1921 *et seq.,* 1973c; and Pub. L. 107–273, 116 Stat. 1758, 1824.

§ 50.28 [Removed and Reserved]

■ 2. Section 50.28 is removed and reserved.

Dated: May 5, 2022.

Merrick B. Garland,

Attorney General.

[FR Doc. 2022–10036 Filed 5–5–22; 4:15 pm]

BILLING CODE 4410–BB–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[SATS No. KY–261–FOR; Docket ID: OSM–2019–0013; SIDIS SS08011000 SX064A000 222S180110; S2D2S SS08011000 SX064A000 22XS501520]

Kentucky Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment, and removal of a required amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving, subject to certain limitations discussed below, an amendment to the Kentucky regulatory program (Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The regulatory provisions we are approving establish new bond requirements for providing sufficient financial assurances for the long-term treatment of unanticipated pollutional discharges at permitted sites. Consequently, we are removing a required amendment that we imposed in 2018 regarding financial assurance for the long-term treatment of discharges. We are also approving revisions to other various bond requirements.

DATES: Effective June 9, 2022.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Castle, Field Office Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, Telephone: (859) 260–3900, Email: *mcastle@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

Subject to OSMRE's oversight, section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. *See* 30 U.S.C. 1253(a)(1) and (7). Based on these criteria, the Secretary of the Interior conditionally approved the Kentucky program effective May 18, 1982. You can find background information on the program, including the Secretary's findings, the disposition of comments, and conditions of approval in the May 18, 1982, **Federal Register** (47 FR 21434). You can also find later actions concerning Kentucky's program and program amendments at 30 CFR 917.11, 917.12, 917.13, 917.15, 917.16, and 917.17. The regulatory authority in Kentucky is Kentucky's Energy and Environment Cabinet (herein referred to as the Cabinet).

II. Submission of the Amendment

By letter dated November 25, 2019 (Administrative Record No. KY 2003), the Cabinet submitted an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). The amendment revises chapter 10:015 of title 405 of the Kentucky Administrative Regulations (KAR), *General bonding provisions.* The regulatory provisions at Section 8(7), *Bond Rate of Additional Areas,* establish new requirements for the calculation of additional bond amounts necessary for the long-term treatment of unanticipated pollutional discharges (hereafter referred to as ''discharges''). Other bond requirements of a non-substantive nature were also included. *See* 405 KAR 10, *Bond and Insurance Requirements,* subchapter 10:015. The submission is intended to address disapprovals we made in a 2018 decision regarding the Cabinet's proposed regulations for the long-term treatment of discharges in a final rule designated KY–256–FOR (KY–256), *see* January 29, 2018, **Federal Register** (83 FR 3948), and the resultant action we required under the authority of 30 CFR 732.17(e) and (f). The required action is codified in the Kentucky program at 30 CFR 917.16(p), *Required regulatory program amendments.* The full text of the program submission is available at *https://www.regulations.gov.*

A. Background of Kentucky Program Amendment KY–256—In May 2012, in accord with 30 CFR 733.12(b), we notified the Cabinet that we had reason to believe it was not implementing, administering, enforcing, and maintaining the reclamation bond provisions of its approved program in a manner that assured ''completion of the [applicable] reclamation plan,'' as required by section 509(a) of SMCRA, 30 U.S.C. 1259(a), *Performance bonds.* The Cabinet responded to this section 733 notice with three submissions: One in September 2012, another in July 2013, and a third in December 2013. The first submission was announced in the **Federal Register** on February 20, 2013 (78 FR 11796). Subsequently, all three submissions were combined (and public comment solicited) in a single **Federal Register** document, 80 FR 15953 (March 26, 2015), in which the proposed rule was designated State program amendment KY–256. As the document explained, KY–256–FOR was intended to address the deficiencies identified in the section 733 notice.

B. Partial Approval of KY–256—We approved most of the provisions of KY–256–FOR in a final rule published in the **Federal Register** on January 29, 2018 (83 FR 3948). One of the provisions not approved, and now under consideration in revised form, was subsection 8(7) of 405 KAR 10:015, which consisted of three subsections (8(7)(a), –(b), and –(c)). If approved, subsection 8(7)(a) would have provided that, for permitted sites requiring long-term treatment of discharges, the Cabinet must calculate an additional bond amount based on the estimated annual treatment cost provided by the permittee and multiplied by twenty years. Focusing on this twenty-year multiplier, we disapproved the provision in our January 2018 final rule because the Cabinet had not demonstrated how this provision would assure that adequate bonding would be calculated for the long-term treatment of discharges. In doing so, we reaffirmed that abatement of unanticipated water pollution is an element of reclamation and noted that a permittee's treatment obligation may extend in perpetuity. As a result, we found the provision less stringent than section 509 of SMCRA, 30 U.S.C. 1259, and less effective than the Federal regulations at 30 CFR part 800 and, on that basis, declined to approve it. We also declined to approve subsection 8(7)(b), which would have operated in conjunction with subsection 8(7)(a) by subjecting the estimate of annual treatment cost specified in subsection

(a) to verification and acceptance by the Cabinet.

Lastly, we declined to approve subsection 8(7)(c), which would have allowed permittees to submit to the Cabinet for approval a remediation plan that demonstrates that substandard discharge will be abated through land reclamation techniques, prior to phase II bond release, in lieu of the bond calculation in subsection 8(7)(a). As the final rule explained, *see* 83 FR 3948, 3955, this provision would have effectively created an exception to the requirement of SMCRA section 509 that a permittee post bond that is fully adequate to cover complete reclamation, including water treatment, and therefore could not be approved. In addition to declining to approve the three components of subsection 8(7), we also required the Cabinet to take certain regulatory action pursuant to our authority in 30 CFR 732.17(e) and (f), as more fully discussed below.

C. Litigation—Before taking this regulatory action, the Cabinet and the Kentucky Coal Association (KCA) filed separate—but similar—lawsuits against the Secretary of the Interior and the Deputy Director of OSMRE in the U.S. District Court for the Eastern District of Kentucky (case nos. 3:18–cv–19, 3:18–cv–20), challenging the partial approval of KY–256. Prior to the government's deadline to file its initial response to the lawsuits, the parties commenced settlement negotiations. The parties agreed to jointly seek a stay of proceedings in each case so that they could explore the possibility of resolving the lawsuits through rulemaking rather than litigation. Motions seeking stays were filed in each case in June and July 2018. In July 2018, the judges in the two cases granted the motions and stayed proceedings for 90 days. Through a series of similar motions and orders, the stays have been extended to the present day and remain in effect.

D. Required Amendment—The Cabinet's amendment submission is intended to satisfy the regulatory action required, as codified at 30 CFR 917.16(p), by addressing the issues identified in the final rule for KY–256, and is further intended to help resolve the pending litigation. In particular, the regulatory action we required was for the Cabinet to either: (1) Notify us how the Cabinet will require operators to address financial assurances for the long-term treatment of discharges, potentially in perpetuity, under its currently approved program, given that we did not approve new regulatory provisions in subsection 8(7) of 405 KAR 10:015; or (2) submit an amendment to its approved program that requires operators to provide sufficient financial assurances for the treatment of discharges for as long as such discharges continue to exist. In response to the required regulatory action, the Cabinet in 2018 initially elected the first option, notifying us, first verbally and then in writing on March 27, 2018, that its program already provides adequate financial assurance. Following the filing of litigation on March 31, 2018, and the subsequent agreement of the parties to pursue settlement, the Cabinet then elected the second option, submitting provisions intended to provide financial assurance for the treatment of discharges when long-term treatment is required. We describe our findings on the proposed rule, KY–261, in section III, below.

