

FEDERAL REGISTER: 45 FR 32331 (May 16, 1980)

DEPARTMENT OF THE INTERIOR

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

30 CFR Parts 715, 716, 816, 817, 826

Steep Slope Mining

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining (OSM) is proposing to amend 30 CFR Chapter VII in an attempt to ensure uniform enforcement of interim and permanent program regulations governing multiple seam mining operations. These amendments are necessary because of the varying interpretations of the same regulations by different operators.

DATES: Comments are due on or before June 12, 1980. A public hearing will be held on June 11, 1980.

ADDRESSES: Written comments must be mailed or hand-delivered to Office of Surface Mining, Room 153, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240. All comments will be available for inspection at Room 153, South Interior Building. A public hearing will be held at the Holiday Inn Heart O'Town, Broad and Washington Streets, Charleston, West Virginia.

FOR FURTHER INFORMATION: Raymond E. Aufmuth, Physical Scientist, Technical Services Division, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, telephone (202) 343-4022.

SUPPLEMENTAL INFORMATION:

BACKGROUND

During the implementation of the interim surface coal mining regulations, as those regulations relate to previously mined areas varying interpretations of the same regulation by operators, environmental groups, and State and Federal inspectors have occurred. In an attempt to avoid conflicting interpretations and to ensure uniform enforcement of the interim and permanent regulations, OSM is proposing rules that will address multiple seam mining operations. In the Eastern Coal Province (Appalachia) the existence of several coal seams of varying distance apart is quite common. The active (and past) mining of one or more seams at the same time is a standard mining operation in this Region. Mining prior to August 3, 1977, has resulted in many miles of serpentine benches and orphaned highwalls. Remining in most instances will result in excess spoil material exceeding that necessary to reclaim the active bench and eliminate the highwall. This excess spoil material may be disposed of in two ways: (1) the material may be used in a valley or head-of-hollow fill structure approved by the Regulatory Authority or, (2) it may be used to eliminate existing benches and orphaned highwalls. In either situation the fill structures must be constructed in accordance with excess spoil disposal requirements (30 CFR 715.15; 816.71-816.74/817.71-817.74).

In view of the extensive amount of existing benches and orphaned highwalls in steep slope multiple seam mining, OSM is encouraging the use of any excess spoil for the purpose of eliminating the orphaned highwalls prior to its use in an approved valley or head-of-hollow fill. Determination of the availability of orphaned highwalls and benches is made by the Regulatory Authority based on information provided by the operator in the reclamation plan portion of the permit application. This proposed rule will provide for the elimination of orphaned highwalls with acceptable reclamation practices using the requirements with backfilling and grading regulations instead of disposal of excess spoil regulations. The requirements with respect to foundation analysis and the factor of safety for backfilling and grading are less stringent than that required for valley or head-of-hollow fill structures. This difference is based on the premise that backfilling and grading is conducted on natural solid rock benches which are generally flat, whereas valley or head-of-hollow fills are placed on steeply dipping unconsolidated materials. The fragile environment and hydrologic balance of steep slope areas will be protected by reducing the quality (both size and number) of valley and head-of-hollow fill structures. Valley and head-of-hollow structures are located in hollows within the permit area, much of which has not been disturbed either by previous or active mining operations, thereby requiring additional areas to be disturbed by the fill construction process. In addition, the long-term stability factor is greater for material placed on natural solid rock than for material placed in valley or head-of-hollow fill structure. This proposed rule would amend 30 CFR 715.15(a)(5); 716.2(c); 816.71(e); 817.71(e) and 826.16(c) to encourage the use of excess spoil to eliminate orphaned highwalls prior to use in a head-of-hollow or valley fill structure. The legal basis for this requirement is found in 515(b)(22)(E) of the Act which requires spoil to be placed on the most moderate slope available which complies with the requirements of the Act and specifically identifies " * * * a natural * * * bench * * *" as a potential excess spoil disposal site.

Public hearings on these regulations will be held on the dates specified below to hear all those who wish to testify. The hearings will be held at the following location and will begin at 9:30 a.m. local time at the following location:

June 11, 1980 -- Holiday Inn Heart O'Town, Broad and Washington Streets, Charleston, West Virginia.

Persons wishing to testify at the public hearings on the proposed regulations should contact Raymond E. Aufmuth at (202) 343-4022. Individual testimony at these hearings will be limited to 15 minutes. The hearings will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter. Submission of written statements in advance of the hearings would greatly assist OSM officials who will attend the hearings. Advance submissions will give these officials an opportunity to consider appropriate questions which could be asked to clarify or to request more specific information from the person testifying. Each public hearing will continue on the day identified above until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and wish to do so will be heard following the scheduled speakers. The hearings will end after all persons scheduled to testify and persons present in the audience who wish to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard. Written and oral comments should be specific as possible. The office will appreciate any and all comments, but those most useful and likely to influence decisions on these regulations will be those which include a rationale based on fact, not opinion, for any given recommendation. [Page 32332]

The Department of the Interior has 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. The Department of the Interior has also determined that the adoption of this legislative rule does not constitute a major federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969.

SUMMARY

Part 715 -- 30 CFR 715.15(a)(5) is proposed to be amended by adding a sentence at the conclusion of the paragraph providing for excess spoil disposal on a natural bench in accordance with backfilling and grading requirements.

