participation for a professor or research scholar shall be as follows:

(1) *General limitation*. The professor and research scholar shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete his or her program, which time shall not exceed three years.

(2) *Exceptional circumstance*. The Agency may authorize a designated Exchange Visitor Program sponsor to conduct an exchange activity requiring a period of program duration in excess of three years. A sponsor seeking to conduct an activity requiring more than the permitted three years of program duration shall make written request to the Agency and secure written Agency approval. Such request shall include:

(i) A detailed explanation of the exchange activity;

(ii) A certification that only foreign educated research scholars will be selected to participate in the activity;

(iii) A certification that the research scholar will be supported by United States or foreign government funds or that the research scholar was selected for participation in the activity by a foreign government.

(3) *Change of category*. A change between the categories of professor and research scholar shall not extend an exchange visitor's permitted period of participation beyond three years.

(j) *Extension of program*. Professors and research scholars may be authorized program extensions as follows:

(1) *Responsible officer authorization*. A responsible officer may extend, in his or her discretion and for a period not to exceed six months, the three year period of program participation permitted under § 514.20(i). The responsible officer exercising his or her discretion shall do so only upon their affirmative determination that such extension is necessary in order to permit the research scholar or professor to complete a specific project or research activity.

(2) *Agency authorization*. The Agency may extend, upon request and in its sole discretion, the three year period of program participation permitted under § 514.20(i). A request for Agency authorization to extend the period of program participation for a professor or research scholar shall:

(i) Be submitted to the Agency no less than 90 days prior to the expiration of the participant's permitted three year period of program participation; and

(ii) Present evidence, satisfactory to the Agency, that such request is justified due to exceptional or unusual circumstances and is necessary in order to permit the researcher or professor to complete a specific project or research activity.

(3) *Timeliness*. The Agency will not review a request for Agency authorization to extend the three year period of program participation permitted under § 514.20(i) unless timely filed.

(4) *Final decision*. The Agency will respond to requests for Agency authorization to extend the three year period of program participation permitted under § 514.20(i) within 45 days of Agency receipt of such request. Such response shall constitute the Agency's final decision.

[FR Doc. 96–8676 Filed 4–5–96; 8:45 am]

BILLING CODE 8230–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1625

Coverage of Apprenticeship Programs Under the Age Discrimination in Employment Act (ADEA)

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: On July 3, 1995 pursuant to Executive Orders 12067 and 12866, the Commission approved for inter-agency coordination and subsequent review by the Office of Management and Budget (OMB) a Notice of Proposed Rulemaking (NPRM) that would rescind the current apprenticeship regulation (29 C.F.R. § 1625.13) and replace it with a legislative regulation providing that apprenticeship programs are subject to the ADEA. The Commission then published the NPRM in the Federal Register for public comment on October 3, 1995. See 60 FR 51762 (Oct. 3, 1995). Based on a careful analysis of the comments received in response to the NPRM, a reassessment of the statutory language and legislative history of the ADEA, a review of case law and related statutes, and a thorough examination of the history of apprenticeship programs, the Commission has determined that a rule covering apprenticeship programs will better advance the ADEA's objectives of promoting the employment of older persons based on their ability rather than age and prohibiting arbitrary age discrimination in employment. Therefore, pursuant to sec. 9 of the ADEA, 29 U.S.C. § 628, the Commission is removing sec. 1625.13 from its Interpretive Regulations, found in 29 C.F.R. Part 1625 and is adding in Part 1625, a new sec. 1625.21 under Subpart B - Substantive Regulations. The new sec. 1625.21 will subject all apprenticeship programs to the prohibitions of the Act unless otherwise specifically exempted under sec. 9, 29 U.S.C. § 628, in accordance with the procedures set forth in 29 C.F.R. 1627.15, or if excepted under section 4(f)(1) of the ADEA, 29 U.S.C. § 623 (f)(1).