E. Additional Revisions—In addition to responding to the required amendment, the Cabinet has proposed certain non-substantive revisions at 405 KAR 10:015. These revisions include reference changes and editorial edits but do not change the administrative regulations substantively; instead, these changes clarify content or conform the regulation to drafting requirements and conventions. The non-substantive changes are found in 405 KAR 10:015, sections 1(2), 2(5), 2(5)(c)(3)(d), 2(5)(c)(3)(e), 2(6), 2(6)(b), 2(6)(c), 2(7), 2(7)(c), 4, 4(1)(b), 4(2)(a), 4(2)(f), 5(1), 5(2), 6(1), 6(1)(a), 6(1)(c), 6(3), 7(3), 8, 8(5), 9(4), 10(2), 11(1), 11(2), 11(3), 11(5), and 12(1)(g). Because the changes in these sections are non-substantive, we make no findings on them.

F. Public Notice—We announced receipt of the proposed amendment in the February 25, 2020, **Federal Register** (85 FR 10634) (Administrative Record No. KY–2003–3). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because one was not requested. The public comment period ended on March 26, 2020. Public comments received are addressed in section IV of this notice.

G. Demonstration—During our review of the amendments, we requested that the Cabinet demonstrate that proposed subsection 8(7)(a) would provide sufficient financial assurances for long-term treatment sites. By letter dated August 28, 2020 (Administrative Record No. 2003–5), the Cabinet provided a demonstration of the model to be used to calculate the additional bond amounts. This demonstration included a narrative describing how the model works and three example scenarios that calculated the additional bond amounts, which are based on the total annualized capital costs and annual treatment costs multiplied by a factor of 25. The calculation is intended to result in the amount of an additional bond necessary for the regulatory authority to complete reclamation, including treatment of discharges, in the event of a forfeiture. As part of our review, we met with Cabinet representatives on January 19, 2021. During the meeting, the Cabinet provided clarifications on the adequacy of the inputs to the model and how the model processed this information. Cabinet representatives then provided a demonstration, supplemented by a narrative of the model's calculation process, that adequately addressed our questions and comments.

III. OSMRE's Findings

The Cabinet seeks to add administrative regulations at 405 KAR 10:015, subsections 8(7)(a) and (b), to address the requirement for sufficient financial assurances for the treatment of discharges, as identified in the final rule for KY–256. The following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15, *Criteria for approval or disapproval of state programs,* and 30 CFR 732.17, *State program amendments,* as described below.

A. 405 KAR 10:015 8(7)(a): The Cabinet proposes to add subsection 8(7)(a) to its approved program. As mentioned, a provision at this section was proposed earlier but disapproved in KY–256. The proposed provision states that, for any permit identified as requiring long-term treatment of a discharge, the Cabinet must calculate the amount of an additional bond or other financial assurance instrument based on the estimated annual treatment cost, provided by the permittee and verified by the Cabinet, multiplied by a factor of 25, plus any capital costs of the treatment system.

OSMRE Finding: In KY–256, the Cabinet had proposed a new regulation at subsection 8(7)(a), which provided that, for any permit that had been identified as producing long-term treatment drainage, the Cabinet would calculate the amount of an additional bond based on the estimated annual treatment cost, as provided by the permittee and verified by the Cabinet, multiplied by twenty years. We disapproved the provision because the Cabinet had not demonstrated that a twenty-year multiplier would result in an adequate bond. We stated that both SMCRA and the Federal regulations require operators to post bonds that are sufficient in amount to assure

completion of reclamation if that reclamation were to be completed by the regulatory authority. This includes abatement of any discharges. Therefore, absent such a demonstration, we found subsection 8(7)(a) less stringent than section 509 of SMCRA and less effective than the Federal regulations at 30 CFR part 800, *Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations Under Regulatory Programs,* and we did not approve it.

The proposed regulation modified the KY–256 version of 8(7)(a) in three important ways. First, when calculating the bond amount, the Cabinet would now be required to account for capital costs, something the earlier version in KY–256 did not do. Second, the bond calculation basis (annual treatment cost) would be subject to a factor of 25, not the twenty-year multiplier previously proposed. Third, the Cabinet changed the reference in the earlier version from ''additional bond'' to ''additional bond or other financial assurance instrument,'' though the change was not explained in the Cabinet's November 2019 submission.

