

**§ 39.13 [Amended]**

2. The FAA amends § 39.13 by adding the following new AD:

**The Boeing Company:** Docket No. FAA–2007–27042; Directorate Identifier 2006–NM–225–AD.

**Comments Due Date**

(a) We must receive comments by July 13, 2010.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to the applicable The Boeing Company airplanes; certificated in any category; as identified in the service information specified in Table 1 of this AD.

**TABLE 1—SERVICE INFORMATION**

For Model—	Boeing service information—
777–200, –300, and –300ER airplanes.	Service Bulletin 777–57A0050, Revision 2, dated May 14, 2009.
777–200 and –300 airplanes .....	Alert Service Bulletin 777–57A0051, dated May 15, 2006.
777–200, –300, and –300ER airplanes.	Alert Service Bulletin 777–57A0057, Revision 1, dated August 2, 2007.
777–200, –300, and –300ER airplanes.	Boeing Alert Service Bulletin 777–57A0059, dated October 30, 2008.

**Note 1:** Although Boeing Alert Service Bulletin 777–57A0050, Revision 2, refers to “Model 777–200ER” airplanes, this is a European designation that does not apply to airplanes of U.S. registry. Therefore, the applicability of this AD will not specify Model 777–200ER airplanes. However, U.S. operators should consider any reference to Model 777–200ER airplanes in Boeing Alert Service Bulletin 777–57A0050, Revision 2, as applicable to Model 777–200 airplanes as designated by the type certificate data sheet.

**Subject**

(d) Air Transport Association (ATA) of America Code 57: Wings.

**Unsafe Condition**

(e) This AD results from fuel system reviews conducted by the manufacturer. The Federal Aviation Administration is issuing this AD to prevent electrical arcing on the fuel tank boundary structure or inside the main and center fuel tanks, which could result in a fire or explosion.

**Compliance**

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

**Corrective Actions (Installing Teflon Sleeving, Cap Sealing, One-Time Inspection)**

(g) Within 60 months after the effective date of this AD, do the applicable actions specified in paragraph (g)(1), (g)(2), (g)(3), or (g)(4) of this AD.

(1) For airplanes identified in Boeing Service Bulletin 777–57A0050, Revision 2, dated May 14, 2009: Install Teflon sleeving under the clamps of certain wire bundles routed along the fuel tank boundary structure and cap seal certain penetrating fasteners of the fuel tanks, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 777–57A0050, Revision 2, dated May 14, 2009.

(2) For airplanes identified in Boeing Alert Service Bulletin 777–57A0051, dated May 15, 2006: Cap seal certain penetrating fasteners of the fuel tanks, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–57A0051, dated May 15, 2006.

(3) For airplanes identified in Boeing Alert Service Bulletin 777–57A0057, Revision 1, dated August 2, 2007: Do a general visual inspection to determine if certain fasteners are cap sealed and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–57A0057, Revision 1, dated August 2, 2007. Do all applicable corrective actions before further flight.

(4) For airplanes identified in Boeing Alert Service Bulletin 777–57A0059, dated October 30, 2008: Cap seal the fasteners in the center fuel tanks that were not sealed during production, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–57A0059, dated October 30, 2008.

**Credit for Actions Done Using Previous Issues of the Service Bulletins**

(h) Actions done before the effective date of this AD in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–57A0050, dated January 26, 2006; or Revision 1, dated August 2, 2007; are acceptable for compliance with the corresponding actions required by paragraph (g)(1) of this AD, provided that the applicable additional work specified in Boeing Service Bulletin 777–57A0050, Revision 2, dated May 14, 2009, is done within the compliance time specified in paragraph (g) of this AD. The additional work must be done in accordance with Boeing Service Bulletin 777–57A0050, Revision 2, dated May 14, 2009.

(i) Actions done before the effective date of this AD in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–57A0057, dated August 7, 2006, are acceptable for compliance with the actions required by paragraph (g)(3) of this AD.

**Alternative Methods of Compliance (AMOCs)**

(j)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Margaret Langsted, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton,

Washington 98057–3356; telephone (425) 917–6500; fax (425) 917–6590. Or, e-mail information to 9–ANM–Seattle-ACO–AMOC–Requests@faa.gov.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane and the approval must specifically refer to this AD.

Issued in Renton, Washington, on June 10, 2010.

**Jeffrey E. Duven,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2010–14792 Filed 6–17–10; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Chapter VII**

**RIN 1029–AC63**

**Stream Protection Rule; Environmental Impact Statement**

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

**ACTION:** Proposed rule; notice of intent to prepare an environmental impact statement.

**SUMMARY:** On April 30, 2010,<sup>1</sup> we, the Office of Surface Mining Reclamation and Enforcement (OSM), published a Notice of Intent to prepare an environmental impact statement. This new Notice of Intent supersedes the April Notice of Intent, expands the scoping opportunities to include open houses, and outlines possible alternatives to the proposed action. OSM intends to prepare an environmental impact statement (EIS) under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) to analyze the effects of potential rule revisions under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) to improve protection of streams from the adverse impacts of surface coal mining operations. We are requesting comments for the purpose of determining the scope of the EIS.

**DATES:** To ensure consideration, we must receive your electronic or written comments by July 30, 2010.

**ADDRESSES:** You may submit comments by any of the following methods, although we request that you use electronic mail if possible:

- *Electronic mail:* Send your comments to [sra-eis@osmre.gov](mailto:sra-eis@osmre.gov).
- *Mail, hand-delivery, or courier:*

Send your comments to Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 252–SIB, 1951 Constitution Avenue, NW., Washington, DC 20240.

- *Open Houses:* Written and oral comments will be accepted at the Open House sessions, which are discussed in Section V of this Notice.

**FOR FURTHER INFORMATION CONTACT:** John Craynon, Chief, Division of Regulatory Support, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., MS 202–SIB, Washington, DC 20240; Telephone 202–208–2866.

#### SUPPLEMENTARY INFORMATION:

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#### I. Why are we publishing a new Notice of Intent?

On April 30, 2010, we published a Notice of Intent to prepare an environmental impact statement for a proposed Stream Protection Rule. We

have decided to expand the scoping opportunities to include several open houses in various coal producing areas of the U.S. We have also included possible alternatives under consideration for each element of the proposed action. Finally, we have extended the scoping period to July 30, 2010.

#### II. Why are we planning to revise our rules?

On December 12, 2008 (73 FR 75814–75885), we published a final rule modifying the circumstances under which mining activities may be conducted in or near perennial or intermittent streams. That rule, which this notice refers to as the 2008 rule, took effect January 12, 2009. A total of nine organizations challenged the validity of the rule in two complaints filed on December 22, 2008, and January 16, 2009 (amended complaint filed February 17, 2009): *Coal River Mountain Watch, et al. v. Salazar*, No. 08–2212 (D.DC) (“*Coal River*”) and *National Parks Conservation Ass’n v. Salazar*, No. 09–115 (D.DC) (“*NPCA*”). Under the terms of a settlement agreement signed by the parties on March 19, 2010, we agreed to use best efforts to sign a proposed rule by February 28, 2011, and a final rule by June 29, 2012. We also agreed to consult with the Fish and Wildlife Service pursuant to the Endangered Species Act, as appropriate, prior to signing the final action. On April 2, 2010, the court granted the parties’ motion to hold the judicial proceedings in abeyance.

However, we had already decided to change the rule following the change of Administrations on January 20, 2009. On June 11, 2009, the Secretary of the Department of the Interior, the Administrator of the U.S. Environmental Protection Agency (EPA), and the Acting Assistant Secretary of the Army (Civil Works) entered into a memorandum of understanding<sup>2</sup> (MOU) implementing an interagency action plan designed to significantly reduce the harmful environmental consequences of surface coal mining operations in six Appalachian states, while ensuring that future mining remains consistent with Federal law. Among other things, under the MOU we committed to consider revisions to key provisions of our rules, including the 2008 rule and approximate original contour requirements, to better protect the environment and public health from the

impacts of Appalachian surface coal mining.

