

proceeds that occur on or after April 21, 2003.

(d) *Certain remedial actions.* For bonds subject to § 1.142-2, the provisions of § 1.142-2(e) apply to failures to properly use proceeds that occur on or after the date of publication of final regulations in the **Federal Register** and may be applied by issuers to failures to properly use proceeds that occur on or after April 21, 2003 and before the date of publication of final regulations in the **Federal Register**.

6. Section 1.142-0 is amended by revising the entries to the table for § 1.142-2 paragraph (d), (d)(1) and (d)(2) to read as follows:

§ 1.142-0 Table of contents.

* * * * *

§ 1.142-2 Remedial actions.

* * * * *

(d) * * *

(1) Amount of nonqualified bonds.

(2) Allocation of nonqualified bonds.

* * * * *

7. Section 1.142-2 is amended by revising paragraph (e) to read as follows:

§ 1.142-2 Remedial actions.

* * * * *

(e) *Nonqualified bonds*—(1) *Amount of nonqualified bonds.* The nonqualified bonds are a portion of the outstanding bonds in an amount that, if the remaining bonds were issued on the date on which the failure to properly use the proceeds occurs, at least 95 percent of the net proceeds of the remaining bonds would be used to provide an exempt facility. If no proceeds have been spent to provide an exempt facility, all of the outstanding bonds are nonqualified bonds.

(2) *Allocation of nonqualified bonds.* Allocations of nonqualified bonds must be made on a pro rata basis, except that an issuer may treat any bonds of an issue as the nonqualified bonds so long as—

(i) The remaining weighted average maturity of the issue, determined as of the date on which the nonqualified bonds are redeemed or defeased (determination date), and excluding from the determination the nonqualified bonds redeemed or defeased by the issuer in accordance with this section, is not greater than

(ii) The remaining weighted average maturity of the issue, determined as of the determination date, but without regard to the redemption or defeasance of any bonds (including the

nonqualified bonds) occurring on the determination date.

Robert E. Wenzel,

Deputy Commissioner for Services and Enforcement.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH-249-FOR]

Ohio Regulatory Program

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

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

SUMMARY: We are announcing receipt of a proposed amendment to the Ohio regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The program amendment consists of changes to the Ohio Administrative Code (OAC) to incorporate a variety of changes related to the certification of blasters. The amendment is intended to facilitate the certification of blasters in the State's non-coal regulatory program as well as to upgrade the coal surface mining blaster certification program.

DATES: We will accept written comments on this amendment until 4 p.m. (local time), on August 20, 2003. If requested, we will hold a public hearing on the amendment on August 15, 2003. We will accept requests to speak at a hearing until 4 p.m. (local time), on August 5, 2003.

ADDRESSES: You should mail or hand-deliver written comments and requests to speak at the hearing to Mr. George Rieger, at the address listed below.

You may review copies of the Ohio 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 the Appalachian Regional Coordinating Center.

Mr. George Rieger, Field Office Director, Office of Surface Mining Reclamation and Enforcement, Appalachian Regional Coordinating

Center, 3 Parkway Center, Pittsburgh, PA 15220, (412) 937-2153.

Mr. Michael Sponsler, Chief, Ohio Department of Natural Resources, Division of Mineral Resources Management, 1855 Fountain Square Court, Columbus, OH 43224, (614) 265-6893.

FOR FURTHER INFORMATION CONTACT: Mr. George Rieger, Telephone: (412) 937-2153. Internet: *grieger@osmre.gov*.

SUPPLEMENTARY INFORMATION:

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

I. Background on the Ohio Program

Section 503(a) of 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 consistent with regulations issued by the Secretary pursuant to the Act.” See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Ohio program on August 10, 1982. You can find background information on the Ohio program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Ohio program in the August 10, 1982, **Federal Register** (47 FR 34687). You can also find later actions concerning Ohio's program and program amendments at 30 CFR 935.11, 935.15, and 935.16.

II. Description of the Proposed Amendment

By letter dated June 11, 2003, Ohio sent us a proposed amendment to its program (Administrative Record Number OH-2183-00) under SMCRA (30 U.S.C. 1201 *et seq.*). Ohio sent the amendment to include changes made at its own initiative. By electronic mail dated June 18, 2003, Ohio sent us a revised version of the original submittal (Administrative Record Number OH-2183-01)

The provision of the OAC that Ohio proposes to revise is: OAC 1501:13-9-10, concerning training, examination, and certification of blasters. In its original submittal of this amendment, Ohio stated that it has passed legislation extending the requirement for blasting operations to be conducted by a certified blaster to apply to non-coal surface mining as well as coal surface

mining. Therefore, Ohio is now proposing to extend OAC Section 1501:13-9-10 to also apply to non-coal surface mining as well as coal surface mining. Ohio is also proposing other amendments to OAC 1501:13-9-10. The specific amendments to OAC 1501:13-9-10 are identified below.

