare, and property. This commitment also recognizes the need for clear, fair, and consistently applied policies that are not unnecessarily burdensome to the coal industry—producers of an important source of our Nation's energy.

Under SMCRA, OSM sets minimum regulatory and reclamation standards. Each primacy State ensures that coal mines are operated and reclaimed in accordance with the standards in its approved State program. The States serve as the front-line authorities for implementation and enforcement of SMCRA, while OSM maintains a State performance evaluation role and provides funding and technical assistance to States to carry out their approved programs. OSM also is responsible for taking direct enforcement action in a primacy State, if needed, to protect the public in cases of imminent harm or, following appropriate notice to the State, when a State acts in an arbitrary and capricious manner in not taking needed enforcement actions required under its approved regulatory program.

Currently there are 24 primacy states that administer and enforce regulatory programs under SMCRA. These states may amend their programs, with OSM approval, at any time so long as they remain no less effective than Federal regulatory requirements. In addition, whenever SMCRA or implementing Federal regulations are revised, OSM is required to notify the States of the

changes so that they can revise their programs accordingly to remain no less effective than the Federal requirements.

On January 21, 1981, the Secretary of the Interior conditionally approved the West Virginia program. Background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the January 21, 1981, **Federal Register** (46 FR 5915). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Discussion of the Proposed Amendment

In a series of three letters dated June 28, 1993, and July 30, 1993 (Administrative Record Nos. WV-888, WV-889 and WV-893), the West Virginia Division of Environmental Protection (WVDEP) submitted an amendment to its approved permanent regulatory program that included numerous revisions to the West Virginia Surface Coal Mining and Reclamation Act (WVSCMRA § 22A-3-1 *et seq.*) and the West Virginia Surface Mining Reclamation Regulations (CSR § 38-2-1 *et seq.*)

OSM announced receipt of the proposed amendment in the August 12, 1993, **Federal Register** (58 FR 42903) and invited public comment on its adequacy. Following this initial comment period, WVDEP revised the amendment on March 12, 1994, and September 1, 1994 (Administrative Record Nos. WV-933 and WV-937). OSM reopened the comment period on August 31, 1994, September 29, 1994, and May 19, 1995, and held public meetings in Charleston, West Virginia on September 7, 1993, October 27, 1994, and May 30, 1995.

OSM and WVDEP held a telephone conference on January 18, 1995, to discuss the States revisions to the program amendment which were submitted on September 1, 1994, and announced for public comment in the September 29, 1994, **Federal Register** (59 FR 49620). This meeting was followed-up by a letter on February 15, 1995, which identified provisions in the September 1, 1994, submittal where OSM either needed further clarification or where OSM believed the proposal was less effective than the Federal rules.

The WVDEP responded by revising and resubmitting the September 1, 1994, revisions on May 8, 1995 and May 16, 1995, (Administrative Record Nos. 979A and 979B). These revisions were passed by the West Virginia Legislature as House Bill—2134. Also included were