

FEDERAL REGISTER: 45 FR 30651 (May 9, 1980)

DEPARTMENT OF THE INTERIOR

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

30 CFR Part 716

Anthracite Coal Mines

ACTION: Proposed rules.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement is revising one portion of its regulations which are concerned with environmental protection. This revision clarifies that anthracite operations in the Commonwealth of Pennsylvania must comply with the anthracite environmental protection provisions of Pennsylvania as they existed on August 3, 1977. This regulation would fully implement Section 529(a) of the Surface Mining Control and Reclamation Act of 1977. A public hearing will be held if warranted.

DATES: Comments on the proposed rule must be submitted by close of business at the address listed below by June 9, 1980. [Page 30651]

ADDRESS: Written comments and requests for public hearing must be mailed or hand-delivered to: Administrative Record Office, Room 152, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; telephone: (202) 343-4728.

All comments will be available for inspection in the Administrative Record Office, Room 152, South Interior Building.

FOR FURTHER INFORMATION CONTACT:

(1) Lewis M. McNay, Chief, Branch of Applied Research, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Phone: (202) 343-8032.

(2) C. Y. Chen, Mining Engineer, Division of Technical Services, Office of Surface Mining Reclamation and Enforcement, South Building, 1951 Constitution Avenue, N.W., Room 119, Washington, D.C. 20240, Phone: (202) 343-5244.

SUPPLEMENTARY INFORMATION:

On December 13, 1977, the Secretary promulgated initial program regulations as required by Section 501(a) of the Act, 30 U.S.C. 1251 (42 FR 62675 *et seq.*) to be codified in Title 30, Code of Federal Regulations, Chapter VII. Section 716.5 of those regulations implemented the special provisions for anthracite coal mines authorized by Congress in Section 529(a) of the Act. That section of the Act provides that the permittee of anthracite coal mines in States which regulate such activities shall be subject to the State environmental protection standards in effect on the date of the Act (August 3, 1977) rather than Sections 515 and 516 of the Act. The latter section of the Act sets forth environmental performance standards applicable to the surface effects of underground coal mining operations.

In promulgating 30 CFR 716.5 on December 13, 1977 the Secretary exempted anthracite mines in the States which regulate such activities from the general environmental performance standards in 30 CFR Part 715 but failed to exempt such mines from the underground mining general performance standards in 30 CFR Part 717. See 42 FR 62693. The proposed amendment to 30 CFR 716.5 (a) and (b) would add a reference to 30 CFR Part 717 to clarify that anthracite operations in the Commonwealth of Pennsylvania (the only State to which 30 CFR Part 716.5 now applies) must comply with the anthracite environmental protection provisions of Pennsylvania as they existed on August 3, 1977, instead of 30 CFR Parts 715 and 717. Those provisions of the Pennsylvania program currently apply to both underground and surface anthracite mines.

Upon initial reading of Section 529(a) of the Act, it would appear that Congress intended that the Secretary's anthracite regulations apply only to "anthracite coal *surface* mines" and not to underground anthracite mines. However, the reference to Section 516 which appears in the second sentence of Section 529(a) of the Act indicates a contrary intent.

The legislative history of the Act confirms that Congress intended that the Secretary adopt the State environmental protection provisions applicable to anthracite surface coal mines and the surface effects of anthracite underground mines. See H.R. Rep. No. 94-1445, 94th Cong., 2nd Sess. 125-126 (1976); H.R. Rept. No. 94-896, 94th Cong., 1st Sess. 207 (1975).

Accordingly, OSM proposes to amend 30 CFR 716.5(a), (b) and (c) to change "anthracite coal surface mines" to "anthracite surface coal mining and reclamation operations" in order to clarify that the Secretary adopts Pennsylvania's

provisions both as to surface mines and the surface effects of underground mines. The term "surface coal mining and reclamation operations" is defined in 30 CFR 700.5 44 FR 15315, March 13, 1979.

PUBLIC COMMENT PERIOD: The comment period on this proposed amendment will extend until June 9, 1980. All written comments must be received at OSM Headquarters, U.S. Department of the Interior, South Building, Room 152, 1951 Constitution Avenue, N.W., Washington, D.C. 20240 by 5 p.m., on that date. Comments received after that hour will not be considered or included in the administrative record for the final rulemaking. OSM cannot be sure that written comments received or delivered during the comment period to locations other than that specified above will be considered and included in the administrative record for the final rulemaking.

PUBLIC MEETINGS: Representatives of OSM will be available between May 9, 1980 and June 9, 1980 at the request of members of the public, State representatives and industry organizations to receive their advice and recommendations concerning this proposed amendment. Persons wishing to meet with representatives of OSM during this time period may request a meeting at the Washington Office. The person to contact to schedule or attend such a meeting is Lewis M. McNay (202) 343-8032.

OSM representatives will be available for these meetings between 9 a.m. and noon; and 1 and 4 p.m., local time, Monday through Friday excluding holidays at the OSM Washington Office. All such meetings will be open to the public. Notices of the time and location of meetings will be publicly posted in OSM's Administrative Record Room in advance. A written summary of the meetings will be a part of the administrative record and will be available to the public.

STATEMENTS OF SIGNIFICANCE AND ENVIRONMENTAL IMPACT: The Department of the Interior had determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. A copy of the Department's determination is available upon request to the Director of OSM. Section 501(a) of the Act exempts this action from the environmental impact statement requirement of the National Environmental Policy Act.

Dated: May 5, 1980.

Joan . Davenport,
Assistant Secretary, Energy and Minerals .

PART 716 -- SPECIAL PERFORMANCE STANDARDS

It is proposed that 30 CFR 716.5 be amended as follows:

SECTION 716.5 - ANTHRACITE COAL MINES.

(a) Permittees of anthracite surface coal mining and reclamation operations in those States where the mines are regulated by State environmental protection standards shall be subject to the environmental protection standards of the State regulatory program in existence on August 3, 1977, instead of Part 715 and Part 717 of this chapter. [30652]

(b) The environmental protection provisions of Title 25, Rules and Regulations, Part 1, Department of Environmental Resources, Commonwealth of Pennsylvania, shall apply to reclamation of anthracite surface coal mining and reclamation operations in the Commonwealth of Pennsylvania instead of Part 715 and Part 717 of this chapter. In addition, the regulations of the Commonwealth of Pennsylvania pertaining to standards for air and water quality shall apply instead of the regulations of Part 715 and Part 717 of this chapter.

(c) If a State's regulatory program or regulations for anthracite surface coal mining and reclamation operations in force at the time of this Act are amended, the Secretary, upon receipt of a notice of amendment, shall issue additional regulations as necessary to meet the purposes of this Act.

(FR Doc. 80-14504 Filed 5-8-80; 8:45 am)

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