

Finally, it is important to emphasize that relevant factors not reflected by the dollar amount alone, such as unusually vulnerable victims, are always taken into account in reaching a final parole decision.

Implementation

The proposed rule would be applied at any initial parole hearing, or revocation hearing, conducted on or after the effective date of the final rule adopted by the Commission, if the rule is applicable to the prisoner's case. The proposed rule would also be applied retroactively to prisoners who were given parole or reparole decisions prior to that effective date, at the next statutory interim hearing conducted pursuant 28 CFR 2.14. For example, at such a statutory interim hearing, a prisoner who was continued above the Category Six guidelines for a \$5 million fraud offense, could argue for a release date within the guidelines if he can show that no other factor continues to justify a departure from the guideline range.

Executive Order 12866 and Regulatory Flexibility Statement

The U.S. Parole Commission has determined that this proposed rule is not a significant regulatory action for the purposes of Executive Order 12866, and the proposed rule has, accordingly, not been reviewed by the Office of Management and Budget. The proposed rule, if adopted, will not have a significant economic impact upon a substantial number of small entities, within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, probation and parole, prisoners.

Accordingly, the U.S. Parole Commission proposes the following amendment to 28 CFR part 2:

The Proposed Amendment

(1) The authority citation for 28 CFR part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

(2) 28 CFR part 2, § 2.20 Chapter 3, Subchapter D, Paragraph 331, is proposed to be amended to require a Category Seven rating if the value of the property is more than \$5,000,000, and to require a Category Six offense severity rating if the value of the property is more than \$1,000,000 but not more than \$5,000,000. All other dollar ranges and offense severity categories will remain as presently listed.

Dated: March 31, 1995.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH-235; Amendment Number 70]

Ohio 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 Ohio regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment was initiated by Ohio and is intended to make the Ohio program as effective as the corresponding Federal regulations concerning the frequency of inspections at abandoned coal mining operations.

This document sets forth the times and locations that the Ohio program and proposed amendment to that program will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4:00 p.m., E.D.T. on May 11, 1995. If requested, a public hearing on the proposed amendment will be held at 1:00 p.m., E.D.T. on May 8, 1995. Requests to speak at the hearing must be received by 4:00 p.m. E.D.T., on April 26, 1995.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand-delivered to Mr. Robert H. Mooney, Acting Director, Columbus Field Office, at the address listed below.

Copies of the Ohio program, the proposed amendment, 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 requester may receive one free

copy of the proposed amendment by contacting OSM's Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 4480 Refugee Road, Suite 201, Columbus, Ohio 43232, Telephone: (614) 866-0578.

Ohio Department of Natural Resources, Division of Reclamation, 1855 Fountain Square Court, Building H-3, Columbus, Ohio 43224, Telephone: (614) 265-6675.

FOR FURTHER INFORMATION CONTACT: Mr. Robert H. Mooney, Acting Director, Columbus Field Office, (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1982 **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Description of the Proposed Amendment

The Ohio Department of Natural Resources, Division of Reclamation (Ohio) submitted proposed Program Amendment Number 70 by letter dated March 28, 1995 (Administrative Record No. OH-2104). In this amendment, Ohio proposes to revise one rule at Ohio Administrative Code (OAC) section 1501:13-14-01 to make the Ohio program as effective as the corresponding Federal regulations concerning the frequency of inspections at abandoned coal mining operations. The substantive rule revisions proposed by Ohio in this amendment are briefly described below:

1. *Definition of "Abandoned Coal Mining and Reclamation Operation"*: Ohio is revising paragraph (A)(3) to define the term "abandoned coal mining and reclamation operation." Ohio is revising paragraph (A)(4) to exclude abandoned operations from the definition of "active coal mining and reclamation operation."

2. *Alternative Inspection Frequency at Abandoned Operations*: Ohio is adding a new paragraph (E) to authorize less frequent inspections of abandoned operations. Ohio is proposing to select a specific inspection frequency for each abandoned operation which shall be

commensurate with the public health and safety and environmental considerations present at that specific site. In no case shall Ohio conduct less than one complete inspection per calendar year at each abandoned operation.

Before changing to an alternate inspection frequency for an abandoned operation, Ohio will first conduct a complete inspection of the operation, prepare a written finding justifying the inspection frequency selected for the operation, and publish a public notice of the State's intent to change to the less frequent inspection schedule for the operation. The notice shall provide the public with a 30-day period in which to submit written comments on the State's proposed change to less frequent inspections of the specified operation.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment 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 Ohio 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 Columbus 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 4:00 p.m., E.D.T. on April 26, 1995. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to comment at a 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 comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following

those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

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**.

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 amendment may request a meeting at the Columbus Field Office by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings shall be open to the public and, if possible, notices of the meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each public 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 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 5034 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 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 5, 1995.

Richard J. Seibel,

Acting Assistant Director, Eastern Support Center.

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30 CFR Part 948

West Virginia Regulatory Program

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

ACTION: Announcement of public comment period and opportunity for public hearing.

SUMMARY: OSM is requesting public comment that would be considered in deciding how to implement in West Virginia, underground coal mine subsidence control and water replacement provisions of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the implementing Federal regulations, and/or the counterpart State provisions. Recent amendments to SMCRA and the