

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 904

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 26, 1996.

Brent Wahlquist,

*Regional Director, Mid-Continent Regional Coordinating Center.*

[FR Doc. 96-11022 Filed 5-2-96; 8:45 am]

**BILLING CODE 4310-05-M**

#### **30 CFR Part 946**

**[VA-107-FOR]**

##### **Virginia 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 Virginia regulatory program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of statutory changes contained in Virginia House Bill 706 and the implementing regulations, both of which address sudden release of accumulated water from underground coal mine voids. The amendment is intended to improve the effectiveness of the Virginia program.

**DATES:** Written comments must be received by 4:00 p.m., on June 3, 1996. If requested, a public hearing on the proposed amendment will be held on May 28, 1996. Requests to speak at the hearing must be received by 4:00 p.m., on May 20, 1996.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Mr. Robert A. Penn, Director, Big Stone Gap Field Office at the first address listed below.

Copies of the Virginia program, the proposed amendment, a listing of any

scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requestor may receive one free copy of the proposed amendment by contacting OSM's Big Stone Gap Field Office.

Office of Surface Mining Reclamation and Enforcement, Big Stone Gap Field Office, P.O. Box 1217, Powell Valley Square Shopping Center, Room 220, Route 23, Big Stone Gap, Virginia 24219, Telephone: (703) 523-4303  
Virginia Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, Virginia 24219, Telephone: (703) 523-8100.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert A. Penn, Director, Big Stone Gap Field Office, Telephone: (703) 523-4303.

##### **SUPPLEMENTARY INFORMATION:**

##### I. Background on the Virginia Program

On December 15, 1981, the Secretary of the Interior conditionally approved the Virginia program. Background information on the Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the December 15, 1981, Federal Register (46 FR 61085-61115). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 946.12, 946.13, 946.15, and 946.16.

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

By letter dated April 17, 1996 (Administrative Record No. VA-876), Virginia submitted amendments to § 45.1-243 of the Code of Virginia contained in Virginia House Bill 706, and concerning the sudden release of accumulated water from underground coal mine voids. Virginia also submitted the proposed implementing regulations at § 480-03-19.784.14 concerning hydrologic information for reclamation and operations plans, and § 480-03-19.817.41 concerning performance standards for hydrologic balance protection.

The proposed amendments are as follows:

1. § 45.1-243 of the Code of Virginia is amended by adding a new subsection to read as follows:

B. The Director's regulations shall require that permit applicants submit hydrologic reclamation plans that include measures that will be utilized to prevent the sudden release of

accumulated water from underground workings.

2. § 480-03-19.784.14(g) of the Virginia regulations is amended to add the requirement that the hydrologic reclamation plan shall also include identification of the measures to be taken to prevent the sudden release of accumulated water from the underground workings.

3. § 480-03-19.817.41(I) is amended by adding new subparagraph (3) to read as follows:

(3) Except where surface entries and accesses to underground workings are located pursuant to (i)(1) of this Section, an unmined barrier of coal shall be left in place where the coal seam dips toward the land surface. The unmined barrier and associated overburden shall be designed to prevent the sudden release of water that may accumulate in the underground workings.

(I) The applicant may demonstrate the appropriate barrier width and overburden height by either:

(A) providing a site specific design, certified by a qualified registered professional engineer, which considers the overburden and barrier characteristics; or

(B) providing the greater barrier width necessary for a minimum of 100 feet of vertical overburden or for an unmined horizontal barrier calculated by the formula:  $W=50+H$ , when W is the minimum width in feet and H is the calculated hydrostatic head in feet.

(ii) Exception to the barrier requirement may be approved provided the Division finds, based upon the geologic and hydrologic conditions, an accumulation of water in the underground workings cannot reasonably be expected to occur or other measures taken by the applicant are adequate to prevent the accumulation of water.

### III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendments proposed by Virginia satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Virginia 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 Big Stone Gap Field Office will not necessarily be

considered in the final rulemaking or included in the Administrative Record.

#### Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by close of business on May 20, 1996. 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.

#### Public Meeting

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

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**.

### 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

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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 the 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 the 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. According, 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 946

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 25, 1996.

Michael K. Robinson,

Acting Regional Director, Appalachian  
Regional Coordinating Center.

[FR Doc. 96-11023 Filed 5-2-96; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[AD-FRL-5468-1]

#### National Emission Standards for Hazardous Air Pollutants for Source Categories: Perchloroethylene Dry Cleaning Facilities; Amendments

**AGENCY:** Environmental Protection  
Agency (EPA).

**ACTION:** Proposed amendments to rule.

**SUMMARY:** This action proposes amendments to the national emission standards for hazardous air pollutants (NESHAP) for perchloroethylene (PCE) dry cleaning facilities promulgated in the Federal Register on September 22, 1993. The NESHAP was promulgated to minimize emissions of PCE, which has been listed by EPA as a hazardous air pollutant (HAP). The Administrator is proposing to implement a settlement agreement that the EPA has entered into regarding a small number of transfer machines.

