

conducted no business activities and has held no assets. P causes FC1 to merge into FC2 (under foreign law), with FC2 surviving, in a transaction in which gain or loss is not recognized for Federal tax purposes. On the same day, P sells FC2 to an unrelated third party.

(ii) *Result.* The sale of FC2 is an extraordinary transaction. Furthermore, despite the fact that FC2 was formed two years before the date of the extraordinary transaction, paragraph (h)(2) of this section treats FC2 as an association taxable as a corporation. This is because more than 80 percent of FC2's post-merger assets were acquired from FC1. Thus, the extraordinary transaction is subject to the rule of paragraph (h)(2) of this section, and has the same result as *Example 1*.

(5) *Effective date.* This paragraph (h) applies on or after the date final regulations are published in the **Federal Register**.

\* \* \* \* \*

**C.O. Rossotti,**

*Commissioner of Internal Revenue.*

[FR Doc. 99-30505 Filed 11-26-99; 8:45 am]

BILLING CODE 4830-01-U

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1926

#### Steel Erection Negotiated Rulemaking Advisory Committee

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Negotiated Rulemaking Advisory Committee meeting.

**SUMMARY:** Under the provisions of the Federal Advisory Committee Act (FACA), notice is hereby given of a meeting of the Steel Erection Negotiated Rulemaking Advisory Committee (SENAC). Notice is also given of the location of the meeting. This meeting will be open to the public.

**DATES:** The meeting is scheduled for December 16th, 1999. The meeting will begin at 8:00 a.m. on December 16th.

**ADDRESSES:** The meeting will be held at the Hyatt Regency Washington—400 New Jersey Avenue, NW, Washington, D.C. 20001; Telephone (202) 737-1234.

**FOR FURTHER INFORMATION CONTACT:** Ms. Bonnie Friedman, Director, Office of Information and Consumer Affairs, OSHA, U.S. Department of Labor, Room N3647, 200 Constitution Avenue, NW, Washington DC 20210, (202) 693-1999.

**SUPPLEMENTARY INFORMATION:** On May 11, 1994, OSHA established the Steel Erection Negotiated Rulemaking Advisory Committee (SENAC) (59 FR

24389) in accordance with the Federal Advisory Committee Act (FACA), the Negotiated Rulemaking Act of 1990 (NRA) and section 7(b) of the Occupational Safety and Health Act (OSH Act). OSHA appointed representatives from labor, industry, public interests and government agencies to the Committee.

SENAC began negotiations in mid June, 1994, and met eleven times over an 18-month period. On December 1, 1995, SENAC agreed on a recommended regulatory text for a revised steel erection standard. In its Notice of Proposed Rulemaking (NPRM), OSHA based its proposed regulatory text on the Committee's recommendations. In addition, the NPRM included a summary and explanation of the provisions, set out the legal tests that OSHA standards must meet and solicited public comments and evidence on the proposed rule. In addition, OSHA asked the public for comments and evidence on specific issues related to the Committee's recommendations. The Committee approved OSHA's NPRM on July 24, 1997. At that time, OSHA stated that it would consult with the Committee prior to the issuance of the final standard.

OSHA's proposed rule for steel erection was published in the **Federal Register** on August 13, 1998. OSHA received 367 sets of comments in response to the notice. A public hearing was held from December 1, 1998, through December 11, 1998, in Washington, DC. Approximately 50 individuals/panels provided testimony on various topics in the proposed rule. Interest was expressed on a number of issues, including controlling contractors, fall protection, providing bolt holes in joists over 40', controlled decking zones, the scope of subpart R and slippery surfaces (both structural steel and decking). OSHA received 55 comments during the post-hearing comment period that ended April 12, 1999.

Now, the Agency has completed an analysis of the record evidence and has developed a draft final steel erection standard. OSHA is convening this meeting for the purposes of consulting with the SENAC Committee prior to the issuance of the final standard.

All interested parties are invited to attend the Committee meeting at the time and place indicated above. No advanced registration is required. Seating will be available to the public on a first-come, first-served basis. Persons with disabilities who need special accommodations should contact the Facilitator by December 9, 1999.

During the meeting members of the general public may informally request permission to address the Committee.

After the meeting, minutes of the meeting and materials prepared for the Committee will be available for public inspection at the OSHA Docket Office, N-2625, 200 Constitution Ave., NW, Washington, DC 20210; telephone (202) 693-2350. Copies of these materials may be obtained by sending a written request to the Facilitator.

