

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**29 CFR Part 2700****Simplified Proceedings**

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Mine Safety and Health Review Commission (the "Commission") is an independent adjudicatory agency that provides trials and appellate review of cases arising under the Federal Mine Safety and Health Act of 1977 (the "Mine Act"). Trials are held before the Commission's Administrative Law Judges and appellate review is provided by a five-member Review Commission appointed by the President and confirmed by the Senate. The Commission is proposing a rule to simplify the procedures for handling certain civil penalty proceedings.

DATES: Written and electronic comments must be submitted on or before June 21, 2010.

ADDRESSES: Written comments should be mailed to Michael A. McCord, General Counsel, Office of the General Counsel, Federal Mine Safety and Health Review Commission, 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001, or sent via facsimile to 202-434-9944. Persons mailing written comments shall provide an original and three copies of their comments. Electronic comments should state "Comments on Simplified Proceedings" in the subject line and be sent to mmccord@fmshr.gov.

FOR FURTHER INFORMATION CONTACT: Michael A. McCord, General Counsel, Office of the General Counsel, 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001; telephone 202-434-9935; fax 202-434-9944.

SUPPLEMENTARY INFORMATION:**Background**

Sections 105(a) and (d) of the Mine Act, 30 U.S.C. 815(a) and (d), set forth dual filing procedures, which are reflected in subparts B and C of the Commission's Procedural Rules, 29 CFR part 2700. Under the dual filing procedures, a party may contest a citation or order before the Secretary has proposed a civil penalty for the alleged violation described in the citation or order. The procedures for this type of proceeding, referred to by the Commission as a "contest proceeding," are found in subpart B. In addition, a party may contest a civil penalty after a proposed penalty assessment has been

issued. The procedures for this type of proceeding, referred to by the Commission as a "civil penalty proceeding," are found in subpart C.

Since 2006, the number of new cases filed with the Commission has dramatically increased. From 2000 through 2005, an average of approximately 2300 cases were filed with the Commission per year. In 2006 and 2007, between approximately 3000 and 4000 new cases were filed each year, while in 2008 and 2009, approximately 9200 cases were filed each year.

In order to deal with its burgeoning caseload, the Commission is considering various ways to streamline its processing of cases. One approach the Commission has explored is to simplify and streamline the procedures for handling certain civil penalty proceedings. The Commission anticipates that such simplified proceedings will likely reduce the amount of time between the docketing and disposition of a case. The Commission also anticipates that simplified proceedings will result in the expenditure of less time and resources by the parties who practice before the Commission.

The major differences between the simplified procedures set forth in the proposed rules ("Simplified Proceedings") and conventional procedures are that answers to petitions for assessment of penalty would not be required; motions would be eliminated to the greatest extent practicable; early discussions among the parties and the Commission Administrative Law Judge ("Judge") would be required to narrow and define the disputes between parties; parties would be required to disclose certain materials early in the proceedings; discovery would not be permitted except as ordered by the Judge; interlocutory appeals would not be permitted; and post-hearing briefs would not be allowed, except as ordered by the Judge. Although the administrative process would be streamlined, hearings would remain full due process hearings as they are under conventional procedures.

Eligibility

The Commission is proposing various characteristics to describe which cases might be eligible for Simplified Proceedings. Under the proposed rule, cases designated for Simplified Proceedings by the Chief Judge or the Judge's designee would not involve complex issues of law or fact and would generally include one or more of the following characteristics: (1) Limited

number of citations; (2) an aggregate proposed penalty of not more than \$15,000 per docket and not more than \$50,000 per proceeding; (3) no citation or order issued under sections 104(b), 104(d), 104(e), 105(c), 107(a), 110(b), 110(c), or 111 of the Mine Act; (4) not involving a fatality; or (5) a hearing that is expected to take not more than one day.

The Commission encountered a practical problem in attempting to describe a dollar limit for cases eligible for Simplified Proceedings. In considering which cases are appropriate for Simplified Proceedings, it would be useful for the Commission to consider, at an early stage, all of the contested civil penalties that might be at issue in a single hearing. However, the Commission does not currently have access to information that would allow it to group contested civil penalties in such a fashion.

Under its current practice, the Department of Labor's Mine Safety and Health Administration ("MSHA") assesses a proposed civil penalty for each violation alleged in a citation after the citation has been terminated or 30 days after the citation was issued, whichever is sooner. Each mine is on a 30-day billing cycle. On the 30th day in the billing cycle, all violations that are ready to be assessed are included on a proposed penalty assessment form that is sent to the operator. Thus, a proposed penalty assessment form may include proposed penalties from more than one inspection, and proposed penalties from one inspection may be included on more than one proposed penalty assessment form.

The operator must indicate which penalties it wishes to contest on the proposed assessment form and return the form to MSHA within 30 days of receipt. The Secretary then files a petition for assessment of civil penalty with the Commission and attaches a copy of the proposed assessment form to the petition. The petition for assessment of civil penalty, with attached proposed penalty assessment, is typically the first document filed in a civil penalty proceeding.

The Commission plans to review each petition and proposed penalty assessment in its consideration of whether a case is appropriate for Simplified Proceedings. Under MSHA's current practice for grouping citations and proposed penalties in a proposed penalty assessment based upon a 30-day billing cycle, the Commission may not have a complete view of all of the contested penalties that may be relevant in a particular hearing.

The Commission requests suggestions regarding criteria that might be used to better group proposed penalties and the underlying citations and orders on a proposed penalty assessment form. In addition, the Commission seeks suggestions regarding an appropriate dollar demarcation for cases eligible for Simplified Proceedings, such as whether there should be a dollar limit per citation and/or a limit on the number of penalties that may be at issue in a case, and the amount that should constitute the dollar limit.

Designation of Case for Simplified Proceedings

The Commission proposes that a civil penalty proceeding would be designated for Simplified Proceedings by the Chief Judge or the Judge's designee. After a case has been designated for Simplified Proceedings under the proposed rule, the Commission would issue a notice of designation to the parties, which would also provide certain information, such as contact information for the Judge assigned to the case, including the Judge's e-mail address. In addition, parties would be required to file a notice of appearance providing specific contact information for the counsel or representative acting on behalf of the party, if that information has not already been provided. The operator would not be required to file an answer to the petition for assessment of civil penalty.

Even if a case has not been designated for Simplified Proceedings by the Chief Judge or the Judge's designee, under the proposed rule, any party would have the opportunity to request that a case be designated. The Commission proposes that the request would need to be in writing and state whether the request is opposed. The request should also address the characteristics specified in the rule that make the case appropriate for designation. If a request for designation is granted, under the proposed rule, the parties would be required to file and serve notices of appearance providing specific contact information unless such contact information had already been provided. Under the proposed rule, if a party requests Simplified Proceedings, the deadline for filing an answer to a petition for assessment of penalty would be suspended. If a request is denied, the time for filing an answer would begin to run upon issuance of the Judge's order denying the request.

Discontinuance of Simplified Proceedings

Under the proposed rules, if it becomes apparent at any time that a case is not appropriate for Simplified

Proceedings, the assigned Judge could discontinue Simplified Proceedings upon the Judge's own motion or upon the motion of any party. A party would have the opportunity to move to discontinue the Simplified Proceedings at any time during the proceedings but no later than 30 days before the scheduled hearing. The moving party would be required to confer with the other parties and state in the motion if any other party opposes or does not oppose the motion. Parties opposing the motion would have eight business days after service of the motion to file an opposition. The Commission has proposed that if Simplified Proceedings were discontinued, the Judge would issue such orders as are necessary for an orderly continuation under conventional rules.

Pre-Hearing Exchange of Information

Under Simplified Proceedings, the Commission proposes that discovery would not be permitted except as ordered by the Judge. Rather than requiring the disclosure of documents and materials through discovery, the Commission has proposed a more expeditious means for disclosure through the mandatory exchange of documents and materials and through a pre-hearing conference. More specifically, the Commission proposes that within 30 calendar days after a case has been designated for Simplified Proceedings, each party would provide to all other parties copies of all documents, electronically stored information and tangible things that the disclosing party has and would use to support its claims or defenses. Materials required to be disclosed under the proposed rule would include, but would not be limited to, inspection notes, citation documentation, narratives, photos, diagrams, preshift and onshift reports, training documents, mine maps and witness statements (subject to the provisions of 29 CFR 2700.61). Under the proposed rule, as early as practicable after the parties received these materials, the Judge would order and conduct a pre-hearing conference. At the pre-hearing conference, the parties would discuss the following: settlement of the case; the narrowing of issues; an agreed statement of issues and facts; defenses; witnesses and exhibits; motions; and any other pertinent matter. At the conclusion of the conference, the Judge would issue an order setting forth any agreements reached by the parties and would specify in the order the issues to be addressed by the parties at the hearing.

Hearing

The Commission has proposed that as soon as practicable after the conclusion of the pre-hearing conference, the Judge would hold a hearing on any issue that remained in dispute. The hearing would be a full due process hearing. Each party would present oral argument at the close of the hearing, and post-hearing briefs would not be permitted except by order of the Judge. The Judge would issue a written decision that constitutes the final disposition of the proceedings within 60 calendar days after the hearing. If the Judge announced a decision orally from the bench, it would be reduced to writing within 60 calendar days after the hearing.

Miscellaneous

The Commission has proposed conforming changes to Rule 5(c). The proposed changes to Rule 5(c) conform the contact information required in all proceedings with the contact information that would be required under Simplified Proceedings.

Notice and Public Procedure

Although notice-and-comment rulemaking requirements under the Administrative Procedure Act ("APA") do not apply to rules of agency procedure (see 5 U.S.C. 553(b)(3)(A)), the Commission invites members of the interested public to submit comments on these proposed rules in order to assist the Commission in its deliberations regarding the adoption of final rules. The Commission will accept public comments until June 21, 2010.

The Commission is an independent regulatory agency and, as such, is not subject to the requirements of E.O. 12866, E.O. 13132, or the Unfunded Mandates Reform Act, 2 U.S.C. 1501 *et seq.*

The Commission has determined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule would not have a significant economic impact on a substantial number of small entities. Therefore, a Regulatory Flexibility Statement and Analysis has not been prepared.

The Commission has determined that the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) does not apply because this rule does not contain any information collection requirements that require the approval of the OMB.

The Commission has determined that the Congressional Review Act, 5 U.S.C. 801, is not applicable here because, pursuant to 5 U.S.C. 804(3)(C), this rule "does not substantially affect the rights or obligations of non-agency parties."

List of Subjects in 29 CFR Part 2700

Administrative practice and procedure, Mine safety and health, Penalties, Whistleblowing.

For the reasons stated in the preamble, the Federal Mine Safety and Health Review Commission proposes to amend 29 CFR part 2700 as follows:

PART 2700—PROCEDURAL RULES

1. The authority citation for part 2700 continues to read as follows:

Authority: 30 U.S.C. 815, 820, 823, and 876.

2. Section 2700.5 is amended by revising paragraph (c) to read as follows:

§ 2700.5 General requirements for pleadings and other documents; status or informational requests.

* * * * *

(c) *Necessary information.* All documents shall be legible and shall clearly identify on the cover page the filing party by name. All documents shall be dated and shall include the assigned docket number, page numbers, and the filing person's address, business telephone number, cell telephone number if available, fax number if available, and e-mail address if available. Written notice of any change in contact information shall be given promptly to the Commission or the Judge and all other parties.

3. A new subpart J is added to read as follows:

Subpart J—Simplified Proceedings

Sec.

2700.100 Purpose.

2700.101 Eligibility for Simplified Proceedings.

2700.102 Commission Commencement of Simplified Proceedings.

2700.103 Party Request for Simplified Proceedings.

2700.104 Discontinuance of Simplified Proceedings.

2700.105 Disclosure of Information by the Parties.

2700.106 Pre-hearing conference.

2700.107 Discovery.

2700.108 Hearing.

2700.110 Application.

Subpart J—Simplified Proceedings**§ 2700.100 Purpose.**

(a) The purpose of this Simplified Proceedings subpart is to provide simplified procedures for resolving civil penalty contests under the Federal Mine Safety and Health Act of 1977, so that parties before the Commission may reduce the time and expense of litigation while being assured due process and a hearing that meets the requirements of the Administrative Procedure Act, 5 U.S.C. 554. These

procedural rules will be applied to accomplish this purpose.

(b) Procedures under this subpart are simplified in a number of ways. The major differences between these procedures and those that would otherwise apply in subparts A, C, G, H, and I of the Commission's rules of procedures are as follows.

(1) Answers to petitions for assessment of penalty are not required.

(2) Motions are eliminated to the greatest extent practicable.

(3) Early discussions among the parties and the Administrative Law Judge are required to narrow and define the disputes between the parties.

(4) The parties are required to provide certain materials early in the proceedings.

(5) Discovery is not permitted except as ordered by the Administrative Law Judge.

(6) Interlocutory appeals are not permitted.

(7) The administrative process is streamlined, but hearings will be full due process hearings. The parties will argue their case orally before the Judge at the conclusion of the hearing instead of filing briefs. In many instances, the Judge will render a decision from the bench.

§ 2700.101 Eligibility for Simplified Proceedings.

Cases designated for Simplified Proceedings will not involve complex issues of law or fact and will generally include one or more of the following characteristics:

(a) Limited number of citations to be determined by the Chief Judge.

(b) An aggregate proposed penalty of not more than \$15,000 per docket and not more than \$50,000 per proceeding.

(c) No citation or order issued under sections 104(b), 104(d), 104(e), 105(c), 107(a), 110(b), 110(c), or 111 of the Mine Act.

(d) Not involving a fatality, or

(e) A hearing that is expected to take not more than one day.

§ 2700.102 Commission Commencement of Simplified Proceedings.

(a) *Designation.* Upon receipt of a petition for assessment of penalty, the Chief Administrative Law Judge, or designee, has the authority to designate an appropriate case for Simplified Proceedings.

(b) *Notice of designation.* After a case has been designated for Simplified Proceedings, the Commission will issue a Notice of Designation for Simplified Proceedings. The Notice will inform parties that the case has been designated for Simplified Proceedings, state the

name and contact information for the Commission Administrative Law Judge assigned to the case, provide instructions for filing a notice of appearance in the Simplified Proceedings, and state that the operator need not file an answer to the petition for assessment of penalty. The Commission will send the notice of designation to the parties' addresses listed on the petition for assessment of penalty.

(c) *Notice of appearance.* Unless the contact information described in this paragraph has already been provided to the Judge, within 15 calendar days after receiving a notice of designation, the parties shall file notices of appearance with the assigned Judge. Each notice of appearance shall provide the following information for the counsel or representative acting on behalf of the party: name, address, business telephone number, cell telephone number if available, fax number if available, and e-mail address if available. Notices of appearance shall be served on all parties in accordance with the provisions of § 2700.7.

(d) *Time for filing an answer under Subpart C.* If a case has been designated for Simplified Proceedings, the deadline for filing an answer under § 2700.29 is suspended.

§ 2700.103 Party Request for Simplified Proceedings.

(a) *Party request.* Any party may request that a case be designated for Simplified Proceedings. The request must be in writing and should address the characteristics specified in § 2700.101. The request must be filed with the Commission in accordance with the provisions of § 2700.5 and served on all parties in accordance with the provisions of § 2700.7. The requesting party shall confer or make reasonable efforts to confer with the other parties and shall state in the request if any other party opposes or does not oppose the request. Parties opposing the request shall have eight business days after service of the motion to file an opposition.

(b) *Judge's ruling on request.* The Chief Administrative Law Judge or the Judge assigned to the case may grant a party's request and designate a case for Simplified Proceedings at the Judge's discretion.

(c) *Notice of appearance.* Unless the contact information described in this paragraph has already been provided to the Judge, within 15 calendar days after receiving an order granting a request for Simplified Proceedings, the parties shall file notices of appearance with the Judge. Each notice of appearance shall

provide the following information for the counsel or representative acting on behalf of the party: name, address, business telephone number, cell telephone number if available, fax number if available, and e-mail address if available. Notices of appearance shall be served on all parties in accordance with the provisions of § 2700.7.

(d) *Time for filing an answer under Subpart C.* If a party has requested Simplified Proceedings, the deadline for filing an answer under § 2700.29 is suspended. If a request for Simplified Proceedings is denied, the period for filing an answer will begin to run upon issuance of the Judge's order denying Simplified Proceedings.

§ 2700.104 Discontinuance of Simplified Proceedings.

(a) *Procedure.* If it becomes apparent at any time that a case is not appropriate for Simplified Proceedings, the Judge assigned to the case may, upon motion by any party or upon the Judge's own motion, discontinue Simplified Proceedings and order the case to continue under conventional rules.

(b) *Party motion.* At any time during the proceedings but no later than 30 days before the scheduled hearing, any party may move that Simplified Proceedings be discontinued and that the matter continue under conventional procedures. A motion to discontinue must explain why the case is inappropriate for Simplified Proceedings. The moving party shall confer or make reasonable efforts to confer with the other parties and shall state in the motion if any other party opposes or does not oppose the motion. Parties opposing the motion shall have eight business days after service of the motion to file an opposition.

(c) *Ruling.* If Simplified Proceedings are discontinued, the Judge may issue such orders as are necessary for an orderly continuation under conventional rules.

§ 2700.105 Disclosure of Information by the Parties.

Within 30 calendar days after a case has been designated for Simplified Proceedings, each party shall provide to all other parties copies of all documents, electronically stored information and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses. Any material or object that cannot be copied, or the copying of which would be unduly burdensome, shall be described and its location specified. Materials required to be disclosed include, but are not limited to, inspection notes, citation

documentation, narratives, photos, diagrams, preshift and onshift reports, training documents, mine maps, witness statements (subject to the provisions of 29 CFR 2700.61), and written opinions of expert witnesses, if any. If any items are withheld from disclosure on grounds of privilege, the disclosing party shall provide a log describing each item and stating the reason(s) why it was not produced.

§ 2700.106 Pre-hearing conference.

(a) *When held.* As early as practicable after the parties have received the materials set forth in § 2700.105, the presiding Judge will order and conduct a pre-hearing conference. At the discretion of the Judge, the pre-hearing conference may be held in person, by telephone, or electronic means.

(b) *Content.* At the pre-hearing conference, the parties will discuss the following: settlement of the case; the narrowing of issues; an agreed statement of issues and facts; defenses; witnesses and exhibits; motions; and any other pertinent matter. Within a time determined by the Judge during the pre-hearing conference, the parties must provide each other with documents or materials intended for submission as exhibits at the hearing that have not already been provided in accordance with the provisions of § 2700.105. At the conclusion of the conference, the Judge will issue an order setting forth any agreements reached by the parties and will specify in the order the issues to be addressed by the parties at hearing.

§ 2700.107 Discovery.

Discovery will only be allowed under the conditions and time limits set by the Judge.

§ 2700.108 Hearing.

(a) *Procedures.* As soon as practicable after the conclusion of the pre-hearing conference, the Judge will hold a hearing on any issue that remains in dispute. The hearing will be in accordance with subpart G of these rules, except for §§ 2700.56, 2700.57, 2700.58, 2700.59, 2700.65, and 2700.67, which will not apply.

(b) *Agreements.* At the beginning of the hearing, the Judge will enter into the record all agreements reached by the parties as well as defenses raised during the pre-hearing conference. The parties and the Judge then will attempt to resolve or narrow the remaining issues. The Judge will enter into the record any further agreements reached by the parties.

(c) *Evidence.* The Judge will receive oral, physical, or documentary evidence that is relevant, and not unduly

repetitious or cumulative. Testimony will be given under oath or affirmation. The parties are reminded that the Federal Rules of Evidence do not apply in Commission proceedings. Any evidence not disclosed as required by sections 2700.105 and 2700.106(b), including the testimony of witnesses not identified pursuant to section 2700.106(b), shall be inadmissible at the hearing, except where extraordinary circumstances are established by the party seeking to offer such evidence.

(d) *Court reporter.* A court reporter will be present at the hearing. An official verbatim transcript of the hearing will be prepared and filed with the Judge.

(e) *Oral and written argument.* Each party may present oral argument at the close of the hearing. Post-hearing briefs will not be allowed except by order of the Judge.

(f) *Judge's decision.* The Judge shall make a decision that constitutes the final disposition of the proceedings within 60 calendar days after the hearing. The decision shall be in writing and shall include all findings of fact and conclusions of law; the reasons or bases for them on all the material issues of fact, law, or discretion presented by the record; and an order. If a decision is announced orally from the bench, it shall be reduced to writing within 60 calendar days after the hearing. An order by a Judge approving a settlement proposal is a decision of the Judge.

§ 2700.109 Review of Judge's decision.

After the issuance of the Judge's written decision, any party may petition the Commission for review of the Judge's written decision as provided for in subpart H.

§ 2700.110 Application.

The rules in this subpart will govern proceedings before a Judge in a case designated for Simplified Proceedings under §§ 2700.102 and 2700.103. The provisions of subparts A and I apply to Simplified Proceedings when consistent with these rules in subpart J. The provisions of subpart C apply to Simplified Proceedings except for § 2700.29, which does not apply. The provisions of subpart G apply to Simplified Proceedings except for §§ 2700.56, 2700.57, 2700.58, 2700.59, 2700.65, and 2700.67, which do not apply. The provisions of subpart H apply to Simplified Proceedings except for § 2700.76, which does not apply. The provisions of subparts B, D, E and F do not apply to Simplified Proceedings.

Dated: May 11, 2010.

Mary Lu Jordan,

Chairman, Federal Mine Safety and Health Review Commission.

[FR Doc. 2010-11739 Filed 5-19-10; 8:45 am]

BILLING CODE 6735-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 63

[EPA-HQ-OAR-2010-0239; FRL-9143-5]

RIN 2060-AP48

National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category and Addition to Source Category List for Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: On April 28, 2010, EPA published a proposed rule for mercury emissions from the gold mine ore processing and production area source category. We are announcing an extension of the public comment period to June 28, 2010.

DATES: Submit comments on or before June 28, 2010.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2010-0239, by one of the following methods:

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

- *E-mail:* a-and-r-docket@epa.gov.

- *Fax:* (202) 566-1741.

- *Mail:* Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies. EPA requests a separate copy also be sent to the contact person identified below (*see FOR FURTHER INFORMATION CONTACT*). In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Desk Officer for EPA, 725 17th St. NW., Washington, DC 20503.

- *Hand Delivery:* Air and Radiation Docket and Information Center, U.S. EPA, Room B102, 1301 Constitution Avenue, NW., Washington, DC. 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-HQ-OAR-2010-0239. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at <http://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 <http://www.regulations.gov> or e-mail. The <http://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 e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail 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. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hardcopy at the Air and Radiation Docket EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT:

Mr. Chuck French, Metals and Minerals Group, Sectors Policies and Programs Division (D243-02), U.S. EPA, Research Triangle Park, North Carolina 27711; telephone number (919) 541-7912; facsimile number (919) 541-3207; electronic mail address french.chuck@epa.gov.

SUPPLEMENTARY INFORMATION: This document extends the public comment period established in the **Federal Register** issued on April 28, 2010, when EPA published the proposed rule (75 FR 22470). Several parties requested that EPA extend the comment period. EPA has granted this request and is extending the comment period to June 28, 2010. To submit comments, or access the official public docket, please follow the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section of the April 28, 2010 (75 FR 22470) **Federal Register** document. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects in 40 CFR Parts 9 and 63

Environmental protection, Air pollution control, Hazardous substances, Incorporations by reference, Reporting and recordkeeping requirements.

Dated: May 14, 2010.

Gina McCarthy,

Assistant Administrator.

[FR Doc. 2010-12099 Filed 5-19-10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[EPA-HQ-OAR-2003-0064, FRL-9151-3]

RIN 2060-AP80

Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation

Correction

Proposed Rule document 2010-11578 was inadvertently published in the Rules and Regulations section of the issue of May 14, 2010, beginning on page 27191. It should have appeared in the Proposed Rules section.

[FR Doc. C1-2010-11578 Filed 5-19-10; 8:45 am]

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