

FEDERAL REGISTER: 46 FR 18023 (March 23, 1981)

DEPARTMENT OF THE INTERIOR

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

30 CFR Parts 700, 716 and 785

Surface Coal Mining and Reclamation Operations;
Initial and Permanent Regulatory Programs

ACTION: Notice of suspension of certain rules in 30 CFR Chapter VII.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is suspending three final rules pending the outcome of rulemaking to modify those rules. This action is being taken as a result of preliminary review of the rules under Executive Order 12291. The specific regulations affected by this action are listed below.

EFFECTIVE DATE: March 23, 1981.

FOR FURTHER INFORMATION CONTACT: Andrew V. Bailey, Principal Deputy Director, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240 (202) 343-4006.

SUPPLEMENTARY INFORMATION:

On February 4, 1981, the Department of the Interior, in accordance with the President's memorandum of January 29, 1981, extended until March 30, 1981, the effective dates of three final rules which had not yet become effective. The three rules deal with exemptions and definitions for the prime farmland rules of OSM's initial and permanent regulatory programs and an exemption for operations which affect two acres or less. As a result of a preliminary review of these rules undertaken pursuant to Executive Order No. 12291, *46 FR 13193*, OSM has determined that it is in the public interest to consider modifications of these rules. The three rules are therefore suspended pending the outcome of further rulemaking which OSM will initiate in the near future. All appropriate procedures under Executive Order 12291, the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the Administrative Procedure Act (APA), and other applicable laws and regulations will be followed.

As a result of this notice, these rules will not become effective on March 30, 1981, as was stated in the notice published in the Federal Register on February 4, 1981, *46 FR 10707*. Because none of the rules has ever been in effect, this suspension will allow the prior versions of each rule to remain in effect until the completion of new rulemaking proceedings.

JUSTIFICATION FOR POSTPONEMENT FOLLOWED BY SUSPENSION

Many states have recently received outright or conditional approval of their regulatory programs and are beginning the difficult task of implementing those programs. If these rules were allowed to become effective on March 30, 1981, those states would be required to begin the process of amending their state programs to meet the new federal rules. State resources would be needlessly expended in this effort, however, if the result of OSM's planned future rulemaking differs from the postponed rules. Imposition of such an unnecessary burden on States which are currently facing the difficult task of implementing their regulatory programs is not justifiable. Consequently, good cause exists for immediate suspension of these rules without notice and public procedure thereon to prevent such a wasteful exercise and allow a careful reevaluation and revision of the prime farmland and two acre exemption rules. Good cause similarly exists for this suspension to take effect immediately. Because the prior rules will remain in effect, the suspension of these versions of the rules will have no adverse effect upon achieving the purposes of SMCRA pending completion of the rulemaking process.

NOTICE OF SUSPENDED REGULATIONS

The following regulations are suspended:

A. 30 CFR 716.7(a) and (b). PRIME FARMLAND EXEMPTION.

The regulation as published on January 22, 1981 (*46 FR 7212*) is suspended. The regulation which was removed by that notice remains in effect.

B. 30 CFR 716.7 (a) and (b). PRIME FARMLANDS EXEMPTION.

This regulation as published on January 23, 1981 (*46 FR 7900*) is suspended. The regulation which was revised by that notice remains in effect.

C. 30 CFR 785.17. PRIME FARMLAND EXEMPTION.

This regulation as published on January 23, 1981 (*46 FR 7900*) is suspended. The regulation which was revised by that notice remains in effect.

D. 30 CFR 700.11(b). EXTRACTION OF COAL; TWO ACRES OR LESS.

This regulation as published on January 23, 1981 (*46 FR 7904*) is suspended. The regulation which was revised by that notice remains in effect.

Dated: March 18, 1981.

Perry Pendley, Deputy Assistant Secretary of the Interior.

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