There is no comparable Federal regulation that prescribes how financial assurance requirements for the long-term treatment of discharges should be determined. Absent such regulation, we reviewed the model provided by the Cabinet to understand how the additional bond or other financial assurance instrument is to be calculated under subsection 8(7)(a). Taken together, the provisions of the proposed regulation, the Cabinet's demonstration on the workings of its bond calculation model, and general bond provisions of the Kentucky program form the basis of our findings in determining whether the proposed provisions meet the requirements of section 509 of SMCRA and 30 CFR part 800.

Using this bond calculation model for long-term treatment costs, the Cabinet determines the amount of bond necessary to assure completion of reclamation if the work had to be performed by the regulatory authority following forfeiture. The language of subsection 8(7)(a), as proposed, leaves the verification and acceptance of the long-term treatment cost determination to the regulatory authority. We agree with this approach and, based on the Cabinet's demonstration of its use of its bond calculation model, find this method of determining the amount of bond necessary for long-term treatment of discharges no less stringent than section 509 of SMCRA and no less effective than the Federal regulations at 30 CFR part 800.

We are satisfied that any changed circumstances affecting the Cabinet's initial assumptions can be appropriately addressed through future bond adjustments, as authorized in section 10 of 405 KAR 10:015. Importantly, bond adequacy must be reassessed every two years under subsection 6(3) of 405 KAR 10:015. This approach to bond calculation is consistent with the Federal regulations at 30 CFR 800.14, *Determination of bond amount,* and 800.15, *Adjustment of amount.* Neither of these provisions spell out the precise parameters for calculation of the original bond amount or for periodic adjustments of the bond amount. Rather, those decisions are to be made by the regulatory authority. We expect that long-term treatment bonds will be reviewed biannually under subsection 6(3) of 405 KAR 10:015 and adjusted, using this bond calculation model for long-term treatment costs, as appropriate under section 10.

Finally, we are also satisfied that the Cabinet's bond calculation model for long-term treatment costs demonstrates an adequate bond amount. Recognizing the difficulty of determining an adequate bond amount covering treatment which may last in perpetuity, and that there is no specific Federal requirement or guidance on determining an adequate amount of a bond covering treatment in perpetuity, the Cabinet chose to use a surrogate of seventy-five years. We consider the Cabinet's use of the seventy-five-year surrogate acceptable considering that the nature and extent of long-term discharges can change over time, that section 10 of 405 KAR 10:015 authorizes the Cabinet to adjust bond amounts, and that section 6(3) of the same subchapter requires biannual assessments of bond adequacy.

Given these considerations, we conclude that subsection 8(7)(a)'s calculation provisions meet the requirements of section 509 of SMCRA, including the requirement in section 509(a) that the amount of the bond ''be sufficient to assure the completion of the reclamation plan if the work had to be performed by the regulatory authority in the event of forfeiture,'' and that subsection 8(7)(a) is no less stringent than section 509 of SMCRA and no less effective than the regulations at 30 CFR part 800. Because the Cabinet did not provide any explanation or justification in its submission for expanding the scope to include other financial assurance instruments beyond those already approved in section 3, we are approving the regulation but only to the extent that the phrase ''additional bond or other financial assurance instrument'' in subsection 8(7)(a) refers to the relevant performance bonds already authorized in section 3 of 405 KAR 10:015. We maintain oversight of the regulatory program and the bonding system under the approved Kentucky program. Should we become aware that the State's bonding program is insufficient, we have the authority to require the State to take appropriate action. We also note our amenability to considering, in the future, a proposed amendment seeking approval of the use of ''other financial assurance instruments,'' one that explains what they are and justifies Kentucky's legal authority to use such instruments.

