31, 1995. The Act provides that there will be an Inspector General in SSA, appointed in accordance with the Inspector General Act of 1978, as amended (5 U.S.C. App.3). Appropriate personnel from the HHS Office of Inspector General transferred to SSA to staff the new OIG. Ongoing investigations pertaining to programs and operations of SSA also were transferred.

Since 1979, the Office of Inspector General of the Department of Health and Human Services has been designated as among the agencies with law enforcement officers authorized to request the issuance of search warrants under 28 CFR Part 60. To make this authority explicit, this rule amends § 60.2 of 28 CFR Part 60 by designating special agents of the Office of Inspector General of the former parent agency, the Department of Health and Human Services (§ 60.2(q)), and adding special agents of the Office of Investigations of the Office of Inspector General of the newly-created Social Security Administration (new § 60.2(p)). It also adds the Office of Investigations of the Office of Inspector General, Social Security Administration as new § 60.3(a)(18). The Office of Investigations, Office of Inspector General, Department of Health and Human Services will continue to be separately designated in § 60.3(a)(3).

Because the material contained herein is a matter of Department of Justice practice and procedure, the provision of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date is inapplicable. This rule has been drafted and reviewed in accordance with section 1(b) of Executive Order 12866. It has been determined that this rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and accordingly this rule has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Attorney General has reviewed this rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities.

This rule will not have a substantial direct impact upon the states, on the relationship between the national government and the states, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 28 CFR Part 60

Law enforcement officers, Search warrants.

By virtue of the authority vested in me by Rule 41(h) of the Federal Rules of Criminal Procedure, Part 60 of Chapter I of Title 28, Code of Federal Regulations is hereby amended as follows:

PART 60—AUTHORIZATION OF FEDERAL LAW ENFORCEMENT OFFICERS TO REQUEST THE ISSUANCE OF A SEARCH WARRANT

1. The authority citation for Part 60 is revised to read as follows:

Authority: Rule 41(h), Fed. R. Crim. P (18 U.S.C. appendix).

2. Section 60.2 is amended by adding paragraphs (p) and (q), to read as follows:

§ 60.2 Authorized categories.

* * * * *

(p) Any special agent of the Office of Inspector General, Social Security Administration.

(q) Any special agent of the Office of Inspector General, Department of Health and Human Services.

3. Section 60.3 is amended by adding a new paragraph (a)(18) to read as follows:

§ 60.3 Agencies with authorized personnel.

* * * * *

(a) * * *

(18) Social Security Administration, Office of Inspector General

* * * * *

Dated: November 28, 1995.

Janet Reno,

Attorney General.

[FR Doc. 95–29490 Filed 12–6–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–209]

Kentucky Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Kentucky regulatory program (hereinafter referred to as the ''Kentucky program'' under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Kentucky proposed revisions to the Kentucky Administration Regulations (KAR) pertaining to outcrop barrier pillars at 405 KAR 16:010 and 405 KAR 18:010. The amendment is intended to provide additional safeguards and clarify ambiguities.

EFFECTIVE DATE: December 7, 1995.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, 2675 Regency Road, Lexington, Kentucky 40503. Telephone: (606) 233–2896.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. Background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the May 18, 1982 Federal Register (47 FR 21404). Subsequent actions concerning conditions of approval and program amendments can be found at 30 CFR 917.11, 917.13, 917.15, 917.16, and 917.17.

II. Submission of the Proposed Amendment

By letter dated August 2, 1994, (Administrative Record No. KY–1305) Kentucky submitted a proposed amendment to its program pursuant to SMCRA at its own initiative. Kentucky is revising 405 KAR 16:010 pertaining to surface mining activities affecting outcrop barrier pillars and 405 KAR 18:010 pertaining to underground mining activities affecting outcrop barrier pillars.

OSM announced receipt of the proposed amendment in the September 6, 1994, Federal Register (59 FR 46013), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on October 6, 1994.

By letter dated January 11, 1995 (Administrative Record No. KY–1332), Kentucky proposed additional revisions to 405 KAR 16:010 and 405 KAR 18:010. Based upon the additional revisions to

the proposed program amendment submitted by Kentucky, OSM reopened the public comment period in the February 17, 1995, Federal Register (60 FR 9314) and provided an opportunity for a public hearing on the adequacy of the revised amendment. The public comment period closed on March 20, 1995.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

Revisions not specifically discussed below concern nonsubstantive wording changes.

