

helicopters was published in the **Federal Register** on June 22, 1994 (59 FR 32144). That action proposed to require the removal and replacement of the ring gear within certain time intervals, and proposed to establish a retirement life for the ring gear.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed. Since the issuance of the proposed rule, the FAA has revised the average labor rate from \$55 per work hour to \$60 per work hour, which increases the estimated cost impact on operators to \$486,250.

The FAA estimates that 125 helicopters of U.S. registry will be affected by this AD, that it will take approximately 31.5 work hours per helicopter to accomplish the required actions, and that the average labor rate is \$60 per work hour. Required parts will cost approximately \$2,000 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$486,250.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

95-10-09 Sikorsky Aircraft: Amendment 39-9226. Docket No. 93-SW-18-AD.

Applicability: Model S-58 and S-58T series helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the transmission main gear box ring gear (ring gear), failure of the main transmission, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within the next 25 hours time-in-service (TIS) after the effective date of this AD, accomplish the following:

(1) From component records, determine the TIS for the ring gear, part number (P/N) S1635-20058-2.

(i) If the TIS on the ring gear is 2,400 or more hours on the effective date of this AD, replace it with an airworthy serialized ring gear within the next 100 hours TIS.

(ii) If the TIS on the ring gear is less than 2,400 hours on the effective date of this AD, replace it with an airworthy serialized ring gear at or before reaching 2,500 hours TIS.

(2) If the TIS on the ring gear cannot be determined, replace it in accordance with the time-since-last-overhaul (TSO) as follows:

(i) If the TSO on the ring gear is 1,150 or more hours on the effective date of this AD,

replace it with an airworthy serialized ring gear within the next 100 hours TIS.

(ii) If the TSO on the ring gear is less than 1,150 hours on the effective date of this AD, replace it with an airworthy serialized ring gear at or before reaching 1,250 hours TSO.

(3) Create a component log and a serial number and apply the serial number to the ring gear between the ring gear flanges in accordance with Paragraph B of the Accomplishment Instructions of Sikorsky Aircraft Alert Service Bulletin No. 58B35-32 (ASB 58B35-32), dated July 6, 1993.

(b) Create a component log and a serial number for replacement ring gears and apply the serial number to the ring gear between the ring gear flanges in accordance with Paragraph B of the Accomplishment Instructions of the ASB 58B35-32, dated July 6, 1993, prior to installing a replacement ring gear on the helicopter.

(c) This AD establishes a retirement life of 2,500 hours TIS for the ring gear. However, for ring gears with 2,400 or more hours TIS, or if the TIS cannot be determined, 1,150 or more hours TSO on the effective date of this AD, those ring gears need not be retired until on or before the accumulation of an additional 100 hours TIS.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Boston Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Boston Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Boston Aircraft Certification Office.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(f) The removal and replacement shall be done in accordance with Sikorsky Aircraft Alert Service Bulletin No. 58B35-32, dated July 6, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Sikorsky Aircraft, Commercial Customer Support, 6900 Main Street, Stratford, Connecticut 06601-1381. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Boulevard, Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on June 16, 1995.

Issued in Fort Worth, Texas, on May 4, 1995.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 95-11539 Filed 5-11-95; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH-231; Amendment Number 68R]

Ohio Regulatory Program Amendment

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing the approval of a proposed amendment to the Ohio regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment was initiated by Ohio and is intended to make the Ohio program as effective as the corresponding Federal regulations concerning contemporaneous reclamation. Specifically, the amendment defines the terms "area mining," "auger mining," and "contour mining"; specifies information required in permit operation plans and mining reclamation plans; establishes time and distance schedules for backfilling and grading for mining methods other than area and contour mining; and requires the contemporaneous commencement of augering.

EFFECTIVE DATE: May 12, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Robert H. Mooney, Acting Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, 4480 Refugee Road, Suite 201, Columbus, Ohio 43232; Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION:

- I. Background on the Ohio Program.
- II. Discussion of the Proposed Amendment.
- III. Director's Findings.
- IV. Summary and Disposition of Comments.
- V. Director's Decision.
- VI. Procedural Determinations.

I. Background on the Ohio Program

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1982, **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.15, and 935.16.

II. Discussion of the Proposed Amendment

By letter dated May 17, 1994 (Administrative Record No. OH-2018), the Ohio Department of Natural Resources, Division of Reclamation (Ohio), submitted proposed Program Amendment Number 68 (PA 68). In this amendment, Ohio proposed to revise three rules in the Ohio Administrative Code (OAC) at 1501:13-1-02, 1501:13-4-05, and 1501:13-9-13 to make the Ohio program as effective as the Federal regulations concerning contemporaneous reclamation. As part of and in support of proposed PA 68, Ohio also submitted a draft Policy/Procedure Directive (PPD) which provides additional clarification and guidance on the proposed Ohio rule requirements for contemporaneous reclamation.

OSM announced receipt of the proposed amendment in the May 26, 1994, **Federal Register** (59 FR 27253), and, in the same notice, opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on June 27, 1994.

OSM and Ohio staff met on August 22, 1994, to discuss OSM's questions and concerns about PA 68 (Administrative Record No. OH-2093). In response to OSM's August 22, 1994, questions and comments, Ohio provided Revised Program Amendment Number 68 (PA 68R) by letter dated March 1, 1995 (Administrative Record No. OH-2094). In PA 68R, Ohio proposed further changes to the three rules and to the draft PPD. OSM announced its receipt of PA 68R in the March 17, 1995, **Federal Register** (60 FR 14400). The public comment period ended on April 3, 1995.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment to the Ohio program. Only substantive changes to Ohio's rules and the new Ohio PPD are discussed below. Rule revisions which are not discussed below concern paragraph notations or editorial or nonsubstantive wording changes intended to improve the clarity and readability of the rules.

1. Area Mining

Ohio is adding new OAC section 1501:13-1-02 paragraph (J) to define the term "area mining" to mean a method of surface coal mining that involves making a series of parallel mining cuts

against the highwall created from the initial mining cut. Although there is no counterpart Federal definition for this term, the Director finds that the proposed definition is not inconsistent with the requirements of SMCRA and the Federal regulations.

2. Auger Mining

Ohio is revising its definition of the term "auger mining" in OAC section 1501:13-1-02 paragraph (K) to mean drilling holes or cutting into an exposed coal seam at a highwall and transporting the coal to the surface along an auger bit, by conveyor, or by other means. The Director finds that this definition is no less effective than the corresponding Federal definition of "auger mining" at 30 CFR 701.5.

3. Contour Mining

Ohio is adding new OAC section 1501:13-1-02 paragraph (CC) to define the term "contour mining" to mean a method of surface coal mining that involves making an initial mining cut along the contour of a hillside to the maximum highwall height and then making subsequent cuts along the same contour, placing the spoil in the preceding cut where the coal has been removed. Although there is no counterpart Federal definition for this term, the Director finds that the proposed definition is not inconsistent with the requirements of SMCRA and the Federal regulations.

4. Permit Operation Plan

Ohio is adding new OAC section 1501:13-4-05 paragraphs (A)(2)(a) (i) through (iv) to require that the mining operation plan in permit applications shall, at a minimum, identify the mining method to be used, the maximum extent of cover to be mined, the locations where mining will begin and end, and the direction of mining. For mining methods other than area or contour mining, the mining operation plan shall also include other information that demonstrates the orderly and reasonable progression of mining. Such information shall include, but not be limited to, spoil placement plans, proposed locations of haul roads, and the intended timing of the mining operation. Mining operation plans shall specify how the mining operation will meet the time and distance requirements for contemporaneous reclamation established in OAC section 1501:13-9-13.

Ohio's existing rule at OAC section 1501:13-4-05 paragraph (A)(2)(a) is substantively identical to the corresponding Federal regulation at 30 CFR 780.11(a) concerning the general

requirements for mining operation plans. Although there are no corresponding Federal regulations to the new requirements proposed in OAC section 1501:13-4-05 paragraphs (A)(2)(a) (i) through (iv), the Director finds that these new requirements are reasonable and are not inconsistent with the Federal regulations at 30 CFR 780.11(a) and with the revisions which Ohio is making elsewhere in this rule and in other rules.

5. Mining Reclamation Plan

Ohio is revising OAC section 1501:13-4-05 paragraph (D)(2)(a) to require that reclamation plans in permit applications shall contain a detailed timetable for the completion of each major step of the reclamation plan specific to the described mining method and addressing the contemporaneous reclamation requirements of OAC section 1501:13-9-13.

Ohio's existing rule at OAC section 1501:13-4-05 paragraph (D)(2)(a) is substantively identical to the corresponding Federal regulation at 30 CFR 780.18(b)(1) concerning the timetable for completion of each major step in the reclamation plan. Although there are no corresponding Federal regulations to the new requirements proposed in OAC section 1501:13-4-05 paragraph (D)(2)(a), the Director finds that these new requirements are reasonable and are not inconsistent with the Federal regulations at 30 CFR 780.18(b)(1) and with the revisions which Ohio is making elsewhere in this rule and in other rules.

6. Contemporaneous Reclamation

A. Ohio is revising OAC section 1501:13-9-13 paragraphs (A), (A)(1), and (A)(2) and is adding new paragraphs (A)(3) and (A)(4) to clarify the rule language, to specify minimum time and distance requirements for backfilling and grading for mining methods other than contour or area mining, and to require the contemporaneous commencement of augering after the creation of the highwall to be augered.

B. Ohio is adding new OAC section 1501:13-9-13 paragraph (A)(7) to clarify that areas that are backfilled and rough graded shall closely resemble the final ground surface configuration approved in the mining and reclamation plan but that these areas are not necessarily ready for resoiling or eligible for Phase I bond release.

C. Ohio is supplementing the requirements of OAC section 1501:13-9-13 with proposed Policy/Procedure Directive (PPD) Regulatory 94-3, "Contemporaneous Reclamation." This

PPD provides clarification and guidance on the requirements in the OAC for contemporaneous reclamation.

The Federal regulations at 30 CFR 816/817.100 provide that reclamation efforts shall occur as contemporaneously as practicable (except where a variance for concurrent surface and underground mining is issued under 30 CFR 785.18). However, the Federal regulations have no counterpart to the specific time and distance requirements for contemporaneous reclamation proposed by Ohio in OAC section 1501:13-9-13 and in the accompanying PPD. On July 31, 1992 (57 FR 33876), OSM suspended in full its specific backfilling and grading time and distance requirements at 30 CFR 816.101. In that notice of suspension, OSM stated that mining operations would continue to be subject to the State-specific contemporaneous reclamation regulations of State and Federal programs which were then in effect. OSM agreed that regulatory authorities could set these State-specific time and distance schedules based on local conditions.

Therefore, there are no corresponding Federal regulations to the new requirements which Ohio has proposed in OAC section 1501:13-9-13 and in the new PPD. The Director finds that Ohio's new contemporaneous reclamation requirements are reasonable and are not inconsistent with the Federal regulations at 30 CFR 816/817.100 and with the revisions which Ohio is making elsewhere in other rules.

IV. Summary and Disposition of Comments

Public Comments

On May 26, 1994, and March 17, 1995, the Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. OSM received comments on the amendment from the Ohio Mining and Reclamation Association (OMRA) by letter dated April 1, 1995 (Administrative Record No. OH-2106). OMRA made several objections to the amendment:

(1) *Ohio has not held a hearing on the proposed rule changes.* The Director believes that this comment is not immediately relevant to his decision on this amendment. The public hearing mentioned in the comment is part of Ohio's internal rule-filing process. If further rule changes become necessary as a result of comments received during Ohio's rule filing, Ohio will resubmit those proposed changes to OSM for review under the program amendment process.