Consequently, on November 30, 2009, we published an advance notice of proposed rulemaking (ANPR) soliciting comments on ten potential rulemaking alternatives. See 74 FR 62664–62668. In addition, consistent with the MOU, we invited the public to identify other rules that we should revise. We also announced our intent to prepare a supplement to the EIS developed in connection with the 2008 rule.

We received approximately 32,750 comments during the 30-day comment period that closed December 30, 2009. After evaluating the comments, we determined that development of a comprehensive stream protection rule (one that is much broader in scope than the 2008 rule) would be the most appropriate and effective method of achieving the goals set forth in the MOU and the ANPR. We believe that this holistic approach will better protect streams and related environmental values. It would not be fair, appropriate, scientifically valid or consistent with the principles of SMCRA to apply the new protections only in central Appalachia, as some commenters on the ANPR advocated. Streams are ecologically significant regardless of the region in which they are located. The broader scope of the stream protection rule means that we will need to prepare a new environmental impact statement rather than the supplement to the 2008 EIS that we originally intended to prepare.

#### III. What is the proposed Federal action?

The proposed Federal action consists of revisions to various provisions of our rules to improve protection of streams from the impacts of surface coal mining operations nationwide. Principal elements of the proposed action include—

- *Collection of Baseline Data.* Adding more extensive and more specific permit application requirements concerning baseline data on hydrology, geology, and aquatic biology; the determination of the probable hydrologic consequences of mining; and the hydrologic reclamation plan; as well as more specific requirements for the cumulative hydrologic impact assessment.

- *Definition of Material Damage to Hydrologic Balance.* Defining the term “material damage to the hydrologic balance outside the permit area.” This term is critically important because, under section 510(b)(3) of SMCRA, the regulatory authority may not approve a permit application unless the proposed

<sup>2</sup> The MOU can be viewed online at <http://www.osmre.gov/resources/ref/mou/ASCM061109.pdf>.

<sup>1</sup> 75 FR 22723 (April 30, 2010).

operation has been designed to prevent material damage to the hydrologic balance outside the permit area. This term includes streams downstream of the mining operation and above underground mines.

- *Mining Activities In or Near Streams.*

Revising the regulations governing mining activities in or near streams, including mining through streams.

- *Additional Monitoring Requirements.*

Adding more extensive and more specific monitoring requirements for surface water, groundwater, and aquatic biota during mining and reclamation.

- *Corrective Action Thresholds.*

Establishing corrective action thresholds.

- *Land Forming and Fill Optimization.*

Revising the backfilling and grading rules, excess spoil rules, and approximate original contour restoration requirements to incorporate landform restoration principles and reduce discharges of total dissolved solids.

- *Approximate Original Contour Exceptions.* Limiting variances and exceptions from approximate original contour restoration requirements.

- *Reforestation.* Requiring reforestation of previously wooded areas.

- *Permit Coordination.* Requiring that the regulatory authority coordinate the SMCRA permitting process with Clean Water Act permitting activities to the extent practicable.

- *Financial Assurances for Long-Term Discharges of Pollutants.*

Codifying the financial assurance provisions of OSM's March 31, 1997, policy statement<sup>3</sup> on correcting, preventing, and controlling acid/toxic mine drainage and clarifying that those provisions apply to all long-term discharges of pollutants, not just pollutants for which effluent limitations exist.

- *Stream Definitions.* Updating the definitions of perennial, intermittent, and ephemeral streams.

#### IV. What are the possible alternatives?

We are in the process of developing alternatives for the proposed Federal action. Comments received in response to this notice will assist us in that process.

We will prepare a draft EIS after we complete the initial stages of scoping and identify which rulemaking alternatives will be analyzed in detail.

Following release of the draft EIS, we anticipate publishing a notice of proposed rulemaking.