**DATES:** *Comments.* Comments on the proposed amendments must be received by June 17, 1996.

*Public Hearing.* Persons requesting a public hearing should contact Mr. George Smith at (919) 541-1549 by May 15, 1996. If anyone requests a public hearing by May 15, 1996, a public hearing will be held in Research Triangle Park, North Carolina. Persons wishing to make oral statements at this public hearing must contact Mr. Smith by May 15, 1996 at (919) 541-1549, Emission Standards Division, U.S. EPA, MD-13, Research Triangle Park, NC 27711. Persons interested in attending the public hearing should also contact Mr. Smith for information on the exact location of the public hearing, if one is requested.

**ADDRESSES:** *Comments.* Comments on the proposed amendments should be submitted (in duplicate, if possible) to: The Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Mail Code 6102, 401 M Street, SW, Washington, DC 20460, attention Docket Number A-95-16.

*Docket.* Docket Number A-95-16, containing supporting information used in developing the proposed

amendments, is available for public inspection and copying between the hours of 8:00 a.m. and 5:30 p.m., Monday through Friday (except for government holidays) at The Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Mr. George Smith at (919) 541-1549, Emission Standards Division (MD-13), U. S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

**SUPPLEMENTARY INFORMATION:** *Regulated entities.* Entities regulated by this action are dry cleaning facilities that use perchloroethylene. Regulated categories and entities include:

Category	Examples of regulated entities
Perchloroethylene dry cleaning facilities.	Perchloroethylene dry cleaning facilities that installed transfer machines between proposal and promulgation.

The above table is an exhaustive guide for readers regarding entities to be regulated by this action.

The information presented in this preamble is organized as follows:

#### I. Background, Summary, and Rationale for Rule Changes

- II. Administrative Requirements
  - A. Paperwork Reduction Act
  - B. Executive Order 12866 Review
  - C. Unfunded Mandates Act
  - D. Regulatory Flexibility Act

#### I. Background, Summary, and Rationale for Rule Changes

National emission standards for hazardous air pollutants (NESHAP) for perchloroethylene (PCE) dry cleaning facilities were promulgated on September 22, 1993 (58 FR 49354), and amended on December 20, 1993 (58 FR 66287), as 40 CFR Part 63, subpart M. On December 20, 1993, the International Fabricare Institute (IFI), a trade association representing commercial and industrial dry cleaners nationwide, submitted a statement of issues to the U.S. Court of Appeals for the District of Columbia Circuit challenging the NESHAP. The Agency subsequently entered into a settlement agreement with IFI, notice of which was published prior to being lodged with the court (60 FR 52000, October 4, 1995).

International Fabricare Institute raised the issue of new transfer machines

purchased or installed between proposal and promulgation. The IFI's concern stems from the fact that the Agency did not propose to ban new transfer machines, yet at promulgation did ban such machines. The IFI argued that dry cleaners who installed new transfer machines between proposal and promulgation did so with the understanding that the Agency had not proposed any prohibitions against this. These dry cleaners now have no recourse but to scrap these new transfer machines and replace them with new dry-to-dry machines in order to comply with the NESHAP. The IFI asserted that this is unfair, given these dry cleaners acted in accordance with the law to the best of their knowledge at the time.

At the time of proposal, the Agency believed that no new transfer machines were being sold or installed, and for this reason did not propose to ban purchase of new transfer machines. However, due to new information that the Agency received after proposal that is explained in the preamble to the final rule, the Agency banned the purchase of new transfer machines. The ban was considered reasonable because the Agency's analysis showed that emissions from clothing transfer could be eliminated by requiring dry-to-dry machines in their place. Emissions from clothing transfer account for about 25 percent of transfer machine emissions. The Agency's analysis also showed that in the typical case where a new dry-to-dry machine was installed instead of a new transfer machine, a net savings of \$300 per ton of emission reductions would be realized by the dry cleaner. Hence, the Agency decided at promulgation to effectively "ban" new transfer machines from being introduced subsequent to promulgation, by making the emission limit for new transfer machines impossible to achieve. It was believed this decision would have no impact on dry cleaners, since no new transfer machines were being purchased or installed. It was only after promulgation that it became apparent that a few new transfer machines had been sold and installed between proposal and promulgation of the NESHAP.

The Agency agrees with IFI on this issue. Consequently, the Administrator proposes to subcategorize new transfer machines into two types: new transfer machines installed after promulgation (i.e., September 22, 1993) and new transfer machines installed between proposal (i.e., December 9, 1991) and promulgation (i.e., September 22, 1993). The requirements the Administrator is proposing today for new transfer machines installed after promulgation