

2. Paragraph (b) of § 1260.314 would be revised to read as follows:

**§ 1260.314 Certification of non-producer status for certain transactions.**

\* \* \* \* \*

(b) Each person seeking non-producer status pursuant to § 1260.116 of this part shall provide the collecting person on a form approved by the Board and the Secretary with a "Statement of Certification of Non-Producer Status" at the time the collecting person makes payment to the seller of cattle, in lieu of the assessment that would otherwise be due. If the collecting person is a brand inspector, as provided for in § 1260.311, the seller of cattle must provide to the brand inspector a "Statement of Certification of Non-Producer Status" at the time the physical brand inspection is completed in lieu of the assessment that would otherwise be due.

\* \* \* \* \*

Dated: August 24, 1998.

**Barry L. Carpenter,**

*Deputy Administrator, Livestock and Seed Program.*

[FR Doc. 98-23229 Filed 8-27-98; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### 30 CFR Parts 56, 57, and 77

RIN 1219-AA93

#### Safety Standards for Surface Haulage

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Extension of comment period.

**SUMMARY:** MSHA is extending the comment period on its Advance Notice of Proposed Rulemaking (ANPRM) addressing safety standards for surface haulage.

**DATES:** Submit all comments on or before September 28, 1998.

**ADDRESSES:** Comments may be transmitted by electronic mail, fax or mail. Comments by electronic mail must be clearly identified as such and sent to this e-mail address: comments@msha.gov. Comments by fax must be clearly identified as such and sent to: Mine Safety and Health Administration, Office of Standards, Regulations and Variances, 703-235-5551. Send mail comments to: Mine Safety and Health Administration, Office of Standards, Regulations, and Variances, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203-1984. Interested persons are encouraged

to supplement written comments with computer files or disks; please contact the Agency with any questions about format.

**FOR FURTHER INFORMATION CONTACT:**

Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances; 703-235-1910.

**SUPPLEMENTARY INFORMATION:** On July 30, 1998, MSHA published a notice in the **Federal Register** (63 FR 40800) requesting comments on its ANPRM addressing safety standards for surface haulage. The comment period is scheduled to close on August 31, 1998. In response to commenters' requests, MSHA is extending the comment period until September 28, 1998. MSHA believes this extension will provide sufficient time for all interested parties to review and comment on the ANPRM.

Dated: August 24, 1998.

**J. Davitt McAteer,**

*Assistant Secretary for Mine Safety and Health.*

[FR Doc. 98-23224 Filed 8-27-98; 8:45 am]

BILLING CODE 4510-43-P

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 938

[PA-123-FOR]

#### Pennsylvania Permanent 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 permanent regulatory program (hereinafter referred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment (Administrative Record Number PA 837.80) revises the Pennsylvania program to incorporate changes made to address required amendments to the Pennsylvania program that are identified in OSM's approval of Pennsylvania's coal refuse disposal amendment on April 22, 1998 (63 FR 19802). The amendment is intended to revise the Pennsylvania program to be consistent with SMCRA and the Federal regulations.

**DATES:** Written comments must be received on or before the close of

business on September 28, 1998. If requested, a public hearing on the proposed amendments will be held on September 22, 1998. Requests to present oral testimony at the hearing must be received on or before the close of business on September 14, 1998.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Robert J. Biggi, Director, Harrisburg Field Office at the address shown below.

Copies of the Pennsylvania program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requestor may receive one free copy of the proposed amendment by contacting OSM's Harrisburg Field Office. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT:** Robert J. Biggi, Director, Office of Surface Mining Reclamation and Enforcement, Harrisburg Field Office, Harrisburg Transportation Center, Third Floor, Suite 3C, 4th and Market Streets, Harrisburg, Pennsylvania 17101, Telephone: (717) 782-4036.

Pennsylvania Department of Environmental Protection, Bureau of Mining and Reclamation, Room 209 Executive House, 2nd and Chestnut Streets, P.O. Box 8461, Harrisburg, Pennsylvania 17105-8461, Telephone: (717) 787-5103.

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

**SUPPLEMENTARY INFORMATION:**

#### I. Background on the Pennsylvania Program

On July 31, 1982, the Secretary of the Interior conditionally approved the Pennsylvania program. Background information on the Pennsylvania program including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Pennsylvania program can be found in the July 30, 1982, **Federal Register** (47 FR 33050). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 938.11, 938.12, 938.15 and 938.16.

