

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 26

[NRC-2009-0090]

RIN 3150-A158

### Fitness-for-Duty Programs

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Regulatory basis and preliminary proposed rule language.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC or the Commission) will periodically make publicly available a series of documents related to the ongoing proposed rulemaking effort to amend its regulations regarding Fitness-for-Duty Programs. The NRC does not plan to institute a public comment period for these materials when making them publicly available. This document announces the availability of two rulemaking documents: The regulatory basis and preliminary proposed rule language for requiring personnel performing certain quality control and quality verification (QC/QV) duties to comply with the work hour provisions. The availability of these documents provides increased awareness to interested stakeholders and provides preparatory material for future public meetings.

**DATES:** At this time, the NRC is not soliciting formal public comments on the materials identified in this document. There will be an opportunity for formal public comment on the proposed rule when it is published in the **Federal Register**.

**ADDRESSES:** Please refer to Docket ID NRC-2009-0090 when contacting the NRC about the availability of information for this document. You may access information and comment submittals related to this document, which the NRC possesses and are publicly available, by any of the following methods:

- *Federal Rulemaking Web Site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2009-0090.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Scott C. Sloan, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1619; email: [Scott.Sloan@nrc.gov](mailto:Scott.Sloan@nrc.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Background

As the NRC continues its ongoing proposed rulemaking effort to amend portions of part 26 of Title 10 of the Code of Federal Regulations (10 CFR), "Fitness-for-Duty Programs," subpart I, "Managing Fatigue," the NRC will periodically make preliminary documents publicly available on the Federal rulemaking Web site, [www.regulations.gov](http://www.regulations.gov), under Docket ID NRC-2009-0090. By making these documents publicly available, the NRC seeks to inform stakeholders of the current status of the NRC's rulemaking development activities and provide preparatory material for future public meetings. The NRC is not instituting a public comment period on these materials, but the public is encouraged to participate in related public meetings. In addition, the public will be given opportunity to provide comments on the proposed rule upon its publication in the **Federal Register**.

#### II. Petitions for Rulemaking

A discussion of a September 28, 1999, petition for rulemaking (PRM), PRM-26-2 (64 FR 67205; December 1, 1999), is included in the Regulatory Basis for this proposed rulemaking. This PRM was partially considered in the March 31, 2008 (73 FR 16965), Fitness for Duty Programs final rule. In this proposed rulemaking, the NRC is considering PRM-26-3 (76 FR 28192; May 16, 2011), PRM-26-5 (76 FR 28192; May 16, 2011), and PRM-26-6 (76 FR 28191; May 16, 2011).

#### III. Publicly Available Documents

The NRC has posted for public availability on [www.regulations.gov](http://www.regulations.gov), the regulatory basis for requiring personnel performing certain quality control and quality verification (QC/QV) duties to comply with the work hour provisions of 10 CFR part 26, subpart I. This regulatory basis was completed in 2010 and documents the reasons why the NRC determined rulemaking was the appropriate course of action to remedy a regulatory shortcoming.

When the regulatory basis was completed, the NRC had not yet begun the rulemaking that provides a voluntary alternative to the Minimum Days Off (MDO) requirements found in § 26.205(d)(3). That alternative became effective on August 11, 2011 (76 FR 43534). However, initial technical analysis indicates that the alternative to the MDO requirements does not change the basis for this rulemaking.

In addition, the NRC has posted preliminary proposed rule language related to these QC/QV personnel on [www.regulations.gov](http://www.regulations.gov). This preliminary proposed rule language contains one portion of the NRC's planned proposed changes. This language does not represent a final NRC staff position, nor has it been reviewed by the Commission. Therefore, the preliminary proposed rule language may undergo significant revision during the rulemaking process.

The NRC is not requesting formal public comments on the regulatory basis or the preliminary proposed rule language. The NRC may post additional materials, including other preliminary rule language, to the Federal rulemaking Web site at <https://www.regulations.gov>, under Docket ID NRC-2009-0090. The Federal rulemaking Web site allows you to receive alerts when changes or

additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2009–0090); (2) click the “Email Alert” link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

#### IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, well-organized manner that also follows other best practices appropriate to the subject or field and the intended audience. Although regulations are exempt under the Act, the NRC is applying the same principles to its rulemaking documents. Therefore, the NRC has written this document, including the preliminary proposed rule language, to be consistent with the Plain Writing Act. There will be an opportunity for formal public comment on the use of plain language when the proposed rule is published in the **Federal Register**.

Dated at Rockville, Maryland, this August 22, 2012.

For the Nuclear Regulatory Commission.

**Sher Bahadur,**

*Deputy Director, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.*

[FR Doc. 2012–22185 Filed 9–7–12; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 904

[SATS No. AR–040–FOR; Docket ID OSM–2012–0017]

#### Arkansas Regulatory Program and Abandoned Mine Land Reclamation Plan

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

**ACTION:** Proposed rule; public comment period on proposed amendment.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of a proposed amendment to the Arkansas regulatory program (Arkansas program) and the Arkansas abandoned mine land reclamation plan (Arkansas plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Arkansas proposes to revise substantial portions of its regulatory program and abandoned mine land

reclamation plan, make grammatical changes, correct punctuation, revise dates, and delete and add citations. The proposed amendment consists of substantive changes to Arkansas’s regulations regarding: Subchapter A—General; Subchapter F—Areas Unsuitable for Mining; Subchapter G—Surface Coal Mining and Reclamation Operations Permits and Coal Exploration Procedures Systems; Subchapter J—Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations; Subchapter K—State Program Performance Standards; Subchapter L—State Program Inspection and Enforcement Procedures; Subchapter M—Training Programs for Blasters and Members of Blasting Crews, and Certification Programs for Blasters; and Subchapter R—Abandoned Mine Land Reclamation.

This document provides the times and locations that the Arkansas program, Arkansas plan, and this proposed amendment are available for your review; the comment period during which you may submit written comments on the amendment; and the procedures that we will follow for the public hearing, if one is requested.

**DATES:** We will accept written comments on this amendment until 4:00 p.m., c.d.t., October 10, 2012. If requested, we will hold a public hearing on the amendment on October 5, 2012. We will accept requests to speak at a hearing until 4:00 p.m., c.d.t. on September 25, 2012.

**ADDRESSES:** You may submit comments, identified by SATS No. AR–040–FOR, by any of the following methods:

- *Mail/Hand Delivery:* Alfred L. Clayborne, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101st East Avenue, Suite 145, Tulsa, Oklahoma 74128–4629.
- *Fax:* (918) 581–6419.
- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*Instructions:* All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Comment Procedures” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket to review copies of the Arkansas regulations, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, you must go to the

address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM’s Tulsa Field Office, or the full text of the program amendment available for you to read at [www.regulations.gov](http://www.regulations.gov).

Alfred L. Clayborne, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101st East Avenue, Suite 145, Tulsa, Oklahoma 74128–4629, Telephone: (918) 581–6430.

In addition, you may review a copy of the amendment during regular business hours at the following location: Arkansas Department of Environmental Quality, 5301 Northshore Drive, North Little Rock, Arkansas 72118–5317, Telephone: (501) 682–0744.

**FOR FURTHER INFORMATION CONTACT:** Alfred L. Clayborne, Director, Tulsa Field Office. Telephone: (918) 581–6430. Email: [aclayborne@osmre.gov](mailto:aclayborne@osmre.gov).

#### **SUPPLEMENTARY INFORMATION:**

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

#### **I. Background on the Arkansas 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 this Act \* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.” See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior (Secretary) conditionally approved the Arkansas program effective November 21, 1980. You can find background information on the Arkansas program, including the Secretary’s findings, the disposition of comments, and the conditions of approval of the Arkansas program in the November 21, 1980, **Federal Register** (45 FR 77003). You can find later actions on the Arkansas program at 30 CFR 904.10, 904.12, and 904.15.

The Abandoned Mine Land Reclamation Program was established by Title IV of the Act in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded by a reclamation fee collected on each ton of