

**FEDERAL REGISTER: 43 FR 31954 (July 24, 1978)**

DEPARTMENT OF THE INTERIOR

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

30 CFR Chapter VII

Permanent Regulatory Program; Release of draft regulations

**ACTION:** Release of draft regulations relating to the permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

**SUMMARY:** OSM has previously published two notices in the FEDERAL REGISTER concerning public participation in the preparation of rules for the permanent regulatory program and the availability of preproposed rulemaking draft rules for this program. (43 FR 25881, June 15, 1978; 43 FR 29012-29013, July 5, 1978.) This public notice announces the availability of preproposed draft rules which, when promulgated as final rules, will be included in Chapter VII of Title 30, Code of Federal Regulations.

**DATES:** Drafts of these regulations are being made available to the public beginning on Friday, July 21, 1978, in OSM's Headquarters in Washington, D.C. and its five regional offices. As announced in the two earlier FEDERAL REGISTER notices on this subject, public meetings on these draft rules will be held in Washington, D.C. on August 3 and 4, 1978, in Knoxville, Tenn. on August 7, 1978, in Charleston, W.Va. on August 8, 1978, in Indianapolis, Ind. on August 9, 1978, in Kansas City, Mo. on August 10, 1978, and in Denver, Colo. on August 11, 1978. The locations of the hearings were announced in the two previously published notices (43 FR 25881, June 15, 1978; 43 FR 29012, July 5, 1978). Written comments on the draft rules will be accepted for consideration for purposes of the proposed rules if received by OSM on or before August 18, 1978.

**ADDRESSES:** Drafts of these regulations are available at the following Surface Mining offices:

OSM Headquarters, Department of the Interior, Room 6229, 18th and C Streets NW., Washington, D.C. 20240.

OSM, Region I, First Floor, Thomas Hill Building, 950 Kanawha Boulevard East, Charleston, W.Va. 25301.

OSM, Region II, Northshore Building 2, Sixth Floor, 1111 North Shore Drive, Knoxville, Tenn. 37902.

OSM, Region III, Federal Building and Courthouse, Ohio and Pennsylvania Streets, Indianapolis, Ind. 46205.

OSM, Region IV, 601 East 12th Street, Room 1768, Kansas City, Mo. 64116.

OSM, Region V, Old Post Office Downtown, 1823 Stout Street, Denver, Colo. 80202.

Send written comments on these draft rules to:

Department of the Interior, Room 6229, 18th and C Streets, NW., Washington, D.C. 20240.

These comments and a list of public meetings with OSM staff will be available for viewing at the Washington, D.C. office from 9 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, excluding holidays.

**FOR FURTHER INFORMATION CONTACT:**

Patricia Foulk, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4719.

**SUPPLEMENTARY INFORMATION:**

As noted in the June 15, 1978 FEDERAL REGISTER notice, OSM is making available drafts of the permanent program regulations prior to proposed rulemaking in order to fulfill the spirit of the SMCRA and Executive Order 12044, both of which call for early and meaningful public participation in the development of agency regulations. The draft regulations being made available at this time are not intended to reflect the final position of OSM or the Department on the content of these regulations. The content of these regulations is based in part upon the Office's review to date of available technical literature and other source material, including the legislative history of the act. Review of this material is not necessarily complete at this time and further examination may suggest alternative provisions to those contained in the present drafts. Likewise, comments elicited by these drafts will be carefully reviewed and may well suggest alternative provisions. [Page 31955]

All drafts of the permanent program regulations being released at this time are subject to the following qualifications:

This document is a draft of proposed regulations and is not a completed version of proposed regulations. OSM is making this draft available to Federal and State agencies and the public generally to meet the goals of Executive Order No. 12044 and section 102(i) of the SMCRA and for the purpose of providing early public participation in the development of the permanent regulatory program. The regulations as contained in this draft are subject to change, based upon consideration of public comments, additional analyses and information, and further review by the Office. Following such consideration, the Office intends to publish proposed regulations for comment in the FEDERAL REGISTER. These draft regulations in no way affect the validity or finality of existing final regulations promulgated under the act, which the Office intends to enforce fully.

The rules to implement the permanent regulatory program will be included within Chapter VII of Title 30 Code of Federal Regulations. As currently contemplated that Chapter will be composed of 13 subchapters as follows: Subchapter A, General; Subchapter B, Interim Program Regulations; Subchapter C, Permanent Regulatory Programs in States; Subchapter D, Regulatory Program for Federal Lands; Subchapter F, Areas Unsuitable for Mining; Subchapter G, Permits for Surface Coal Mining Operations; Subchapter J, Performance Bonds for Surface Coal Mining Operations; Subchapter K, Permanent Program Performance Standards; Subchapter L, Permanent Program Inspection and Enforcement; Subchapter M, Certification and Training of Blasters; Subchapter P, Protection of Employees; Subchapter R, Abandoned Mine Land Reclamation; and Subchapter S, Mining and Mineral Research Institutes.

Regulations under some of these subchapters are already in effect. Others are in various stages of rulemaking independent of that being followed for the regulations which fall within the permanent regulatory program. Not included in the rulemaking to which this notice applies are the following:

Subchapter B - Parts 710, 715, 716, 717, 718, 720, 721, 722, 723, and 725. Status: Final rules, December 13, 1977.

Subchapter P - Part 830 (which will be renumbered as Part 865). Status: Final rules, December 13, 1977.

Subchapter R - Part 837 (which will be renumbered as Part 870). Status: Final rules, December 13, 1977.

Parts 840, 841, 843, 845, 848, 850, 852, and 855. Status: Proposed April 26, 1978, 43 FR 17918-17933.

Subchapter S - Part 880 (which will be renumbered as Part 890). Status: Proposed June 5, 1978, 43 FR 24326.

Included with the draft regulations being made available at this time are Parts previously released on July 3, 1978. Released on July 3, 1978 were State Programs - Part 730, State Designation of Areas Unsuitable for Surface Coal Mining Operations - Part 735, Coal Exploration Operations - Part 781, State Regulatory Authority Inspection and Enforcement - Part 820, Federal Inspection and Enforcement - Part 822, and Civil Penalties - Part 823. Those Parts are being released again at this time. All those Parts have been renumbered since their release on July 3, 1978, and organizational and substantive changes have also been made. Those Parts in their current form may now be found as follows: State Programs - Subchapter C, State Designations of Areas Unsuitable for Surface Coal Mining Operations - Subchapter F, Coal Exploration Operations - Part 776 of Subchapter G, State Inspection and Enforcement - Part 840 of Subchapter L, Federal Inspections and Enforcement - now in Parts 842 and 843 of Subchapter L, and Civil Penalties - in Part 845 of Subchapter L.

The most useful comments will be those which contain positive suggestions for alternative language for the regulations. References to technical literature, the act, legislative history and other source material, supporting comments and suggested alternative language are solicited and would be appreciated. Purely negative comments objecting to provisions in these drafts without suggesting alternatives and alternative recommendations without supporting rationale or source material will be of little value in the subsequent review to be undertaken by OSM.

Certain sections of these drafts indicate words or phrases to be defined but for which no definition is given at this time. Attention to these words or phrases and suggested language for definitions would be appreciated.

Constructive suggestions and alternatives to these draft regulations submitted during this preliminary public comment period will be carefully evaluated by OSM prior to publishing proposed rules in the FEDERAL REGISTER for the formal comment period. A public hearing will be held on all the permanent program regulations during that formal public comment period.

The regulations being distributed at this time in draft form may contain provisions which are different from corresponding sections of the initial program regulations in effect at this time. These differences are not intended in any way to affect the validity and finality of the initial program regulations. Public comment on these differences will be helpful in ultimately making final determinations whether provisions in the initial regulatory program merit amendment. Prior to formal amendment of those initial program regulations, OSM will fully enforce the initial program regulations and expects the State regulatory authorities to do the same.

Dated: July 20, 1978.

TONEY HEAD, Jr.,  
*Acting Director, Office of Surface Mining Reclamation and Enforcement.*

[FR Doc. 78-20597 Filed 7-21-78; 8:45 am]  
BILLING CODE [4310-05]