DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 250 and 254

RIN 1010–AC57

Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Incident Reporting Requirements

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Extension of comment period for proposed rule.

SUMMARY: This document extends to December 5, 2003, the previous deadline of October 6, 2003, for submitting comments on the proposed rule published on July 8, 2003, (68 FR 40585), that describes MMS Incident Reporting Requirements.

DATES: We will consider all comments received by December 5, 2003, and we may not fully consider comments received after December 5, 2003.

ADDRESSES: Mail or hand-carry written comments (three copies) to the Department of the Interior; Minerals Management Service; 381 Elden Street; Mail Stop 4024; Herndon, Virginia 20170–4817; Attention: Rules Processing Team.

FOR FURTHER INFORMATION CONTACT: Melinda Mayes, MMS Engineering and Operations Division, Herndon, VA, at (703) 787–1063 or Staci Atkins, MMS Engineering and Operations Division, Herndon, VA, at (703) 787–1620.

SUPPLEMENTARY INFORMATION: The MMS published a proposed rulemaking on July 8, 2003 (68 FR 40585) to revise the requirements for lessees/operators to report incidents associated with Outer Continental Shelf activities. In developing this Notice of Proposed Rulemaking, MMS worked with the U.S. Coast Guard (USCG) with the goal of making the reporting requirements between the two agencies consistent. The MMS and USCG also are developing an electronic reporting system to help eliminate duplicative reporting between the two agencies.

In a letter to MMS dated July 14, 2003, the International Association of Drilling Contractors has requested that we extend the comment period. The IADC stated that the additional time was necessary to develop their response and coordinate it with their sister trade associations, particularly in view of the time that must also be devoted to the recent Maritime Security rules issued by the USCG.

On September 3, 2003, MMS and the USCG will hold a meeting to explain the proposed rule and allow meeting participants to ask questions. The original proposed rule comment due date is just over one month after this meeting. We believe that additional time to develop comments after the meeting should be provided. Therefore, we are extending the comment period for 60 days and this notice extends the comment period to December 5, 2003.

Public Comments Procedures

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous 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.

Dated: July 25, 2003.

E.P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 03–19459 Filed 7–30–03; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–091–FOR]

West Virginia Regulatory Program

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

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: We are reopening the comment period to provide the public an opportunity to review and comment on a document submitted by the State of West Virginia which further clarifies a proposed amendment to the State's regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The program amendment consists of changes to the West Virginia Surface Mining Reclamation Regulations as contained in House Bill 2663. The amendment is intended to improve the effectiveness of the West Virginia program.

DATES: We will accept written comments on this amendment until 4 p.m. (local time), on August 15, 2003.

ADDRESSES: You should mail or hand-deliver written comments to Mr. Roger W. Calhoun, Director, Charleston Field Office at the address listed below.

You may review copies of the West Virginia program, the amendment, the clarification document, 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 and the State's clarification 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. E-mail: *chfo@osmre.gov.*

West Virginia Department of Environmental Protection, 10 McJunkin Road, Nitro, West Virginia 25143, Telephone: (304) 759–0510.

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

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

Office of Surface Mining Reclamation and Enforcement, Beckley Area Office, 323 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. Internet: *chfo@osmre.gov.*

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, ''* * *

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 May 2, 2001, the West Virginia Department of Environmental Protection (WVDEP) sent us a proposed amendment to its program (Administrative Record Number WV–1209) under SMCRA (30 U.S.C. 1201 *et seq.*). The program amendment consisted of changes to the West Virginia Surface Mining Reclamation Regulations at 38 Code of State Regulations (CSR) Series 2 as amended by House Bill 2663. The proposed amendment responded, in part, to the required program amendments codified in the Federal regulations at 30 CFR 948.16(xx), (qqq), (zzz), (ffff), (gggg), (hhhh), (jjjj), (nnnn), and (pppp). In order to expedite our review of the State's responses to the required amendments, we separated those amendments from the current amendment and we published our approval of those amendments in the **Federal Register** on May 1, 2002 (67 FR 21904).

On February 26, 2003, we sent the State a list of questions to help us better understand the remaining proposed amendments (Administrative Record Number WV–1365). The State responded by letter dated July 1, 2003 (Administrative Record Number WV–1365). The State's response is quoted below.

