

#### IV. Procedural Determinations

##### *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.

##### *Other Laws and Executive Orders Affecting Rulemaking*

When a State submits a program amendment to OSM for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

##### List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 12, 2010.

**Thomas D. Shope,**

*Regional Director, Appalachian Region.*

[FR Doc. 2011-2601 Filed 2-4-11; 8:45 am]

BILLING CODE 4310-05-P

#### DEPARTMENT OF THE INTERIOR

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

##### 30 CFR Part 948

[WV-116-FOR; OSM-2009-0008]

##### West Virginia Regulatory Program

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

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** We are reopening the public comment period on the proposed West Virginia Regulatory Program rule published on October 21, 2009. The comment period is being reopened in order to afford the public the opportunity to comment on the proposed amendment to change a type of cropland postmining land use from “bio oil” to “bio fuel.” In the initial proposed rule announcing receipt of the amendment, the Office of Surface Mining Reclamation and Enforcement (OSM) characterized the change as non-

substantive, and did not note where the changes occurred throughout the regulations. Concerns were raised about the use of “bio-fuel” as a postmining land use (unrelated to this amendment) and OSM asked the West Virginia Department of Environmental Protection (WVDEP) to clarify why the State was changing the term “bio-oil” to “bio-fuel.”

**DATES:** Comments on the proposed rule must be received on or before 4 p.m., local time on February 22, 2011.

**ADDRESSES:** You may submit comments by any of the following two methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. The proposed rule has been assigned Docket ID: OSM-2009-0008. If you would like to submit comments through the Federal eRulemaking Portal, go to <http://www.regulations.gov> and follow the instructions.

- *Mail/Hand Delivery:* Mr. Roger W. Calhoun, Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 1027 Virginia Street, East, Charleston, West Virginia 25301. Please include the rule identifier (WV-116-FOR) with your written comments. *Instructions:* All submissions received must include the agency Docket ID (OSM-2009-0008) for this rulemaking.

For detailed instructions on submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. You may also request to speak at a public hearing by any of the methods listed above or by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT**.

*Docket:* The proposed rule and any comments that are submitted may be viewed over the Internet at <http://www.regulations.gov>. Look for Docket ID OSM-2009-0008. In addition, you may review copies of the West Virginia 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 also receive one free copy of this amendment by contacting OSM’s Charleston Field Office listed below.

Mr. Roger W. Calhoun, Director,  
Charleston Field Office, Office of  
Surface Mining Reclamation and  
Enforcement, 1027 Virginia Street,  
East, Charleston, West Virginia 25301,  
Telephone: (304) 347-7158. E-mail:  
[chfo@osmre.gov](mailto:chfo@osmre.gov).

West Virginia Department of  
Environmental Protection, 601 57th

Street, SE., Charleston, WV 25304,  
Telephone: (304) 926-0490.

In addition, you may review a copy of the amendment during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 604 Cheat Road, Suite 150, Morgantown, West Virginia 26508, Telephone: (304) 291-4004. (By appointment only).

Office of Surface Mining Reclamation and Enforcement, Beckley Area Office, 313 Harper Park Drive, Suite 3, Beckley, West Virginia 25801, Telephone: (304) 255-5265.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger W. Calhoun, Director, Charleston Field Office, Telephone: (304) 347-7158. E-mail: [chfo@osmre.gov](mailto:chfo@osmre.gov).

**SUPPLEMENTARY INFORMATION:** On October 21, 2009 (74 FR 53972), we published a proposed rule that would revise the West Virginia surface mining regulatory program. The revisions would address various issues including, but not limited to, continued oversight by the Secretary of “approved” persons who prepare, sign, or certify mining permit applications and related materials; regarding incidental boundary revisions to existing permits, clarifying that certain types of collateral activities are part of the primary mining operations and therefore subject to the same acreage limitations, while providing more relevant and exacting criteria for the Secretary to consider in evaluating an application for revision; deleting the bonding matrix form; changing term “Bio-oil” to “Bio fuel”; and clarifying standards contained in subsection 9.3.f that pertain to areas developed for hayland or pasture use.