Copies of this final rule are available in the following alternate formats: large print, braille, electronic file on computer disk, and audio tape. Copies may be obtained from the Office of Equal Employment Opportunity by calling (202) 663–4395 (voice) or (202) 663–4399 (TDD).

EFFECTIVE DATE: This rule takes effect on May 8, 1996.

FOR FURTHER INFORMATION CONTACT: Joseph N. Cleary, Assistant Legal Counsel or James E. Cooks, Senior Attorney Advisor, (202) 663–4690 (voice), (202) 663–7026 (TDD).

SUPPLEMENTARY INFORMATION:

Historical Background.

The Department of Labor (DOL) was initially given jurisdiction over the enforcement of the ADEA. In 1969, DOL published an interpretation that excluded apprenticeship programs from the ADEA. See 34 Fed. Reg. 323 (January 9, 1969). The rationale given by DOL for the ''no-coverage'' position was that apprenticeship programs had been traditionally limited to youths under a specified age in recognition of apprenticeship as an extension of the educational process.

The Commission assumed responsibility for enforcing the ADEA pursuant to Reorganization Plan No. 1 of 1978. See 45 Fed. Reg. 19807 (May 9, 1978). In June of 1979, the Commission published a notice in the Federal Register advising the public that all DOL interpretive guidelines on the ADEA would remain in effect until such time as the Commission could issue its own guidelines. See 44 Fed. Reg. 37974 (June 29, 1979). In November of 1979, the Commission published its own proposed ADEA Guidelines, but did not include a proposal on the apprenticeship issue. See 44 Fed. Reg. 68858 (Nov. 30, 1979).

On September 23, 1980, the Commission preliminarily approved a proposed recision of the DOL position on apprenticeship and voted to replace it with a legislative rule providing for coverage of apprenticeship programs. The Commission then published for comment a proposed legislative rule stating that age limitations in apprenticeship programs would be unlawful under the ADEA unless

justified as a bona fide occupational qualification (BFOQ) or specifically exempted by the Commission under sec. 9 of the Act. See 45 Fed. Reg. 64212 (Sept. 29, 1980).

After considering the public comments submitted in response to this proposal, the Commission declined to adopt it by a vote of 2–2. It then republished the DOL interpretive rule as part of its final ADEA interpretations. See 46 Fed. Reg. 47726 (Sept. 29, 1981).

In August of 1983, a United States District Court in New York reviewed the Commission's position on the applicability of the ADEA to apprenticeship programs in *Quinn* v. *New York State Electric and Gas Corp.*, 569 F. Supp. 655 (1983). The Quinn court, inter alia, found the interpretation invalid because it was not supported by ''the language, purpose, and legislative history of the ADEA.'' *Quinn*, 569 F. Supp. at 664. The Commission, however, was not a party in this case, and the court's decision did not require that the Agency take any action regarding its apprenticeship interpretation.

In 1984 the Commission revisited the issue, expressing serious concern about the interpretation. Prompted by this concern, the Commission voted 4–0 to send a proposal to the Office of Management and Budget (OMB) that would rescind the apprenticeship interpretation and replace it with a legislative rule covering apprenticeship programs under the Act. However, the proposal was never published in the Federal Register for public comment. On July 30, 1987, the Commission voted 3–1 to terminate the proposed regulatory action and affirmatively approved the interpretation excluding apprenticeship programs. See 52 Fed. Reg. 33809 (Sept. 8, 1987).

In 1995, a lawsuit was filed against the Commission challenging the interpretation as an arbitrary and capricious agency action within the meaning of the Administrative Procedure Act. 5 U.S.C. 551 *et seq*. The Commission has taken the position that its prior actions with respect to the difficult issue of the proper relationship between the ADEA and apprenticeship programs were reasonable, deliberate, and taken in good faith. The Commission has rejected any claim that it acted in a manner that is arbitrary and capricious or otherwise inconsistent with law.