Part 716 -- 30 CFR 716.2(a)(3) is proposed to be amended by adding a sentence at the conclusion of the paragraph providing for excess spoil disposal on a natural bench in accordance with backfilling and grading requirements.

Part 816-30 CFR 816.71(e) is proposed to be amended by adding a sentence at the conclusion of the paragraph providing for excess spoil disposal on a natural bench in accordance with backfilling and grading requirements.

Part 817 -- 30 CFR 817.71(e) is proposed to be amended by adding a sentence at the conclusion of the paragraph providing for excess spoil disposal on a natural bench in accordance with backfilling and grading requirements.

Part 826 -- 30 CFR 826.16 is proposed to be amended by adding the term "natural" before the word "bench" to make clear that the excess spoil is to be deposited only on the solid portion, that is the natural portion, of the bench in accordance with section 515(b)(22)(E) of the Act.

30 CFR 826.16(c) is proposed to be amended by redesignating the references providing for excess spoil disposal on a natural bench in accordance with backfilling and grading requirements.

PROPOSED AMENDMENTS

PART 715 -- GENERAL PERFORMANCE STANDARDS

1. Part 715 -- 30 CFR 715.15(a)(5) is proposed to be revised as follows:

SECTION 715.15 - DISPOSAL OF EXCESS SPOIL; GENERAL REQUIREMENTS.

(a) * * *

(5) The disposal areas shall be located on the most moderately sloping and naturally stable areas available as approved by the regulatory authority. If such placement provides additional stability and prevents mass movement, fill materials suitable for disposal shall be placed upon or above a natural terrace, bench, or berm. If disposal is conducted on a natural bench created and abandoned by previous surface mining operations (prior to Aug. 3, 1977) then the requirements of 30 CFR 715.14 shall be applicable.

PART 716 -- SPECIAL PERFORMANCE STANDARDS

2. Section 716.2 is proposed to be amended by revising the introductory text and paragraph (c) as follows:

SECTION 716.2 - STEEP-SLOPE MINING.

The permittee conducting surface coal mining and reclamation operations on natural slopes that exceed 20 degrees, or on lesser slopes that require measures to protect the area from disturbance as determined by the regulatory authority after consideration of soils, climate, the method of operation, geology, and other regional characteristics, shall meet the following performance standards. The standards of this section do not apply where mining is done on a flat or gently rolling terrain with an occasional steep slope through which the mining proceeds and leaves a plain or predominantly flat area; or where the mining is governed by Section 716.3.

* * *

(c) Material in excess of that required to meet the provisions of Section 715.14 of this chapter shall be disposed of in accordance with the requirements of Section 715.15 of this chapter. In re-mining multiple seam steep slope areas, spoil not required to reclaim and restore the area disturbed for removal of coal during current mining may be placed on a preexisting natural bench in accordance with Section 715.14 of this chapter, before use in a fill structure.

PART 816 -- PERMANENT PROGRAM PERFORMANCE STANDARDS -- SURFACE MINING ACTIVITIES

3. Section 816.71(e) is proposed to be revised as follows:

SECTION 816.71 - DISPOSAL OF EXCESS SPOIL: GENERAL REQUIREMENTS.

* * *

(e) The disposal areas shall be located on the most moderately sloping and naturally stable area available as approved by the regulatory authority. If such placement provides additional stability and prevents mass movement, fill materials suitable for disposal shall be placed upon or above a natural terrace, bench, or berm. If disposal is conducted on a natural bench created and abandoned by previous surface mining operations (prior to Aug. 3, 1977) then the requirements of 30 CFR 816.101-.106 or 817.101-.106 shall be applicable.

PART 817 -- PERMANENT PROGRAM PERFORMANCE STANDARDS -- UNDERGROUND MINING ACTIVITIES

4. Section 817.71(e) is proposed to be revised as follows:

SECTION 817.71 - DISPOSAL OF UNDERGROUND DEVELOPMENT WASTE AND EXCESS SPOIL: GENERAL REQUIREMENTS.

* * *

(e) The disposal areas shall be located on the most moderately sloping and naturally stable areas available as approved by the regulatory authority. If such placement provides additional stability and prevents mass movement, fill materials suitable for disposal shall be placed upon or above a natural terrace, bench or berm. If disposal is conducted on a natural bench created and abandoned by surface mining operations (prior to Aug. 3, 1977) then the requirements of 30 CFR 816.101-.106 or 817.101-.106 shall be applicable.[Page 32333]

PART 826 -- SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS -- OPERATIONS ON STEEP SLOPES

5. Section 826.16 is proposed to be amended by revising the introductory text and paragraph (c) to read as follows:

SECTION 826.16 STEEP SLOPE MULTIPLE SEAM.

In multiple-seam steep slope affected areas, spoil not required to reclaim and restore the permit area may be placed on a pre-existing natural bench, if approved by the regulatory authority and if the following requirements are met:

* * *

(c) The fill must comply with 30 CFR 816.101;.102 &.106 or 817.101;.102 &.106.

* * *

Dated: May 6, 1980.

Joan M. Davenport,
Assistant Secretary -- Energy & Minerals.

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