B. 405 KAR 10:015 8(7)(b): The Cabinet proposes to add subsection 8(7)(b) to its approved program. A provision at this section was previously proposed but disapproved in KY–256. The proposed provision provides that the long-term treatment cost estimate is subject to verification and acceptance by the Cabinet and that the Cabinet will use its own estimate for annual treatment costs if it cannot verify the accuracy of the permittee's estimate.

OSMRE Finding: Except for the added clarification in subsection 8(7)(b) that the cost estimate called for in subsection 8(7)(a) is a ''long-term treatment'' cost estimate, the Cabinet had proposed this same language under KY–256. We did not approve this provision previously because it referenced the bond calculation in 8(7)(a) that we were not approving. Because we are approving the provisions of new subsection 8(7)(a), this reference is no longer a concern. We therefore find that subsection 8(7)(b) is no less stringent than section 509 of SMCRA and no less effective than the Federal regulations at 30 CFR part 800, including 30 CFR 800.14(a)(1), which requires that the amount of bond required be determined by the regulatory authority. On this basis, it is approved.

C. 405 KAR 10:015 8(7)(c): The Cabinet's submission includes the deletion of subsection 8(7)(c), which was proposed in KY–256 and would have provided that, in lieu of posting the additional bond amount, the permittee would submit a satisfactory reclamation and remediation plan for any area producing a discharge. As originally proposed, the reclamation plan would have to demonstrate that a pollutional discharge can be permanently abated by land reclamation techniques prior to phase II bond release.

OSMRE Finding: We did not approve the new regulation proposed in KY–256 because we found the allowance of a remediation plan that is based on land reclamation in lieu of posting adequate

bond unacceptable. As we stated, neither SMCRA nor its implementing regulations provide any exceptions to the requirement to post a bond that assures completion of reclamation, including water treatment. For this reason, we found the provision to be less stringent than section 509 of SMCRA and less effective than the Federal regulations at 30 CFR part 800. Because we never approved the provision, we are not making a finding on this deletion.

IV. Summary and Disposition of Comments

Public Comments

In the February 25, 2020, **Federal Register** document announcing our receipt of this amendment, we asked for public comments (85 FR 10634). The comment period closed on March 26, 2020. No requests for public meetings or hearings were received. By letter dated March 26, 2020, we received comments from the KCA, which represents the producers of the majority of coal mined in Kentucky and over one hundred additional businesses and organizations that depend upon or support the Kentucky coal mining industry (Administrative Record No. KY–2003–4).

In its comments, KCA supported approval of the regulations proposed by the Cabinet, noting that it has actively participated in the Kentucky rulemaking process and has been involved in the noted litigation concerning partial approval of KY–256. The KCA stated that the proposed revisions are as stringent as the requirements of SMCRA and satisfy the criteria for approval under 30 CFR 732.15 and should be approved without delay. The KCA mentioned its understanding that the Cabinet has or can provide significant evidence demonstrating that the bonding calculation methodology contained in the revised subsection 8(7) will ensure adequate bonding. The KCA emphasized that its member companies require regulatory certainty and clarity and urged approval without delay.

OSMRE Response: Because the comments are in support of the approval of the amendment, a position with which OSMRE agrees, we make no response.

Federal Agency Comments

On December 16, 2019, in accord with 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Kentucky program (Administrative Record No. 2003–1). No Federal agency comments were received.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that the Cabinet proposes to make in this amendment pertain to or affect air or water quality standards. Therefore, we did not ask EPA to concur on the amendment. However, on December 16, 2019, under 30 CFR 732.17(h)(11)(i), we requested comments from the EPA (Administrative Record No. 2003–1). The EPA did not provide any comments.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On December 16, 2019, we requested comments from the Kentucky Heritage Council on this amendment (Administrative Record No. 2003–1). We did not receive any comments.

V. OSMRE's Decision

Based on the above findings, we are approving KY–261 as submitted by the Cabinet on November 25, 2019. We are approving the amendment subject to our understanding regarding the meaning of ''other financial assurance instrument,'' and removing the required amendment at 30 CFR 917.16(p).