Listed below are some of the possible alternatives, in addition to the No Action Alternative, that we are considering for each element of the proposed action:

- *Additional Requirements for Collection of Baseline Data.* Add requirements that permit applicants provide more specific and comprehensive baseline data addressing factors such as: (1) Duration of sampling needed to demonstrate seasonal variations in hydrology, e.g., 12 months, 24 months, or other duration; (2) Frequency of sampling for various types of baseline data, e.g., monthly, quarterly, annually; (3) Location of sampling, e.g., downstream, upstream, off-permit; (4) Aquatic biological communities subject to sampling; and (5) Chemical, physical, and hydrologic parameters to be sampled.

- *Definition of Material Damage to Hydrologic Balance.* Alternatives for defining the term "material damage" include: (1) Any impairment of a physical, chemical, or biological function of the hydrologic balance; (2) Any quantifiable adverse impact on the quality or quantity of surface or groundwater or the biological condition of a stream that would preclude or diminish use of the water or stream; (3) Any ongoing violation of water quality standards; and (4) Differentiating between short term vs. long term impairment.

- *Mining Activities In or Near Streams.* Alternatives for regulating mining activities in, through, or near streams include: (1) Prohibiting disturbance of streams with a biological community unless the permit applicant demonstrates the ability to restore stream form and function; (2) Prohibiting activities and disturbances in all streams with a biological community, irrespective of the ability of the permit applicant to restore form and function; (3) Prohibiting activities in or near streams; (4) Reinstating the 1983 stream buffer zone rule; and (5) Addressing whether fills should be included or excluded in these restrictions.

- *Additional Monitoring Requirements.* Permittees would be required to provide additional monitoring data based on the following considerations: (1) Duration of monitoring, e.g., through final bond release; (2) Frequency of sampling, e.g., continuous, weekly, monthly, quarterly, annually; (3) Location of sampling, e.g., downstream, upstream, off-permit; (4) Biological components subject to

sampling; (5) Sampling parameters, e.g., chemical, physical, hydrologic; and (6) Regular review of monitoring data by regulatory authority, e.g., annually, at mid-term review, at permit renewal.

- *Corrective Action Thresholds.*

Alternatives for determining the circumstances under which the permittee must take corrective action to prevent material damage to the hydrologic balance include: (1) Developing numerical water quality thresholds based on biological criteria; (2) Developing action thresholds based on water quality trend analysis; and (3) Defining key parameters for which thresholds will be established.

- *Landforming and Fill Optimization.*

Alternatives for evaluating land configuration and handling of excess spoils include: (1) Restoring landforms including slope, aspect, and elevation on both backfilled areas and excess spoil fills; (2) Allowing postmining elevations to exceed premining elevations when necessary to restore premining topographic features; (3) Revising requirements to minimize creation of excess spoil by maximizing the amount of spoil returned to the mined-out area; (4) Revising requirements to minimize excess spoil footprints; and (5) Banning excess fill placement in streams.

- *Approximate Original Contour Exceptions.* Alternatives under consideration include: (1) Modifying requirements to ensure that exceptions from approximate original contour restoration requirements do not result in additional damage to streams with a biological community; (2) Prohibiting "mountain top" mining (would require a statutory change); and (3) Adding requirements to ensure approved postmining land uses are achievable and feasible.

- *Reforestation.* Alternatives under consideration include: (1) Requiring reforestation of mined lands to premining diversity and stocking or some percentage of premining diversity and stocking; (2) Requiring reforestation of all mined lands capable of supporting forested land uses; (3) Requiring reforestation of mined lands to the extent compatible with postmining land use; (4) Requiring reforestation and revegetation of mined lands with native species; and (5) Minimizing forest fragmentation.

- *Permit Coordination.* A provision under consideration includes: (1) Enhancing coordination of SMCRA and Clean Water Act regulatory programs consistent with the 2009 Memorandum of Understanding among DOI, Army Corps of Engineers, and EPA; and (2) Standardizing data collection and

<sup>3</sup> See the document entitled "Acid Mine Drainage Policy" at [http://www.osmre.gov/guidance/significant\\_guidance.shtm](http://www.osmre.gov/guidance/significant_guidance.shtm).

management to enhance sharing among regulatory agencies and the public.

