

(b) Within 25 hours time-in-service (TIS) and thereafter at intervals not to exceed 50 hours TIS, visually inspect any tailboom with 600 or more hours TIS for a crack using a 10x or higher magnifying glass in accordance with the Accomplishment Instructions, Part II, of Bell Helicopter Textron Alert Service Bulletin ASB 407-99-26, Revision B, dated June 14, 2001, except you are not required to contact Bell Helicopter Product Support Engineering. If a crack is found, remove the tailboom before further flight.

(c) Installing a tailboom, P/N 407-030-801-201, is terminating action for the requirements of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(e) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

**Note 3:** The subject of this AD is addressed in Transport Canada AD CF-1999-17R1, dated July 24, 2001.

Issued in Fort Worth, Texas, on January 17, 2002.

**David A. Downey,**

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02-2427 Filed 1-30-02; 8:45 am]

**BILLING CODE 4910-13-U**

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 948

[WV-095-FOR]

#### West Virginia Regulatory Program

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

**ACTION:** Proposed rule; public comment period and opportunity for public hearing.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM) are announcing receipt of an amendment to the West Virginia surface mining regulatory program (the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). West Virginia proposes revisions to the Code of State Regulations (CSR) and to the Code of

West Virginia (W. Va. Code) as contained in Enrolled Senate Bill 689. The amendment is intended to revise the State's Surface Mine Blasting Rule and to amend the W. Va. Code concerning preblast survey requirements, site specific blasting design requirements, and liability and civil penalties in the event of property damage.

This document gives the times and locations that the West Virginia program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

**DATES:** We will accept written comments until 4:30 p.m. (local time), on March 4, 2002. If requested, we will hold a public hearing on the amendment on February 25, 2002. We will accept requests to speak at the hearing until 4:30 p.m. (local time), on February 15, 2002.

**ADDRESSES:** You may mail or hand-deliver written comments and requests to speak at the hearing to Mr. Roger W. Calhoun, Director, Charleston Field Office at the address listed below.

You may review copies of the West Virginia program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Charleston Field Office.

Mr. Roger W. Calhoun, Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 1027 Virginia Street, East, Charleston, West Virginia 25301, Telephone: (304) 347-7158.

West Virginia Department of Environmental Protection, 10 McJunkin Road, Nitro, West Virginia 25143, Telephone: (304) 759-0510. The proposed amendment will be posted at the Division of Mining and Reclamation's Internet web page: <http://www.dep.state.wv.us/mr>.

In addition, you may review copies of the proposed amendment during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 75 High Street, Room 229, P.O. Box 886, Morgantown, West Virginia 26507, Telephone: (304) 291-4004. (By Appointment Only)

Office of Surface Mining Reclamation and Enforcement, Beckley Area Office,

313 Harper Park Drive, Suite 3, Beckley, West Virginia 25801, Telephone: (304) 255-5265.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger W. Calhoun, Director, Charleston Field Office; Telephone: (304) 347-7158.

#### SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program  
II. Description of the Proposed Amendment  
III. Public Comment Procedures  
IV. Procedural Determinations

#### I. Background on the West Virginia Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, " \* \* \* a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act \* \* \* ; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the West Virginia program on January 21, 1981. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval of the West Virginia program in the January 21, 1981, **Federal Register** (46 FR 5915). You can also find later actions concerning West Virginia's program and program amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

#### II. Description of the Proposed Amendment

By letter dated November 28, 2001 (Administrative Record Number WV-1258), the WVDEP sent us a proposed amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). The proposed amendment consists of changes to the W. Va. Code as contained in Enrolled Senate Bill 689 concerning blasting. The amendment also revises the provisions of the Surface Mine Blasting Rule at CSR 199-1. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**. We are also making available for public review and comment Engrossed Senate Bill 689 because it clearly shows, via underline and strikethrough, all the statutory language that has been added or deleted from the W. Va. Code as a result of Senate Bill 689. Engrossed Senate Bill

689 is substantively identical to Enrolled Senate Bill 689. Senate Bill 689 amends preblast survey requirements, site specific blasting design requirements, and provisions concerning liability and civil penalties in the event of property damage. The statutory revisions in Senate Bill 689 are also intended to address the required program amendments codified at 30 CFR 948.16(kkkk), (llll), and (mmmm).

By letter dated October 30, 2000 (Administrative Record Number WV-1187), the WVDEP submitted an amendment that added to the State regulations new Title 199, Series 1, entitled Surface Mine Blasting Rule. The regulations consisted of new blasting provisions and blasting provisions that were relocated or derived from previously approved West Virginia blasting provisions. We announced receipt of the amendment on December 5, 2000 (65 FR 75889) (Administrative Record Number WV-1190), but we have not yet published our decision on the amendment. The blasting rule submitted on October 30, 2000, and not yet approved by us, is the blasting rule that is being modified by the amendments to CSR 199-1 that we are announcing today. When we render our final decision on the amendment that we are announcing today, we will combine that decision with our decision on the blasting rule amendment that was submitted to us on October 30, 2000.

The amendment that we are announcing today is identified below.

### 1. *W. Va. Code 22-3 Surface Coal Mining and Reclamation Act*

#### 22-3-13a Preblast survey requirements

22-3-13a(a)(3) is new, and concerns preblast survey notification for surface disturbance of underground mines.

22-3-13a(b) concerning operator notification of owners and occupants of dwellings or structures is amended.

22-3-13a(f)(14) concerning contents of a preblast survey is amended.

22-3-13a(g) concerning the submittal of preblast surveys to the office of explosives and blasting is amended.

22-3-13a(j) concerning applicability of the section 22-3-13a is amended.

#### 22-3-22a Blasting restrictions; site specific blasting design requirement

22-3-22a(e) concerning blasting within 1000 feet of a protected structure is amended.

22-3-22a(f) concerning waiver of the blasting prohibition within 300 feet of a protected structure is amended.

22-3-30a Blasting requirements; liability and civil penalties in the event of property damage

22-3-30a(a) concerning blasting being conducted in accordance with the rules and laws established to regulate blasting is amended.

22-3-30a(b) concerning penalties where blasting was out of compliance is amended.

22-3-30a(c) concerning violation of rules that are merely administrative in nature is amended.

22-3-30a(e) concerning the penalties for production blasting conducted in violation of 22-3-22a is amended.

22-3-30a(f) concerning assessment of penalties and liabilities by the director is amended.

22-3-30a(h) concerning the applicability of section 22-3-30a is amended.

### 2. *CSR 199-1 Surface Mining Blasting Rule*

#### CSR 199-1-2 Definitions

199-1-2.1. The definition of Active Blasting Experience is amended.

199-1-2.4. The definition of Arbitrator is amended.

199-1-2.8. The definition of Blast Site is amended.

199-1-2.21. The definition of Contiguous or Nearly Contiguous is added.

199-1-2.26. The definition of Fly Rock is amended.

199-1-2.24. The definition of Loss Reserve is deleted.

199-1-2.37. The definition of Worked on a Drilling Crew is deleted.

199-1-2.39. The definition of Worked on a Blasting Crew is deleted.

#### CSR 199-1-3 Blasting

199-1-3.2. concerning blasting plans is amended at subdivisions 3.2.a., c., and d.

199-1-3.3. concerning public notice of blasting operations is amended.

199-1-3.4. concerning surface blasting activities incident to underground coal mining is amended.

199-1-3.5.c.1. concerning blast record, blasting log is amended.

199-1-3.6. concerning blasting procedures is amended.

199-1-3.7. concerning blasting control for other structures is amended.

199-1-3.8. concerning certified blasting personnel is deleted, and in its place new 199-1-3.8 concerning preblast surveys is added.

199-1-3.9. The title of this subsection is changed from Pre-blast Survey, to Preblast Surveyors. Amendments are also made to this subsection concerning the qualifications and compliance requirements of pre-blast surveyors.

199-1-3.10.d. concerning pre-blast survey review, confidentiality, is amended.

199-1-3.11. is added to provide that the director may prohibit blasting or prescribe alternative blasting limits, on a case-by-case basis, for the protection of property or the public.

#### CSR 199-1-4 Certification of Blasters

199-1-4.1.a., b., and c. concerning requirements, qualifications, and application for certification are amended.

199-1-4.2. concerning training is amended.

199-1-4.3. concerning the examination for certification of Examiner/Inspector and Certified Blaster is amended.

199-1-4.5. concerning conditions or practices prohibiting certification of blasters is amended.

199-1-4.6. concerning re-certification requirements for certified blasters is amended.

199-1-4.7. concerning presentation of certificate; transfer; and delegation of authority is amended at subdivision 4.7.d.

199-1-4.8. concerning violations by a certified blaster is amended.

199-1-4.9. concerning penalties is amended.

199-1-4.10. concerning hearings and appeals is amended.

#### CSR 199-1-5 Blasting Damage Claim

199-1-5.2. concerning filing a claim is amended.

199-1-5.3. concerning the responsibilities of the claims administrator is amended.

199-1-5.4. concerning the responsibilities of the claims adjuster is amended.

