

FEDERAL REGISTER: 46 FR 20211 (April 3, 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: Cancellation of Prior Notice and Deferral of Effective Dates for Final Rules.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is further postponing the effective dates of three final rules which were previously postponed until March 30, 1981 in accordance with the President's memorandum of January 29, 1981. These rules were the subject of a notice published on March 23, 1981 (*46 FR 18023*), which is cancelled and superseded by this notice. Public comment is solicited as to whether the rules should be suspended indefinitely pending the outcome of rulemaking to consider modifications of 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.

DATES: This document is effective on March 30, 1981. The effective date of Sec. 716.7 (a) and (b) as published on January 22, 1981, and the effective dates of Sec. 785.17(a) and Sec. 700.11(b) as published on January 23, 1981 is May 4, 1981. The effective date of Sec. 716.7(a)(2) as published on January 23, 1981 is May 5, 1981. Comments must be received on or before 5 p.m., April 20, 1981, at the address listed below.

ADDRESS: Comments may be mailed or hand delivered to: Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 153, 1951 Constitution Avenue, Washington, D.C. 20240.

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 rules which had not yet become effective.

The Office of Surface Mining (OSM) published amendments to Sec. 716.7 (a) and (b), prime farmland exemptions, in the Federal Register on January 22, 1981, which were effective on February 23, 1981. In the January 23, 1981, Federal Register, Sec. 716.7(a)(2) was revised, effective February 23, 1981. The effective date of the January 23, 1981, amendments was incorrect and should have been February 24, 1981. Therefore, in this document, the effective date of Sec. 716.7(a)(2) (as published on January 23, 1981) has been postponed one day after Sec. 716.7 (a) and (b), (as published January 22, 1981).

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. This notice supersedes the notice published on March 23, 1981 (*46 FR 18023*) concerning these three rules. 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 effective dates of the rules are therefore postponed pending the receipt of comments on the issue of whether these rules should be 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 postponement and possible later suspension would 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. Postponement of the effective dates of these rules, followed by suspension of these rules, will prevent such a wasteful exercise and allow a careful reevaluation and revision of the prime farmland and two acre exemption rules. Because the prior rules will remain in effect, postponement 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 effective dates of the following regulations are suspended as follows:

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

The effective date of this regulation as published on January 22, 1981 (*46 FR 7212*) is postponed until May 4, 1981. The regulation which was in effect prior to January 22, 1981, remains in effect.

B. 30 CFR 716.7(a)(2). PRIME FARMLANDS EXEMPTION

The effective date of this regulation as published on January 23, 1981 (*46 FR 7900*) and corrected in this document, is postponed until May 5, 1982. The regulation which was in effect prior to January 22, 1981 remains in effect.

C. 30 CFR 785.17(a). PRIME FARMLAND EXEMPTION

The effective date of this regulation as published on January 23, 1981 (*46 FR 7900*) is postponed until May 4, 1981. The regulation which was revised by that notice remains in effect.

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

The effective date of this regulation as published on January 23, 1981 (*46 FR 7904*) is postponed until May 4, 1981. The regulation which was revised by that notice remains in effect.

Dated: March 30, 1981.

William P. Pendley, Deputy Assistant Secretary of the Interior.

[FR Doc. 81-10153 Filed 4-2-81; 9:42 am]

BILLING CODE 4310-05-M