

individual civil penalty may be assessed; 11 AAC 90.637(a) and (b), concerning the amount of individual civil penalty; 11 AAC 90.639(a), (b), and (c), concerning procedures for assessment of an individual civil penalty; 11 AAC 90.641(a), (b), (c), and (d), concerning payments of an individual civil penalty; 11 AAC 90.652 through 11 AAC 90.669, concerning requirements for incidental mining of coal; 11 AAC 90.701(a), (b), and (c), concerning the filing of a petition to designate lands as unsuitable for surface coal mining operations; 11 AAC 90.901(a), concerning the applicability of Alaska's rules to all coal exploration and surface coal mining and reclamation operations; 11 AAC 90.911(125), concerning the definition of "community or institutional building;" 11 AAC 90.911(126), concerning the definition of "cumulative impact area;" 11 AAC 90.911(128), concerning the definition of "other minerals;" 11 AAC 90.911(129), concerning the definition of "other treatment facility;" 11 AAC 90.911(130), concerning the definition of "precipitation event;" 11 AAC 90.911(133), concerning the definition of "registered professional engineer;" 11 AAC 90.911(134), concerning the definition of "registered professional land surveyor;" and 11 AAC 90.911(135), concerning the definition of "siltation structure."

### 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 Alaska program.

#### *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 appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

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.

#### *Public Availability of Comments*

Before including your address, phone number, email 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 in the electronic docket for this rulemaking at [www.regulations.gov](http://www.regulations.gov). While you can 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.

#### *Public Hearing*

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., m.d.t. on November 17, 2011. If you are disabled and need reasonable 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 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 are open to the public; 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 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget

(OMB) under Executive Order 12866 (Regulatory Planning and Review).

#### *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 902**

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 14, 2011.

**Allen D. Klein,**

*Director, Western Region.*

[FR Doc. 2011-28436 Filed 11-1-11; 8:45 am]

**BILLING CODE 4310-05-P**

## **DEPARTMENT OF THE INTERIOR**

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

#### **30 CFR Part 948**

**[SATS No. WV-118-FOR; Docket ID OSM-2011-0009]**

#### **West Virginia Regulatory Program**

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

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

**SUMMARY:** We are announcing receipt of a proposed amendment to the West Virginia permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). On May 2, 2011, the West Virginia Department of Environmental Protection (WVDEP) submitted a program amendment to OSM that includes both statutory and regulatory revisions. That portion of the amendment dealing with changes to West Virginia's Surface Mining Reclamation Regulations is the subject of this notice.

**DATES:** We will accept written comments on this amendment until

4 p.m. EDT, on December 2, 2011. If requested, we will hold a public hearing on the amendment on November 28, 2011. We will accept requests to speak until 4 p.m. EDT, on November 17, 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–2011–0009. 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–118–FOR) with your written comments.

*Instructions:* All submissions received must include the agency Docket ID (OSM–2011–0009) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see “IV. Public Comment Procedures” in 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–2011–0009. 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, *Email:*  
[chfo@osmre.gov](mailto:chfo@osmre.gov).

West Virginia Department of  
Environmental Protection, 601 57th  
Street, SE., Charleston, West Virginia  
25304, *Telephone:* (304) 926–0490.

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

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

(By Appointment Only).

Beckley Area Office, Office of Surface  
Mining Reclamation and  
Enforcement, 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. *Email:* [chfo@osmre.gov](mailto:chfo@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

I. Background on the West Virginia Program

II. Description of the Amendment

III. Description of West Virginia’s Proposed Action

IV. Public Comment Procedures

V. Procedural Determinations

**I. Background on the West Virginia 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 West Virginia program on January 21, 1981. You can find background information on the West Virginia program, including the Secretary’s findings, the disposition of comments, and conditions of approval of the West Virginia program in the January 21, 1981, **Federal Register** (46 FR 5915). You can also find later actions concerning West Virginia’s program and program amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

**II. Description and Submission of the Amendment**

By letter dated April 25, 2011, and received by OSM on May 2, 2011 (Administrative Record Number WV–1561), the WVDEP submitted an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). The proposed amendment consists of both statutory and regulatory revisions. However, this notice only addresses that portion of the amendment that concerns revisions to West Virginia’s Surface Mining Reclamation Regulations at

Code of State Regulations (CSR) Title 38, Series 2.

Enrolled Committee Substitute for Senate Bill No. 121 (SB 121) passed the West Virginia Legislature on March 18, 2011, and was signed by the Governor on March 30, 2011. SB 121 authorized WVDEP to promulgate several revisions to its Surface Mining Reclamation Regulations. SB 121 authorizes regulatory revisions which codifies an Emergency Rule filed on December 2009 which relates to trust funds and annuities; clarifies the format and information necessary for complete application submittal and clarification on the renewal process to take into account WVDEP’s electronic permit filing processes; modifies the provision that an approved person must be capable and maintain the capability of submitting maps, plans and all other technical data in an electronic format proscribed by the Secretary; modifies the provision that pre-subsidence surveys shall be confidential and only used for evaluating damage relating to subsidence; clarifies that bonding for a permit in inactive status shall remain in effect for the life of the operation; and modifies the provision that the Secretary shall provide email notice of the issuance of a show cause order to members of the public who have subscribed to the Secretary’s email notification service and otherwise provide notice to any person whose citizen complaint has resulted in the issuance of any violation that led to the issuance of a show cause order.

**III. Description of West Virginia’s Proposed Action**

*1. Permit Application Requirements—CSR 38–2–3.1.c.4*

The State proposes adding the words “if available” before “MSHA number” to require the submission of the MSHA number by the applicant if it is available. This proposed State revision falls under the Federal provisions at 30 CFR 778.12(c) and sections 507, 508, 510, and 515 of SMCRA.

*2. Permit Application Requirements—CSR 38–2–3.1.d*

The State is proposing to add the language “either in the application or in an electronic database accessible to the agency which has been updated within three months of submittal” after the word “List” to indicate the kinds of ownership or control information that is to be included in the permit application. This proposed State revision falls under the Federal provisions at 30 CFR 778.12 and sections 507, 508, 510, and 515 of SMCRA.

### 3. Permit Application Requirements—*CSR 38–2–3.1.k*

The State is proposing to add the language “either in the application or in an electronic database accessible to the agency which has been updated within three months of submittal” after “List” to indicate the kinds of violation information that is to be included in the permit application. This proposed State revision falls under the Federal provisions at 30 CFR 778.12 and 778.14 and sections 507, 508, 510, and 515 of SMCRA.

### 4. Advertisement of Permit—*CSR 38–2–3.2.a*

The State is proposing to add the word “technically” and removing the word “administratively” before “complete” to indicate that a permit application must be technically complete, not administratively complete, to begin the advertisement. This proposed State revision falls under the Federal provisions at 30 CFR 773.6 and sections 506, 507, and 513 of SMCRA.

### 5. Maps for Permit—*CSR 38–2–3.4.b*

The State is proposing to add the language “in a format proscribed by the Secretary and either be” on paper 30 by 42 inches after the word “submitted” and “or, if electronic, be capable of being printed on paper of this size.” after the word “less” to allow for the submission of paper or electronic maps in a format proscribed by the Secretary. This proposed State revision falls under the Federal provisions at 30 CFR 779.24 and 783.24 and sections 506 and 507 of SMCRA.

### 6. Subsidence Control Plan—*CSR 38–2–3.12.a.2.B*

The State is proposing to add new language in this subsection that will provide “All surveys” of the condition of all non-commercial buildings or residential dwellings and structures related thereto “shall be confidential and only used for evaluating damage relating to subsidence. The Secretary shall develop a procedure for assuring surveys shall remain confidential.” This proposed State revision falls under the Federal provisions at 30 CFR 784.20 and sections 507(a), 508(a), 510(b), 515(b), and 516 of SMCRA.

### 7. Certifications by Professional Surveyors—*CSR 38–2–3.15.a; 3.15.b.1; 4.2.a.7; 4.10.a.1; 4.12; 5.4.d.2; 5.4.d.3; 5.4.e.1; 5.4.e.3; 7.5.b.11; 7.5.g.1.A; 7.5.g.2.A*

Throughout the regulations the words “licensed land” have been deleted and the word “professional” added before

“surveyor” to clarify that surveyors certified and licensed in West Virginia are considered to be professional surveyors. The proposed State revisions fall under the Federal provisions at 30 CFR 780.14(c), 780.25, 780.37, 784.23, 784.16, 784.24, 816/817.46(b), 816/817.49(a)(11), and 816/817.151 and sections 507(b)(14) and 515(b)(10)(B)(ii) of SMCRA.

### 8. Approved Persons—*CSR 38–2–3.15.b.3*

The State is proposing to add new language at the end of the paragraph to read: “Furthermore, any person seeking an approval must be capable and maintain the capability of submitting maps, plans and all other technical data in an electronic format proscribed by the Secretary.” Although there are no specific Federal requirements governing approved persons, these proposed revisions fall under the provisions at 30 CFR 780.14(c) and sections 507(b)(14) and 515(b)(10)(B)(ii) of SMCRA.

### 9. Bonding: Trust Fund or Annuity—*CSR 38–2–11.3.f*

All of subsection 11.3.f is new and can be viewed in its entirety at <http://www.regulations.gov>. Under the proposed rule, a permittee, with the approval of the Secretary, may establish a trust fund, annuity or both to guarantee treatment of long-term postmining pollutional discharges in lieu of posting a bond. The trust fund or annuity will be subject to certain conditions. The proposed revisions fall under the Federal provisions at 30 CFR 800.4, 800.11, 800.13, 800.14, 800.16, and 800.17, and sections 509 and 519 of SMCRA.

### 10. Inactive Status Procedures—*CSR 38–2–14.11.h*

Under the proposed rule, the Secretary may grant inactive status for a term longer than those set forth currently in (e), (f), and now (g). This will allow the Secretary to grant inactive status for coal refuse sites to exceed a period of 10 years. New language is also being added to provide that “Bonding in this manner shall remain in effect for the life of the operation.” This will require the permittee of an operation that receives inactive status approval to furnish and maintain a full-cost reclamation bond for the life of the operation. These proposed revisions fall under the Federal provisions at 30 CFR 816 and 817.131 and sections 509, 510, and 515 of SMCRA.

### 11. Show Cause Orders—*CSR 38–2–20.4.a*

The State is proposing to add new language to provide that “The Secretary shall provide email notice of the issuance of a show cause order to members of the public who have subscribed to the Secretary’s email notification service and otherwise provide notice to any person whose citizen’s complaint has resulted in the issuance of any violation that led to the issuance of the show cause order.” This is to ensure that citizens who subscribe to the Secretary’s email notification system get notified of all show cause orders, and any citizen whose complaint resulted in an enforcement action that led to a show cause notice is also notified. These proposed revisions fall under the Federal provisions at 30 CFR 843.14 and sections 521, 525, and 526 of SMCRA.

## IV. 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 West Virginia program.

### Written Comments

Send your written comments to OSM at one of the addresses 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**) or sent to an address other than those listed above (see **ADDRESSES**).

### Availability of Comments

Before including your address, phone number, email 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 can 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.

### Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m. (local time), on November 17, 2011. 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 there is limited interest in participation in a public hearing, 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.

#### V. 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 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 27, 2011.

**Thomas D. Shope,**

*Regional Director, Appalachian Region.*

[FR Doc. 2011-28441 Filed 11-1-11; 8:45 am]

**BILLING CODE 4310-05-P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[EPA-R03-OAR-2010-0391; FRL-9485-9]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Attainment Plan for the Philadelphia-Wilmington, Pennsylvania-New Jersey-Delaware 1997 Fine Particulate Matter Nonattainment Area

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Pennsylvania State Implementation Plan (SIP), which was submitted to EPA on April 12, 2010 to demonstrate attainment of the 1997 annual fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standard (NAAQS) for the Philadelphia-Wilmington, Pennsylvania-New Jersey-Delaware (PA-NJ-DE) nonattainment area (Philadelphia area). This plan (herein called the "attainment plan") includes the Pennsylvania portion of the Philadelphia area's attainment demonstration and motor vehicle emission budgets (MVEBs) used for transportation conformity purposes. The attainment demonstration includes an analysis of reasonably available control measures (RACM) and reasonably available control technology (RACT), a base year emissions inventory, and contingency measures. The requirement for a reasonable further progress (RFP) plan is not required because Pennsylvania projected that attainment of the 1997 PM<sub>2.5</sub> NAAQS would have occurred in the Pennsylvania portion of the Philadelphia area by the attainment date, April 2010. This action is being taken in accordance with the Clean Air Act (CAA) and the Clean Air Fine Particulate Implementation Rule (PM<sub>2.5</sub> Implementation Rule) issued by EPA on April 25, 2007.

**DATES:** Written comments must be received on or before December 2, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2010-0391 by one of the following methods:

A. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *Email: fernandez.cristina@epa.gov*.

C. *Mail:* EPA-R03-OAR-2010-0391, Cristina Fernandez, Associate Director, Office of Air Planning Program, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R03-OAR-2010-0391. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material,