6. What Impact Will Changing the Interpretation Have on Opportunities for Youth?

Responding to the question of whether removing age limits would diminish training opportunities for youth, several commenters favoring a change in position note that Congress has created major training programs designed specifically for youth.[4] These commenters state that Congress has set aside over a billion dollars to fund these programs. For this reason, these proponents conclude that access to apprenticeship programs should be available to workers of all ages. One commenter contends that removal of age limitations would not diminish training opportunities for youth, but would result in an inter-generational approach to apprenticeship that promotes greater harmony in the workplace.

An opponent of the proposed rule argues that apprenticeship programs should be reserved for youth, citing high unemployment rates for young people and arguing that they are in great need of educational and employment opportunities. This commenter states that youth should not have to compete with older persons who might otherwise have an advantage over them solely by reason of their having lived longer.

While the Commission believes that apprenticeship programs continue to be an important source of training for young people, it also takes the position that apprenticeship programs can operate successfully by utilizing the talents of individuals of all ages. The Commission was not provided with any information demonstrating that youth have been negatively affected in any of the states that prohibit age limits in apprenticeship programs. Moreover, some apprenticeship programs with a desire to assist specific disadvantaged groups may be able to do so under the existing exemption from the ADEA found at 29 CFR 1627.16. In the alternative, such programs could seek an exemption under the procedures set out at 29 CFR 1627.15.

7. What is the Relationship of Apprenticeship Programs to Employment and Education?

A number of those who favor the proposed rule argue that apprenticeship programs are more in the nature of employment than education. Some of those opposed to the proposed rule contend that the contrary is true. These comments support the position, which has been previously taken by the Commission, that, in fact, apprenticeship programs have both employment and education components. However, the Commission is also of the view that the employment and education aspects of apprenticeship programs are so inextricably interwoven as to mandate coverage under the Act. As most of the commenters who address this question note, the indicia of an employer/employee relationship are almost always present. For example, apprentices frequently perform functions for the employer that the employer would otherwise have to pay someone else to perform; apprentices are always or almost always paid a wage; many apprenticeship programs seek certification from DOL that permits them to pay apprentices less than the prevailing rate for journeymen employees on certain jobs.

Findings

After careful review of the available data, including the comments discussed above, the EEOC has determined that employers and employees alike will be better served by an interpretation of the ADEA which covers apprenticeship programs. Therefore, the Commission is rescinding its current interpretation and issuing a new rule as set forth below.

Executive Order 12866, Regulatory Planning and Review

The Equal Employment Opportunity Commission has determined under Executive Order 12866 that this rule is a significant regulatory action, however, it will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, or local or tribal governments or communities. The rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

The rule does not contain any information collection or record keeping requirements as defined in the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Similarly, the Commission certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this rule will not result in a significant economic impact on a substantial number of small entities. For this reason, a regulatory flexibility analysis is not required.

In addition, in accordance with Executive Order 12067, the Commission has solicited the views of affected Federal agencies.

The final rule appears below.

List of Subjects in 29 CFR Part 1625

Advertising, Age, Employee benefit plans, Equal employment opportunity, Retirement.

Signed at Washington, DC this 2nd day of April 1996.

Gilbert F. Casellas,

Chairman.

Adoption of the Amendment

Accordingly, chapter XIV of title 29 of the Code of Federal Regulations is amended as follows:

PART 1625—AGE DISCRIMINATION IN EMPLOYMENT ACT

1. The authority citation for part 1625 continues to read as follows:

Authority: 81 Stat. 602; 29 U.S.C. 621, 5 U.S.C. 301, Secretary's Order No. 10–68; Secretary's Order No. 11–68; sec. 12, 29 U.S.C. 631, Pub. L. 99–592, 100 Stat. 3342; sec. 2, Reorg. Plan No. 1 of 1978, 43 FR 19807.

§ 1625.13 [Removed]

2. In Part 1625, § 1625.13 is removed.

Subpart B—Substantive Regulations

3. In Part 1625, § 1625.21 is added to Subpart B—Substantive Regulations to read as follows:

§ 1625.21 Apprenticeship programs.

All apprenticeship programs, including those apprenticeship programs created or maintained by joint labor-management organizations, are subject to the prohibitions of sec. 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 623. Age limitations in apprenticeship programs are valid only if excepted under sec. 4(f)(1) of the Act, 29 U.S.C. 623(f)(1), or exempted by the Commission under sec. 9 of the Act, 29 U.S.C. 628, in accordance with the procedures set forth in 29 CFR 1627.15.

[FR Doc. 96–8513 Filed 4–5–96; 8:45 am]

BILLING CODE 6570–01–P

[4] Commenters referenced such programs as the Carl D. Perkins Vocational and Applied Technology Act, 20 U.S.C. 2301 *et seq.* and the Job Training Partnership Act (JTPA) as proof of the availability of opportunities for youth.

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN–132–FOR; State Program Amendment No. 95–10]

Indiana Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Indiana regulatory program (hereinafter referred to as the ''Indiana program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of the recodification of the Indiana Surface Coal Mining and Reclamation Act, and it represents the Indiana Legislative Services Agency's effort to streamline and simplify Indiana natural resources law placing all such provisions in Title 14.

EFFECTIVE DATE: April 8, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana 46204–1521, Telephone (317) 226–6700.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program
II. Submission 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 Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. Background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the July 26, 1982, Federal Register (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 914.10, 914.15, and 914.16.

II. Submission of the Proposed Amendment

By letter dated September 11, 1995 (Administrative Record No. IND–1508), Indiana submitted a proposed amendment to its program pursuant to SMCRA. Indiana submitted the proposed amendment at its own initiative. Indiana proposed recodification of the Indiana Surface Coal Mining and Reclamation Act (ISCMRA), Title 13 of the Indiana Code (IC) 13–4.1, as enacted by the Indiana General Assembly under 1995 House Enrolled Act 1047 (HEA 1047). HEA 1047 was signed into law by Governor Evan Bayh on May 10, 1995. HEA repealed IC 13–4.1 and recodified its substantive provisions at Title 14 of the Indiana Code (IC) 14–34. Editorial changes, including minor structural and grammatical changes, were made throughout the recodified statutes. Indiana, also, submitted IC 14–8 which contains several definitional sections, including some previously contained in IC 13–4.1, and savings provisions which state that HEA 1047 is not intended to enact a substantive change to pre-existing law, nor affect any rules promulgated, or rights or liabilities accrued, under the authority of prior law. There were no substantive revisions proposed by Indiana.

OSM announced receipt of the proposed amendment in the January 22, 1996, Federal Register (61 FR 1546), and in the same document 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 February 21, 1996.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, is the Director's finding concerning the proposed amendment.

Indiana's proposed amendment concerns the recodification of the Indiana Surface Coal Mining and Reclamation Act (SCMRA), Title 13 of the Indiana Code (IC) 13–4.1, as enacted by the Indiana General Assembly under 1995 House Enrolled Act 1047 (HEA 1047). HEA 1047 was signed into law by Governor Evan Bayh on May 10, 1995. HEA repealed IC 13–4.1 and recodified its substantive provisions at Title 14 of the Indiana Code (IC) 14–8 and 14–34. Indiana's proposed recodification of its statutes is nonsubstantive in nature, and the Director finds that the recodification does not render its statutes less stringent than SMCRA.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received, and because no one requested an opportunity to speak at a public hearing, no hearing was held.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Indiana program. Responding by letter, the Natural Resources Conservation Service stated it had reviewed the proposed amendment and had no comments (Administrative Record No. IND–1516). No other comments were received.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Indiana proposed to make in this amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. Ind–1513). It did not respond to OSM's request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM is required to solicit comments on proposed amendments which may have an effect on historic properties from the SHPO and ACHP. OSM solicited comments on the proposed amendment from the SHPO and ACHP (Administrative Record No. Ind–1513). Neither SHPO nor ACHP responded to OSM's request.

V. Director's Decision

Based on the above finding, the Director approves the proposed amendment as submitted by Indiana on September 11, 1995.

The Federal regulations at 30 CFR part 914, codifying decisions concerning the Indiana 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 bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This 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 of 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 914

Intergovernmental regulations, Surface mining, Underground mining.

Dated: March 29, 1996.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T, part 914 of the Code of Federal Regulations is amended as set forth below:

PART 914—INDIANA

1. The authority citation for Part 914 continues to read as follows:

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

2. Section 914.15 is amended by adding paragraph (ooo) to read as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(ooo) Recodification of Indiana's statutes from IC 13–4.1 to IC 14–8 and IC 14–34 as submitted to OSM on September 11, 1995, is approved effective April 8, 1996.

[FR Doc. 96–8630 Filed 4–5–96; 8:45 am]

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30 CFR Part 943

[SPATS No. TX–029–FOR]

Texas Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Texas regulatory program (hereinafter referred to as the ''Texas program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Texas proposed revisions to rules pertaining to road systems, support facilities, and utility installations. The amendment is intended to revise the Texas program to be consistent with the corresponding Federal regulations and incorporate the additional flexibility afforded by the revised Federal regulations.

EFFECTIVE DATE: April 8, 1996.

FOR FURTHER INFORMATION CONTACT: Jack R. Carson, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6548, Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program
II. Submission 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 Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. Background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the February 27, 1980, Federal Register (45 FR 12998). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 943.10, 943.15, and 943.16.

II. Submission of the Proposed Amendment

By letter dated December 20, 1995 (Administrative Record No. TX–608), Texas submitted a proposed amendment to its program pursuant to SMCRA. Texas submitted the proposed amendment in response to a February 21, 1990, letter (Administrative Record No. TX–476) that OSM sent to Texas in accordance with 30 CFR 732.17(c), and at its own initiative. Texas proposed to revise Texas Coal Mining Regulations (TCMR) 708.008(71), definition of road; 780.154, road systems and support facilities; 816.400–403, roads, primary roads, utility installations, and support facilities (surface); 784.198, road systems and support facilities (underground); 817.569–572, roads, primary roads, utility installations, and support facilities (underground); 815.327, coal exploration performance standards; and 827.651, coal processing plants performance standards.

OSM announced receipt of the proposed amendment in the February 1, 1996, Federal Register (61 FR 3628), and in the same document 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 March 4, 1996.

By letter dated February 14, 1996 (Administrative Record No. TX–608.04), Texas notified OSM that the references to Sections 780.154 and 784.198 at the end of proposed new subsections 816.401(b) and 817.570(b) were in error and removed the provisions.

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.

Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and