

A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

### **PART 39—AIRWORTHINESS DIRECTIVES**

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g) 40113, 44701.

#### **§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 95–NM–161–AD.

*Applicability:* Model A300 B2 and B4 series airplanes, excluding Model A300–600 series airplanes; manufacturer serial numbers 003 through 156 inclusive; on which Airbus Modification 2611 has not been installed; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent stress corrosion cracking in the longitudinal lap joints of the fuselage, which could result in rapid depressurization of the airplane, accomplish the following:

Note 2: Any of the inspections and measurements required by this AD that were performed before the effective date of this AD in accordance with Airbus All Operator Telex (AOT) 53–05 (original issue), dated August 16, 1995, are considered acceptable for compliance with the applicable requirements of this AD.

(a) Within 60 days after the effective date of this AD, accomplish paragraphs (a)(1) and (a)(2) of this AD in accordance with Airbus All Operator Telex (AOT) 53–05, Revision 1, dated August 16, 1993.

(1) Measure the thickness of the inner skin of the longitudinal lap joint from the inside

of the fuselage at stringer 57 between frames 65 and 72 using the ultrasonic thickness measurement method, in accordance with the AOT. If the thickness is less than or equal to the limits specified in the AOT, prior to further flight, repair the longitudinal lap joint in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(2) Perform a high frequency eddy current (HFEC) inspection to detect cracking of the longitudinal lap joint at stringer 57 between frames 65 and 72, in accordance with the AOT. If any cracking is detected, prior to further flight, repair the longitudinal lap joint in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(b) Within 6 months after the effective date of this AD, accomplish paragraphs (b)(1) and (b)(2) of this AD in accordance with Airbus AOT 53–05, Revision 1, dated August 16, 1993.

(1) Measure the thickness of the inner skin of the longitudinal lap joint from the inside of the fuselage at stringer 52 (left- and right-hand) between frames 58 and 65 using the ultrasonic thickness measurement method, in accordance with the AOT. If the thickness is less than or equal to the limits specified in the AOT, prior to further flight, repair the longitudinal lap joint in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(2) Perform a HFEC inspection to detect cracking of the longitudinal lap joint at stringer 52 (left- and right-hand) between frames 58 and 65, in accordance with the AOT. If any cracking is detected, prior to further flight, repair the longitudinal lap joint in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 22, 1996.

Darrell M. Pederson,  
*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*  
[FR Doc. 96–4509 Filed 2–27–96; 8:45 am]

**BILLING CODE 4910–13–U**

## **DEPARTMENT OF THE INTERIOR**

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

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

[PA–113–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 receipt of a proposed amendment to the Pennsylvania regulatory program (hereinafter the “Pennsylvania program”) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Pennsylvania rules pertaining to: Surface and underground mining—definitions, incidental coal extraction, permit approval, permit renewal, coal exploration, and bonding; surfacing mining—ground and surface water permit application information, operation and reclamation plans, and environmental protection performance standards; anthracite coal mining—permit applications, environmental protection performance standards, bank removal and reclamation standards, refuse removal standards, coal preparation facilities, and underground mines; underground mining of coal and coal preparation plants—erosion and sedimentation control standards, information requirements, performance standards, impoundments, subsidence control, and coal preparation; and coal refuse disposal—permit applications and performance standards. The amendment is intended to revise the Pennsylvania program to be consistent with the corresponding Federal regulations.

**DATES:** Written comments must be received by 4:00 p.m., E.S.T. March 29, 1996. If requested, a public hearing on the proposed amendment will be held on March 25, 1996. Requests to speak at the hearing must be received by 4 p.m., E.S.T. on March 14, 1996.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Robert J. Biggi, Director, at the address listed 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 requester may receive one free copy of the proposed amendment by contacting OSM's Harrisburg Field Office.

Robert J. Biggi, Director, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, Harrisburg Transportation Center, Third Floor, Suite 3C, 4th and Market Streets, Harrisburg, PA 17101, Telephone: (717) 782-4036.

Maryland Bureau of Mines, 160 South Water Street, Frostburg, Maryland 21532, Telephone: (301) 689-4136.

**FOR FURTHER INFORMATION CONTACT:** Robert J. Biggi, Director, Harrisburg Field Office, Telephone: (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 the conditions of approval can be found in the July 31, 1982, Federal Register (47 FR 33050). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 938.11, 938.12, 938.15, and 938.16.