The regulation at 13-9-10(A), General, is amended at 13-9-10(A)(1) by adding the word "surface" and by adding the phrase "in coal and industrial minerals mines" to the first sentence. As amended, 13-9-10(A)(1) provides as follows:

(1) All surface blasting operations in coal and industrial minerals mines, including surface blasting operations incident to underground mining and blasting operations on coal exploration operations, shall be conducted by a certified blaster who has obtained certification pursuant to the requirements of this rule.

The regulation at 13-9-10(A), General, is amended by adding new 13-9-10(A)(3) to provide as follows:

(3) The chief may grant reciprocity to any blaster who holds a valid certification issued under any state or federal blaster certification program approved by the U.S. Department of the Interior's Office of Surface Mining. However, to obtain certification under this rule, the blaster must apply for and pass an examination on Ohio blasting regulations pertaining to coal and industrial minerals mines, and meet any other requirement deemed necessary by the chief.

The regulation at 13-9-10(B), Training, is amended by deleting the word "coal" immediately before the words "mining operations" in the first sentence. As amended, the sentence provides that "[t]he chief shall conduct workshops, as necessary, to inform blasters of changes in blasting rules and certification procedures, and shall ensure that courses are available to train persons responsible for the use of explosives in mining operations."

The regulation at 13-9-10(B)(7), Training, is amended by adding the words "in coal and non-coal surface mines." As amended, 13-9-10(B)(7) provides as follows: "(7) All federal and state rules applicable to the use of explosives in coal and non-coal surface mines:"

The regulation at 13-9-10(B)(9), Training, is amended by deleting the word "Schedules" and replacing that word with the words "Blast schedules."

The regulation at 13-9-10(B)(14), Training, is amended by deleting the word "Unpredictable" immediately before the word "hazards," and replacing that word with the word "Potential." In addition, a new item at 13-9-10(B)(14)(e) is added to read as follows: "(e) Toxic gases." The word

"and" is deleted at the end of subdivision (14)(c), and the word "and" is added at the end of subdivision (14)(d). As amended, 13-9-10(B)(14) provides as follows:

- (14) Potential hazards, including:
- (a) Lightning;
 - (b) Stray currents;
 - (c) Radio waves;
 - (d) Misfires; and
 - (e) Toxic gases.

The regulation at 13-9-10(C)(1), concerning minimum training for certification, is amended by adding the words "a minimum of 30 hours of" immediately before the word "training." The word "in" immediately following the word "training" is deleted and replaced with the word "covering." The words "division of reclamation" are deleted and are replaced with the word "chief." As amended, 13-9-10(C)(1) provides as follows:

(1) Received a minimum of 30 hours of training covering all the topics set forth in paragraph (B) of this rule in a course taught under the supervision of the chief, or in a course, or series of courses, deemed equivalent by the chief;

The regulation at 13-9-10(C)(2), concerning experience required for certification, is amended by deleting most of the existing language and adding language to provide as follows:

(2) Worked on a blasting crew or directly supervised a blasting crew for at least two years in mining, excavation, or an equivalent working environment;

The regulation at 13-9-10(C)(3), concerning on-the-job training is new and provides as follows:

(3) Received direction and on-the-job training from a certified blaster;

The regulation at 13-9-10(C)(5) ((C)(4) prior to the addition of new (C)(3)), concerning written examination, is amended by correcting a typographical error. The word "if" is deleted and replaced by the word "of."

The regulation at 13-9-10(D)(1), concerning certification, is amended by deleting the words "or a certifying authority designated by the chief," and replacing those words with the words "or an authorized representative." The phrase "to accept responsibility for blasting operations" is amended to read "to accept responsibility for surface blasting operations in mines." The words "under this rule and rule 1501:13-9-06 of the Administrative Code" are deleted. As amended, 13-9-10(D)(1) provides as follows:

(1) The chief, or an authorized representative, shall certify for three years those persons examined and found to be competent and to have the necessary

experience to accept responsibility for surface blasting operations in mines.

The regulation at 13-9-10(D)(2)(b), concerning recertification, is deleted in its entirety and replaced with new language to provide as follows:

(b) Received a minimum of 24 hours of continuing education by attending blasting-related courses, seminars or conferences approved by the chief or an authorized representative, with at least 8 hours obtained from an organization or person other than the blaster's employer or its parent company or explosives supplier.

The regulation at 13-9-10(E)(1), concerning conditions of certification, is amended by adding the word "mine" immediately before the words "permit area." As amended, 13-9-10(E)(1) provides as follows:

(1) A certificate of blaster certification, shall be carried by a blaster, or shall be on file at the mine permit area, during blasting operations.

The regulation at 13-9-10(E)(2), concerning conditions of certification, is amended by deleting the words "division of reclamation" and adding in their place the word "chief." As amended, 13-9-10(E)(2) provides as follows:

(2) Upon request by an authorized representative of the chief or other regulatory authority having jurisdiction over the use of explosives, a blaster shall immediately exhibit his or her certificate to the authorized representative.

The regulation at 13-9-10(E)(5), concerning conditions of certification, is amended by deleting the words "and certifying authority designated by the chief." As amended, 13-9-10(E)(5) provides as follows:

(5) A certified blaster shall take every reasonable precaution to protect his or her certificate from loss, theft, or unauthorized duplication. Any such occurrence shall be reported immediately to the chief.

The regulation at 13-9-10(F)(1), concerning suspension and revocation, is amended by deleting the words "or a certifying authority designated by the chief." As amended, 13-9-10(F)(1) provides as follows:

(1) Following written notice and opportunity for a hearing, the chief may, and upon a finding of willful conduct shall, suspend or revoke the certification of a blaster during the term of the certification, or take other necessary action for any of the following reasons:

The regulation at 13-9-10(F)(1)(b), concerning suspension and revocation, is amended by adding the words "a blasting-related permit condition" immediately following the words "laws or regulations." As amended, 13-9-10(F)(1)(b) provides as follows:

(b) Violation of any provision of State or Federal explosives laws or regulations, a blasting-related permit condition, or any condition of certification;

The regulation at 13–9–10(F)(1)(f), concerning suspension and revocation, is new and provides as follows:

(f) Conducting a blast where flyrock was cast beyond the permit boundary of any mine.

The regulation at 13–9–10(F)(3), concerning suspension and revocation, is amended by deleting the words “or a designated certifying authority,” and adding in their place the words “and may work on a blasting crew only under the direct supervision of a certified blaster.” As amended, 13–9–10(F)(3) provides as follows:

(3) Upon notice of a suspension or revocation, the blaster shall immediately surrender the suspended or revoked certificate and all copies thereof to the chief, and may work on a blasting crew only under the direct supervision of a certified blaster.

The regulation at 13–9–10(F)(4), concerning suspension and revocation, is amended by deleting the phrase “during the term of the suspension,”; deleting paragraph (4)(a); paragraph (4)(b) becomes (4)(a); paragraph 4(c) becomes paragraph 4(b) and then replacing the word “a” with the word “the” at (4)(b); and adding a new paragraph (4)(c). As amended 13–9–10(F)(4) provides as follows:

(4) To repossess a suspended certificate the blaster must:

(a) Exhibit a pattern of conduct consistent with the acceptance of responsibility for blasting operations;

(b) Pass the written examination administered under paragraph (C) of this rule; and

(c) Meet any other requirements imposed by the chief under the terms of the suspension.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking 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 Ohio program.

Written Comments

Send your written or electronic 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. We may not consider or respond to your comments when developing the final rule if they are received after the close of the comment

period (see **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Appalachian Regional Coordinating Center may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII, Word file avoiding the use of special characters and any form of encryption. Please also include “Attn: SATS NO. OH–249–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 Appalachian Regional Coordinating Center at (412) 937–2153.

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 inspection 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. (local time), on August 5, 2003. 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 a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the 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 an 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 will be 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 regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempt from review by the Office of Management and Budget 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 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 because each 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, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. The basis for this determination is our decision is on a State regulatory program and does not involve a Federal regulation involving Indian lands.

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. Because 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

This rule does not require an environmental impact statement because 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 certifies 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. 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, Federal, State, or local government agencies, or geographic regions; 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 analysis performed under various laws and executive orders for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 7, 2003.

Michael K. Robinson,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 03-18468 Filed 7-18-03; 8:45 am]

BILLING CODE 4310-05-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD09-03-215]

RIN 1625-AA09

Drawbridge Operation Regulations; Milwaukee, Menomonee, and Kinnickinnic Rivers and South Menomonee and Burnham Canals, Milwaukee, WI

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise the drawbridge operating regulation for the Canadian Pacific (formerly Chicago, Milwaukee, St. Paul & Pacific) railroad bridge over the Burnham Canal in Milwaukee, WI, allowing the bridge to remain closed to navigation due to infrequent use. This will allow the bridge owners to reduce maintenance and operation costs at a location where there is no known need for drawbridge openings.

DATES: Comments and related material must reach the Coast Guard on or before September 19, 2003.

ADDRESSES: You may mail comments and related material to Commander (obr), Ninth Coast Guard District, 1240 E. 9th Street, room 2019, Cleveland, Ohio, 44199-2060. Commander (obr), Ninth Coast Guard District maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Bridge Administration Branch, Ninth Coast Guard District, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Scot Striffler, Bridge Administration Branch, at the address above or phone (216) 902-6084.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD09-03-215], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound