

# 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.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 831

#### Retirement; Law Enforcement Officers and Firefighters

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of Personnel Management (OPM) proposes to revise regulations governing the special retirement provisions for law enforcement officers and firefighters employed under the Civil Service Retirement System (CSRS). The revision would clarify the definition of qualifying duties, bringing the regulatory definition into conformance with a parallel definition in Federal Employees Retirement System (FERS) regulations.

**DATE:** Comments must be received on or before April 27, 1990.

**ADDRESSES:** Send comments to Reginald M. Jones, Jr., Assistant Director for Retirement and Insurance Policy; Retirement and Insurance Groups; Office of Personnel Management; P.O. Box 57; Washington, DC 20044; or deliver to OPM, Room 4351, 1900 E Street, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Roderick T. Meader, (202) 632-5582, extension 207.

**SUPPLEMENTARY INFORMATION:** Section 8338(c) of title 5, United States Code, authorizes special retirement benefits for Federal law enforcement officers and firefighters. For a CSRS employee's service to qualify as law enforcement officer or firefighter service, his or her "primary duties" must be certain duties specified in law and regulation. The "primary duties" standard is also applied to FERS law enforcement officers and firefighters.

The term "primary duties" is defined in the relevant sections of the CSRS and

FERS regulations [see 5 CFR 831.902 and 842.802]. The regulatory definitions are identical except that the FERS definition adds a sentence stating that duties which an employee spends, on average, 50 percent of his or her time performing are generally considered his or her primary duties. In other words, duties which occupy 50 percent of an employee's time are generally deemed to be his or her primary duties without the need for further evidence or support.

The difference in the CSRS and FERS regulatory definitions of "primary duties" has apparently led some to believe that OPM interprets the term differently under the two retirement systems. In reality, OPM applies the same interpretation under both systems. The 50-percent-of-time general rule is applied under CSRS, as well as under FERS. In fact, the 50-percent-of-time rule has been used under CSRS for many years.

To prevent any confusion, we are proposing to amend the CSRS regulatory definition of "primary duties" to bring it into conformity with OPM's longstanding policy and practice and with its FERS regulatory counterpart.

#### E.O. 12291, Federal Regulations

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulations.

#### Regulatory Flexibility Act

I certify that within the scope of the Regulatory Flexibility Act, these regulations will not have a significant economic impact on a substantial number of small entities because they affect Federal employees and retirees only.

#### List of Subjects in 5 CFR Part 831

Administrative practice and procedure, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Retirement.

U.S. Office of Personnel Management.  
Constance Barry Newman,  
Director.

Accordingly, OPM proposes to amend 5 CFR part 831, as follows:

## PART 831—RETIREMENT

### Subpart I—Law Enforcement Officers and Firefighters

1. The authority citation for subpart I continues to read as follows:

**Authority:** 5 U.S.C. 8347.

2. In § 831.902, the definition of "primary duties" is amended by revising the introductory text and paragraph (c) to read as follows:

#### § 831.902 Definitions.

"Primary duties" means those duties of a position that—

(c) Are assigned on a regular and recurring basis. Duties that are of an emergency, incidental, or temporary nature cannot be considered "primary" even if they meet the substantial portion of time criterion. In general, if an employee spends an average of at least 50 percent of his or her time performing a duty or group of duties, they are his or her primary duties.

[FR Doc. 90-4310 Filed 2-23-90; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### 30 CFR Part 206

#### Revision of Coal Product Valuation Regulation; Correction

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Notice of proposed rule; correction.

**SUMMARY:** The Minerals Management Service (MMS) is correcting errors in the text which appeared in the Federal Register on February 13, 1990 (55 FR 5024).

**FOR FURTHER INFORMATION CONTACT:** Mr. Dennis C. Whitcomb at (303) 231-3432.

**SUPPLEMENTARY INFORMATION:** The MMS has published proposed regulations regarding a revision to coal product valuation which were promulgated on February 13, 1990 (55 FR 5024). The proposed regulations contain

errors which are briefly discussed below and are corrected by this Notice.

Dated: February 16, 1990.

Jerry D. Hill,

Associate Director for Royalty Management.

The following corrections are made in FR Doc. 90-3310, Revision of Coal Production Valuation Regulations published in the Federal Register on February 13, 1990 (55 FR 5024).

1. On page 5029, first column, line 11, change "§ 206.25" to "§ 206.251".
2. On page 5029, first column, line 12, change "subpart E" to "subpart F".
3. On page 5029, first column, line 16, change "subpart E" to "subpart F."

[FR Doc. 90-4295 Filed 2-23-90; 8:45 am]

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### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 938

#### Pennsylvania Regulatory Program; Regulatory Reform

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

**ACTION:** Proposed rule.

**SUMMARY:** OSM is announcing receipt and requesting comments on a proposed amendment to the Pennsylvania permanent regulatory program (hereinafter referred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment covers a wide variety of topics and is primarily in response to changes in Federal regulations (30 CFR Chapter VII) occurring between July 31, 1982 and October 1, 1983. Provisions are included to address a July 9, 1986, 30 CFR 732.17(e)(3) letter from OSM to the Pennsylvania Department of Environmental Resources (the Department) concerning off-site disturbance involving the construction of roads between permitted areas to move mining equipment. Provisions are also included to address requirements concerning prime farmlands in the anthracite coal fields. In addition, other changes are proposed by the Department.

This notice sets forth the times and locations that the Pennsylvania program and the proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the amendment

and the procedures that will be followed regarding the public hearing, if one is requested.

**DATES:** Written comments must be received on or before 4 p.m. on March 28, 1990, to ensure consideration in the rulemaking process. If requested, a public hearing on the amendment will be held at 9 a.m. on March 23, 1990. Requests to present testimony at the hearing must be received on or before 4 p.m. on March 13, 1990.

**ADDRESSES:** Written comments and requests to testify at the hearing should be mailed or hand delivered to Robert J. Biggi, Director, Harrisburg Field Office at the address listed below. Copies of the Pennsylvania program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays.

Each requestor may receive, free of charge, one copy of the proposed amendment by contacting OSM's Harrisburg Field Office.

Office of Surface Mining Reclamation and Enforcement, Harrisburg Field Office, Harrisburg Transportation Center, Third Floor, Suite 3C, 4th and Market Streets, Harrisburg, Pennsylvania 17101, Telephone: (717) 782-4036.

Pennsylvania Department of Environmental Resources, Office of Environmental Energy Management, 10th Floor, Fulton Building, 3rd and Locust Streets, P.O. Box 2063, Harrisburg, Pennsylvania 17120, Telephone: (717) 787-4686.

A public hearing, if held, will be at the Penn Harris Motor Inn and Convention Center at the Camp Hill Bypass and U.S. Routes 11 and 15, Camp Hill, Pennsylvania.

**FOR FURTHER INFORMATION CONTACT:** Robert J. Biggi, Director, Harrisburg Field Office, (717) 782-4036.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background on the Pennsylvania Program**

The Secretary of the Interior conditionally approved the Pennsylvania program on July 31, 1982. Information on the background of the Pennsylvania program including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Pennsylvania program can be found in the July 30, 1982 Federal Register (47 FR 33050). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 938.11, 928.12, 938.15 and 938.16

## **II. Discussion of Amendment**

Since July 31, 1982 (the date of conditional approval of the Pennsylvania program), a number of changes have been made to Federal regulations concerning surface coal mining and reclamation operations. Pursuant to the Federal regulations at 30 CFR 732.17, OSM informed Pennsylvania on August 14, 1986, (Administrative Record Number PA 610) that a number of Pennsylvania regulations are less effective than or inconsistent with the revised Federal requirements.

During routine oversight activities OSM identified a condition where a road, constructed to move equipment between two permitted areas, was not permitted. After discussion with the State, OSM determined that the approved program no longer met the requirements of SMCRA and the Federal regulations. On July 9, 1986, OSM issued a 30 CFR 732.17(e)(13) letter (Administrative Record Number PA 646) requiring a proposed written amendment or description of an amendment to address the identified program deficiencies. Additionally, final Federal rules (51 FR 18314, May 19, 1986) require Pennsylvania to amend certain anthracite prime farmland rules, Chapter 88.

By letter dated December 22, 1989, (Administrative Record Number PA 790.00) Pennsylvania submitted to OSM a State program amendment package consisting of 109 revisions as proposed in Volume 18, *Pennsylvania Bulletin*, 3621, August 13, 1988 and 40 modifications based on public comments and internal review of the 109 revisions. The program amendment addresses Regulatory Reform Review I, unpermitted roads used to move equipment, and prime farmlands in the anthracite coal fields. In addition, the amendment includes rules to implement amendments to the Surface Mining Conservation and Reclamation Act as found in Act 181 (1984), Act 171 (1986), and Senate Resolution 100. Rules based on recommendations from the Coal Work Group (CWG) are also included. The CWG is a group of legislators and industry representatives established by the Department to recommend ways to streamline the Department's coal regulatory program.

A summary of the Pennsylvania amendment provisions including 109 revisions and 40 modifications to the revisions is listed below.