In our announcement of the State’s submission of the amendment, we stated that the “changes regarding the term ‘Bio-oil’ to ‘Bio-fuel’ in the program amendments are non-substantive in nature.” Subsequently, concerns within OSM arose regarding the definitions WVDEP was using for the terms and we asked them to clarify both definitions. In an e-mail to OSM dated July 26, 2010, WVDEP stated that “Biofuels cover are [sic] a wide range of fuels which are derived from biomass. The term covers solid biomass, liquid fuels and various biogases while bio-oil was limited to biodiesel.” Given these definitions, it appears that we inadvertently mischaracterized the change from “bio-oil” to “bio-fuel” as non-substantive and the issue was not properly explained in the amendment.

## Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the submission satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the West Virginia program.

### Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We cannot ensure that comments received after the close of the comment period (*see* **DATES**) or sent to an address other than those listed above (*see* **ADDRESSES**) will be included in the docket for this rulemaking and considered.

### Electronic or Written Comments

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We would appreciate all comments relating to this specific issue, but those most useful and likely to influence decisions on the final rule will be those that either involve personal experience or include citations to and analysis of the Surface Mining Control and Reclamation Act of 1977, its legislative history, its implementing regulations, case law, other State or Federal laws and regulations, data, technical literature, or other relevant publications. Specifically, we are asking for comments solely on the State's proposed program amendments at subsection 7.8 to change the term "bio-oil" to "bio-fuel."

### List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 20, 2010.

**Michael K. Robinson,**

*Acting Regional Director, Appalachian Region.*

[FR Doc. 2011-1512 Filed 2-4-11; 8:45 am]

**BILLING CODE 4310-05-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2007-0662; FRL-9262-5]

### Disapproval and Promulgation of Air Quality Implementation Plans; Montana; Revisions to the Administrative Rules of Montana—Air Quality, Subchapter 7, Subchapter 16 and Subchapter 17

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

**ACTION:** Proposed rule; extension of the comment period.

**SUMMARY:** EPA is extending the comment period for a proposed rule which published on January 6, 2011 (76 FR 758). In the 76 FR 758 **Federal Register**, EPA proposed to disapprove the revisions and new rules as submitted by the State of Montana on October 16, 2006 and November 1, 2006. EPA found that these revisions and new rules, pertaining to the regulation of oil and gas well facilities and applicability to Montana's air quality permitting requirements, do not meet the requirements of the Clean Air Act and EPA's Minor New Source Review (NSR) regulations. The 76 FR 758 **Federal Register** also stated that comments must be received on or before February 7, 2011. EPA is extending the comment period through February 28, 2011, due to a request from several commenters for an extension.

**DATES:** Comments must be received on or before February 28, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2007-0662, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail:* [leone.kevin@epa.gov](mailto:leone.kevin@epa.gov).
- *Fax:* (303) 312-6064 (please alert the individual listed in **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop St., Denver, Colorado 80202-1129.
- *Hand Delivery:* Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop St., Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

- For additional information on submitting comments, see the January 6, 2011 (76 FR 758) proposed rule.

### FOR FURTHER INFORMATION CONTACT:

Kevin Leone, Air Program, Mail Code 8P-AR, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop St., Denver, Colorado 80202-1129, phone (303) 312-6227, or e-mail [leone.kevin@epa.gov](mailto:leone.kevin@epa.gov).

Dated: January 27, 2011.

**Carol Rushin,**

*Deputy Regional Administrator, Region 8.*

[FR Doc. 2011-2607 Filed 2-4-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2010-1082; FRL-9262-6]

### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Determination of Attainment for the Pittsburgh-Beaver Valley 8-Hour Ozone Nonattainment Area

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to make a determination that the Pittsburgh-Beaver Valley 8-hour ozone nonattainment area (the Pittsburgh Area) has attained the 1997 8-hour ozone national ambient air quality standards (NAAQS). This proposed determination is based upon complete, quality assured, and certified ambient air monitoring data that show the area has monitored attainment of the 1997 8-hour ozone NAAQS for the 2007 to 2009 monitoring period. Preliminary air quality monitoring data available for 2010 are consistent with continued attainment. If this proposed determination is made final, the requirement for the Commonwealth of Pennsylvania to submit an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, and other planning requirements related to attainment of the 1997 8-hour ozone NAAQS for the Pittsburgh Area shall be suspended for as long as the nonattainment area continues to meet the 1997 8-hour ozone NAAQS. This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before March 9, 2011.