To implement this decision, we are amending the Federal regulations, at 30 CFR part 917, which codify decisions concerning the Kentucky program. In accordance with the Administrative Procedure Act (5 U.S.C. 500 *et seq.*), this rule will take effect 30 days after the date of publication. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. SMCRA requires consistency of State and Federal standards, which this amendment achieves. For these reasons, we conclude that KY–261 satisfies the required action identified in our January 2018 final rule on KY–256. It provides a mechanism for calculating an additional bond amount at the time when the regulatory agency determines that long-term treatment is required.

VI. Statutory and Executive Order Reviews

Executive Order 12630—Governmental Actions and Interference With Constitutionality Protected Property Rights

This rule would not effect a taking of private property or otherwise have taking implications that would result in property being taken for Government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the relevant Federal regulations.

Executive Order 12866—Regulatory Planning and Review and 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the approval of State program amendments is exempted from OMB review under Executive Order 12866. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by section 3(a) of Executive Order 12988. The Department has determined that this **Federal Register** document meets the criteria of section 3 of Executive Order 12988, which is intended to ensure that the agency review its legislation and proposed regulations to eliminate drafting errors and ambiguity; that the agency write its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive order to the quality of this **Federal Register** document and to changes to the Federal regulations. The review under this Executive order did not extend to the language of the State regulatory program or to the program amendment that the Cabinet drafted.

Executive Order 13132—Federalism

This rule has potential federalism implications as defined under section 1(a) of Executive Order 13132. Executive Order 13132 directs agencies to ''grant the States the maximum

administrative discretion possible'' with respect to Federal statutes and regulations administered by the States. Kentucky, through its approved regulatory program, implements and administers SMCRA and its implementing regulations at the State level. This rule approves an amendment to the Kentucky program submitted and drafted by the State and, thus, is consistent with the direction to provide maximum administrative discretion to States.

Executive Order 13175—Consultation and Coordination With Indian Tribal Government

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Tribes or on the distribution of power and responsibilities between the Federal Government and Tribes. Therefore, consultation under the Department's tribal consultation policy is not required. The basis for this determination is that our decision on the Kentucky program does not include Tribal lands or affect regulation of activities on Tribal lands. Tribal lands are regulated independently under the applicable approved Federal program.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not a significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

This rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866; and this action does not address environmental health or safety risks disproportionately affecting children.

National Environmental Policy Act

Consistent with sections 501(a) and 702(d) of SMCRA (30 U.S.C. 1251(a) and 1292(d), respectively) and the U.S. Department of the Interior Departmental Manual, part 516, section 13.5(A), State program amendments are not major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C).

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 3701 *et seq.*) directs OSMRE to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. (OMB Circular A–119 at p. 14) This action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with SMCRA.

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon the Federal regulations setting minimum bond requirements for surface coal mining and reclamation operations under regulatory programs, for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates Reform Act

This rule will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based an analysis of the Federal regulations setting minimum bond requirements for surface coal mining and reclamation operations under regulatory programs, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Thomas D. Shope,

Regional Director, North Atlantic-Appalachian Region.

For the reasons set out in the preamble, 30 CFR part 917 is amended as set forth below:

PART 917—KENTUCKY

■ 1. The authority citation for part 917 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 917.15 is amended in the table in paragraph (a) by adding an entry for ''November 25, 2019'' in chronological order by ''Date of Final Publication'' to read as follows:

§ 917.15 Approval of Kentucky regulatory program amendments.

(a) * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * *
November 25, 2019	May 10, 2022	405 KAR 10:015 8(7)(a) and (b) (bonding rate of additional areas); 405 KAR 10:015, sections 1(2), 2(5), 2(5)(c)(3)(d), 2(5)(c)(3)(e), 2(6), 2(6)(b), 2(6)(c), 2(7), 2(7)(c), 4, 4(1)(b), 4(2)(a), 4(2)(f), 5(1), 5(2), 6(1), 6(1)(a), 6(1)(c), 6(3), 7(3), 8, 8(5), 9(4), 10(2), 11(1), 11(2), 11(3), 11(5), and 12(1)(g) (non-substantive revisions).