The Facilitator, Philip J. Harter, can be reached at Suite 404, 2301 M Street, NW, Washington, DC 20037; telephone (202) 887-1033, FAX (202) 887-1036.

**Authority:** This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210, pursuant to section 3 of the Negotiated Rulemaking Act of 1990 (104 Stat. 4969, Title 5 U.S.C. 561 *et seq.*); and Section 7(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1597, Title 29 U.S.C. 656).

Signed at Washington, DC, this 18th day of November, 1999.

**Charles N. Jeffress,**

*Assistant Secretary of Labor.*

[FR Doc. 99-30822 Filed 11-26-99; 8:45 am]

BILLING CODE 4510-26-P

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 938

[PA-126-FOR]

#### Pennsylvania Regulatory Program

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

**ACTION:** Proposed rule; public comment period and opportunity for public hearing.

**SUMMARY:** OSM is announcing the receipt of a proposed amendment to the Pennsylvania regulatory program (Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment revises certain portions of 25 Pennsylvania Code Chapter 86, Surface and Underground Mining; General, pertaining to ownership and control, bonding, civil penalties and areas unsuitable for mining. The amendments are intended to revise the Pennsylvania program to be consistent with the corresponding Federal regulations.

**DATES:** Written comments must be received on or before 4 p.m. on

December 29, 1999. If requested, a public hearing on the proposed amendments will be held at 1 p.m. on December 27, 1999. Requests to present oral testimony at the hearing must be received on or before 4 p.m. on December 14, 1999.

**ADDRESSES:** Written comments and requests to testify at the hearing should be mailed or hand-delivered to Mr. Robert J. Biggi, Director, Harrisburg Field Office at the first address listed below. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking (or administrative) record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking (or administrative) record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Copies of the Pennsylvania program, the proposed amendment, a listing of any scheduled public meetings or hearing, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Harrisburg Field Office, Third Floor, Suite 3C, Harrisburg Transportation Center (Amtrak), 415 Market Street, Harrisburg, Pennsylvania 17101, Telephone: (717) 782-4036.

Pennsylvania Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, 400 Market Street, P.O. Box 8476, Harrisburg, Pennsylvania 17101, Telephone: (717) 783-2267.

Each requester may receive, free of charge, one copy of the proposed amendment by contacting the OSM Harrisburg Field Office.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert J. Biggi, Director, Harrisburg Field Office, Telephone: (717) 782-4036.

**SUPPLEMENTARY INFORMATION:**

## **I. Background on the Pennsylvania Program**

On July 30, 1982, the Secretary of the Interior conditionally approved the Pennsylvania program. Background on the Pennsylvania program, including the Secretary's findings and the disposition of comments can be found in the July 30, 1982 **Federal Register** (47 FR 33079). Subsequent actions concerning the regulatory program amendments are identified at 30 CFR 938.15.

## **II. Discussion of the Proposed Amendment**

By letter dated November 2, 1999 (Administrative Record No. PA-845.02), the Pennsylvania Department of Environmental Protection (PADEP) submitted a proposed amendment to its program pertaining to ownership and control, bonding, civil penalties and areas unsuitable for mining.

PADEP proposes to amend certain provisions of 25 Pennsylvania Code Chapter 86, Surface and Underground Coal Mining: General, as follows:

### *Section 86.1. Definitions*

1. Owned or controlled or owns or controls. PADEP proposes to change this terminology by substituting the word "and" for the second "or" so it now reads—Owned or controlled and owns or controls. PADEP also proposes to modify subparagraph (iii)(E) by deleting the specified percentages of 10–50% and including a reference to percentages in the Federal regulations instead.

2. Related party. PADEP proposes to exclude from this definition persons who are excluded as owners or controllers based on a percentage of ownership under the definition of "owned or controlled and owns or controls".

3. Willful Violation. PADEP proposes to add this definition which states that a willful violation is an act or omission which violates the acts, this chapter, Chapter 87, 88, 89, or 90, or a permit condition required by them, committed by a person who intends the result which actually occurs.

### *Section 86.124(a)(6) Areas Unsuitable for Mining*

PADEP proposes to remove language allowing petitions for unsuitability to be submitted after an administratively complete surface mining permit has been filed and the first newspaper notice has been published. PADEP also proposes to add a statement that the Department will provide written notice to the petitioner with a statement of its findings.

### *Section 86.152(d) Adjustments (Bond Amount)*

PADEP proposes to add section (d) to require notification of proposed adjustments to bond amounts to the permittee, the surety and any person with a property interest in collateral who have requested such notification. The proposed rule also adds language providing the permittee an opportunity for informal conference on the adjustment.