- *Long-Term Discharges of Pollutants.*

A provision under consideration includes: (1) Incorporating our March 31, 1997 policy statement (see footnote 3 above) into SMCRA regulations and clarifying that those provisions apply to all long-term discharges of pollutants.

- *Stream Definitions.* Alternatives under consideration include: (1) Updating the current definitions of perennial, intermittent, and ephemeral streams to include biological criteria; (2) Retaining the current definitions with the 1-square mile criterion for intermittent streams removed; (3) Adopting the stream definitions used by the Corps of Engineers—"waters of the United States"—in place of stream definitions; and (4) Using a flow-based (hydraulic) definition with no reference to biological condition.

#### V. How do I submit comments?

Consistent with 43 CFR 46.235, we invite all interested persons, organizations, and agencies to provide comments, suggestions, and any other information relevant to the scope of the EIS, the scope of the proposed Federal action, potential alternatives for the proposed Federal action, and studies and impacts that the EIS should address. See **ADDRESSES** for the methods by which we will accept comments.

We also anticipate conducting several open houses in various locations in coal producing regions of the U.S. in July 2010. The following locations are under consideration: Morgantown, WV; Beckley, WV; Hazard, KY; Birmingham, AL; Evansville, IN; Carbondale, IL; Fairfield, TX; Farmington, NM; and Gillette, WY. The open houses will provide an opportunity for the public to review information and provide oral and written comments regarding the scope of the issues to be addressed and identification of the significant issues related to the proposed action and possible alternatives. Information regarding the specific dates and locations will be posted on OSM's Web site, <http://www.osmre.gov>, and in local news media.

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 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. Comments that we receive after the close of the comment period (see

**DATES**) or sent to an address other than those listed in **ADDRESSES** may not be considered.

If you previously submitted comments in response to the ANPR or the April 30, 2010 Notice of Intent, you do not need to resubmit them. We will consider all ANPR and April 30th comments as part of this EIS scoping process.

#### VI. How do I request to participate as a cooperating agency?

Consistent with 43 CFR 46.225, we, the lead agency, invite eligible Federal, state, tribal, and local governmental entities to indicate whether they have an interest in being a cooperating agency in the preparation of the EIS. Qualified entities are those with jurisdiction by law, as defined in 40 CFR 1508.15, or special expertise, as defined in 40 CFR 1508.26. Potential cooperating agencies should consider their authority and capacity to assume the responsibilities of a cooperating agency and make the necessary resources available in a timely manner, as discussed in the document entitled "Factors for Determining Cooperating Agency Status,"<sup>4</sup> which is Attachment 1 to the Council on Environmental Quality's January 30, 2002, Memorandum for the Heads of Federal Agencies: Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act. We will not be able to provide financial assistance to cooperating agencies. If you previously indicated that you were interested in being a cooperating agency, no further action is required.

If you have an interest in participating as a cooperating agency, please contact the person listed in **FOR FURTHER INFORMATION CONTACT** and identify those aspects of the EIS process in which you are interested in participating. The regulations at 43 CFR 46.230 and Items 4 through 6 in the document discussed in the preceding paragraph list the activities in which cooperating agencies may wish to participate.

Dated: June 10, 2010.

#### Sterling Rideout,

Assistant Director, Program Support.

[FR Doc. 2010-14727 Filed 6-17-10; 8:45 am]

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<sup>4</sup> See <http://ceq.hss.doe.gov/nepa/regs/cooperating/cooperatingagencyemofactors.html>.

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2008-0871; FRL-9164-6]

### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Transportation Conformity Regulations

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the State Implementation Plan (SIP) revision submitted by Maryland for Transportation Conformity Regulations. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by July 19, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2008-0871 by one of the following methods:

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

B. *E-mail:* [fernandez.cristina@epa.gov](mailto:fernandez.cristina@epa.gov).

C. *Mail:* EPA-R03-OAR-2008-0871, Cristina Fernandez, Associate Director, Office of Air Planning Programs, 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-2008-0871. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at