The Commission also determined, however, that neither the ADEA nor its legislative history required the existing position or prohibited the adoption of a new rule—both are silent on the issue. Therefore, because of changing circumstances in the workforce and structural changes in the workplace, the Commission decided to propose for comment a new legislative rule covering apprenticeship programs under the ADEA. See 60 FR 51762 (Oct.3, 1995). The Commission took the position that this action was necessary to insure the most appropriate policy in light of present circumstances in the country which affect both employers and employees.[1]

Public Comment

A. Introduction

Through the Notice of Proposed Rulemaking, the Commission sought to examine various factors which contribute to many of the problems facing older workers, applicants for employment generally, and employers. The Commission submitted a series of questions for public consideration which it deemed vital to its assessment of whether apprenticeship programs should be covered under the ADEA. Members of the public were given a 60 day period within which to comment, and the Commission has carefully studied the viewpoints of the commenters.

The comments received represented the views of employers, labor organizations, state and local government agencies, a legal services organization, and advocacy groups for older workers, women, and minorities. A clear majority of commenters, representing the interests of large constituencies, favor rescinding the current interpretation and promulgating the proposed rule. However, a large industry membership organization was among the commenters who favor retaining the current interpretation. The discussion which follows is a question-by-question analysis of the comments received.

B. Analysis of Comments

1. The EEOC's Authority to Issue the New Rule

Commenters supporting the proposed rule argue that the ADEA is a remedial civil rights statute and as such its coverage should be interpreted broadly by the Commission with exceptions narrowly construed. They believe that the existing rule exceeded the authority of the Commission as well as the Department of Labor. They believe that the Commission has full authority to promulgate a new regulatory position regarding coverage of apprenticeship programs.

On the other hand, one commenter favoring retention of the current position states that Congress never intended to cover apprenticeship programs under the ADEA, and that the Commission is without authority to change its existing interpretation on coverage of apprenticeship programs. This commenter cites to statements by individual legislators to the effect that only ''qualified'' older workers were covered by the Act, arguing that this supports the view that apprentices are excluded from coverage. It notes that the present interpretation has gone unchallenged by Congress in the over 26 years it has been in existence. The commenter draws an inference in support of its position from the fact that Congress omitted from the ADEA explicit language covering apprenticeship programs even though it had included such specific language in Title VII of the Civil Rights Act of 1964, as amended. *See* 42 U.S.C. 2000e–2 (d).

The Commission certainly agrees that it would not have authority to promulgate this rule if it were clear from the statute or its legislative history that Congress exempted apprenticeship programs from the ADEA. In the Commission's view, however, nothing in the statute or its legislative history prevents it from exercising its broad legislative rulemaking authority under sec. 9 of the Act, 29 U.S.C. 628, and promulgating a rule covering apprenticeship programs.

The ADEA is a remedial statute which should be broadly construed.[2] The statute and its history are silent regarding apprenticeship programs and neither compel nor preclude their coverage. The references in the legislative history to ''qualified older workers'' are properly construed to mean only that employers could reject applicants for apprenticeship programs who were not ''qualified'' for admission. The omission by Congress of specific language covering apprenticeship programs is not dispositive because the Act plainly covers employers and unions. Either separately or in combination these entities sponsor virtually all apprenticeship programs. Thus, Congress had no need to address apprenticeship programs explicitly.

Moreover, the mere fact of the longevity of the previous interpretation is not a bar to change. Indeed, an agency has a continuing obligation to insure that its enforcement positions are

[1] An ''[a]dministrative agency concerned with furtherance of the public interest is not bound to rigid adherence to its prior rulings.'' *Columbia Broadcasting System* v. *Federal Communications Commission*, 454 F.2d 1018, 1026 (D.C. Cir. 1971).

[2] See *Oscar Mayer and Co.* v. *Evans*, 441 U.S. 750, 765 (1979); *United Air Lines, Inc.* v. *McMann*, 434 U.S. 192, 217–18 (1977).

correct, which includes reevaluating them if necessary. An ''(a)dministrative agency concerned with furtherance of the public interest is not bound to rigid adherence to its prior rulings.''[3] A contrary view would lock an agency into a prior regulatory position even when the position is later determined by the agency to be unwise as a matter of policy or legally incorrect.