A. 405 KAR 16:010—General Provisions/Surface Mines

Kentucky proposes to revise 405 KAR 16:010 to add provisions for the protection of unmined barriers of coal left by underground mining. At new section (8), Kentucky is prohibiting the removal of coal from an unmined barrier of coal left by an underground mine where the underground workings dip toward and approach the land surface, unless the Natural Resources and Environmental Protection Cabinet (Cabinet) has otherwise approved the removal. The Cabinet shall approve the removal if all other applicable requirements of 405 KAR Chapters 7–24 and KRS Chapter 350 are met and at least one of the following conditions is met: (a) The removal will not adversely affect the stability of the unmined barrier of coal; (b) the removal will completely eliminate or significantly reduce underground workings; (c) the removal will eliminate or significantly reduce an existing or potential threat to the health or safety of the public resulting from the existing underground workings; (d) the removal will eliminate or significantly reduce existing or potential adverse impacts to the quantity or quality of ground or surface water resulting from the existing underground workings; or (e) the unmined barrier of coal is not necessary to protect the health or safety of the public or to protect the quantity or quality of ground or surface water.

Kentucky's intent behind this regulation is to reduce the occurrences of a ''blowout,'' which is a rapid release to the land of a large volume of water impounded in underground mine workings. (Administrative Record No. KY–1305.) While there is no Federal counterpart to the Kentucky regulation, the regulation's intent is not inconsistent with section 102 of SMCRA which established SMCRA to protect, *inter alia,* society and the environment from the adverse effects of surface coal mining operations. Therefore, the Director finds the proposed regulation at 405 KAR 16:010, section (8) not inconsistent with SMCRA and the Federal regulations.

B. 405 KAR 18:010—General Provisions/ Underground Mines

Kentucky proposes to revise 405 KAR 18:010 to add provisions for protection against the sudden release of water accumulated in underground workings to the land surface. At new section (6), Kentucky is requiring that, except where surface openings are approved in the permit, an unmined barrier of coal shall be left where the underground workings dip toward and approach the land surface. The Cabinet shall waive this requirement if it determines that the proposed operation meets the applicable requirements of 405 KAR Chapters 7–24 and KRS 350 and either of the following provisions: (a) The applicant has demonstrated in the permit application to the satisfaction of the Cabinet, based upon the geologic and hydrologic conditions in the permit area, that accumulation of water in the under ground workings cannot be reasonably expected to occur; or (b) adequate measures to prevent accumulation of water in the underground workings have been included in the permit application and have been approved by the Cabinet. Kentucky is also requiring that if an unmined barrier of coal is required, it shall be of sufficient width to prevent failure and sudden release of water accumulated in underground workings to land surface. The Cabinet may determine, on a case-by-case basis, the width of the unmined barrier of coal. The width shall not be less than that given by the formula: $W = 50 + H$, where W is the minimum width in feet and H is the maximum hydrostatic head in feet that can build up on the unmined barrier of coal. The Cabinet may approve a width less than the minimum indicated by the formula if the applicant has demonstrated in the permit application to the Cabinet's satisfaction that the lesser width will achieve the purpose of this regulation.

While there is no direct Federal counterpart to the Kentucky regulation, the Director finds as more fully stated in the previous finding that the proposed regulation at section (6) of 18:010 to not be consistent with SMCRA and the Federal regulations.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment submitted on August 2, 1994. Because no one requested an opportunity to speak at a public hearing, no hearing was held.

The Director reopened the public comment period and provided an opportunity for a public hearing on the revised amendment submitted on January 11, 1995. Because no one requested an opportunity to speak at a public hearing, no hearing was held.

One public comment was received. The Kentucky Resources Council, Inc. generally supported the amendment but recommended that the outcrop barrier width potentially be increased based on site-specific data to prevent the discharge of water through any existing fractures and bedding planes to prevent surface instability and slides. The Director notes that Kentucky may determine, on a case-by-case basis, the width of the outcrop barrier needed to prevent the discharge of water. Kentucky, in its October 14, 1994, Statement of Consideration stated that the width may be potentially increased if Kentucky deems it necessary.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment submitted on August 2, 1994, and revised on January 11, 1995, from various Federal agencies with an actual or potential interest in the Kentucky program. The U.S. Department of the Interior, Fish and Wildlife Service and the Bureau of Mines, and the U.S. Department of Agriculture, Forest Service, concurred without comment.

The U.S. Department of the Interior, Bureau of Land Management, commented that leaving outcrop barriers in place serves a useful purpose but where feasible, drifts should be located updip to prevent drainage from improperly sealed openings. It cited a situation in West Virginia where a blowout occurred which created acid mine drainage. Kentucky's proposed regulations at 405 KAR 16:010 and 18:010 both require that before an unmined coal barrier is removed, the operation must meet all applicable requirements of 405 KAR Chapters 7–24. Section 8(1) of 405 KAR 18:060 allows gravity discharges of water, except for those drift mines subject to section 8(2), if the discharge complies with the performance standards and any

additional KPDES permit requirements. Section 8(2) of 405 KAR 18:060 requires that the entries and accesses of drift mines used after May 18, 1982, must be located to prevent any gravity discharge from the mine when it is located in acid or iron producing coal seams. Therefore, Kentucky's regulations are designed to prevent acid mine drainage from occurring in the situation described by the commenter.

The U.S. Department of Labor, Mine Safety and Health Administration (MSHA) had three comments concerning 405 KAR 16:010 section 8. Its first comment was that the phrase ''unmined barrier of coal left by an underground mine'' be replaced with ''outcrop barrier'' to add specificity to the proposed revisions. It was also concerned that a misinterpretation of the term ''unmined barrier of coal left by an underground mine'' could mean that barrier pillars could be left in place as operations retreat from mining causing stress in the overlying strata. Its second comment was that the method of mining be specified. Finally, MSHA was concerned about subsection (2)(b) of 405 KAR 16:010 section 8, which allows the removal of the barrier if the removal will completely eliminate or significantly reduce existing underground workings. It was concerned that subsection (2)(b) could allow the removal of the outcrop barrier even if it caused the collapse of the overlying strata. It recommended that if the removal of the barrier is done by augering or highwall mining then an adequate amount of the barrier should be left in place to support the highwall during mining because the overburden would cave in after the barrier was removed, thereby increasing the hazard of highwall collapse to miners.

In response to the first comment, the Director finds the meaning of the term ''unmined barrier of coal left by an underground mine'' sufficiently clear from the context of its use in the proposed regulation because it specifically refers to those underground workings that dip toward and approach the land surface. Also any concern about the retention of barrier pillars during the retreat phase of mining is misplaced. The removal of barrier pillars during the retreat phase of mining occurs during underground mining. Chapter 16 applies to surface coal mining operations. In response to the second comment, the Director again notes that Chapter 16 of Title 405 of the Kentucky Regulations only applies to surface coal mining operations. Therefore, no clarification is necessary since Chapter 16 deals exclusively with surface activities.

Finally, the Director disagrees with MSHA's concerns that section 8(2)(b) may create a hazard to miners. Kentucky's statute at KRS 350.028(5) prevents the Kentucky SMCRA from superseding, amending, modifying or repealing the Federal Coal Mine Health and Safety Act of 1969 and its amendments. In addition, to eliminate or significantly reduce the existing underground workings the coal pillars and outcrop barrier would have to be removed. Augering and highwall mining could not be used to remove coal pillars left in the underground workings and it could only remove a portion of the coal outcrop barrier. Remining would be the method of surface mining used to eliminate or significantly reduce the existing underground workings, not augering or highwall mining. To completely eliminate or significantly reduce underground workings by surface mining methods, the operator must remine the area which includes removing the overburden (thus eliminating the possibility of a collapsing highwall) and then mining by conventional strip mining methods.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated 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.*).

On August 11, 1994, OSM solicited EPA's concurrence with the proposed amendment. On August 25, 1994, EPA gave its written concurrence (Administrative Record No. KY–1310).

V. Director's Decision

Based on the above finding(s), the Director approves the proposed amendment as submitted by Kentucky on August 2, 1994, and revised on January 11, 1995.

The Federal regulations at 30 CFR Part 917, codifying decisions concerning the Kentucky program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that 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 corresponding Federal regulations 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. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. 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.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 1, 1995.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations 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 by adding paragraph (zz) to read as follows:

§ 917.15 Approval of regulatory program amendments.

* * * * *

(zz) Revisions to the following rules, as submitted to OSM on August 2, 1994, and revised on January 11, 1995, are approved effective December 7, 1995:

405 KAR 16:010

Sections 1, 6, 7, and 8 General Provisions/ Surface Mines

405 KAR 18:010

Sections 4, 5, and 6 General Provisions/ Underground Mines

[FR Doc. 95–29876 Filed 12–6–95; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH80–2–7241; FRL–5340–1]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: The USEPA is approving, in final, Ohio's 1990 base-year ozone precursor emissions inventories for the Canton, Cincinnati-Hamilton, Cleveland-Akron-Lorain and Youngstown-Warren-Sharon ozone nonattainment areas as revisions to the Ohio State Implementation Plan (SIP). The emissions inventories were submitted to satisfy a Federal requirement that States containing ozone nonattainment areas submit inventories of actual ozone precursor emissions for the year 1990. The Ohio ozone nonattainment areas covered by this rulemaking are Canton (Stark County); Cincinnati-Hamilton (Butler, Clermont, Hamilton and Warren Counties); Cleveland-Akron-Lorain (Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage and Summit Counties); and Youngstown-Warren-Sharon (Mahoning and Trumbull Counties).

EFFECTIVE DATE: This action will be effective January 8, 1996.

ADDRESSEES: Copies of the State submittal and USEPA's analysis of it are available for inspection at the following location (it is recommended you contact William Jones at (312) 886–6058 before visiting the Region 5 office): J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: William Jones, Environmental Engineer, Regulation Development Section, Regulation Development Branch (AR–18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6058.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(a)(1) of the Clean Air Act Amendments of 1990 (Act) requires States with ozone nonattainment areas to submit a comprehensive, accurate and current inventory of actual ozone precursor emissions (which includes volatile organic compounds (VOC), nitrogen oxides (NO_X), and carbon monoxide (CO)) for each ozone nonattainment area by November 15, 1992. This inventory must include anthropogenic base-year (1990) emissions from stationary point, area, non-road mobile, and on-road mobile sources, as well as biogenic (naturally occurring) sources in all ozone nonattainment areas. The emissions inventory must be based on conditions that exist during the peak ozone season (generally the period when peak hourly ozone concentrations occur in excess of the primary ozone National Ambient Air Quality Standard—NAAQS). Ohio's annual ozone season is from April 1 to October 31 of each year.

II. Criteria for Evaluating Ozone Emissions Inventories

Guidance for preparing and reviewing the emission inventories is provided in the following USEPA guidance documents or memoranda: ''State Implementation Plans; General Preamble for the Implementation of Title I of the Act,'' (Preamble) as published in the April 16, 1992 Federal Register (57 FR 13498); ''Emission Inventory Requirements for Ozone State Implementation Plans,'' (EPA–450/4–91–010) dated March 1991; a memorandum from John Calcagni, Director, Air Quality Management Division, OAQPS, entitled ''Public Hearing Requirements for the 1990 Base-Year Emissions Inventories for Ozone and Carbon Monoxide Nonattainment Areas,'' dated September 29, 1992; ''Procedures for the Preparation of Emissions Inventories for Carbon Monoxide and Precursors of Ozone, Volumes I and II,'' (EPA–450/4–91–016 and EPA–450/4–91–014) (Procedures; Volumes I and II) dated May 1991; and ''Procedures for Emissions Inventories Preparation, Volume IV: Mobile Sources,'' (EPA–450/4–81–026d) (Procedures; Volume IV) dated 1992.

As a primary tool for the review of the quality of emission inventories, the USEPA has also developed three levels (I, II, and III) of emission inventories checklists. The Level I and II checklists are used to determine that all required components of the base-year emission inventory and associated documentation are present. These reviews also evaluate the level of quality of the associated documentation and the data provided by the State and assess whether the emission estimates were developed according to the USEPA guidance. The Level III review evaluates crucial aspects and the overall acceptability of the emission inventory submittal. Failure to meet one of the ten critical aspects would lead to disapproval of the emissions inventory submittal.

Detailed Level I and II review procedures can be found in the USEPA guidance document entitled ''Quality Review Guidelines for 1990 Base Year Emissions Inventories,'' (Quality Review) (EPA–454/R–92–007) dated August 1992. Level III criteria were attached to a memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, entitled ''Emission Inventory Issue,'' dated June 24, 1993. The Level I, II, and III checklists used in reviewing this emissions inventory submittal are attached to a USEPA technical support document dated October 3, 1995.

III. State Submittal

On March 15, 1994, the Ohio Environmental Protection Agency (OEPA) submitted a revision to the ozone portion of Ohio's SIP which consisted of the 1990 base-year ozone emissions inventory for the following