

the requirements of 30 CFR as they pertain to mine safety (administrative record Nos. CO-633 and CO-645).

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of 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.*).

On April 6, 1994, OSM solicited EPA's concurrence with the proposed MOU (administrative record No. CO-605). By letters dated May 9 and July 28, 1994, and February 1, 1995 (administrative record Nos. CO-616, CO-634, and CO-659), EPA stated that it believed that the proposed MOU would have no impact on water quality standards promulgated under the authority of the Clean Water Act, as amended (33 U.S.C. 1251 *et seq.*).

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

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed MOU from the SHPO and ACHP (administrative record No. CO-605). Neither the SHPO nor ACHP responded to OSM's request.

V. Director's Decision

Based on the above findings, the Director approves Colorado's proposed MOU as submitted on March 18, 1994, and as supplemented with additional explanatory information on June 23 and December 7, 1994.

Specifically, the Director approves the following portions of the MOU, as discussed in: Finding No. 1, concerning purpose, understanding, and understanding between the parties; finding No. 2, concerning review of permit applications; finding No. 3, concerning training; finding No. 4, concerning inspections, monitoring, and sample analysis; finding No. 5a, concerning enforcement of effluent limitations; finding No. 5b, concerning pattern-of-violation and show-cause processes; finding No. 5c, concerning other enforcement provisions, and finding No. 6, concerning coordination.

The Federal regulations at 30 CFR 906, codifying decisions concerning the Colorado 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

1. Executive Order 12866

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

2. 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 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 the Federal regulations at 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.

3. 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 of 1969 (42 U.S.C. 4332(2)(C)).

4. 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.*).

5. 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 that is the subject of this rule is based upon counterpart 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 counterpart Federal regulations.

List of Subjects in 30 CFR Part 906

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 9, 1995.

Charles E. Sandberg,

Acting Regional Director, Western 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 906—COLORADO

1. The authority citation for Part 906 continues to read as follows:

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

2. Section 906.15 is amended by adding paragraph (r) to read as follows:

§ 906.15 Approval of regulatory program amendments.

* * * * *

(r) The proposed February 9, 1994, memorandum of understanding (MOU) between the Division of Minerals and Geology of the Colorado Department of Natural Resources and the Water Quality Control Division of the Colorado Department of Health for water quality management at coal mines, as submitted to OSM on March 18, 1994, and as supplemented with explanatory information on June 23 and December 7, 1994, is approved effective May 15, 1995.

[FR Doc. 95-11887 Filed 5-12-95; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 20

RIN 2900-AH47

Rules of Practice: Waiver of Consideration of Evidence by Agency of Original Jurisdiction

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Rules of Practice of the Board of

Veterans' Appeals (Board) with respect to evidence accepted by the Board after transfer of the record to the Board to specify that an appellant's representative may waive the right to have such evidence referred to the agency of original jurisdiction. This amendment is necessary because there has been confusion as to whether such a waiver may only be made by an appellant. This amendment is intended to provide clarification and to be consistent with general principles permitting use of representatives by VA claimants. Also, this amendment will help expedite the handling of appeals.

EFFECTIVE DATE: May 15, 1995.

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Counsel to the Chairman, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; (202) 233-2978.

SUPPLEMENTARY INFORMATION: The Board provides final appellate review within the Department of Veterans Affairs (VA) of questions of law and fact relating to benefit determinations concerning veterans, their dependents, and their survivors. This document amends the Board's Rules of Practice, which are set forth at 38 CFR Part 20.

When a case is appealed to the Board the evidence of record is transferred to the Board for review. After the record has been transferred to the Board, additional evidence may be received and accepted by the Board under § 20.1304 of the Board's Rules of Practice and § 19.37(b) of the Board's Appeals Regulations (38 CFR Part 19).

With respect to such "additional evidence," 38 CFR 20.1304(c), immediately prior to the effective date of this document, stated:

(c) *Consideration of additional evidence by agency of original jurisdiction.* Any pertinent evidence submitted by the appellant or representative which is accepted by the Board under the provisions of this section, as well as any such evidence referred to the Board by the originating agency under § 19.37(b) of this chapter, must be referred to the agency of original jurisdiction for review and preparation of a Supplemental Statement of the Case unless this procedural right is waived by the appellant or unless the Board determines that the benefit, or benefits, to which the evidence relates may be allowed on appeal without such referral. Such waiver must be in writing or, if a hearing on appeal is conducted, formally entered on the record orally at the time of the hearing.

This document amends § 20.1304(c) to specify that the appellant "or representative," and not solely the appellant, may waive the right to have the additional evidence referred to the "agency of original jurisdiction for

review and preparation of a Supplemental Statement of the Case."

This amendment is necessary because there has been confusion as to whether such a waiver may only be made by an appellant. This amendment is intended to provide clarification and to be consistent with general principles permitting use of representatives by VA claimants. Also, this amendment will help expedite the handling of appeals.

This final rule concerns agency procedure or practice and, consequently, pursuant to 5 U.S.C. 553 is exempt from notice and comment requirements.

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. This rule will affect VA beneficiaries and will not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

List of Subjects in 38 CFR Part 20

Administrative practice and procedure, Claims, Lawyers, Legal services, Veterans.

Approved: May 2, 1995.

Jesse Brown,
Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR Part 20 is amended as set forth below:

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

1. The authority citation for part 20 continues to read as follows:

Authority: 38 U.S.C. 501(a).

§ 20.1304 [Amended]

2. In § 20.1304, the first sentence in paragraph (c) is amended by adding "or representative" immediately after "unless this procedural right is waived by the appellant".

[FR Doc. 95-11888 Filed 5-12-95; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93-224; RM-8291, 8325, 8358, 8360]

Radio Broadcasting Services; Bismark, Centerville, Farmington, Ironton, MO, and Herrin, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 258C3 to Bismarck, Missouri, as that community's first local service, in response to a counterproposal filed by KREI, Inc. See 58 FR 42522, August 10, 1993. The coordinates for Channel 258C3 are 37-38-43 and 90-32-54. There is a site restriction 15.3 kilometers (9.5 miles) southeast of the community. The counterproposal filed by Wayne E. Tate for Ironton, Missouri, and Herrin, Illinois, has been dismissed (RM-8325). The counterproposal filed by Wayne E. Tate and David E. Smith Communications, Inc. for Ironton, Missouri, Herrin, Illinois and Centerville, Missouri, has been dismissed (RM-8360). The petition filed by KREI, Inc. for Farmington, Missouri, has been dismissed (RM-8291). With this action, this proceeding is terminated.

DATES: Effective June 23, 1995. The window period for filing applications for Channel 258C3 at Bismarck, Missouri, will open on June 23, 1995, and close on July 24, 1995.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, MM Docket No. 93-224, adopted May 1, 1995, released May 9, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW, Suite 140, Washington, D.C. 20037, (202) 857-3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows: