

(2) Must be maintained pursuant to an agreement prescribed by the OCC that shall be a written agreement entered into with the OCC for purposes of section 8 of the Federal Deposit Insurance Act, 12 U.S.C. 1818; and

\* \* \* \* \*

Dated: June 12, 2002.

**John D. Hawke, Jr.,**

*Comptroller of the Currency.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 301

[TD 9001]

RIN 1545-BA56

#### Disclosure of Return Information to Officers and Employees of the Department of Agriculture for Certain Statistical Purposes and Related Activities

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulation.

**SUMMARY:** This contains a final regulation relating to return information to be disclosed to the Department of Agriculture (Department) for use in conducting the Census of Agriculture. The regulation provides for the disclosure of an additional item of return information to the Department. The regulation provides guidance to IRS personnel responsible for disclosing the return information.

**DATES:** *Effective Date:* This final regulation is effective June 19, 2002.

*Applicability Date:* For dates of applicability of this final regulation, see § 301.6103(j)(5)-1(d).

**FOR FURTHER INFORMATION CONTACT:** Joseph Conley, 202-622-4580 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

Under section 6103(j)(5) of the Internal Revenue Code (Code), upon written request from the Secretary of Agriculture, the Secretary of the Treasury shall furnish such returns or return information as prescribed by Treasury regulation to officers and employees of the Department whose official duties require access to such returns or return information for the purpose of, but only to the extent necessary in, structuring, preparing, and conducting the Census of Agriculture

pursuant to the Census of Agriculture Act of 1997. Currently, § 301.6103(j)(5)-1 provides an itemized description of the return information authorized to be disclosed for this purpose. By letter dated May 8, 2001, the Secretary of Agriculture requested that the Treasury Regulations be amended to authorize the disclosure of an additional item of return information, the taxpayer's telephone number contained on Form 1040/Schedule F.

This document adopts a final regulation that authorizes IRS personnel to disclose the additional item of return information that has been requested by the Secretary of Agriculture.

#### Explanation of Provisions

This final regulation will permit the IRS to disclose to the Department, for its use in structuring, preparing, and conducting the Census of Agriculture, an additional item of return information, the taxpayer's telephone number provided on the Form 1040/Schedule F. According to the Department, the disclosure of this additional item of return information will improve the efficiency of the Department's list-building operations by reducing the potential for duplication in the Census of Agriculture. After receiving information from the IRS, the Department attempts to link such information to other records held by or available to the Department, doing so where possible on the basis of names, social security numbers or employer identification numbers, and addresses. The Department intends to use taxpayer telephone numbers to match records that cannot be matched otherwise or to determine that questionable links between records, such as those based merely on name and address information, constitute or do not constitute definite matches. By means of the matching process, the Department avoids duplicate contacts and furthers its classification of farms for Census of Agriculture purposes. The IRS will provide taxpayer telephone numbers to the Department under this final regulation with the understanding that the Department will only use them for such purpose, and that it will not use the information to telephone taxpayers.

#### Special Analyses

Section 553 of the Administrative Procedure Act (5 U.S.C. chapter 5) requires that a notice of proposed rulemaking be published in the **Federal Register** and, after such notice, that the Federal agency that issued the notice give interested persons an opportunity to participate in the rulemaking through submission of written comments, with

or without opportunity for oral presentation. These requirements are subject to certain exceptions, including when the agency for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. Because the final regulation merely amends a preexisting regulation (§ 301.6103(j)(5)-1) to add a single item of information to a list of such items, it is determined that the notice and public-comment procedure required by 5 U.S.C. 553 is unnecessary in this case pursuant to the exception in 5 U.S.C. 553(b)(3)(B). For the same reason, a delayed effective date is not required pursuant to 5 U.S.C. 553(d)(3).

It has also been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Pursuant to section 7805(f) of the Code, this regulation was submitted to the Chief Counsel of the Small Business Administration for comment on its impact on small business.

#### Drafting Information

The principal author of this temporary regulation is Joseph Conley, Office of Associate Chief Counsel (Procedure & Administration), Disclosure and Privacy Law Division.

#### List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

#### Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

#### PART 301—PROCEDURE AND ADMINISTRATION

**Paragraph 1.** The authority citation for part 301 is amended by adding an entry in numerical order to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

Section 301.6103(j)(5)-1 also issued under 26 U.S.C. 6103(j)(5); \* \* \*

**Par. 2.** Section 301.6103(j)(5)-1 is amended by:

1. Adding paragraph (b)(2)(xiv).
2. Revising paragraph (d).

The addition and revision read as follows:

**§ 301.6103(j)(5)–1 Disclosures of return information to officers and employees of the Department of Agriculture for certain statistical purposes and related activities.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(xiv) Taxpayer telephone number.

\* \* \* \* \*

(d) *Effective dates.* This section is applicable on July 31, 2001, except paragraph (b)(2)(xiv) which is applicable on June 19, 2002.

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*

Approved: June 10, 2002.

**Pamela F. Olson,**

*Acting Assistant Secretary of the Treasury.*

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 917

[KY–222–FOR]

#### Kentucky Regulatory Program

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving a proposed amendment to the Kentucky regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Kentucky proposed to revise the Kentucky Administrative Regulations (KAR) pertaining to the general requirements for mining on steep slopes. The approved amendment revises the Kentucky program to be consistent with the corresponding Federal regulations.

**EFFECTIVE DATE:** June 19, 2002.

**FOR FURTHER INFORMATION CONTACT:**

William J. Kovacic, Field Office Director. Address: Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503. Telephone: (859) 260–8400.

Email: [bkovacic@osmre.gov](mailto:bkovacic@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Kentucky Program
- II. Submission of the Proposed Amendment
- III. OSM's Findings
- IV. Summary and Disposition of Comments
- V. OSM's Decision
- VI. Procedural Determinations

#### I. Background on the Kentucky Program

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 State program includes, among other things, “a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act \* \* \* ; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.” See 30 U.S.C. 1253(a)(1) and (7).

On the basis of these criteria, the Secretary of the Interior conditionally approved the Kentucky program on May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the May 18, 1982, **Federal Register** (47 FR 21404). You can also find later actions concerning the Kentucky program and previous amendments at 30 CFR 917.11, 917.12, 917.13, 917.15, 917.16, and 917.17.

#### II. Submission of the Amendment

By letter dated January 28, 2000, Kentucky sent us an amendment to its program (KY–222–FOR, Administrative Record No. KY–1469) under SMCRA (30 U.S.C. 1201 *et seq.*). Kentucky sent the amendment in response to the required program amendment at 30 CFR 917.16(d)(5). The proposed amendment establishes special performance standards and limited variance procedures for operations conducted on steep slopes by revising 405 KAR 20.060—Section 3(3)(b) and (c). The amendment is intended to revise the Kentucky program to be no less effective than the Federal regulations.

We announced receipt of the proposed amendment in the February 18, 2000, **Federal Register** (65 FR 8327). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on March 20, 2000. We did not receive any public comments.

By letter dated May 25, 2000 (Administrative Record No. KY–1476), Kentucky submitted the promulgated version of the regulation. No substantive changes were made from the original submission. Therefore, we did not reopen the comment period.

We received comments from two Federal agencies.

#### III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. As discussed below, we are approving the amendment.

Any revisions that we do not specifically discuss below concern nonsubstantive wording or editorial changes.

Kentucky's amendment is responding to the required program amendment codified at 30 CFR 917.16(d)(5). 30 CFR 917.16(d)(5) provides that Kentucky must amend its program to:

Clarify that the total volume of flow from the proposed permit area, during every season of the year, will not vary in a way that adversely affects the ecology of any surface water or any existing or planned use of surface or ground water; and to require the appropriate State environmental agency to approve the plan.

Kentucky has amended its program by establishing special performance standards and limited variance procedures for operations conducted on steep slopes by revising 405 KAR 20.060—Section 3(3)(b) and (c). Kentucky is requiring that the total volume of flow from the proposed permit area, during every season of the year, not vary in a way that adversely affects the ecology of any surface water or any existing or planned use of surface or ground water. Kentucky is also requiring that the Natural Resources and Environmental Protection Cabinet (Cabinet) consider any agency comments under subsection (2) of this section regarding watershed improvement.

405 KAR 20:060 Section 3(3)(b)

Kentucky is revising this paragraph by adding the words “water or any existing or planned use of surface.” As amended, paragraph (b) at section 3(3) provides that the total volume of flow from the proposed permit area, during every season of the year, will not vary in a way that adversely affects the ecology of any surface water or any existing or planned use of surface or ground water. We find that as amended, the Kentucky provision is identical to and, therefore, no less effective than the counterpart Federal regulations at 30 CFR 785.16(a)(3)(ii) and can be approved. This amendment satisfies part of the required regulatory program amendment codified in the Federal regulations at 30 CFR 917.16(d)(5).