#### II. Discussion of Amendment

By letter dated September 14, 1995 (Administrative Record Number PA

837.01), Pennsylvania submitted an amendment to the Pennsylvania program. The amending language is contained in Pennsylvania House Bill 1075 and was enacted into Pennsylvania law as Act 1994-114. The amendments changed Pennsylvania's Coal Refuse Disposal Act (of September 24, 1968 (P.L. 1040, No. 318) and amended on October 10, 1980 (P.L. 807, No. 154)) to provide authorization for refuse disposal in areas previously affected by mining which contain polluttional discharges. OSM approved the amendments, with certain exceptions, on April 22, 1998 (63 FR 19802-19821). The April 22, 1998, notice contained seven required regulatory program amendments codified at 30 CFR 938.16 paragraphs (vvv) through (bbb). On June 15, 1998 (63 FR 32615-32616), OSM corrected an inadvertent omission of a phrase at 30 CFR 938.16 paragraphs (vvv) through (bbb), concerning the required Pennsylvania regulatory program amendments published in the April 22, 1998, **Federal Register** notice at pages 19820-19821.

By letter dated May 22, 1998 (Administrative Record Number PA 837.72) Pennsylvania responded to the required regulatory program amendments codified at 30 CFR 938.16 (vvv) through (bbb) by submitting three items: (1) Written clarifications relating to each of the required regulatory program amendments; (2) the draft text of a notice to be published in the *Pennsylvania Bulletin* intended to address one of the required amendments; and (3) a legal opinion from the Pennsylvania Department of Environmental Protection (DEP) legal counsel confirming the DEP's authority to implement the necessary change.

By letter dated July 15, 1998 (Administrative Record Number PA 837.74) OSM responded to DEP's May 22, 1998, letter and stated that the clarifications can only be incorporated into the approved Pennsylvania program through formal rulemaking.

By letter dated August 17, 1998 (Administrative Record Number (PA 837.80)), the DEP requested that OSM process the DEP's May 22, 1998, letter as a program amendment.

The proposed amendments are as follows:

*Required amendment codified at 30 CFR 938.16(vvv)*

The meaning of the term "excess soil and related material" as used in the definition "coal refuse disposal activities" in Section 3 of the Coal Refuse Disposal Control Act (CRDCA) is clarified to mean the rock, clay or other materials located immediately above or below a coal seam and which are extracted from a coal mine during the process of

mining coal. The term does not include topsoil or subsoil. This clarification will be incorporated in regulations as they are developed.

*Required amendment codified at 30 CFR 938.16(www)*

The Department has considered OSM's discussion relating to variances on stream buffer zones. The Department's application of variance provisions has previously been directed to ensuring that coal refuse disposal activities within stream buffer zones would not cause or contribute to the violation of State or Federal water quality standards, and would not adversely affect water quality and quantity, or other environmental resources of the stream. The Department notes that any coal refuse disposal activity is likely to cause some type of impact and that some impacts can be tolerated. OSM interprets an adverse impact as one that exceeds the allowable limits, that is, one that will not be tolerated. The Department's interpretation of "significant adverse impact" is the same as OSM's interpretation of "adverse impact;" in both cases, it is an impact that will not be tolerated because it exceeds the allowable limits. The Department distinguishes between impacts that are tolerable and those that are not through its use of the word "significant." However, the Department recognizes that differences in terminology may cause confusion and will therefore suspend use of the term "significant," even though, in practice, the same protections will continue to be afforded. Consequently, when granting a variance, the Department will not implement the word "significant" in § 6.1(h)(5) of the CRDCA, as it pertains to granting of variances to the 100-foot stream buffer zone. Under § 15.1 of CRDCA, the Department has the authority to suspend implementation of any provision of the CRDCA found to be inconsistent with federal law by OSM. By notice scheduled to be published in the *Pennsylvania Bulletin* on May 30, 1998, and in accordance with § 15.1 of the CRDCA, the Department will confirm that it has suspended implementation of the word "significant" on the basis of the Secretary of the United States Department of the Interior's finding that the word "significant" was inconsistent with federal law. The Department reaffirms that it will only authorize variances to conduct coal refuse disposal activities within stream buffer zones if the activities will not cause or contribute to the violation of State or Federal water quality standards, and will not adversely affect water quality and quantity, or other environmental resources of the stream. This clarification will be incorporated in regulations as they are developed.

In the May 30, 1998, *Pennsylvania Bulletin* (Vol. 28, No. 22) Pennsylvania announced that the DEP suspended, in accordance with § 15.1 of the Coal Refuse Disposal Act (52 P.S. § 90.65a), the implementation of the word "significant" found in § 6.1(h)(5) of the Coal Refuse Disposal Act. Also included in the DEP's May 22, 1998, submittal is a memorandum dated May 19, 1998,

from the Chief Council of the DEP. In that memorandum, the Chief Counsel stated that the "Department [DEP] has the legal authority to suspend implementation of the word 'significant' and to clarify to OSM how the Department will interpret and implement the Act 114 amendments as part of its approved program. The Department's interpretations are consistent with the law."

*Required amendment codified at 30 CFR 938.16(xxx)*

The Department clarifies that preexisting discharges which are encountered must be treated to the effluent standards of 25 Pa. Code § 90.102. This clarification will be incorporated in regulations governing Section 6.2 of the CRDCA as they are developed.

*Required amendment codified at 30 CFR 938.16(yyy)*

The Department clarifies that subsection 6.2(h) of the CRDCA pertains to preexisting discharges which are not encountered. This clarification will be incorporated in regulations as they are developed.

*Required amendment codified at 30 CFR 938.16(zzz)*

The Department clarifies that the revegetation standards of subsection 6.2(k) of the CRDCA are limited to areas previously disturbed by mining and which were not reclaimed to Pennsylvania's reclamation standards. This clarification will be incorporated in regulations as they are developed.

*Required amendment codified at 30 CFR 938.16(aaaa)*

The Department clarifies that under subsection 6.2(l) of the CRDCA, a special authorization for coal refuse disposal operations will not be granted when such an authorization would result in the site being reclaimed to lesser standards than could be achieved if the monies paid into the Surface Mining Conservation and Reclamation Fund, as a result of a prior forfeiture on the area, were used to reclaim the site to the standards approved in the original permit under which the bond monies were forfeited. This clarification will be incorporated in regulations as they are developed.

*Required amendment codified at 30 CFR 938.16(bbbb)*

The Department clarifies that the Department will implement Section 6.3 of the CRDCA in a manner no less effective than 30 CFR § 785.13 and no less stringent than Section 711 of the Surface Mining Control and Reclamation Act and clarifies that experimental practices will only be approved as part of the normal permit approval process and only for departure from the environmental protection performance standards, and that each experimental practice must receive the approval of the Secretary of the United States Department of Interior. This clarification will be incorporated in regulations as they are developed.

### III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comments on the proposed amendments to the Pennsylvania program that were submitted on May 22, 1998. Comments should address whether the proposed amendments satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Pennsylvania program.

#### Written Comments

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

#### Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by the close of business on September 14, 1998. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end 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 speak 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 amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

### IV. 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 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 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 counterpart 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 counterpart 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: August 21, 1998.

**Allen D. Klein,**

*Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 98-23242 Filed 8-27-98; 8:45 am]

BILLING CODE 4310-05-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 44

RIN 0790-AF57

#### Screening the Ready Reserve

**AGENCY:** Department of Defense.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule codified guidance governing the screening of Reserve component members of the United States Military Departments relative to their civilian employment. The requirement for screening the Ready Reserve is established in 10 U.S.C. 10149. The purpose of the screening program is to ensure the availability of Ready Reserve members for military mobilization purposes. The intended effect of the screening is to preclude conflicts between Reserve mobilization obligations and Federal civilian employment requirements during times of war or national emergency.

**DATES:** Comments must be received by October 27, 1998.

**ADDRESSES:** Forward comments to Assistant Secretary of Defense for Reserve Affairs, Attn: Manpower and Personnel (Mr. Dan Kohner), 1500 Defense Pentagon, Room 2D517, Washington, DC 20301-1500.

**FOR FURTHER INFORMATION CONTACT:** Mr. Daniel Kohner, 703-693-7479.