

encouraged to submit comments on any relevant miner training issue.

Definitions

Should certain terms, including "new miner" and "experienced miner" be defined? If so, how should these terms be defined?

New Miner Training

Section 115 of the Mine Act lists several subject areas that must be covered by training for new inexperienced miners at surface mines, including:

Instruction in the rights of miners and their representatives under the Mine Act;

Use of self-rescue devices where appropriate and respiratory devices where appropriate;

- Hazard recognition;
- Emergency procedures;
- Electrical hazards;
- First aid;
- Walkaround training;

The health and safety aspects of the task to which the miner will be assigned.

Which of these subjects should be taught before a new miner is assigned work, even if the work is done under close supervision?

Should training for inexperienced miners be given all at once, or over a period of time, such as several weeks or months? Should this decision be left to the discretion of the mine operator? What are the advantages and disadvantages of spreading training over an extended period of time?

Should supervisors be subject to the same training requirements as miners?

Task Training

Should training be required whenever a miner receives a work assignment that involves new and unfamiliar tasks?

Annual Refresher Training

Should specific subject areas be covered during annual refresher training? If so, what subject areas should be included?

Can the 8 hours of annual refresher training required by the Mine Act be completed in segments of training lasting less than 30 minutes?

Training Certificates

Should the records of training be kept by the mine operator at the mine site, or should the regulation allow records to be kept at other locations?

Qualifications of Instructors

Should there be minimum qualifications for persons who conduct miner training? If so, what kind of qualifications are appropriate?

Dated: October 28, 1998.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA-121-FOR]

Pennsylvania Abandoned Mine Land Reclamation Program

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

ACTION: Proposed rule; reopening of comment period.

SUMMARY: OSM is reopening the public comment period on a proposed amendment to the Pennsylvania Abandoned Mine Land Reclamation (AMLR) Plan (hereinafter referred to as the Pennsylvania Program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.*, as amended. The proposed amendment adds a new section "F" entitled Government Financed Construction Contracts (GFCC) to authorize the incidental removal of coal at AML sites that would not otherwise be mined and reclaimed under the Title V program. The proposed amendment also includes the Program Requirements and Monitoring Requirements related to the use of GFCC for that purpose. The proposed amendment is intended to improve the efficiency of the Pennsylvania program by allowing the Government-financed construction exemption in Section 528 of SMCRA to be applied in cases involving less than 50% financing only in the limited situation where the construction constitutes a government approved and administered abandoned mine land reclamation project under Title IV of SMCRA. The amendment is also intended to authorize the use of excess spoil from a valid, permitted coal mining operation for the reclamation of an abandoned unreclaimed area outside of the permit area.

The comment period is being reopened because Pennsylvania has, at OSM's request, submitted portions of its State law which it believes provides specific authority to allow the State Regulatory Authority to approve exemptions for the incidental removal

of coal pursuant to government-financed reclamation projects.

DATES: Written comments must be received by 4:00 p.m., [E.D.T.] November 18, 1998.

ADDRESSES: Written comments should be mailed or hand delivered to Robert Biggi, Field Office Director, at the address listed below. Copies of the Pennsylvania program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Harrisburg Field Office. Mr. Robert J. Biggi, Director, Harrisburg Field Office, Third Floor, Suite 3C, Harrisburg Transportation Center (Amtrack) 415 Market Street, Harrisburg, Pennsylvania 17101. Telephone: (717) 782-4036.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Biggi, Director, Harrisburg Field Office, Third Floor, Suite 3C, Harrisburg Transportation Center (Amtrack) 415 Market Street, Harrisburg, Pennsylvania 17101. Telephone: (717) 782-4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program

On July 30, 1982, the Secretary of the Interior conditionally approved the Pennsylvania program. Background on the Pennsylvania program, including the Secretary's findings and the disposition of comments can be found in the July 30, 1982 **Federal Register** (47 FR 33079). Subsequent actions concerning the AMLR program amendments are identified at 30 CFR 938.20 and 938.25.

II. Description of the Proposed Amendment

By letter dated November 21, 1997 (Administrative Record No. PA-855.00), the Pennsylvania Department of Environmental Protection (PADEP) submitted proposed Program Amendment No. 2 to the Pennsylvania Abandoned Mine Reclamation Plan. In addition, PADEP also submitted the following documents: Basis of Authority for the Proposed Amendment, AML Amendment Conformance with 30 CFR Section 884.13, Assistant Counsel's Opinion of Authority for GFCC, PADEP Organization Chart and the Office of Mineral Resources Management Organization Chart. The proposed amendment is intended to improve the efficiency of the Pennsylvania program by allowing the Government-financed

construction exemption in Section 528 of SMCR to be applied in certain cases involving less than 50% financing. The inspection forms and related instructions to be utilized to monitor the GFCC program are part of the amendment. Pennsylvania submitted the proposed amendment at its own initiative.