**II. Description of the Proposed Amendment**

By letter dated January 23, 1996, (Administrative Record No. PA-838.00) Pennsylvania submitted a proposed amendment to its program pursuant to SMCRA in response to the required program amendments at 30 CFR 938.16(g) through (ii) with the exception of (h). The provisions of the regulations that Pennsylvania purposes to amend are found at sections 86-90 of its Coal Mining Regulations. They were published in the Pennsylvania Bulletin on December 16, 1995 (vol. 25, no. 50). Due to the voluminous nature of the proposed changes, they will be summarized to the extent possible.

*Chapter 86—Surface and Underground Mining: General*

At section 86.1—Definitions, Pennsylvania proposes to add the following definitions:

“Cumulative Measurement Period”—for purposes of section 86.5 (relating to the extraction of coal incidental to noncoal surface mining), the period of time over which both cumulative

production and cumulative revenue are measured.

“Cumulative Production”—for purposes of section 86.5, the total tonnage of coal or other minerals extracted from a mining area during the cumulative measurement period.

“Cumulative Revenue”—for purposes of section 86.5, the total revenue derived from the sale of coal or other minerals and the fair market of coal or other minerals transferred or used, but not sold, during the cumulative measurement period.

“MSHA”—the Mine Safety and Health Administration, United States Department of Labor.

“Mining Area”—for purposes of section 86.5, an individual excavation site or pit from which coal, other minerals, and overburden are removed.

“Other Minerals”—for purposes of section 86.5, a commercially valuable substance mined for its mineral value, excluding coal, topsoil, waste and fill material.

“Surface Mining Activities”—added to the existing definition of this term is the inclusion of the construction of a road or similar disturbance for any purpose related to a surface mining activity, including that of moving or walking a dragline or other equipment or for the assembly or disassembly or staging of equipment.

At section 86.5—Extraction of Coal Incidental to Noncoal Surface Mining, Pennsylvania proposes to require that a person who intends to extract coal incidental to the extraction of other minerals must do so under the provisions of a noncoal surface mining permit and subject to the regulations specified in this section. Certain exemptions apply. The operator shall select and consistently use one of two identified methods for determining the beginning of the cumulative measurement period. A request for exemption must be filed by the operator prior to the extraction. If extraction has begun, the operator must file a request by February 14, 1996. Public notice requirements must be met by both the operator and the Department of Environmental Protection (PADEP). A request for exemption must include certain information including, but not limited to, name and address of applicant; list of minerals to be extracted; estimates of annual production, revenues, and fair market values of coal; maps of the mining area; evidence of publication of public notice; and other pertinent information. The PADEP will approve the request for exemption if certain, specified criteria are satisfied. A person whose request has been approved must conduct

operations in accordance with the approved request, file an annual report, maintain certain information, and comply with notification provisions. Stockpiling of coal will be considered if certain provisions are met.

At section 86.37—Criteria for Permit Approval or Denial, Pennsylvania proposes at subsection (b) to prohibit an incremental phase approval of a permit if PADEP has already issued an incremental phase approval for the area to another permittee, except for an area used for access or haul roads.

At section 86.55—Permit Renewals: General Requirements, Pennsylvania proposes at subsection (c) to require that if a permittee provides a written notice to PADEP under subsection (i), the notice shall be filed at least 180 days before the expiration date of the permit. At subsection (g)(6), a permit will not be renewed if the permittee has failed to provide evidence of having liability insurance. At subsection (i), the permittee may provide written notice in lieu of submitting a complete application for renewal and providing public notice if certain conditions are met pertaining to coal extraction, preparation, refuse disposal, and treatment facilities. At subsection (j), if a permittee has provided written notice as specified in subsection (i) and determines prior to the permit expiration date that coal extraction, preparation, or disposal will occur or treatment facilities will be required after the expiration date, a renewal application shall be submitted.

At section 86.133—General Requirements for Coal Exploration, Pennsylvania proposes at subsection (g) to add the requirement that a person who conducts coal exploration by means of boreholes or coreholes meet the requirements of sections 89.54 and 89.83.

At section 86.134—Coal Exploration Performance and Design Standards, Pennsylvania proposes at subsection (8) to require that each exploration hole, borehole, well, or other underground opening meet the requirements of sections 87.93, 89.54, and 89.83.