### *Section 86.156 Form of the Bond*

PADEP proposes to add a self bond to the type of bonds the Department may accept in new subsection (3). Existing subsection (3) is re-numbered as (4) and modified to substitute the term "bonding instruments" for surety and collateral bonds and bond. Existing subsections (4) and (5) are re-numbered as (5) and (6), respectively.

### *Section 86.160 Combination of Bonding Instruments*

PADEP proposes to change the title of this section from "Surety/collateral combination bond" to that above, and to further modify the section to include self bonds as part of the combination of bonds that may be accepted.

### *Section 86.171 Procedures for Seeking Release of Bond*

PADEP proposes to add a phrase to this section that requires the Department to inspect a site for bond release within 30 days or as soon thereafter as weather conditions permit.

### *Section 86.182 Procedures*

PADEP proposes to add new subsection (a) which requires the Department to notify the permittee and surety of its intent to forfeit the bond. Existing subsections regarding bond forfeiture currently lettered as (a) through (g) are re-lettered as (b) through (h) without modification.

### *Section 86.193 Assessment of Penalty*

PADEP proposes to increase the threshold for assessment of a penalty from \$1000 to \$1100 in subsections (b) and (c). PADEP also proposes to drop mandatory penalties for violations of conducting surface mining activities off the permitted area by deleting subsections (d) through (g).

### *Section 86.194 System for Assessment of Penalties*

PADEP proposes to add language in subsection (b)(1)(vi) allowing an additional civil penalty amount up to the statutory limit to be assessed in extraordinary circumstances.

PADEP also proposes to specify \$3,000 as the upper limit to be assessed based on seriousness in subsection (b)(1).

PADEP also proposes to modify subsection (b)(2), Culpability, by lowering the maximum limit from \$1500 to \$1200. Also, the proposed minimum limit for violations of willful or reckless conduct are to be assessed a minimum of \$260, down from \$2000.

PADEP also proposes to change the criteria for credit to be given for speed of compliance in subsection (b)(3).

PADEP also proposes to delete the phrase "without limitation" in subsection (b)(4).

PADEP also proposes to reduce the review period for the history of previous violations from two years to one in subsection (b)(6).

PADEP proposes to add new subsection (f) entitled "Revision of civil penalty". Subsection (1) is added and explains that the Department may revise a civil penalty calculated in accordance with dollar limits included in subsection (b) and that the basis for revision would be fully explained and documented. New subsection (2) is added to explain that if the Department revises the civil penalty, the Department will use the general criteria in subsection (b) and will give a written explanation of the basis for the revision to the person to whom the order was issued.

#### *Section 86.195(c) Penalties Against Corporate Officers*

PADEP proposes to add new subsection (c) which provides for a stay and withdrawal of individual civil penalties under certain conditions.

#### *Section 86.201 Procedures for Assessment of Civil Penalties*

PADEP proposes to add new subsection (a) to allow operators to submit information to the Department and the inspector concerning violations within 15 days of service of a notice of violation or order. Existing subsections (a) through (d) are re-lettered (b) through (e), respectively. PADEP also proposes to add new subsection (f) to restrict the use of certain evidence in formal review proceedings. Existing subsection (f) is re-lettered as (g).

#### *Section 86.202 Final Action*

PADEP proposes to change the title of this section from "Appeal Procedures" to that above.

### **III. Public Comment Procedures**

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed

amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Pennsylvania program.

#### *Written Comments*

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Harrisburg Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

#### *Public Hearing*

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by close of business on December 14, 1999. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who testifies at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

#### *Public Meeting*

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Harrisburg Field Office by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of the meetings will be posted in advance at the locations listed above under **ADDRESSES**. A summary of meeting will be included in the Administrative Record.

### **IV. Procedural Determinations**

#### *Executive Order 12866*

This proposed rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order

12866 (Regulatory Planning and Review).

#### *Executive Order 12988*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (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 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 in the analyses for the corresponding Federal regulations.

#### *Unfunded Mandates*

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

#### **List of Subjects in 30 CFR Part 938**

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 18, 1999.

**Tim L. Dieringer,**

*Acting Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 99-30884 Filed 11-26-99; 8:45 am]

BILLING CODE 4310-05-P

## **DEPARTMENT OF THE INTERIOR**

### **Office of Surface Mining Reclamation and Enforcement**

#### **30 CFR Part 938**

[PA-127-FOR]

#### **Pennsylvania Regulatory Program**

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

**ACTION:** Proposed rule; public comment period and opportunity for public hearing.

**SUMMARY:** OSM is announcing the receipt of a proposed amendment to the Pennsylvania Regulatory Program (hereinafter referred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Pennsylvania has submitted this proposed amendment to reflect changes made to regulations in the Pennsylvania program dealing with the Small Operator Assistance Program (SOAP). This proposal modifies some requirements and adds other requirements dealing with SOAP.

**DATES:** Written comments must be received by 4 p.m., on December 29, 1999. If requested, a public hearing on the proposed amendment will be held on December 27, 1999. Requests to speak at the hearing must be received by 4 p.m., on December 14, 1999.

**ADDRESSES:** Written comments and requests to testify at the hearing should be mailed or hand-delivered to Mr. Robert J. Biggi, Director, Harrisburg Field Office at the first address listed below. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may

request that we withhold their home address from the rulemaking (or administrative) record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking (or administrative) record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Copies of the Pennsylvania program, the proposed amendment, a listing of any scheduled public meetings or hearing, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Harrisburg Field Office, Third Floor, Suite 3C, Harrisburg Transportation Center, 415 Market Street, Harrisburg, Pennsylvania 17101, Telephone: (717) 782-4036.

Pennsylvania Department of Environmental Protection, Bureau of Mining and Reclamation, Rachel Carson State Office Building, Post Office Box 8461, Harrisburg, Pennsylvania 17105-8461, Telephone: (717) 787-5103.

Each requester may receive, free of charge, one copy of the proposed amendment by contacting the OSM Harrisburg Field Office.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert J. Biggi, Director Harrisburg Field Office, Telephone: (717) 782-4036.

#### **SUPPLEMENTARY INFORMATION:**

#### **I. Background on the Pennsylvania Program**

On July 30, 1982, the Secretary of the Interior conditionally approved the Pennsylvania program. Background on the Pennsylvania program, including the Secretary's findings and the disposition of comments, can be found in the July 30, 1982, **Federal Register** (47 FR 33079). Subsequent actions concerning the Pennsylvania program amendments are identified at 30 CFR 938.15.

#### **II. Discussion of the Proposed Amendment**

By letter dated November 8, 1999 (Administrative Record No. PA-846.02), the Pennsylvania Department of

Environmental Protection (PADEP) submitted a proposed amendment to its program regarding changes to SOAP made because of the Department's Regulatory Basics Initiative (RBI). Under the RBI, regulations are revised because they were considered unclear, unnecessary or were more stringent than the corresponding federal regulations.

The changes proposed by PADEP in this amendment apply to the following parts of the Pennsylvania program: 25 PA Code 86.80-86.87, 86.91, 86.92, 86.94, and 86.95. These changes are summarized below.

1. A new section, 25 PA Code 86.80 titled "Definitions," is proposed to be added to the Pennsylvania program. A definition of the term "qualified consultant and qualified laboratory" is proposed to be added to this section. The term is defined as a designated public agency, private consulting firm, institution or analytical laboratory which can provide the required services under this program in accordance with § 86.92 (relating to basic qualifications).

2. Several changes are proposed for 25 PA Code 86.81. The first sentence in this section is proposed to be identified as subsection (a) and the phrase "for qualified small operators who request assistance" is proposed to be removed. A new subsection (a)(1) which states "Review requests for assistance," is proposed and the former subsection (1) is proposed to be designated as (a)(2). A change to former subsection (1)(iii) [now designated as (a)(2)(iii)] proposes that under SOAP the Department will pay a qualified consultant to provide a description of existing resources within and adjacent to the proposed area in accordance with one of the following:

- (A) Section 87.41-87.47, 87.50 and 87.54.
- (B) Sections 88.21-88.27 and 88.31.
- (C) Sections 89.33-89.36, 89.38 and 89.74.

These referenced sections were changed from the original language which required a description of the existing resources in accordance with either §§ 87.41-87.50, 87.52-87.54, 88.21-88.33 or §§ 89.33-89.38, 89.71-89.74, 89.102, 89.121, 89.122, 89.141, 89.142(a).

PADEP is proposing to change references to other regulations in former subsection (1)(iv) [now designated as (a)(2)(iv)]. This subsection requires detailed descriptions of the proposed coal mining activities showing the manner in which the proposed permit area will be mined and reclaimed in accordance with references with other regulations. The proposal now reads: "Provide a detailed description, to