

*CPSC Response:* The Commission agrees that the label recommended by the petition does not represent the hazard presented by the finished product in a real life fire situation. Polyurethane foam is just one of many components used to construct a mattress. Since it is unclear what relation the fire behavior of an individual component has to the likely fire performance of a completed product, the Commission agrees that the suggested warning is not appropriate for the final mattress product.

#### 5. Petition FP 00-4, Fire-proof Mattress Identification Tags

*Comment:* One commenter argues that an ID tag would have no impact on the propensity of a mattress to ignite or the intensity of the resulting fire.

*CPSC response:* Petition FP 00-4 requests that all mattresses have an identification tag designed to survive a fire permanently attached to the innerspring unit. The Commission agrees that such a tag is unlikely to have any impact on reducing mattress fires or the propensity of a mattress to ignite when exposed to an open flame. Such a tag is not visible to consumers to influence their behavior, and the tag has no influence on the mattress's ability to resist ignition or its performance once ignited. An ID tag could be desirable for identifying mattresses involved in fires to improve the utility of collected fire data and support further regulatory actions. However, the tag cannot be justified in terms of directly reducing death or injury from fires.

#### I. Invitations to Comment

In accordance with section 4(g) of the FFA, the Commission invites comments on this notice. Specifically, the Commission invites the following types of comments.

1. Comments concerning the risk of injury identified in this notice, the regulatory alternatives discussed above, and other alternatives to address the risk of injury;

2. An existing standard or portion of a standard as a proposed rule;

3. A statement of intention to modify or develop a voluntary standard to address the risk of injury identified in the notice along with a description of a plan to modify or develop the standard.

In addition, the Commission is interested in obtaining further information about the following issues.

1. Materials that could improve mattress performance in open flame tests.

2. Any adverse consequences that an open flame standard might have on cigarette ignition of mattresses/bedding.

3. The appropriate scope of the standard, that is, particular items that should be included or excluded.

Dated: October 4, 2001.

**Todd Stevenson,**

*Consumer Product Safety Commission.*

#### List of Relevant Documents

1. Briefing memorandum from Margaret Neily, Project Manager, Directorate for Engineering Sciences, to the Commission, "Options to Address Open Flame Ignition of Mattress/Bedding and Petitions from the Children's Coalition for Fire Safe Mattresses," August 16, 2001.

2. Memorandum from Signe Hiser, EPHA, to Margaret Neily, Engineering Sciences, Residential Fires in Mattresses and Bedding 1980 "1998," June 11, 2001.

3. Memorandum from Terrance R. Karels, EC, to Margaret L. Neily, ES, "Mattress Petitions," June 15, 2001.

4. Memorandum from Allyson Tenney, ES, to Margaret Neily, Project Manager, "Current Research Program to Evaluate Open flame Mattress Flammability," April 25, 2001.

5. Memorandum from Allyson Tenney, ES, to Margaret Neily, Project Manager, "Response to Comments Received on Petitions FP 00-1 through FP 00-4, Requesting Standards, Labeling and Identification Tags for Mattresses," April 25, 2001.

6. Memorandum from Carolyn Meiers, ESHF, to Margaret Neily, Project Manager, "Petition to Provide Rulemaking Regarding Mattress Combustibility Warning Labels," March 16, 2001.

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#### DEPARTMENT OF THE INTERIOR

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

##### 30 CFR Part 950

[WY-029-FOR]

##### Wyoming Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Wyoming regulatory program (hereinafter, the "Wyoming program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Wyoming proposes revisions to rules about surface water hydrology, coal mine waste impoundments, alluvial valley floors, and Threatened and Endangered Plant Species. Wyoming intends to revise its program

to be consistent with the corresponding Federal regulations, and improve operational efficiency.

**DATES:** We will accept written comments on this amendment until 4:00 p.m., m.d.t. November 13, 2001. If requested, we will hold a public hearing on the amendment on November 8, 2001. We will accept requests to speak until 4:00 p.m., m.d.t. on October 26, 2001.

**ADDRESSES:** You should mail or hand deliver written comments and requests to speak at the hearing to Guy Padgett at the address listed below.

You may review copies of the Wyoming program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Casper Field Office.

Guy Padgett, Director  
Casper Field Office  
Office of Surface Mining Reclamation and Enforcement  
100 East "B" Street, Room 2128  
Casper, WY 82601-1918

Dennis Hemmer, Director  
Department of Environmental Quality  
Herschler Building  
122 West 25th Street  
Cheyenne, WY 82002  
Telephone: 307/777-7682

**FOR FURTHER INFORMATION CONTACT:** Guy Padgett, Telephone: 307/261-6550. Internet: Gpadgett@OSMRE.GOV.

#### SUPPLEMENTARY INFORMATION:

- I. Background on the Wyoming Program.
- II. Description of the Proposed Amendment.
- III. Public Comment Procedures.
- IV. Procedural Determinations.

#### I. Background on the Wyoming Program

Section 503(a) of the Surface Mining and Reclamation Act (the Act) permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act \* \* \*" and "rules and regulations issued by the Secretary" pursuant to the Act. 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Wyoming program on November 26, 1980. You can find background information on the Wyoming program,

including the Secretary's findings, the disposition of comments, and the conditions of approval of the Wyoming program in the November 26, 1980, **Federal Register** (45 FR 78637). You can also find later actions concerning Wyoming's program and program amendments at 30 CFR 950.12, 950.15, 950.16, and 950.20.

## II. Description of the Proposed Amendment

By letter dated July 20, 2001, Wyoming sent us a proposed amendment to its program, (administrative record No. WY-34-01) under SMCRA (30 U.S.C. 1201 *et seq.*). Wyoming sent the amendment in response to a December 23, 1985, letter (WY-34-7) and a February 21, 1990, letter (WY-34-8) that we sent to Wyoming in accordance with 30 CFR 732.17, in response to the required program amendments at 30 CFR 950.16(d), (e), (h), (i), (ii)(2), (jj), and to include changes made at its own initiative. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

The provisions of Wyoming's Coal Rules and Regulations that Wyoming proposes to revise are: Chapter 2, Section 2(a)(vi)(M)(III), Ground-water information; Chapter 2, Sections 2(b)(xi)(D)(II)(1) and (2), Groundwater monitoring plan; and Chapter 4, Section 2(w), Hydrologic-balance protection. In addition, Wyoming has submitted rationale supporting its existing policy and for not making the changes required in the codified program deficiencies at 30 CFR 950.12(a)(4), 30 CFR 950.16(ii)(2), and 30 CFR 950.16(jj).

## III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), OSM requests your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Wyoming program.

### Written Comments

Send your written comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. In the final rulemaking, we will not necessarily consider or include in the administrative record any comments received after the time indicated under **DATES** or at locations other than the Casper Field Office.

### Electronic Comments

Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption.

Please also include "Attn: SPATS No. WY-029-FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Casper Field Office at 307/261-6550.

### Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

### Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.d.t. on October 26, 2001. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given the opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

### Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public

hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

## IV. Procedural Determinations

### Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

### Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

### Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowable 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 the Federal regulations at 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.

### Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA. Section 503(a)(7) requires that

State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

*Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Since this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

*National Environmental Policy Act*

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

*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 that 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.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State or local governmental agencies; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

*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 950**

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 2, 2001.

**Peter A. Rutledge,**

*Acting Regional Director, Western Regional Coordinating Center.*

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**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 36**

**RIN 2900-AK76**

**Loan Guaranty: Prepurchase Counseling Requirements**

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the Department of Veterans Affairs (VA) loan guaranty regulations that set forth underwriting standards for VA guaranteed loans. We propose to require first-time homebuyers to complete homeownership counseling. We also propose to add the completion of financial or homeownership counseling as a compensating factor for certain veterans who do not fully meet VA's underwriting standards. We believe these changes are necessary to

ensure that homebuyers are satisfactory credit risks.

**DATES:** Comments must be received on or before December 10, 2001.

**ADDRESSES:** Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273-9289; or e-mail comments to [OGCRegulations@mail.va.gov](mailto:OGCRegulations@mail.va.gov). Comments should indicate that they are submitted in response to "RIN 2900-AK76." All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** R. D. Finneran, Assistant Director for Loan Policy and Valuation (262), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273-7368.

**SUPPLEMENTARY INFORMATION:** This document proposes to amend the underwriting standards for VA guaranteed loans found in 38 CFR part 36. We propose to require first-time homebuyers to complete homeownership counseling. We also propose to add the completion of financial or homeownership counseling as a compensating factor for certain veterans who do not fully meet VA's underwriting standards. These proposed changes are designed to help ensure that veterans obtaining VA guaranteed loans are satisfactory credit risks as required by 38 U.S.C. 3710 (b)(3).

**Requirement for Homeownership Counseling for First-Time Homebuyers**

On March 25, 1999, the VA's Office of the Inspector General (IG) issued an audit report entitled Attributes of Defaulted VA Home Loans (Report No. 9R5-B10-047). In this report, the IG noted that there was a higher and earlier incidence of defaults for active duty military borrowers. The report recommended establishing a prepurchase counseling requirement for all active duty military homebuyers.

After reviewing this report, the Veterans Benefits Administration (VBA) did not fully agree with that recommendation.

Based on our experience, we find that first-time homebuyers are more likely to encounter financial difficulties due to lower incomes, less experience in managing personal finances and credit, and a lack of understanding the financial responsibilities and