#### CSR 199-1-6 Arbitration for Blasting Damage Claims

199-1-6.1. concerning listing of arbitrators is amended.

199-1-6.2. concerning selection of arbitrator is amended.

199-1-6.4. concerning demand for arbitration and timeframes for arbitration is amended.

199-1-6.7. concerning presentations to the arbitrator is amended.

199-1-6.8. concerning arbitration award, fees, costs and expenses is amended.

#### CSR 199-1-7 Explosive Material Fee

199-1-7.2. concerning remittance fee is amended.

199-1-7.3. concerning dedication of the fee is amended.

199-1-7.7. concerning noncompliance is amended.

### CSR 199-1-8 Inspections

199-1-8. This section is new and concerns inspections of any prospecting, active surface mining operation, or inactive surface mining operation.

### CSR 199-1-9 Surface Mine Board

199-1-9. This section is new and concerns open meetings, appeals, and ex parte communications.

### III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

#### Written Comments

Send your written comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendation(s). We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (see **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Charleston Field Office may not be logged in.

#### Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during our normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their names or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

#### Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:30 p.m. (local time), on February 15, 2002. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location

and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

#### Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of the meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the Administrative Record.

### IV. Procedural Determinations

#### Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

#### Executive Order 12866—Regulatory Planning and Review

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

#### Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowable 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 because 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.

#### Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to “establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.” Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be “in accordance with” the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations “consistent with” regulations issued by the Secretary pursuant to SMCRA.

#### Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse affect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

#### National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

#### Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the 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 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 regulation.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, geographic regions or Federal, State, or local government agencies; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

*Unfunded Mandates*

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

**List of Subjects in 30 CFR Part 948**

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 9, 2002.

**Allen D. Klein,**

*Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 02-2415 Filed 1-30-02; 8:45 am]

**BILLING CODE 4310-05-P**

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 165**

[COTP Western Alaska 02-003]

RIN 2115-AA97

**Safety Zone; Ouzinkie Harbor, Ouzinkie, AK**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish two temporary safety zones in Ouzinkie Harbor, Ouzinkie, Alaska. One safety zone would surround the barge SWINIMOSH which will be conducting dredging and blasting operations in the navigable waters of Ouzinkie Harbor. The second safety zone would close all of Ouzinkie Harbor when the barge SWINIMOSH conducts blasting operations. These safety zones are necessary to protect vessels transiting the area from the potential hazards associated with the dredging and blasting operations conducted by the barge SWINIMOSH.

**DATES:** Comments must be received on or before February 21, 2002. While our proposed rule may change based on comments received, we plan to make our final rule effective starting March 1, 2002.

**ADDRESSES:** You may mail comments and related material to Coast Guard Marine Safety Office, 510 L Street, Suite 100, Anchorage, AK 99501. Coast Guard Marine Safety Office Anchorage maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Coast Guard Marine Safety Office Anchorage between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Matt Jones, USCG Marine Safety Detachment Kodiak, at (907) 486-5918 or Lieutenant Commander Chris Woodley, USCG Marine Safety Office Anchorage, at (907) 271-6700.

**SUPPLEMENTARY INFORMATION:****Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (COTP Western Alaska 02-003), indicate the specific section of

this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

**Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Coast Guard Marine Safety Office Anchorage at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**Background and Purpose**

The U.S. Army Corps of Engineers, through its contractor Western Marine Construction, Inc., will be conducting dredging and blasting operations on portions of Ouzinkie Harbor (Army Corps of Engineers project number DACW85-01-C-0010). This dredging project will help maintain safe navigation within Ouzinkie Harbor. A 500-yard safety zone around the barge SWINIMOSH and a safety zone closing the harbor during blasting operations is necessary to ensure the safety of the maritime community from the potential hazards associated with dredging and blasting operations.

Because we received the request late, we find that good cause exists, under 5 U.S.C. 553(d)(3), for making this rule effective less than 30 days after publication in the **Federal Register**. We have limited the comment period to 21 days so that the final rule can go into effect on March 1, 2002 in order to meet our obligation to protect the maritime community.

**Discussion of Proposed Rule**

The proposed safety zones would include the navigable waters of Ouzinkie Harbor within a 500-yard radius of the barge SWINIMOSH in Ouzinkie, AK, Lat. 57°55'10" N, Long. 152°29'45" W, and all waters of Ouzinkie Harbor, shoreline of a line drawn from 57°54'58" N, 152°29'35" W to 57°55'04" N, 152°30'00" W and ending at 57°55'12" N, 152°30'10" W when blasting operations occur. The blasting operations could occur any time during daylight hours starting March 1, 2002 through April 15, 2002.