At section 86.156—Form of the Bond, Pennsylvania proposes at subsection (b) to require banks and other institutions to certify that they will notify the State of any action filed alleging the insolvency or bankruptcy of the permittee. The word “supervision” is replaced by “suspension.”

At section 86.175—Schedule for Release of Bonds, Pennsylvania proposes at subsection (b)(3) for underground mines and coal preparation plants to permit release of an additional amount of bond on the

permit area or designated phase upon completion and approval of PADEP of Stage 2 reclamation but retaining an amount sufficient to cover the cost of reestablishing vegetation and reconstructing drainage structures.

At section 86.182—Procedures, Pennsylvania proposes at subsection (e) to use funds collected from bond forfeiture to complete the reclamation plan, or remaining portion thereof. At subsection (f), if the forfeited amount is insufficient, the operator is liable for remaining costs. If the forfeited amount is more than necessary, the excess funds shall be used for certain purposes specified in the statutes.

At section 86.193—Assessment of Civil Penalty—Pennsylvania proposes to delete subsection (h) which provided for the assessment of a penalty against corporate officers, directors, or agents as an alternative to, or in combination with, other penalty actions.

#### *Chapter 87—Surface Mining of Coal*

At section 87.1—Definitions, Pennsylvania proposes to revise the definition of "Surface Mining Activities" to include the construction of a road or similar disturbance for any purpose related to a surface mining activity, including that of moving or walking a dragline or other equipment, or for the assembly or disassembly or staging of equipment.

At section 87.45—Groundwater Information, Pennsylvania proposes at subsection (a)(4) to specify minimum water quality descriptions.

At section 87.46—Surface Water Information, Pennsylvania proposes at subsection (b)(3) to require that water quality data show conductance corrected to 25 degrees C. and total aluminum in milligrams per liter.

At section 87.54—Maps, Cross Sections, and Related Information, and section 87.65—Maps and Plans, Pennsylvania proposes at subsections (b) that to prepare and certify maps and cross sections, a qualified, professional geologist also be registered.

At section 87.69—Protection of Hydrologic Balance, Pennsylvania proposes at sections (b) (4) and (5) to require that each permit application contain a plan which identifies monitoring locations and sampling frequency, and logically relate to the determination of probable hydrologic consequences (PHC). The determination must address certain, specified parameters.

At section 87.73—Dams, Ponds, Embankments, and Impoundments—Pennsylvania is proposing at subsection (c)(1) that a detailed design plan for a structure be prepared with assistance, as

necessary from experts in related fields when impoundments meet or exceed prescribed size classifications. For impoundments not meeting the size classification, the plan shall be prepared by a qualified registered professional engineer or qualified registered land surveyor. An impounding structure constructed of coal refuse or used to impound coal refuse may not be retained permanently unless it develops into a fill meeting certain construction requirements.

At section 87.92—Signs and Markers, Pennsylvania proposes at subsection (g) to require that ground and surface water monitoring locations and sampling points used to obtain background information be clearly marked and identified. Marking requirements may be waived for aesthetic reasons.

At section 87.93—Casing and Sealing of Drilled Holes, Pennsylvania proposes at subsection (d) to reference the Oil and Gas Act.

At section 87.102—Hydrologic Balance: Effluent Standards, Pennsylvania is proposing at subsection (a) to change certain groups of effluent criteria.

At section 87.108—Hydrologic Balance: Sedimentation Ponds, Pennsylvania is proposing at subsection (c) to require the sedimentation ponds be maintained until the disturbed area has been stabilized and revegetated. The ponds may not be removed sooner than two years after the last augmented seeding, unless PADEP finds that the disturbed area has been sufficiently revegetated and stabilized.

At section 87.112—Impoundments—Design, Construction, and Maintenance, Pennsylvania proposes at subsection (b) to require a minimum static safety factor of 1.3. At subsection (b)(1), impoundments exceeding certain classification sizes shall be designed with assistance, as necessary, from experts in related fields. Impoundments not meeting the classification size shall be designed and certified by a qualified registered professional engineer or qualified registered professional land surveyor. Each impoundment must be certified. At subsection (d), impoundments that require a permit or meet the classification size are subject to periodic inspections by a qualified registered professional engineer. Impoundments not requiring a permit or not meeting the classification size are subject to the same periodic inspections but the inspection may be made by a qualified registered professional land surveyor. Both the engineer and land surveyor must be experienced in the construction of impoundments. At subsection (f), PADEP may consider

Mine Safety and Health Administration's (MSHA) review for impoundments. However, PADEP will review impoundments in certain cases.