* * * * *

§ 917.16 [Amended]

■ 3. Section 917.16 is amended by removing and reserving paragraph (p).

[FR Doc. 2022–09982 Filed 5–9–22; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2022–0271]

Special Local Regulations; Annual Les Cheneaux Islands Antique Wooden Boat Show; Hessel, MI

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Annual Les Cheneaux Islands Antique Wooden Boat Show special local regulation on Marquette Bay, Hessel, MI, to protect the safety of life and property on navigable waters prior to, during, and immediately after this event. During the enforcement period, entry into, transiting, or anchoring within the regulated area is prohibited unless authorized by the Captain of the Port Sault Sainte Marie or a designated representative.

DATES: The regulations in 33 CFR 100.922 will be enforced from 6 a.m. through 8 p.m. on August 13, 2022.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email LT Deaven Palenzuela, Chief of Waterways Management Division, U.S. Coast Guard; telephone 906–635–3223, email *ssmprevention@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulations in 33 CFR 100.922 for the Annual Les Cheneaux Islands Antique Wooden Boat Show in Hessel, MI, from 6 a.m. through 8 p.m. on August 13, 2022. This action is being taken to protect the safety of life and property on navigable waters prior to, during, and immediately after the event. Our special local regulations for the annual Les Cheneaux Islands Antique Wooden Boat Show § 100.922, specifies the location of the regulated area which encompasses portions of Marquette Bay, Hessel, MI. During the enforcement period, all vessels while in the regulated area will operate at a no wake speed and follow the directions of the on-scene patrol commander. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners and/or marine information broadcasts.

Dated: May 3, 2022.

A.R. Jones,

Captain, U.S. Coast Guard, Captain of the Port Sault Sainte Marie.

[FR Doc. 2022–10007 Filed 5–9–22; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–0270]

Safety Zones; Annual Events in the Captain of the Port Buffalo Zone—Cleveland National Air Show

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for the Cleveland National Airshow from September 1 through September 5, 2022, to provide for the safety of life and property on navigable waters during this event. Our regulation for annual events in the Captain of the Port Buffalo Zone identifies the regulated area for this event in Cleveland, OH. During the enforcement period, no person or vessel may enter the safety zone without the permission of the Captain of the Port Buffalo.

DATES: The regulations in 33 CFR 165.939 will be enforced for the Cleveland National Airshow safety zone listed in item (d)(2) in the Table to § 165.939 from 9 a.m. through 6 p.m., each day from September 1, 2022, through September 5, 2022.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email LT Jared Stevens, Waterways Management Division, Marine Safety Unit Cleveland, U.S. Coast Guard; telephone 216–937–0124, email *D09-SMB-MSUCLEVELAND-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone listed in 33 CFR 165.939 for the Cleveland National Airshow daily from 9 a.m. through 6 p.m. on September 1 through September 5, 2022. This action is being taken to provide for the safety of life on navigable waterways during this multi-day event. Our regulation for annual events in the Captain of the Port Buffalo Zone identifies the regulated area for the Cleveland National Airshow which encompasses all U.S. waters of Lake Erie and Cleveland Harbor (near Burke Lakefront Airport) from 41°30′20″ N and 081°42′20″ W to 41°30′50″ N and 081°42′49″ W, to 41°32′09″ N and 081°39′49″ W, to 41°31′53″ N and 081°39′24″ W.

Pursuant to 33 CFR 165.23, entry into, transiting, or anchoring within the safety zone during the enforcement period is prohibited unless authorized by the Captain of the Port Buffalo or their designated representative. Those seeking permission to enter the safety zone may request permission from the Captain of Port Buffalo via VHF Channel 16. Vessels and persons granted permission to enter the safety zone shall obey the directions of the Captain of the Port Buffalo or his designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide