

(d) by removing the phrase "Replacement calves" and adding the word "Calves".

Dated: May 25, 1999.

Margaret Ann Miller,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA-125-FOR]

Pennsylvania Regulatory Program

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

ACTION: Final rule; correction.

SUMMARY: This document corrects and explains an OSM decision on provisions of a proposed amendment to the Pennsylvania regulatory program (hereinafter referred to as the Pennsylvania Program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 et seq., as amended. OSM published its decision on the amendment in the March 26, 1999, **Federal Register** (64 FR 14610). On May 5, 1999, Pennsylvania submitted a letter requesting that OSM reconsider portions of this decision. Specifically, Pennsylvania requested that OSM rescind its disapprovals of Pennsylvania's definition of "no-cost reclamation contract," a portion of the definition of "government-financed construction contract," a portion of Section 4.8(e)(52 P.S. 1396.4h(e)) and all of Section 4.8(g)(52 P.S. 1396.4h(g)), as they pertain to no-cost contracts. Pennsylvania also requested that OSM rescind its requirements that Pennsylvania amend PA SMCRA to delete the specified provisions.

EFFECTIVE DATE: June 8, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Biggi, Director, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, Third Floor, Suite 3C Harrisburg Transportation Center (Amtrack), 415 Market Street, Harrisburg, Pennsylvania 17101. Telephone: (717) 782-4036.

SUPPLEMENTARY INFORMATION: By letter dated November 21, 1997 (Administrative Record NO. PA-855.00), the Pennsylvania Department of Environmental Protection (PADEP)

submitted proposed program amendment No. 2 to the Pennsylvania Abandoned Mine Land Reclamation (AMLR) Plan. By letters dated October 8 and October 13, 1998, PADEP submitted portions of its state law which it believed provided specific authorization for the proposed changes to the AMLR Plan. (Administrative Record No. PA 855.12). On March 26, 1999, OSM approved portions of the amendment, but disapproved sections referencing no-cost reclamation contracts. (64 FR 14610). By letter dated May 6, 1999 (Administrative Record No. PA-855.17), the PADEP submitted a letter to OSM, requesting that OSM rescind its disapprovals of the portions of the statutory amendment pertaining to no-cost reclamation contracts. This document revises and explains OSM's decisions with respect to no-cost reclamation contracts. In March 26, 1999, **Federal Register**, Notice, OSM determined that:

Any expenses incurred directly or indirectly by the AML agency, including the costs of project design, solicitation, management and oversight, qualify as government financing. However, Pennsylvania defines no-cost contracts as those contracts that do not involve the expenditure of any government funding, either as direct payments or as indirect expenses such as those listed above. Therefore, Pennsylvania's definition of "government financed reclamation contract" is less effective than the Federal definition of "government-financed construction," at 30 CFR 707.5, to the extent that it would allow incidental coal extraction or coal refuse removal, without a permit, pursuant to no-cost contracts.

64 FR at 14616.

As a result of this determination, OSM disapproved the definition of the term "no-cost reclamation contract," and also disapproved other portions of the statutory amendment which contained the term "no-cost contract" or "no-cost reclamation contract." Finally, OSM required PADEP to amend its program to delete all statutory language in the amendment pertaining to "no-cost reclamation contracts." 30 CFR 938.16 (cccc), (dddd), (eeee), and (ffff).

In discussions with OSM after publication of the March 26, 1999, decision, PADEP provided additional information pertaining to its definition of "no-cost reclamation contracts." OSM requested that this information be provided in writing for further consideration. PADEP's letter dated May 6, 1999 (Administrative Record No. PA-855.17), explained that its definition of "no-cost reclamation contract" clearly envisions PADEP incurring indirect costs in reviewing information provided by a contractor, and in determining

whether a contractor is eligible for a contract. PADEP also explained that the prohibition on the expenditure of Commonwealth funds, contained in the definition of "no-cost reclamation contract" refers only to "what OSM considers direct expenditures. In Pennsylvania, 'expenditures of Commonwealth Funds' would be a direct payment of money to the contractor from the Commonwealth to perform the reclamation." Therefore, PADEP contended, only direct payments to contractors are prohibited, but indirect project costs can, and indeed must, be allowed. Since the definition of "no-cost reclamation contract" does not prohibit indirect costs, PADEP stated that the definition is no less effective than and in accordance with the federal definition of "government financed construction" at 30 CFR 707.5. Finally, the PADEP argued that if the definition of "no-cost reclamation contract" can be approved, then all of the statutory sections of the amendment which contain references to "no-cost reclamation contracts" should also be approved.

Upon further consideration, and in view of the May 5, 1999, clarification provided by the PADEP, OSM hereby rescinds the following disapprovals:

52 P.S. 1396.3, the definition of "government-financed reclamation contract," paragraph (1)(i), the phrase "including a reclamation contract where less than five hundred (500) tons is removed and the government's cost of financing reclamation will be assumed by the contractor under the terms of a no-cost contract"; and, paragraph (1)(ii), the phrase "including where reclamation is performed by the contractor under the terms of a no-cost contract with the department, not involving any reprocessing of coal refuse on the project area or return of any coal refuse material to the project area."

52 P.S. 1396.3, the definition of "no-cost reclamation contract."

52 P.S. 1396.4h(e), the following language: For no-cost reclamation projects in which the reclamation schedule is shorter than two (2) years the bond amount shall be a per acre fee, which is equal to the department's average per acre cost to reclaim abandoned mine lands; provided, however, for coal refuse removal operations, the bond amount shall only apply to each acre affected by the coal refuse removal operations. For long-term, no-cost reclamation projects in which the reclamation schedule extends beyond two (2) years, the department may establish a lesser bond amount. In these contracts, the department may in the alternative establish a bond amount which reflects the cost of the proportionate amount of reclamation which will occur during a period specified.

52 P.S. 1396.4h(g), in its entirety.

In addition, OSM is removing the required amendments at 30 CFR

938.16(cccc), (dddd), (eeee) and (ffff). The effect of these actions is that OSM is now approving the concept of "no-cost reclamation contracts," and is also approving the statutory amendments referenced above, insofar as such contracts include indirect government financing. However, OSM's approval of these provisions is effective only to the extent that "no-cost reclamation contracts" which provide for the incidental extraction of coal, and which are less than 50% government financed, through indirect project financing, are treated in the same manner as Federally funded Title IV AML projects. Specifically, the projects must comply with the requirements of Subchapter R, Chapter VII of the Federal regulations, even where the projects receive state

financing, but do not receive Federal financing.

The Federal regulations at 30 CFR part 938, codifying decisions concerning the Pennsylvania program, are being amended to implement this revised finding.

Section 938.15 Approval of Pennsylvania Regulatory Program Amendments is being amended in the table (third column, 64 FR at 14619) to show both the March 26, 1999, final publication of this amendment, and the date of the revision discussed in this notice.

Section 938.16 Required Regulatory Program Amendments is being amended to remove the required amendments at 30 CFR 938.16 (cccc), (dddd), (eeee) and (ffff).

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 19, 1999.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

PART 938—PENNSYLVANIA

1. The authority citation for part 938 continues to read as follows:

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

2. Section 938.15 is amended in the table by revising the entry having the original amendment submission date of October 8, 1998, to read as follows:

§ 938.15 Approval of Pennsylvania regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
October 8, 1998	March 26, 1999 and June 8, 1999	52 P.S. 1396.3, 1396.4h.

§ 938.16 [Amended]

3. Section 938.16 is amended by removing and reserving paragraphs (cccc), (dddd), (eeee), and (ffff).

[FR Doc. 99-14291 Filed 6-7-99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-99-038]

RIN 2115-AE46

Special Local Regulations for Marine Events; Hampton Offshore Challenge, Chesapeake Bay, Hampton, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Temporary special local regulations are being adopted for the Hampton Offshore Challenge, to be held on the waters of the Chesapeake Bay near Buckroe Beach, Hampton, Virginia. These regulations are needed to protect spectator craft and other vessels transiting the event area from the dangers associated with the event. This action is intended to enhance the safety of life and property during the event.

DATES: This temporary final rule is effective from 11:30 a.m. EDT (Eastern Daylight Time) to 4 p.m. EDT on June 11, 12 and 13, 1999.

ADDRESSES: Documents are indicated in this preamble are available for

inspection or copying at Commander (Aox), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398-6204.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer D. Merrill, Marine Events Coordinator, Commander, Coast Guard Group Hampton Roads, 4000 Coast Guard Blvd., Portsmouth, Virginia 23703, (757) 483-8568.

SUPPLEMENTARY INFORMATION:

Regulatory History

A notice of proposed rulemaking (NPRM) was not published for this regulation. In keeping with requirements of 5 U.S.C. 553(B), the Coast Guard finds that good cause exists for not publishing a NPRM. In keeping with the requirements of 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this regulation effective less than 30 days after publication in the **Federal Register**. Following normal rulemaking procedures would have been impractical because there is not sufficient time to publish a proposed rule in advance of the event or to provide for a delayed effective date. Immediate action is needed to protect vessel traffic from the potential hazards associated with this event.

Background and Purpose

U.S. Offshore Racing Association will sponsor the Hampton Offshore Challenge on June 11 and 12, 1999. The

event will consist of 60 offshore powerboats conducting a high speed competitive race on the waters of the Chesapeake Bay near Buckroe Beach, Hampton, Virginia. A fleet of spectator vessels is anticipated for the event. Due to the need for vessel control during the races, vessel traffic will be temporarily restricted to provide for the safety of spectators and transiting vessels.

Discussion of Regulations

The Coast Guard is establishing temporary special local regulations on specified waters of the Chesapeake Bay. The temporary special local regulations will be in effect from 11:30 a.m. EDT to 4 p.m., EDT on June 11 and 12, 1999 and will restrict general navigation in the regulated area during the event. In the event of inclement weather, the regulations will be in effect the next day. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. These regulations are needed to control vessel traffic during the event to enhance the safety of spectators and transiting vessels.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has been exempted from review of the Office of Management and Budget under that Order. It is not significant under the