At section 87.116—Hydrologic Balance: Groundwater Monitoring, Pennsylvania proposes at subsection (b) to specify minimum monitoring standards and parameters and require that results be reported every three months for each location. At subsection (d), PADEP may require that the operator conduct monitoring and reporting more frequently and to monitor additional parameters.

At section 87.117—Hydrologic Balance: Surface Water Monitoring, Pennsylvania proposes to require that surface water be monitored for parameters that relate to the suitability of the surface water for current and approved postmining land uses and to specify minimum monitoring standards and parameters. Results are to be reported every three months for each location. At subsection (b), PADEP may require that the operator conduct monitoring and reporting more frequently and to monitor additional parameters.

At section 87.125—Use of Explosives, Pennsylvania proposes at subsection (a) to clarify the notification procedures for operators pertaining to preblasting surveys.

At section 87.127—Use of Explosives: Surface Blasting Requirements, Pennsylvania proposes at subsection (e)(2) to require that PADEP specify lower maximum allowable airblast levels than prescribed to prevent damage. At subsection (h), maximum peak particle velocity standards are specified. At subsection (i)(2), exceptions to the maximum peak particle velocity limitations are specified pertaining to waivers for structures located on the permit area. At subsection (j), the detonation formula is changed to  $W=(D/D_s)^2$ , where  $D_s$  equals the scaled distance factor. At subsection (k), the seismograph record within 30 days becomes part of the blast record and shall be analyzed by an independent qualified party. At subsection (p), a blast level chart is provided to determine the maximum allowable ground vibration. The operator is required to provide a seismograph record for each blast. The vibration frequency must be displayed and analyzed over a specified frequency range. The permittee is required to obtain PADEP approval of the analytical method used before application.

At section 87.129—Use of Explosives: Records of Blasting Operations, Pennsylvania proposes at subsection (4) to add public buildings and other

structures to the list of structures for which direction and distance must be measured.

At section 87.131—Disposal of Excess Spoil, Pennsylvania proposes at subsection (n) to require that the inspecting engineer's report certify that the fill has been maintained in accordance with the approved design, in accordance with the approved plan, and in accordance with all applicable performance standards. The report shall also contain any appearances of instability, structural weakness and other hazardous conditions.

At section 87.136—Disposal of Noncoal Waste, Pennsylvania proposes to require that noncoal waste disposal be conducted in accordance with the Solid Waste Management Act and related regulations.

At section 87.138—Protection of Fish, Wildlife and Related Environmental Values, Pennsylvania proposes at subsection (c) to prohibit surface mining activity which would result in the unlawful taking of a golden or bald eagle, its nest, or eggs. Upon notification that a nest is within the permit area, PADEP is required to consult with appropriate agencies to determine whether and under what conditions the operator may proceed.

#### *Chapter 88—Anthracite Coal*

At section 88.24—Geology, Pennsylvania proposes at subsection (b)(4) to require that chemical analyses identify coal and overburden that may contain acid-forming or toxic-forming materials to determine their content and include total sulfur. A waiver may be granted if PADEP makes a written determination that other equivalent information is available.

At section 88.25—Groundwater, Pennsylvania proposes at subsection (a)(4) to specify minimum water quality descriptions.

At section 88.26—Surface Water Information, Pennsylvania proposes at subsection (b)(2) to specify that water quality data show specific conductance corrected to 25 degrees C. and total aluminum in milligrams per liter.

At section 88.31—Maps and Plans and section 88.44—Operation Maps and Operation Plans, Pennsylvania proposes at subsection (b) that the qualified professional geologist be registered.

At section 88.49—Protection of Hydrologic Balance, Pennsylvania proposes at subsection (b)(2) to require that the ground and surface water quality and quantity data plan be done in accordance with prescribed regulations and identify monitoring locations, and sampling frequency and logically relate to the determination of

PHC. At subsection (b)(3), the determination must address certain, specified parameters.

At section 88.82—Signs and Markers, Pennsylvania proposes at subsection (c) to require that ground and surface water monitoring locations and sampling points used to obtain background information be clearly marked and identified. Marking requirements may be waived for aesthetic reasons.

At section 88.83—Sealing of Drilled Holes: General Requirements, Pennsylvania proposes at subsection (d) to reference the Oil and Gas Act.

At section 88.92—Hydrologic Balance: Effluent Standards, Pennsylvania proposes at subsection (a) to change certain groups of effluent criteria.

At section 88.102—Hydrologic Balance: Dams, Ponds, Embankments, and Impoundments, Pennsylvania proposes at subsection (b) to require a minimum static safety factor of 1.3.

At section 88.105—Hydrologic Balance: Groundwater Monitoring, Pennsylvania proposes at subsection (b) to specify minimum monitoring standards and parameters and require that results be reported every three months for each location. At subsection (c), PADEP may require that the operator conduct additional hydrologic tests. At subsection (d), PADEP may require that the operator conduct monitoring and reporting more frequently and to monitor additional parameters.

At section 88.106—Hydrologic Balance: Surface Water Monitoring, Pennsylvania proposes at subsection (a) to require that surface water be monitored for parameters that relate to the suitability of the surface water for current and approved postmining land uses and to specify minimum monitoring standards and parameters. Results are to be reported every three months. At subsection (b), PADEP may require the operator to conduct monitoring and reporting more frequently and to monitor additional parameters.

At section 88.182—Signs and Markers, Pennsylvania proposes at subsection (b) to require that ground and surface water monitoring locations and sampling points used to obtain background information be clearly marked and identified. Marking requirements may be waived for aesthetic reasons.

At section 88.187—Hydrologic Balance: Effluent Standards, Pennsylvania proposes at subsection (a) to change certain groups of effluent criteria.

At section 88.197—Hydrologic Balance: Ponds, Embankments and Impoundments, Pennsylvania proposes at subsection (b) to require a minimum static safety factor of 1.3.

At section 88.201—Hydrologic Balance: Groundwater Monitoring, Pennsylvania proposes at subsection (b) to require minimum monitoring standards and parameters and require that results be reported every three months for each location. At subsection (c), PADEP may require that the operator conduct additional hydrologic tests. At subsection (d), PADEP may require that the operator conduct monitoring and reporting more frequently than every three months and to monitor additional parameters.

At section 88.202—Hydrologic Balance: Surface Water Monitoring, Pennsylvania proposes to require that surface water be monitored for parameters that relate to the suitability of the surface water for current and approved postmining land uses and to specify minimum monitoring standards and parameters. Results are to be reported every three months for each location. At subsection (b), PADEP may require that the operator conduct monitoring and reporting more frequently and to monitor additional parameters.

At section 88.282—Signs and Markers, Pennsylvania proposes at subsection (c) to require that ground and surface water monitoring locations and sampling points used to obtain background information be clearly marked and identified. Marking requirements may be waived for aesthetic reasons.

At section 88.283—Sealing of Drilled Holes: General Requirements, Pennsylvania proposes at subsection (d) to reference the Oil and Gas Act.

At section 88.284—Sealing of Drilled Holes and Exploratory Openings, Pennsylvania proposes to require that drilled holes and boreholes to be used to return coal refuse to abandoned underground workings and wells to be used to monitor groundwater conditions be temporarily sealed before used and protected during use.

At section 88.292—Hydrologic Balance: Effluent Standards, Pennsylvania proposes at subsection (a) to change certain groups of effluent criteria.

At section 88.302—Hydrologic Balance: Dams, Ponds, Embankments and Impoundments, Pennsylvania proposes at subsection (b) to require a minimum static safety factor of 1.3.

At section 88.305—Hydrologic Balance: Groundwater Monitoring, Pennsylvania proposes at subsection (b)

to specify minimum monitoring standards and parameters and require that results be reported every three months for each location. At subsection (c), PADEP may require that the operator conduct additional hydrologic tests. At subsection (d), PADEP may require that the operator conduct monitoring and reporting more frequently and to monitor additional parameters.

At section 88.306—Hydrologic Balance: Surface Water Monitoring, Pennsylvania proposes at subsection (a) to require that surface water be monitored for parameters that relate to the suitability of the surface water for current and approved postmining land uses and to specify minimum monitoring standards and parameters. Results are to be reported every three months. At subsection (b), PADEP may require the operator to conduct monitoring and reporting more frequently and to monitor additional parameters.

At section 88.321—Disposal of Noncoal Wastes, Pennsylvania proposes to require that noncoal waste disposal be conducted in accordance with the Solid Waste Management Act and related regulations. Certain waste materials with low ignition points may not be deposited on or near a coal refuse disposal pile.

At section 88.381—General Requirements, Pennsylvania proposes to require at subsection (c)(7) that monitoring plans be presented in accordance with certain, specified regulations.

At section 88.491—Minimum Requirements for Information on Environmental Resources, Pennsylvania proposes at subsection (c)(1)(iv) to specify minimum water quality description. At subsection (d)(2)(ii), water quality data must show specific conductance corrected to 25 degrees C., total aluminum in milligrams per liter, and other information PADEP determines to be relevant. At subsection (j), the referenced qualified professional geologist must be registered and maps and plans must be prepared with assistance, as necessary, from experts in related fields.

At section 88.492—Minimum Requirements for Reclamation and Operation Plan, Pennsylvania proposes at subsection (d)(2)(iii) to require that the plan identify monitoring locations and sampling frequency, and logically relate to the determination of PHC. At subsection d(3), the determination shall address the parameters measured in accordance with section 88.491.

#### *Chapter 89—Underground Mining of Coal and Coal Preparation Facilities*

At section 89.24—Sedimentation Ponds, Pennsylvania proposes at subsection (c) to require that sedimentation ponds be maintained until the disturbed areas has been stabilized and revegetated. The ponds may not be removed sooner than two years after the last augmented seeding, unless PADEP finds that the disturbed area has been sufficiently revegetated and stabilized.

At section 89.34—Hydrology, Pennsylvania proposes at subsection (a)(1) to specify minimum water quality descriptions, and to specify the standards for the groundwater monitoring plan. At (a)(2), specific conductance standards are required and the standards for the surface water monitoring plan are specified.

At section 89.51—Signs and Markers, Pennsylvania proposes at subsection (h) to require that ground and surface water monitoring locations and sampling points used to obtain background information be clearly marked and identified. Marking requirements may be waived for aesthetic reasons.

At section 89.52—Water Quality Standards, Pennsylvania proposes a subsection (c) to change certain groups of effluent criteria.

At section 89.63—Disposal of Noncoal Wastes, Pennsylvania proposes to require that noncoal waste disposal be conducted in accordance with the Solid Waste Management Act and related regulations.

At section 89.101—General Requirements, Pennsylvania proposes at subsection (a) to require that impoundments exceeding certain classification sizes be designed with assistance, if necessary, from experts in related fields. At subsection (b), impoundments which do not meet certain classification sizes are subjected to periodic inspections and certified by specified registered professionals. At subsection (d), PADEP may consider MSHA's review for impoundments. However, PADEP will review impoundments in certain cases.

At section 89.112—Impoundments, Pennsylvania proposes to require a minimum static safety factor of 1.3. Impoundments must be certified that certain conditions have been met.

At section 89.141—Application Requirements, Pennsylvania proposes at subsection (d) to reference the Oil and Gas Act.

At section 89.142—Maps, Pennsylvania proposes at subsection (a) to require that major electric lines be identified by name or numerical reference.

At section 89.143—Performance Standards, Pennsylvania proposes at subsection (b) to specify that a pillar lying partially within the support area shall be considered part of the support area and be consistent with the other support pillars in size and pattern.

At section 89.144—Public Notice, Pennsylvania proposes at subsection (a) to require that the operator comply with certain, specified notification procedures.

At section 89.172—Informational Requirements, Pennsylvania proposes at subsection (b) to specify that PADEP will not issue a permit unless it finds, in writing, that the activity will be conducted in compliance with specified performance standards.

#### *Chapter 90—Coal Refuse Disposal*

At section 90.13—Groundwater Information, Pennsylvania proposes at subsection (1) to specify minimum water quality descriptions.

At section 90.14—Surface Water Information, Pennsylvania proposes at subsection (b)(3) to specify that water quality data show specific conductance corrected to 25 degrees C. and total aluminum in milligrams per liter.

At section 90.35—Protection of the Hydrologic Balance, Pennsylvania proposes at subsection (b)(3) to require that the ground and surface water quality plan identify monitoring locations and sampling frequencies and logically relate to the determination of the PHC.

At section 90.39—Ponds, Impoundments, Banks, Dams, Embankments, Piles and Fills, Pennsylvania proposes at subsection (e) to require that each plan provide for the removal of impoundments constructed of or used to impound coal refuse as part of site reclamation.

At section 90.46—Maps, Pennsylvania proposes at subsection (3) to require that the qualified geologist be registered.

At section 90.92—Signs and Markers, Pennsylvania proposes at subsection (g) to require that ground and surface water monitoring locations and sampling points used to obtain background information be clearly marked and identified. Marking requirements may be waived for aesthetic reasons.

At section 90.102—Hydrologic Balance: Water Quality Standards, Pennsylvania propose at subsection (a) to change certain groups of effluent criteria.

At section 90.108—Hydrologic Balance: Sedimentation Ponds, Pennsylvania proposes at subsection (c) to require that sedimentation ponds not be removed until the disturbed area has been stabilized and revegetated and not

removed sooner than two years after the last augmented seeding, unless PADEP finds that the disturbed area has been sufficiently revegetated and stabilized.

At section 90.111—Impoundments, Pennsylvania proposes at subsection (7) to require that impoundments which are constructed of or used to impound coal refuse be developed into fills meeting specified construction requirements.

At section 90.112—Dams, Embankments and Impoundments, Pennsylvania proposes at subsection (b) to require a status safety factor of 1.3 and impoundments must be certified according to certain standards. At subsection (f), PADEP may consider MSHA's review for impoundments. However, PADEP will review impoundments in certain cases.

At section 90.113—Coal Processing Waste Dams and Embankments, Pennsylvania proposes at subsection (i) to specify that impoundments constructed of coal processing wastes or used to impound wastes not be retained permanently as part of the postmining land use unless certain conditions are met.

At section 90.115—Groundwater Monitoring, Pennsylvania proposes at subsection (b) to specify minimum monitoring standards and parameters and require that results be reported every three months for every location. At subsection (d), PADEP may require that the operator conduct monitoring and reporting more frequently and to monitor additional parameters.

At section 90.116—Surface Water Monitoring, Pennsylvania proposes at subsection (a) to require that surface water be monitored for parameters that relate to the suitability of the surface water for current and approved postmining land uses and to specify minimum monitoring standards parameters. Results are to be reported every three months for each location. At subsection (b), PADEP may require that the operator conduct monitoring and reporting more frequently and to monitor additional parameters.

At section 90.120—Permanent Postdisposal Renovation, Pennsylvania proposes to require that impoundments constructed of coal refuse or used to impound coal refuse be developed into fills meeting certain construction requirements.

At section 90.130—Coal Refuse Dams, Pennsylvania proposes to delete the requirement that the specified structures may not be retained permanently as part of the approved postmining land use.

At section 90.133—Disposal of Noncoal Wastes, Pennsylvania proposes to require that noncoal waste disposal

be conducted in accordance with the Solid Waste Management Act and related regulations.

#### *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 an 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 speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., E.S.T. on March 14, 1996. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak 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.

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 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 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 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.

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

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 16, 1996.

Allen D. Klein,

Assistant Director, Appalachian Regional Coordinating Center.

[FR Doc. 96-4430 Filed 2-27-96; 8:45 am]

BILLING CODE 4310-05-M

## POSTAL SERVICE

### 39 CFR Part 233

#### Screening of Mail Reasonably Suspected of Containing Nonmailable Firearms

**AGENCY:** Postal Service.

**ACTION:** Proposed rule.

**SUMMARY:** The Postal Service hereby requests comments on its proposed regulation outlining the treatment of mail which is reasonably suspected of being dangerous to persons or property. The rule also contains language which allows for the screening of mail reasonably suspected of containing nonmailable firearms.

**EFFECTIVE DATE:** Comments must be received on or before March 29, 1996.

**ADDRESSES:** Written comments should be directed to Chief Counsel, Enforcement, Law Department, U.S. Postal Service, Room 6319, 475 L'Enfant Plaza SW, Washington, DC 20260-1148. Copies of all written comments will be available at this address for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** George C. Davis (202) 268-3076.

**SUPPLEMENTARY INFORMATION:** This document creates a new 233.11 of title 39, Code of Federal Regulations, to include the requirements for the treatment of mail which is reasonably suspected of being dangerous to persons or property. This rule is currently contained in the Administrative

Support Manual (ASM) as part 274, but this publication will make it more widely available to the public.

Sections 233.11(a) and (a)(4) contain new language which allows for the screening of mail reasonably suspected of containing nonmailable firearms. Formerly, part 274 of the ASM allowed the examination of mail only to identify explosives or other materials that would pose a danger to life or property. This (proposed) rule would expand the existing rule to permit screening for nonmailable firearms under the same restrictions respecting mail privacy and delay.

The Postal Service has been advised by the Honorable Pedro Rosello, Governor of Puerto Rico, that illegal firearms entering Puerto Rico by various means, including the mails, pose a serious threat to the safety of citizens of Puerto Rico. This information has been confirmed in meetings with the Attorney General of Puerto Rico, local and federal law enforcement officials, and officials of the U.S. Department of Justice.

Practical and legal constraints limit our ability to ensure that the mails are free of nonmailable firearms. These constraints were summarized in the Federal Register at the time the rule permitting limited screening of mail reasonably suspected of containing dangerous matter was initially proposed and remain applicable today. See 55 FR 29637 (July 20, 1990).

Taking these constraints into account, this (proposed rule) would authorize the least intrusive, least dilatory response to credible situations where firearms already declared "nonmailable" by statute or regulation are reasonably suspected of being in the mails. Nonmailable firearms are defined in Section C024.1.0 of the Domestic Mail Manual. They consist, primarily, of pistols, revolvers, and other concealable firearms. Unloaded rifles and shotguns are mailable, although the provisions of the Gun Control Act of 1968, 18 U.S.C. 921, *et seq.* and regulations of the Bureau of Alcohol, Tobacco and Firearms apply to the shipment of such weapons by mail or otherwise.

The proposed rule would attempt to balance the need to protect personal safety, enforce existing laws, and regulations against the mailing of nonmailable firearms, and protect personal privacy in the use of the mails. As envisioned by the proposed rule, when the chief postal inspector determines that a credible threat exists that certain mail might contain nonmailable firearms, the inspector may authorize the use of technology that is capable of identifying mail containing

such firearms in order to obtain probable cause for the issuance of a Federal warrant to search and seize such mail. The rule would not permit any screening method that would involve opening of sealed mail or the reading of the contents of correspondence in sealed mail, without the consent of the sender or addressee or under authority of a Federal warrant. Moreover, the only screening which may be authorized must be limited to the least quantity of mail necessary to respond to the threat, and the screening must be performed without avoidable delay of the mail. Any mail not of sufficient weight, for example, to contain a nonmailable firearm will not be screened. In addition, international transit mail will not be screened unless the postal treaties are appropriately amended. Sworn reports of all screening methods conducted by, or under supervision of, the Postal Service would be reported to senior postal managers.

In view of the matters discussed above, although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rule making by 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed new section 233.11 of title 39, Code of Federal Regulations.

#### List of Subjects in 39 CFR Part 233

Law enforcement, Postal Service.

Accordingly, title 39 CFR, part 233, is proposed to be amended as follows:

#### **PART 233—INSPECTION SERVICE/INSPECTOR GENERAL AUTHORITY**

1. The authority citation for part 233 continues to read as follows:

Authority: 39 U.S.C. 101, 401, 402, 403, 404, 406, 410, 411, 3005(e)(1); 12 U.S.C. 3401-3422; 18 U.S.C. 981, 1956, 1957, 2254, 3061; 21 U.S.C. 881; Inspector General Act of 1978, as amended (Pub. L. No. 95-452, as amended), 5 U.S.C. App. 3.

2. Part 233 is amended by adding § 233.11 as follows:

#### **§ 233.11 Mail reasonably suspected of being dangerous to persons or property.**

(a) *Screening of mail.* When the Chief Postal Inspector determines that there is a credible threat that certain mail may contain bombs, explosives, or other material that would endanger lives or property, including firearms which are not mailable under section C024 of the Domestic Mail Manual, the Chief Postal Inspector may, without a search warrant or the sender's or addressee's consent, authorize the screening of such mail by any means capable of identifying explosives, nonmailable firearms, or other dangerous contents in the mails.