OSM announced receipt of the proposed amendment in the December 29, 1997, **Federal Register** (62 FR 67590) and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on January 28, 1998. However, OSM's review determined that several items contained in the proposed amendments required clarification. As a result, a letter requesting clarification on three items was sent to Pennsylvania dated June 5, 1998 (Administrative Record No. PA-855.08). Pennsylvania initially responded in its letter dated June 17, 1998 (Administrative Record No. PA 855.09), that it would require additional time to respond to OSM's request, and that it expected to provide a response by July 15. A response was received from Pennsylvania in its letter dated July 7, 1998 (Administrative Record No. PA 855.10). Therefore, OSM reopened the public comment period regarding Pennsylvania's response in the July 28, 1998, **Federal Register** (63 FR 40237). The comment period closed on August 12, 1998 and no comments were received. However, OSM subsequently informed Pennsylvania that its program appeared to lack the statutory authority to implement the exemption for incidental coal removal pursuant to government-financed reclamation projects. Therefore, in a letter dated October 8, 1998 (Administrative Record No. PA 855.12), Pennsylvania subsequently submitted portions of its state law which it believes provides specific authorization to implement the proposed changes to its AML Plan. Pennsylvania requested to have the statutory provisions included as part of Pennsylvania's Abandoned Mine Reclamation Plan Amendment. The proposed additions are as follows: 52 P.S. § 1396.3

"Government-financed reclamation contract" shall mean:

(1) For the purposes of Section 4.8, a federally-funded or state-funded and approved abandoned mine reclamation contract entered into between the department and an eligible person or entity who has obtained special authorization to engage in incidental and necessary extraction of coal

reclamation pursuant to government-financed reclamation which is either:

(i) a State-financed reclamation contract less than or equal to fifty thousand dollars (\$50,000) total project costs, where up to five hundred (500) tons of coal is extracted, including a reclamation contract where less than five hundred (500) tons is removed and the government's cost of financing reclamation will be assumed by the contractor under the terms of the no-cost contract;

(ii) a State-financed reclamation contract authorizing the removal of coal refuse, including where reclamation is performed by the contractor under the terms of the no-cost contract with the department, not involving any reprocessing of coal refuse on the project area or return of any coal refuse material to the project area;

(iii) a State-financed reclamation contract greater than fifty thousand dollars (\$50,000) total project costs or a federally-financed abandoned mine reclamation project: Provided, That the department determines in writing that extraction of coal is essential to physically accomplish the reclamation of the project area and is incidental and necessary to reclamation; or (iv) federally financed or state-financed extraction of coal which the department determines in writing to physically extinguish an abandoned mine fire that poses a threat to the public health, safety and welfare.

(2) For purposes of determining whether or not extraction of coal is incidental and necessary under section 4.8, the department shall consider standard engineering factors and shall not in any case consider the economic benefit deriving from extraction of coal. Necessary extraction of coal shall in no case include:

(i) the extraction of coal in an area adjacent to the previously affected area which will be reclaimed; or

(ii) the extraction of coal beneath the previously affected area which will be reclaimed.

"Surface mining activities" shall mean the extraction of coal from the earth or from waste or stockpiles or from pits or banks by removing the strata or material which overlies or is above or between them or otherwise exposing and retrieving them from the surface, including, but not limited to, strip, auger mining, dredging, quarrying and leaching, and all surface activity connected with surface or underground mining, including, but not limited to, exploration, site preparation, entry, tunnel, drift, slope, shaft and borehole drilling and construction and activities related thereto, but not including those portions of mining operations carried out beneath the surface by means of shafts, tunnels or other underground mine openings. "Surface mining activities" shall not include any of the following:

(1) Extraction of coal or coal refuse removal pursuant to a government-financed reclamation contract for the purposes of section 4.8.

(2) Extraction of coal as an incidental part of Federal, State or local government-financed highway construction pursuant to regulations promulgated by the Environmental Quality Board.

(3) The reclamation of abandoned mine lands not involving extraction of coal or excess spoil disposal under a written agreement with the property owner and approved by the department.

(4) Activities not considered to be surface mining as determined by the United States Office of Surface Mining, Reclamation and Enforcement and set forth in department regulations.

"No-cost reclamation contract" shall mean a contract entered into between the department and an eligible person for the purpose of reclaiming unreclaimed abandoned mine lands and which does not involve the expenditure of Commonwealth funds.

§ 1396.4h. [also referred to as "section 4.8"] Government-financed reclamation contracts authorizing incidental and necessary extraction of coal or authorizing removal of coal refuse

(a) No person may engage in the extraction of coal or in removal of coal refuse pursuant to a government-financed reclamation contract without a valid surface mining permit issued pursuant to this act unless such person affirmatively demonstrates that he is eligible to secure special authorization pursuant to this section to engage in a government-financed reclamation contract authorizing incidental and necessary extraction of coal or authorizing removal of coal refuse. The department shall determine eligibility before entering into a government-financed reclamation contract authorizing incidental and necessary extraction of coal or authorizing removal of coal refuse. The department may provide the special authorization as part of the government-financed reclamation contract: Provided, That the contract contains and does not violate the requirements of this section. The department shall not be required to grant a special authorization to any eligible person. The department may, however, in its discretion, grant a special authorization allowing incidental and necessary extraction of coal or allowing removal of coal refuse pursuant to a government-financed reclamation contract in accordance with this section. (b) Only eligible persons may secure special authorization to engage in incidental and necessary extraction of coal or to engage in removal of coal refuse pursuant to a government-financed reclamation contract. A person is eligible to secure a special authorization if he can demonstrate, at a minimum, to the department's satisfaction that:

(1) The contractor or any related party or subcontractor which will act under its direction has no history of past or continuing violations which show the contractor's lack of ability or intention to comply with the acts or the rules and regulations promulgated thereunder, whether or not such violation relates to any adjudicated proceeding agreement, consent order or decree, or which resulted in a cease order or civil penalty assessment. For the purposes of this section, the term "related party" shall mean any partner, associate, officer, parent corporation, affiliate or person by or under common control with the contractor.

(2) The person has submitted proof that any violation related to the mining of coal by

the contractor or any related party or subcontractor which will act under its direction of any of the acts, rules, regulations, permits or licenses of the department has been corrected or is in the process of being corrected to the satisfaction of the department, whether or not the violation relates to any adjudicated proceeding, agreement, consent order or decree or which resulted in a cease order or civil penalty assessment. For purposes of this section, the term "related party" shall mean any partner, associate, officer, parent corporation, subsidiary corporation, affiliate or person by or under common control with the contractor.

(3) The person has submitted proof that any violation by the contractor or by any person owned or controlled by the contractor or by a subcontractor which acts under its direction of any law, rule or regulation of the United States or any state pertaining to air or water pollution has been corrected or is in the process of being satisfactorily corrected.

(4) The person or any related party or subcontractor which will act under the direction of the contractor has no outstanding unpaid civil penalties which have been assessed for violations of either this act or the act of June 22, 1937 (P.L. 1987, No. 394), known as "The Clean Streams Law" (35 P.S. § 691.1 et seq.), in connection with either surface mining or reclamation activities.

(5) The person or any related party or subcontractor which will act under the direction of the contractor has not been convicted of a misdemeanor or felony under this act or the acts set forth in subsection (e) and has not had any bonds declared forfeited by the department.

(c) Any eligible person who proposes to engage in extraction of coal or in removal of coal refuse pursuant to a government-financed reclamation contract may request and secure special authorization from the department to conduct such activities under this section. The department may issue the special authorization as part of the government-financed reclamation contract. Provided, That the contract contains and does not violate the requirements of this section. A special authorization can only be obtained if a clause is inserted in a government-financed reclamation contract authorizing such extraction of coal or authorizing removal of coal refuse and the person requesting such authorization has affirmatively demonstrated to the department's satisfaction that he has satisfied the provisions of this section. A special authorization shall only be granted by the department prior to the commencement of extraction of coal or commencement of removal of coal refuse on a project area. In order to be considered for a special authorization by the department, an eligible person must demonstrate at a minimum that:

(1) The primary purpose of the operation to be undertaken is the reclamation of abandoned mine lands.

(2) The extraction of coal will be incidental and necessary, or the removal of coal refuse will be required, to accomplish the reclamation of abandoned mine lands pursuant to a government-financed reclamation contract.

(3) Incidental and necessary extraction of coal or in removal of coal refuse will be confined to the project area being reclaimed.

(4) All extraction of coal or in removal of coal refuse and reclamation activity undertaken pursuant to a government-financed reclamation project will be accomplished pursuant to:

(i) the applicable environmental protection performance standards promulgated in the rules and regulations relating to surface coal mining listed in the government-financed reclamation contract; and

(ii) additional conditions included in the government-financed reclamation contract by the department.

(d) The contractor will pay any applicable per-ton reclamation fee established by the United States Office of Surface Mining Reclamation and Enforcement (OSMRE) for each ton of coal extracted pursuant to a government-financed reclamation project.

(e) Prior to commencing extraction of coal or commencement of removal of coal refuse pursuant to a government-financed reclamation project, the contractor shall file with the department a performance bond payable to the Commonwealth and conditioned upon the contractor's performance of all the requirements of the government-financed reclamation contract, this act, "The Clean Streams Law", the act of January 8, 1960 (1959 P.L. 2119, No. 787) (35 P.S. § 4001 et seq.), known as the "Air Pollution Control Act", the act of September 24, 1968 (Pub. L. 1040, No. 318) (52 P.S. § 30.51 et seq.), known as the "Coal Refuse Disposal Control Act," where applicable, the act of November 26, 1978 (Pub. L. 1375, No. 325) (32 P.S. § 693.1 et seq.), known as the "Dam Safety and Encroachments Act, and, where applicable, the act of July 7, 1980 (Pub. L. 380, No. 97) (35 P.S. § 6018.101 et seq.), known as the "Solid Waste Management Act". An operator posting a bond sufficient to comply with this section shall not be required to post a separate bond for the permitted area under each of the acts herein above enumerated. For government-financed reclamation contracts other than a no-cost reclamation contract, the criteria for establishing the amount of the performance bond shall be the engineering estimate, determined by the department, of meeting the environmental obligations enumerated above. The performance bond which is provided by the contractor under a contract other than a government-financed reclamation contract shall be deemed to satisfy the requirements of this section provided that the amount of the bond is equivalent to or greater than the amount determined by the criteria set forth in this subsection. For no-cost reclamation projects in which the reclamation schedule is shorter than two (2) years the bond amount shall be a per acre fee, which is equal to the department's average per acre cost to reclaim abandoned mine lands; provided, however, for coal refuse removal operations, the bond amount shall only apply to each acre affected by the coal refuse removal operations. For long-term, no-cost reclamation projects in which the reclamation schedule extends beyond two (2) years, the department may establish a lesser bond amount. In these

contracts, the department may in the alternative establish a bond amount which reflects the cost of the proportionate amount of reclamation which will occur during a period specified.

(f) The department shall insert in government-financed reclamation contracts conditions which prohibit coal extraction pursuant to government-financed reclamation in areas subject to the restrictions of Section 4.2 (52 P.S. § 1396.4b.), except as surface coal mining is allowed pursuant to that section.

(g) Any person engaging in extraction of coal pursuant to a no-cost government-financed reclamation contract authorized under this section who affects a public or private water supply by contamination or diminution shall restore or replace the affected supply with an alternate supply adequate in quantity and quality for the purposes served.

(h) Extraction of coal or removal of coal refuse pursuant to a government-financed reclamation contract cannot be initiated without the consent of the surface owner for right of entry and consent of the mineral owner for extraction of coal. Nothing in this section shall prohibit the department's entry onto land where such entry is necessary in the exercise of police powers.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 884.15 and 30 CFR 732.17, OSM is now seeking comment on whether the amendment proposed by Pennsylvania satisfies the applicable requirements for the approval of program amendments. Specifically, OSM is seeking comments on the incorporation of the statutory references as submitted on October 8, 1998 (Administrative Record No. PA 855.12) into the program amendment submission. Comments should address whether the proposed amendment with these statutory references and definitions satisfy the applicable program approval criteria of 30 CFR 884.15 and 30 CFR 732.17. If the 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.

IV. Procedural Determinations

Executive Order 12866

This proposed rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order

12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State and Tribal abandoned mine land reclamation plans and revisions thereof since each such plan is drafted and promulgated by a specific State or Tribal, not by OSM. These standards are also not applicable to the actual language of State regulatory programs and program amendments for the same reason. 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, program amendments, abandoned mine land reclamation plans and revisions thereof submitted by the States must be based solely on a determination of whether the submittal is consistent with Titles IV and V of SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, 732 and 884 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State and Tribal abandoned mine land reclamation plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)), and since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities

under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

Unfunded Mandates

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 27, 1998.

Michael K. Robinson,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 98-29397 Filed 11-2-98; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98-191; RM-9351]

Radio Broadcasting Services; Leesville, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Pene Broadcasting Company, Inc., licensee of Station KJAE(FM), Channel 224A, Leesville, Louisiana, seeking the substitution of Channel 228C3 for Channel 224A and modification of its license accordingly to specify operation on the higher powered channel. Coordinates for this proposal are 31-11-29 NL and 93-14-35 WL.

Petitioner's modification proposal is consistent with the provisions of Section 1.420(g)(2) of the Commission's Rules since it demonstrated that an additional equivalent channel can be allotted to Leesville in the event other

parties indicate an interest in the proposal. Therefore, we will not accept competing expressions of interest in the use of Channel 228C3 at Leesville.

DATES: Comments must be filed on or before December 14, 1998, and reply comments on or before December 29, 1998.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Denise B. Moline, Esq., 100 Carpenter Drive, Suite 100, P.O. Box 217, Sterling, VA 20167.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98-191, adopted October 14, 1998, and released October 23, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98-29320 Filed 11-2-98; 8:45 am]

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