The following is additional clarification to Office of Surface Mining in answer to questions posed by OSM concerning the deletion of the definition for ''cumulative impact,'' the addition of a definition of ''material damage to the hydrologic balance outside the permit area,'' and the addition of a provision qualifying certain coal removal during reclamation as government financed construction exempt from a permit. These rules were passed in the 2001 Legislative session and were submitted to OSM as program amendments in May 2001. The rationale for these changes are to provide a narrative standard for reviewers to utilize when making findings relative to the hydrologic balance in and around the area of the proposed mining operation and to make the State delegated program language more similar to the Federal regulations.

[Material Damage and Cumulative Impact at CSR 38–2–3.22.e and CSR 38–2–2.39, respectively.]

The changes in the West Virginia Surface Mining Reclamation Rules relative to the added phrase defining ''material damage to the hydrologic balance outside the permit area'' and deleting the defined term ''cumulative impact'' are addressed together. These changes were made to set forth some objective criteria to use in making the determination required by SMCRA that a proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area. The added definition in the West Virginia rules provides a narrative standard, based upon use, for the reviewer to apply to make the required findings rather than leaving the threshold(s) to be assigned to the unguided discretion of an individual reviewer.

The Federal regulations at 30 CFR 773.15(e) requires [a determination that the proposed operation has been designed to prevent] material damage to the offsite hydrologic balance. The Federal program does not currently contain a standard, narrative or otherwise, to ascertain when such material damage would occur. Rather, the Federal program appears to leave this call to the discretion of the States. However, the Federal program does contain material damage criteria for the effects of mining associated with subsidence and alluvial valley floors based upon functionality and use (*See* 30 CFR 701.5). The definition submitted as a program amendment establishes a narrative threshold for material damage to the hydrologic balance, which is patterned after related definitions in the federal program, and is based upon the use of State waters. Additionally, the proposed definition is consistent with the administration and implementation of the State counterpart to the Clean Water Act in that the use of State waters established under the water program is recognized when the State SMCRA authority makes the assessment of cumulative hydrologic impacts.

Including the narrative threshold for material damage to the hydrologic balance obviates the need for the definition for ''cumulative impact.'' Even though the definition of ''cumulative impact'' is deleted, the defined term ''cumulative impact area'' remains. In addition, other sections of the WV rules require the applicant to show no material damage outside of the permit area and to assess the cumulative impacts within the cumulative impact area.

The reviewer of a proposal to conduct mining operations must delineate the area to be considered in assessing hydrologic consequences in accordance with the statute, rules and 1999 CHIA Writing Guidelines utilizing the actual or designated use and parameters designed to protect the same, as established by the WVDEP Division of Water Resources. The uses are outlined in the West Virginia Legislative rules 46CSR1 and include the propagation and maintenance of fish and other aquatic life. Water quality standards were designed to protect established uses. A review process wherein the SMCRA authority would develop or utilize thresholds/parameters for effluent discharges other than those established by the Clean Water Act program would likely result in interfering with the administration of the CWA. The WVDEP approach considers the numerical limits and water resource use designated by the water quality programs to make the assessment required by the mining program, thus precluding such interference.

[Exemption for Government-Financed Construction at CSR 38–2–3.31.c.]

The change to allow coal removal in conjunction with a reclamation project is designed to encourage/result in low cost or no-cost reclamation as provided for in the federal program (see 30 CFR 707.5). The state rule contains the same language as the federal regulations, except the State refers to the WV code and the federal counterpart refers to Title IV. The WV Code 22–3–28(e) is a subsection of 22–3–28. It is the only subsection that mentions government-financed reclamation. Therefore, it is obvious that subsection (e) is the only applicable subsection to which 38CSR2–3.31(c) could apply.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment, as further clarified in the State's clarification letter dated July 1, 2003, satisfies the applicable program

approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the West Virginia program.

Written Comments

Send your written or electronic 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 recommendations. We may 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.

Electronic Comments

Please submit Internet comments as an ASCII, Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SATS NO. WV–091—FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Charleston Field office at (304) 347–7158.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during 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 name 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.

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 regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempt from review by the Office of Management and Budget 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 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 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, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. The basis for this determination is our decision is on a State regulatory program and does not involve a Federal regulation involving Indian lands.

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 effect 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

This rule does not require an environmental impact statement because 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 certifies 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. 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.

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, Federal, State, or local government agencies, or geographic regions; 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 analysis performed under various laws and executive orders for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 18, 2003.