Thus, the Commission concludes that it has authority to promulgate this rule. The existence of its prior position excluding apprenticeship programs from the ADEA does not act as a bar to changing that position pursuant to its regulatory authority under sec. 9 of the ADEA. 29 U.S.C. 628. At the same time, however, the Commission reaffirms its view that such position was reasonable, deliberate and taken in good faith.

2. The EEOC's Ability To Establish sec. 9 Exemptions To Meet Legitimate Needs for Age Limits

All commenters who address this issue are in agreement that the Commission possesses the authority under section 9 of the Act, 29 U.S.C. 628, to grant exemptions from coverage for apprenticeship programs when such action is necessary and proper in the public interest. Commenters favoring a change in the interpretation emphasize that if there are apprenticeship programs with special needs for age limitations, the Commission has the flexibility to provide them with relief under sec. 9. Commenters with this point of view argue that the Commission's authority to be responsive to specific requests for relief from the Act when required in the public interest is a compelling reason to change the existing blanket exclusion of apprenticeship programs.

A commenter opposed to adoption of the new rule states that if a new position is implemented, the EEOC should adopt guidelines which set forth in detail the standards that must be met to establish an exemption under sec. 9, or a bona fide occupational qualification (BFOQ) under sec. 4(f)(1) of the ADEA. 29 U.S.C. § 623 (f) (1). The commenter argues that these guidelines '' should clarify if and to what extent economic factors will be given weight in establishing an exemption or BFOQ.''

The Commission agrees with the commenters that it possesses authority to recognize and accommodate the needs of individual apprenticeship programs that may have a need for age limitations if to do so is necessary and proper in the public interest. The Commission also agrees with those who argue that the existence of this authority, which can be used on a case-by-case basis, calls into question the need for the existing interpretation with its sweeping reach.

The Commission does not believe that there is a need to develop guidance on the sec. 9 exemption process or the BFOQ exemption in advance of taking action on the apprenticeship interpretation. The Commission has regulatory guidance in place on both topics. See 29 C.F.R. 1625.6 (BFOQ) and 1627.15 (Administrative Exemptions). There is also substantial caselaw on the BFOQ topic. However, the Commission will closely monitor requests for exemptions and will revisit the need for further guidance as appropriate.

3. What Impact Will a Change in the Interpretation Have on Displaced Older Workers?

A legal services organization favoring the new rule presented data showing that ''over the past twenty years dislocations in the American economy have required millions of American workers to look for new jobs,'' often resulting in unemployment and underemployment. Numerous commenters note that such dislocations have had a particularly harsh impact on mid-life and older workers, and one commenter points to language in the Act recognizing that older workers are ''especially disadvantaged in their efforts to regain employment when displaced from jobs.'' 29 U.S.C. 621(a)(1). The proponents of changing the interpretation cite employer downsizing at a time of shrinking opportunities for new employment as a ''compelling reason'' for adoption of the proposed rule.

Proponents of the proposed rule also argue that lifting age restrictions would provide employers with a larger pool of qualified and talented employees. One set of comments offered by a state government agency points out the tremendous potential of older workers as a valuable resource for the nation's employers that can and should be utilized. A number of proponents reason that ''downsizing, changing technologies, and new growth industries all have created a demand for workers with more advanced technical skills who can adapt quickly to changing employer needs.'' Many believe ''that workers who can acquire these skills will be well positioned to take advantage of the best job opportunities'' and that older persons are needed to fill the void for employers.

None of the opposition commenters argue that older workers would not benefit by the removal of age limitations from apprenticeship programs. Rather, commenters opposed to adoption of the proposed rule contend that there are ample government-sponsored training programs to assist older workers and that apprenticeship programs should not be compelled to include them.

The Commission believes that eliminating age barriers in apprenticeship programs will clearly benefit older workers. As noted above, even opposition commenters do not argue to the contrary. The Commission also believes that employers will benefit from an enhanced pool of qualified workers.

The comments make clear that large numbers of older workers have been laid off. Once laid off, older workers experience particular problems in finding new employment. In addition to negative stereotypical assumptions about older workers that make it difficult for them to find new employment, changing technology has left many older workers without the necessary skills to reenter the workforce. The Commission believes that apprenticeship programs can play an important role in providing the training necessary to overcome these barriers to reemployment.

Employers would also benefit from an enhanced pool of qualified persons to fill their needs. Demographic data demonstrates that older workers comprise a substantial proportion of the potential workforce. There may not be a sufficient number of younger persons to meet the needs of America's employers. Older workers can be trained just as readily as younger ones to handle emerging technologies.

4. What Impact Will Change in the Interpretation Have on Employers and Future Sponsorship of Apprenticeship Programs?

Opponents of changing the apprenticeship interpretation argue that a change would make it more difficult for program sponsors to recoup their investments. They claim that older apprentices do not remain with a particular employer, or in the workforce, as long as younger ones and that older persons are less likely to complete an apprenticeship program. They argue that sponsors of programs who see a diminishing return on investment will discontinue the programs and turn to recruitment to fill staffing needs. Opponents express the view that changing the interpretation would lead to the unintended consequence of fewer apprenticeship opportunities for all persons.

Supporters of the proposed rule maintain that there is no evidence to

[3] See footnote 1 *supra*.

support the assertion that eliminating age barriers will make it more difficult for employers to recoup their investment in apprenticeship programs. These commenters point to: the continuation of apprenticeship programs in states that prohibit age discrimination in such programs; the increased mobility of workers of all ages which diminishes the likelihood that employers will recoup a training investment through the lifetime employment of any worker on the basis of age; and the growing need for employers to invest in retraining for employees of all ages given rapid advances in technology. Supporters of the proposed rule also rely on data showing that older workers on average remain with the same employer longer than younger workers.

The Commission is persuaded by the arguments of those in favor of changing the interpretation. To begin with, they point to the lack of objective evidence to support the claim of increased cost or diminishing opportunities. Indeed, no such data has been presented to the Commission. This is in spite of the fact that approximately one-half of the states currently bar age discrimination in apprenticeship programs. Moreover, opponents argue that older workers will leave the workforce far sooner than younger workers, that older workers are less likely to complete an apprenticeship program, and that older workers will retire at the earliest opportunity. But such arguments fail to consider research: refuting a link between age and declining performance; showing that technology has shortened the time within which a return on investment in apprenticeship for any worker can be realized; or demonstrating positive virtues and work ethics on the part of older persons. They also fail to consider information regarding increased job mobility in the workforce for people of all ages, and demographics demonstrating that older workers are an important resource needed to maintain America's competitive position in the world.

In addition, no current useful data was presented regarding the costs of apprenticeship programs. The only broad-based data submitted was from a fifteen-year old study. One commenter submitted very high cost figures regarding its own program but did so without any analysis or explanation. As a result it was not possible to evaluate this commenter's assertions. Insofar as the claims of increased costs are based on stereotypical assumptions about the behavior of older persons, the Commission is mindful of the fact that a principal purpose for the enactment of the ADEA was precisely to prohibit employment actions based on such assumptions. *Hazen Paper Co.* v. *Biggins,* 507 U.S. 604 (1993). Accordingly, the Commission rejects as unsupported the claim that adoption of the proposed rule will harm employers and prevent the future sponsorship of apprenticeship programs throughout the country.

5. What is the Impact of the Current Interpretation on Groups Such as Minorities and Women That Have Been Disadvantaged by Historical Employment Discrimination?

None of the commenters disagree that women and minorities are underrepresented in craft occupations. Moreover, these employment patterns have not changed significantly over the past fifteen years. Supporters of changing the interpretation present data demonstrating that African-Americans and Hispanics have been particularly hard hit by job displacements over the past two decades and that permitting age limitations in apprenticeship programs locks in the effects of past discrimination and occupational segregation. One commenter supports its position by pointing to the well documented history of race discrimination in the crafts. Proponents also point to the fact that minorities are often the last hired and the first fired in a reduction-in-force. They state that overall unemployment rates for African-Americans and other minorities are disproportionately high in comparison to Whites and attribute much of the problem to minority members' lack of seniority and lack of acquired skills in the crafts. They view apprenticeship as a way in which minorities can acquire much needed training in our rapidly changing workplace and state that older minorities, especially, stand to benefit from apprenticeship training in areas experiencing rapid technological change.

Similarly, supporters of the NPRM point to the problems women have faced in gaining access to non-traditional jobs. Specifically, several proponents of the proposed rule note that women go into the trades at a later age than men, often because younger women pursue—and are encouraged to pursue—more traditionally female occupations. This commenter asserts that age limits lock in the effects of prior sex discrimination just as they lock in the effects of prior race discrimination.

One commenter cites statistics demonstrating a difference between the weekly earnings for males and females between the ages of 45 and 64 of $221 in favor of males, in support of a need for greater access to apprenticeship programs for older women. A number of commenters also argue that access is extremely important for the ''more than 3 million displaced homemakers—women who have been out of the workforce for some time and are now seeking employment—[they are] older women between the ages of 45 and 64.''

According to one proponent of change, statistics reveal that 90% of single parent families in the United States are maintained by women. Another supporter references statistics showing that 55% of all households in West Virginia are headed by women. The commenter notes that although women occupy this critical responsibility for the children of America, they are often clustered in low paying traditionally female jobs.

Another commenter contends that removing age limits from apprenticeship programs would go hand-in-hand with current welfare reform efforts. This commenter argues that apprenticeships will lead to jobs in the trades for many older welfare recipients allowing them to support themselves and their children—precisely as they will be required to do.

Finally, proponents of change point to the fact that patterns of underrepresentation have persisted in the skilled trades, despite the Commission interpretation. They argue that this demonstrates that eliminating opportunities for older workers will not work to the benefit of younger minorities and women—even if it were appropriate to favor younger workers over older workers, a point they do not concede.

Opponents of changing the interpretation state that age limitations in apprenticeship programs will create new opportunities for minority youth and younger women. However, they offer no explanation to support this claim nor an explanation of why there has not been an expanded representation of minorities and women in the crafts in the years that apprenticeship programs have been permitted to limit opportunities to younger workers.

The Commission is persuaded by the arguments of those favoring a change in the interpretation. It is clear that minorities and women are substantially underrepresented in the crafts and that the exclusion of apprenticeship programs from prohibitions against age discrimination has not opened up opportunities for these persons.

6. What Impact Will Changing the Interpretation Have on Opportunities for Youth?

Responding to the question of whether removing age limits would diminish training opportunities for youth, several commenters favoring a change in position note that Congress has created major training programs designed specifically for youth.[4] These commenters state that Congress has set aside over a billion dollars to fund these programs. For this reason, these proponents conclude that access to apprenticeship programs should be available to workers of all ages. One commenter contends that removal of age limitations would not diminish training opportunities for youth, but would result in an inter-generational approach to apprenticeship that promotes greater harmony in the workplace.

An opponent of the proposed rule argues that apprenticeship programs should be reserved for youth, citing high unemployment rates for young people and arguing that they are in great need of educational and employment opportunities. This commenter states that youth should not have to compete with older persons who might otherwise have an advantage over them solely by reason of their having lived longer.

While the Commission believes that apprenticeship programs continue to be an important source of training for young people, it also takes the position that apprenticeship programs can operate successfully by utilizing the talents of individuals of all ages. The Commission was not provided with any information demonstrating that youth have been negatively affected in any of the states that prohibit age limits in apprenticeship programs. Moreover, some apprenticeship programs with a desire to assist specific disadvantaged groups may be able to do so under the existing exemption from the ADEA found at 29 CFR 1627.16. In the alternative, such programs could seek an exemption under the procedures set out at 29 CFR 1627.15.

7. What is the Relationship of Apprenticeship Programs to Employment and Education?

A number of those who favor the proposed rule argue that apprenticeship programs are more in the nature of employment than education. Some of those opposed to the proposed rule contend that the contrary is true. These comments support the position, which has been previously taken by the Commission, that, in fact, apprenticeship programs have both employment and education components. However, the Commission is also of the view that the employment and education aspects of apprenticeship programs are so inextricably interwoven as to mandate coverage under the Act. As most of the commenters who address this question note, the indicia of an employer/employee relationship are almost always present. For example, apprentices frequently perform functions for the employer that the employer would otherwise have to pay someone else to perform; apprentices are always or almost always paid a wage; many apprenticeship programs seek certification from DOL that permits them to pay apprentices less than the prevailing rate for journeymen employees on certain jobs.

Findings

After careful review of the available data, including the comments discussed above, the EEOC has determined that employers and employees alike will be better served by an interpretation of the ADEA which covers apprenticeship programs. Therefore, the Commission is rescinding its current interpretation and issuing a new rule as set forth below.

Executive Order 12866, Regulatory Planning and Review

The Equal Employment Opportunity Commission has determined under Executive Order 12866 that this rule is a significant regulatory action, however, it will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, or local or tribal governments or communities. The rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

The rule does not contain any information collection or record keeping requirements as defined in the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Similarly, the Commission certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this rule will not result in a significant economic impact on a substantial number of small entities. For this reason, a regulatory flexibility analysis is not required.

In addition, in accordance with Executive Order 12067, the Commission has solicited the views of affected Federal agencies.

The final rule appears below.

List of Subjects in 29 CFR Part 1625

Advertising, Age, Employee benefit plans, Equal employment opportunity, Retirement.

Signed at Washington, DC this 2nd day of April 1996.

Gilbert F. Casellas,

Chairman.

Adoption of the Amendment

Accordingly, chapter XIV of title 29 of the Code of Federal Regulations is amended as follows:

PART 1625—AGE DISCRIMINATION IN EMPLOYMENT ACT

1. The authority citation for part 1625 continues to read as follows:

Authority: 81 Stat. 602; 29 U.S.C. 621, 5 U.S.C. 301, Secretary's Order No. 10–68; Secretary's Order No. 11–68; sec. 12, 29 U.S.C. 631, Pub. L. 99–592, 100 Stat. 3342; sec. 2, Reorg. Plan No. 1 of 1978, 43 FR 19807.

§ 1625.13 [Removed]

2. In Part 1625, § 1625.13 is removed.

Subpart B—Substantive Regulations

3. In Part 1625, § 1625.21 is added to Subpart B—Substantive Regulations to read as follows:

§ 1625.21 Apprenticeship programs.

All apprenticeship programs, including those apprenticeship programs created or maintained by joint labor-management organizations, are subject to the prohibitions of sec. 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 623. Age limitations in apprenticeship programs are valid only if excepted under sec. 4(f)(1) of the Act, 29 U.S.C. 623(f)(1), or exempted by the Commission under sec. 9 of the Act, 29 U.S.C. 628, in accordance with the procedures set forth in 29 CFR 1627.15.

[FR Doc. 96–8513 Filed 4–5–96; 8:45 am]

BILLING CODE 6570–01–P

[4] Commenters referenced such programs as the Carl D. Perkins Vocational and Applied Technology Act, 20 U.S.C. 2301 *et seq.* and the Job Training Partnership Act (JTPA) as proof of the availability of opportunities for youth.

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN–132–FOR; State Program Amendment No. 95–10]

Indiana Regulatory Program

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