(2) *The proposed rule changes do not employ normal common sense relative to contemporaneous reclamation in the areas of weather, equipment failure, and multiple seam mining. The time constraints are too restrictive and could result in Ohio issuing violations to mine operators.* The Director does not agree with this comment. As discussed above, the Director has reviewed Ohio's proposed reclamation schedules and found them to be reasonable and not inconsistent with the Federal regulations at 30 CFR 816/817.100.

(3) *The amendment seems to have eliminated the difference between rough and final grading.* The Director does not agree with this comment. The proposed changes in the amendment concerning backfilling and rough grading are not inconsistent with the Federal regulations at 30 CFR 816/817.100.

(4) *The amendment reflects continued overregulation and unreasonable demands by the Federal government.* The Director does not agree with this comment. As discussed above, OSM has deliberately placed the responsibility for developing contemporaneous reclamation standards with the State regulatory authorities most familiar with the mining practices in their areas.

No other public comments were received. No public hearings were held as no one requested the opportunity to provide testimony.

Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from the Regional Director of the U.S. Environmental Protection Agency (EPA) and the heads of four other Federal agencies and one State agency with an actual or potential interest in the Ohio program. Nonsubstantive comments were received from the EPA, the Soil Conservation Service, and the Mine Safety and Health Administration. No other agency comments were received.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Ohio on May 17, 1994, and revised on March 1, 1995.

The Federal regulations at 30 CFR Part 935 codifying decisions concerning the Ohio program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to conform their programs with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to a State program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved programs. In the oversight of the Ohio program, the Director will recognize only the approved program, together with any consistent implementing policies, directives, and other materials, and will require the enforcement by Ohio of such provisions.

VI. Procedural Determinations*Executive Order 12866*

This final rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination on whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 5, 1995.

Ronald C. Recker,

Acting Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 935—OHIO

1. The authority citation for Part 935 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 935.15 is amended by adding new paragraph (www) to read as follows:

§ 935.15 Approval of regulatory program amendments.

* * * * *

(www) The following amendment (Program Amendment 68R) pertaining to the Ohio regulatory program, as submitted to OSM on May 17, 1994, and revised on March 1, 1995, is approved, effective May 12, 1995: Contemporaneous Reclamation.

[FR Doc. 95-11782 Filed 5-11-95; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF COMMERCE**Patent and Trademark Office****37 CFR Part 1**

[Docket No. 950411099-5099-01]

RIN 0651-AA52

Amendment to Rules for Extension of Patent Term

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office (Office) is revising the rules directed to the extension of patent term to implement the provisions of Pub. L. 103-179, section 5; 107 Stat. 2040 codified at 35 U.S.C. 156(d)(5) and to clarify the requirements for eligibility. The amended rules establish procedures for the Commissioner to issue an interim extension of the term of a patent where the original term would expire before a product covered by the patent has received regulatory approval for commercial marketing or use. The amended rules also clarify that an application for patent term extension must be based on regulatory activities performed by the patent owner or its agent.

EFFECTIVE DATE: July 11, 1995.

FOR FURTHER INFORMATION CONTACT: Gerald A. Dost by telephone at (703) 305-9285 or by mail addressed to Commissioner of Patents and Trademarks, Washington, DC 20231 marked to the attention of Mr. Dost, Office of the Deputy Assistant Commissioner for Patent Policy and Projects, or by FAX to (703) 308-6916.

SUPPLEMENTARY INFORMATION: Patent term extension has been available under 35 U.S.C. 156 for patents that claim certain products that are subject to regulatory review before being commercially marketed or used. Prior to enactment of 35 U.S.C. 156(d)(5), eligibility for patent term extension was dependent on regulatory approval of the product before the original patent term expired. 35 U.S.C. 156(d)(5) has made it possible, under appropriate circumstances, to obtain interim extensions of patent term where the regulatory process is likely to extend beyond the expiration of the patent term.

One purpose of the amended rules is to revise the present regulations contained in 37 CFR part 1, subpart F, to include provisions for interim extension of the patent term prior to regulatory approval of the product that can now form the basis of patent term