Brent Wahlquist,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 03–19436 Filed 7–30–03; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AL60

Sensori-Neural Aids

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document amends Department of Veterans Affairs (VA) medical regulations concerning sensori-neural aids. An existing regulation authorizes VA to provide sensori-neural aids (*i.e.*, eyeglasses, contact lenses, hearing aids) to seven specific groups of veterans identified in the regulation. The first four groups consist of veterans with the highest priority for care under VA's enrollment system, generally those with compensable service-connected disabilities, former prisoners of war, and those receiving increased VA pension based on their being housebound or in need of regular aid and attendance. Subsequent to promulgating the regulation, Congress changed the law to provide that veterans awarded the Purple Heart should have priority equal to former prisoners of war under VA's enrollment system. To be consistent, VA is proposing to amend the sensori-neural aids regulation to allow veterans in receipt of a Purple Heart to also receive sensori-neural aids.

DATES: Comments must be received on or before September 29, 2003.

ADDRESSES: Mail or hand-deliver written comments to: Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1064, Washington, DC 20420; or fax comments to (202) 273–9026; or e-mail comments to *OGCRegulations@mail.va.gov*. Comments should indicate that they are submitted in response to ''RIN 2900–AL60.'' All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273–9515 for an appointment.

FOR FURTHER INFORMATION CONTACT: Frederick Downs, Jr., Chief Consultant, Prosthetics and Sensory Aids Service Strategic Healthcare Group (113), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8515. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The ''Veterans' Health Care Eligibility Reform Act of 1996,'' Public Law No. 104–262 (Eligibility Reform Act) made major changes in the laws governing eligibility for VA health care benefits. That law amended 38 U.S.C. 1710, authorizing VA to furnish virtually all needed hospital care and medical services (*i.e.*, outpatient care) to veterans, including prosthetic devices and similar appliances. Prior to enactment of the Eligibility Reform Act, VA was generally prohibited from furnishing prosthetic devices and similar appliances on an outpatient basis. Although Congress expanded VA's authority to furnish veterans with prosthetic devices and similar appliances, it expressly provided in the law that with respect to sensori-neural aids (*i.e.*, eyeglasses, contact lenses, hearing aids), VA could exercise that authority only in accordance with guidelines prescribed by the Secretary. 38 U.S.C. 1707(b) (previously codified as 38 U.S.C. 1701(6)(A)(i)). The purpose of that proviso in the law was to permit VA to decide that it would not furnish eyeglasses and hearing aids to all veterans. In 1997, VA published an interim final rule establishing guidelines for the provision of sensori-neural aids. 62 FR 30240 (June 3, 1997). The final rule was effective on December 9, 1997 (62 FR 64722).

The Eligibility Reform Act also directed VA to establish a system of annual patient enrollment (38 U.S.C. 1705). The purpose of the enrollment system was to provide a mechanism for prioritizing the provision of VA health care if available resources were insufficient to provide all needed care to all veterans who sought it. The law initially established seven priority categories, although Congress subsequently expanded that to eight categories. The eight specific categories are enumerated in 38 U.S.C. 1705(a).

The guidelines that VA promulgated to govern the provision of sensori-neural aids specifically listed groups of veterans who could receive such devices. Listed were the veterans included in enrollment categories 1 through 4, and certain other veterans with unique vision and hearing needs. Veterans in enrollment priority categories 1 through 4, who are also specifically made eligible for sensori-neural aids under the guidelines, are veterans with compensable service-connected conditions, former prisoners of war, and nonservice-connected veterans in receipt of increased pension based on the need for regular aid and attendance or by reason of being permanently housebound.

In 1999, some 2 years after VA promulgated the rule governing sensori-neural aids, Congress passed Public Law No. 106–117, the ''Veterans Millennium Health Care and Benefits Act'' (Millennium Act). The Millennium Act amended the law establishing the enrollment priority categories. In this Act, Congress added to enrollment priority category 3, those veterans who were awarded the Purple Heart. Those veterans were, in short, given enrollment priority status at the same level as service-connected veterans rated 10 percent or 20 percent and former POWs. In order to be consistent with that change in law, VA believes it appropriate to also provide that those veterans be eligible for sensori-neural aids. Accordingly, we propose to amend the guidelines to include in § 17.149(b), veterans who received the Purple Heart.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This proposed amendment would have no such effect on State, local, or tribal governments, or the private sector.

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.