

minimum of 4 feet of nontoxic- and nonacid-producing materials; (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 40-6.050(7) (C) and (D), and 10 CSR 40-6.120(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 reining 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.

OSM announced receipt of the proposed amendment in the March 2, 1995, **Federal Register** (41 FR 11640), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. MO-618). Because no one requested a public hearing or meeting, none was held. The public comment period ended on April 3, 1995.

During its review of the amendment, OSM identified concerns relating to the provisions of Missouri's rules at 10 CSR 40-3.140(1)(A), roads and control of air pollution attendant to erosion; 10 CSR 40-6.050(7)(D)(1) and 40-6.120(12)(D)(1), permit application requirements for a fish and wildlife plan; and 10 CSR 40-8.050(2)(B), small operator assistance program. OSM notified Missouri of the concerns by letter dated April 10, 1995 (administrative record No. MO-627).

Missouri responded by telephone on May 9, 1995, that it would not submit revisions to the amendment and that OSM should proceed with the publishing of this final rule **Federal Register** notice (administrative record No. MO-629).

III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds, with certain exceptions and additional requirements, that the proposed program amendment submitted by Missouri on February 10, 1995, is no less effective than the corresponding Federal regulations and no less stringent than SMCRA. Accordingly, the Director approves the proposed amendment.

1. Editorial Revisions to Missouri's Rules

Missouri proposed revisions to the following previously-approved rules that consist of minor editorial changes or corrections of referenced citations due in part to recodification (corresponding Federal regulation provisions are listed in parentheses):

10 CSR 40-3.100(5)2 (30 CFR 816.97(g)(3)), concerning distribution of plants to maximize benefit to fish and wildlife, by replacing a semicolon with a period at the end of a sentence;

10 CSR 40-3.100(6) (30 CFR 816.97(h)), concerning cropland as an alternative postmining land use, by replacing the term "fields" with "reclaimed lands;"

10 CSR 40-3.100(7) (30 CFR 816.97(h)), concerning use of greenbelts for residential, public service, or industrial land uses, by deleting the "s" from the word "lands;"

10 CSR 40-3.060(1)(L)1 (30 CFR 816.71(i)(1)), concerning the prohibition of placing coal processing wastes in head-of-hollow or valley fills, by correcting the citation of the reference for the requirements for the disposal of coal-processing waste in excess spoil fills at 10 CSR 40-3.080(4);

10 CSR 40-3.060(1)(O) (30 CFR 816.71(j)), concerning disposal of excess spoil, by correcting the citation of the reference to the requirements for permit application approval of the plan for return of coal processing waste to abandoned underground workings at 10 CSR 40-6.120(17);

10 CSR 40-3.080(8)(B) (30 CFR 816.89(b)), concerning the final disposal of noncoal wastes, by correcting the citation of the reference for revegetation requirements for surface coal mining operations at 10 CSR 40-3.120.

10 CSR 40-3.110(3)3 (30 CFR 816.102(f) and 816.41(a)), concerning the prohibition of disposal or storage of acid-forming or toxic-forming material in proximity to a drainage course, by adding the word "forming" in the phrase "acid-forming or toxic-forming material;"

10 CSR 40-6.030(1)(C)(3) (30 CFR 778.13(c)(3)), concerning identification of interests for legal and financial permit

application requirements, by correcting the citation of the reference for the permit condition that requires submittal of information after receipt of a cessation order at 10 CSR 40-6.070(13)(E);

10 CSR 40-6.030(5)(B) (30 CFR 778.17(b)), concerning permit application requirements, by correcting the citation of the reference for information required for permit terms in excess of 5 years at 10 CSR 40-6.070(12)(A);

10 CSR 40-6.060(4)(D)(4) (30 CFR 785.17(d)(4)), concerning the requirement on prime farmland that the State conservationist review and comment on the proposed method of soil reconstruction, by correcting the citation of the reference for permit application requirements for a plan for soil reconstruction, replacement, and stabilization at 10 CSR 40-6.060(4)(C)(2); and

10 CSR 40-6.070(9)(A)1, 6.070(9)(A)2.A, and 6.070(9)(A)2.B (30 CFR 773.15(c)(6) and 701.11(d)), concerning criteria for permit approval or denial for existing structures, by correcting the citation of the reference for exemptions for existing structures at 10 CSR 40-8.070(2)(D) (1)(A), (1)(B) and (1)(C);

The Director finds that the proposed revisions to these previously-approved rules, which are editorial in nature, do not make these proposed Missouri rules less effective than the Federal regulations. The Director approves the revisions proposed to these rules.

2. Substantive Revisions to Missouri's Rules That Are Substantively Identical to the Corresponding Provisions of the Federal Regulations

Missouri proposed revisions to the following rules that are substantive in nature and contain language that is substantively identical to the requirements of the corresponding Federal regulation provisions (listed in parentheses).

10 CSR 40-6.010(2)(H) (30 CFR 700.5), concerning the definition of "Secretary;"

10 CSR 40-6.070(8)(M) (30 CFR 773.15(c)(12)), concerning criteria for permit approval or denial for reining operations; and

10 CSR 40-8.010(1)(A)84 (30 CFR 701.5), concerning the definition of "road"

Because these proposed Missouri rules are substantively identical to the corresponding provisions of the Federal regulations, the Director finds that they are no less effective than the Federal regulations. The Director approves these proposed rules.

3. Proposed Revisions to Missouri's Rules Made in Response to Required Amendments

a. 10 CSR 40-3.110(3)1, Performance Standards for Backfilling and Grading of Acid- and Toxic-Forming Materials

OSM required at 30 CFR 925.16(q)(1) that Missouri amend 10 CSR 40-3.110(3)1 by (1) requiring that exposed coal seams and combustible materials be