The NFPA also thought the updated references "would be largely non-
controversial since the documents are ANSI consensus standards." Ex. 2–3,
App. B. In addition, the NFPA said that 
"[w]ith the interested parties 
paticipating in the process to write 
documents, and with the respective 
affected industries and their insurance 
companies currently using NFPA 
documents, there is little controversy 
with OSHA referencing the most 
updated NFPA codes and standards." 
Ex. 2–3, App. B. The NFPA also said 
that for those OSHA standards that 
contain word-for-word text from NFPA 
codes and standards, OSHA should 
consider replacing the text "with a 
simple reference to the applicable 
primary NFPA document." Ex. 2–3, 
App. B.

OSHA is undertaking a series of 
regulatory projects to update its 
standards to reflect the current versions 
of consensus standards. These 
regulatory projects will include 
updating or revoking outdated 
consensus standards incorporated by 
reference, and updating regulatory text 
of current OSHA rules that were 
adopted directly from the language of 
outdated consensus standards. OSHA 
will use a variety of regulatory 
approaches in this effort, including:

1. Notice and comment rulemaking. 
OSHA intends to initiate formal (notice and 
comment) rulemaking to update or 
revoke references to outdated 
consensus standards in instances where OSHA 
anticipates that the action would either 
impose compliance costs or raise 
significant issues. OSHA will also use 
traditional notice and comment 
rulemaking to update OSHA provisions 
that were derived directly from the text 
of outdated consensus standards. OSHA 
is already using this technique to update 
its electrical installation standards in 
Subpart S of Part 1910 (proposed rule 
published April 5, 2004, 69 FR 17774) 
and expects to publish a proposed rule 
in the near future for Subpart V (power 
transmission and distribution lines and 
equipment) of Part 1926.

2. Direct final rulemaking. OSHA will 
use direct final rulemaking to update or 
revoke, as appropriate, references to 
outdated consensus standards where the 
regulatory change is non-controversial, 
equally protective, and does not impose 
significant new compliance costs.

3. Technical amendments. Where 
appropriate, OSHA intends to issue 
technical amendments to update 
references that are currently 
incorporated into OSHA standards and 
that only provide information to the 
regulated community. Such references 
impose no compliance obligations and 
can be updated without notice and 
comment procedures.

OSHA welcomes comments on this 
update effort generally, as well as 
specific suggestions on which projects 
OSHA should pursue first.

Authority and Signature

This document was prepared under 
the direction of John L. Henshaw, 
Assistant Secretary of Labor for 
Occupational Safety and Health, U.S. 
Department of Labor, 200 Constitution 
Avenue, NW., Washington, DC 20210. It 
is issued pursuant to sections 4, 6, and 
8 of the Occupational Safety and Health 
Act of 1970 (29 U.S.C. 653, 655, 657), 
Secretary of Labor's Order 5–2002 (67 
FR 65008), and 29 CFR part 1911.

Signed at Washington, DC, this 17 day of 
November 2004.

John L. Henshaw, 
Assistant Secretary of Labor.

[FR Doc. 04–26047 Filed 11–23–04; 8:45 am]
BILLING CODE 4510–26–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938 
[PA–124–FOR]
Pennsylvania Regulatory Program

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

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: We are reopening the public comment period on a proposed 
revision to the Pennsylvania regulatory program (the "Pennsylvania 
program") under the Surface Mining Control and Reclamation Act of 1977 
(SMCRRA or the Act). Since the close of the comment period, Pennsylvania has 
provided explanatory information in response to two letters, as amended, we 
request clarification with regard to its proposed amendment. Pennsylvania has also withdrawn portions of its original amendment and 
has requested that we consider some existing statutes and regulatory 
provisions as part of the amendment. Pennsylvania has also indicated its 
intent to further revise portions of the amendment. We are accepting comments on the specific changes noted 
below only.

DATES: We will accept written comments on this proposal until 4 p.m., 
I. Background on the Pennsylvania 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 Pennsylvania program on July 30, 1982. You can find background information on the Pennsylvania program, including the Secretary’s findings, the disposition of comments, and conditions of approval of the Pennsylvania program in the July 30, 1982, Federal Register (47 FR 33050). You can also find later actions concerning the Pennsylvania program and program amendments at 30 CFR 938.11, 938.12, 938.15 and 938.16.

II. Description of the Proposed Action

By letter dated December 18, 1998 (Administrative Record No. PA 853.01), the Pennsylvania Department of Environmental Protection (PADEP) submitted a proposed amendment to its program pursuant to various issues including bonding, remining and reclamation, postmining discharges, and water supply protection/replacement. The proposal included two documents: Provisions of Pennsylvania’s Statute—Surface Mining Conservation and Reclamation Act—Submitted for Program Amendment and Provisions of Pennsylvania’s Regulations—25 Pa. Code Chapters 86–90—Submitted for Program Amendment.


By letters dated September 22, 1999 (Administrative Record No. PA 853.14), and April 6, 2000 (Administrative Record No. PA 853.17), we requested clarification from Pennsylvania on various aspects of its amendment. In an October 3, 2002, letter to Pennsylvania (Administrative Record No. PA 853.22), we indicated that some of the issues in our September 22, 1999, and April 6, 2000, letters were no longer valid and that we were withdrawing our request for clarification of those issues. The conclusions in this letter were the result of our internal deliberations; we did not remove our request for clarification of these issues as the result of information from any other source. Since the issuance of the October 3, 2002, letter, we have had numerous meetings with Pennsylvania to discuss the issues remaining from the September 22, 1999, and the April 6, 2000, letters.

The meetings with Pennsylvania resulted in Pennsylvania providing information to us to clarify the meaning of various parts of its amendment. We prepared a document listing those clarifications and placed it in the administrative record (Administrative Record No. PA 853.25). Copies of that document can be obtained from OSM’s Harrisburg Office at the address noted above. The parts of the law covered by the Pennsylvania Surface Mining and Reclamation Act (PSMRA) that we received clarifications on include: Sections 4(d)(2); 4(g)(1) and (3); 4.2(f)(2) and (3); 4.13; 18(a.1); and 18.9. We received clarifications from Pennsylvania on the following regulations at 25 Pa. Code Chapter 86: Sections 86.151(c); 86.158(e) and (f); 86.168; 86.174(a); 86.252 (definition of “remining area”); 86.253(b)(2)–(4); and 86.354. Finally, we received clarifications from Pennsylvania on the following sections of 25 Pa. Code Chapter 87: 87.119(d) and (e). We are seeking comment on the clarifications PADEP provided to us of these sections.

Additionally, Pennsylvania submitted two letters to us modifying the December 18, 1998, amendment. Those letters were dated December 23, 2003 (Administrative Record No. PA 853.23), and April 13, 2004 (Administrative Record No. PA 853.24).

In the December 23, 2003, letter, Pennsylvania noted that in the 1998 amendment submission it had proposed the removal of certain language in 25 Pa. Code Chapters 87–90 including: Sections 87.102; 87.103; 87.207(b); 88.92; 88.93; 88.187; 88.188; 88.292; 88.293; 88.507(b); 89.52; 89.53; 90.102; and 90.103 which provide effluent limits for discharges from areas disturbed by coal mining activities. In the 1998 amendment, Pennsylvania also requested the definition of the phrase, “dry weather flow” at 25 Pa. Code 87.1, 88.1, 89.5, and 90.1 and the definition of the phrase, “best professional judgment” in Sections 87.202 and...
88.502 be removed from the approved program. In the December 23, 2003, letter, Pennsylvania revised the 1998 amendment as submitted to retain, as part of its approved program, the above referenced regulations which provide effluent limits and the definitions of "dry weather flow" and "best professional judgment." Therefore, we consider those portions of the 1998 amendment submission as withdrawn and they will not be considered further in this rulemaking. No comments will be accepted with regard to these areas.

In the December 23, 2003, letter, Pennsylvania indicated that the 1998 program amendment had included Sections 4(g.1), 4(g.2), and 4(g.3) of PASMCRA relating to minimal impact postmining discharges and the release of bonds on mine sites with discharges. Pennsylvania noted in that letter that since the definition of minimal impact postmining discharges and the regulations for postmining discharges were not included in the program amendment, it was requesting that those sections of PASMCRA be removed from the proposed amendment. Pennsylvania noted in the letter that it was intending to submit these sections along with the associated regulations as a separate program amendment. Therefore, these sections are also withdrawn and will not be considered further in this rulemaking. No comments will be accepted with regard to these areas.

In the April 13, 2004, letter, Pennsylvania notified us that it wished to withdraw Section 18(a.4) of PASMCRA from consideration under the 1998 program amendment because the areas suitable for reclamation by remining program has not yet been developed. Therefore, this section will not be considered further in this rulemaking. No comments will be accepted with regard to these areas.

Also in its April 13, 2004, letter Pennsylvania requested that we consider for approval Sections 4.10 and 4.11 of PASMCRA and the corresponding regulations at 25 Pa. Code Sections 86.251 through 86.270. These sections of the statute and regulations provide for Pennsylvania’s Remining Operators Assistance Program. This program provides incentives to operators to undertake reclamation and remining of abandoned mine lands and bond forfeiture sites. These provisions are now included in this rulemaking action and we are seeking comment with regard to these sections of PASMCRA and 25 Pa. Code Chapter 86.251 through 86.270. We also include “Attn: SATS No. PA-124-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 Harrisburg Office at (717) 782-4036.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the information described above satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State 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 described above. Written comments should be submitted during the comment period for them.

Electronic Comments

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include “Attn: SATS No. PA-124-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 Harrisburg Office at (717) 782-4036.

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.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.


Brent Wahlquist,
Regional Director, Appalachian Regional Coordinating Center.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180


Trifluralin; Proposed Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to establish a tolerance for residues of trifluralin in mint oil under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). The amendment substantially rewrote section 408 of FFDCA. As a result, the revisions made it necessary, once again, to establish tolerances on certain commodities, such as mint oils, that had previously been deemed unnecessary.

DATES: Comments must be received on or before January 24, 2005.

ADDRESSES: Submit your comments, identified by docket identification (ID) number OPP–2004–0142, by one of the following methods:


• Agency Website: http://www.epa.gov/edocket/. EDOCKET, EPA’s electronic public docket and comment system, is EPA’s preferred method for receiving comments. Follow the on-line instructions for submitting comments.

• E-mail: Comments may be sent by e-mail to opp-docket@epa.gov,