

optimization,<sup>5</sup> sustainability<sup>6</sup> and potential limitations of faster-ramping resources.<sup>7</sup>

Moreover, I believe there is no basis to propose a single, one-size-fits-all approach for frequency regulation compensation. In fact, several commenters caution specifically against such an approach.<sup>8</sup> In addition, I have concerns that the majority decision could detract from, or otherwise delay, efforts ongoing at the RTO/ISO stakeholder level.<sup>9</sup>

It is essential that this Commission address frequency regulation compensation to ensure appropriate compensation for service provided. Moreover, new technologies could offer substantial benefits. While I recognize the majority's desire to move quickly, I believe it is more important to "measure twice, cut once." Accordingly, I believe the Commission should have taken a preliminary step (such as the issuance of a Notice of Inquiry or Advanced Notice of Proposed Rulemaking) before moving forward with the specific proposal in a Notice of Proposed Rulemaking. For these reasons, I respectfully dissent in part from this Order.

Marc Spitzer,  
Commissioner.

[FR Doc. 2011-4267 Filed 2-28-11; 8:45 am]

BILLING CODE 6717-01-P

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## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### 30 CFR Part 75

#### RIN 1219-AB75

#### Examinations of Work Areas in Underground Coal Mines for Violations of Mandatory Health or Safety Standards

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** The Mine Safety and Health Administration (MSHA) is extending the comment period on the proposed rule addressing Examinations of Work

<sup>5</sup>Notice of Proposed Rulemaking at P 38; EPSA June 16, 2010 Comments at 9-10; Southern Company Services, Inc. (Southern) June 16, 2010 Comments at 6-8; Southern California Edison Company (SCE) June 16, 2010 Comments at 3.

<sup>6</sup>Notice of Proposed Rulemaking at P 33; ISO-NE June 16, 2010 Comments at 5; EPSA June 16, 2010 Comments at 6-8; XES June 16, 2010 Comments at 5; Transcript at 15:13-15 (Potishnak); Transcript at 18:18-25 and 19:1-5 (Ramey); Transcript at 23:18-25 and 24:1 (Pike); Transcript at 75:15-25 and 76:4 (Pike); Transcript at 86:18-20 (Potishnak).

<sup>7</sup>Notice of Proposed Rulemaking at P 33, n.51; ISO-NE June 16, 2010 Comments at 5; EPSA June 16, 2010 Comments at 8-9; Transcript at 17:20-25 (Ramey); Transcript at 73:4-16 (Ramey).

<sup>8</sup>ISO-NE June 16, 2010 Comments at 7-8; SCE June 16, 2010 Comments at 2,5; Southern June 16, 2010 Comments at 3.

<sup>9</sup>Notice of Proposed Rulemaking at P 13; SCE June 16, 2010 Comments at 3-4; CAISO June 16, 2010 Comments at 1-2.

Areas in Underground Coal Mines for Violations of Mandatory Health or Safety Standards. It proposed revising MSHA requirements for preshift, supplemental, and on-shift, and weekly examinations of underground coal mines. This extension gives commenters an additional 30 days to comment on the proposed rule.

**DATES:** The comment period for the proposed rule published December 27, 2010, at 75 FR 81165, is extended. All comments must be received or postmarked by 12 midnight Eastern Daylight Savings Time, March 28, 2011.

**ADDRESSES:** All submissions must be clearly identified and reference MSHA and RIN 1219-AB75. Comments may be submitted by any of the following methods:

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Electronic mail:* [zzMSHA-comments@dol.gov](mailto:zzMSHA-comments@dol.gov). Include "RIN 1219-AB75" in the subject line of the message.
- *Facsimile:* (202) 693-9441. Include "RIN 1219-AB75" in the subject line of the message.
- *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, Virginia 22209-3939.
- *Hand Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, Virginia 22209-3939. Sign in at the receptionist's desk on the 21st floor.

MSHA will post all comments on the Internet without change, including any personal information provided.

Comments can be accessed electronically at <http://www.msha.gov> under the "Rules & Regs" link. Comments may also be reviewed in person at the Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia. Sign in at the receptionist's desk on the 21st floor.

MSHA maintains a list that enables subscribers to receive e-mail notification when the Agency publishes rulemaking documents in the **Federal Register**. To subscribe, go to <http://www.msha.gov/subscriptions/subscribe.aspx>.

• *Information Collection Requirements:* Comments concerning the information collection requirements of this proposed rule must be clearly identified with "RIN 1219-AB75" and sent to both the Office of Management and Budget (OMB) and MSHA. Comments to OMB may be sent by mail addressed to the Office of Information and Regulatory Affairs, Office of

Management and Budget, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503, *Attn:* Desk Officer for MSHA. Comments to MSHA may be transmitted by any of the methods listed above in this section.

**SUPPLEMENTARY INFORMATION:** On December 27, 2010 (75 FR 81165), MSHA published a proposed rule, Examinations of Work Areas in Underground Coal Mines for Violations of Mandatory Health or Safety Standards. The proposal would require operators to examine for violations of mandatory health or safety standards in addition to hazardous conditions, and take corrective actions if violations are found. It would also require that operators review with mine examiners on a quarterly basis all citations and orders issued in areas where examinations are required. The proposal would require that underground coal mine operators find and fix violations of mandatory health or safety standards, thereby improving health and safety for miners. The proposed rule is available on MSHA's Web site at <http://www.msha.gov/REGS/FEDREG/PROPOSED/2010PROP/2010-32410.pdf>.

In response to a request from the public and to provide the opportunity for additional public participation in this rulemaking, MSHA is extending the comment period from February 25, 2011, to March 28, 2011. All comments and supporting documentation must be received or postmarked by 12 midnight Eastern Daylight Savings Time, March 28, 2011.

Dated: February 24, 2011.

**Joseph A. Main,**

*Assistant Secretary of Labor for Mine Safety and Health.*

[FR Doc. 2011-4592 Filed 2-25-11; 4:15 pm]

BILLING CODE 4510-43-P

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 59

#### RIN 2900-AN77

#### Due Date of Initial Application Requirements for State Home Construction Grant

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the Department of Veterans Affairs (VA) regulation concerning the calendar date that VA must receive an initial application for a State Home Construction Grant in order for the application to be included on the

priority list for the award of grants during the next fiscal year. We propose to require that initial application materials must be received by VA on April 15, and not August 15, of the year before the fiscal year in which the application would be considered for inclusion on the priority list for the award of grants. Similarly, we propose to require that a State make its matching funds for a project available by April 15, and not August 15, in order for the project to be placed in priority group 1 of the priority list for the next fiscal year. The purpose of these changes is to ensure that VA has sufficient time to process all applications received and timely prepare the priority list. We also propose technical revisions to conform with these proposed revisions.

**DATES:** Comments must be received on or before May 2, 2011.

**ADDRESSES:** Written comments may be submitted by email through <http://www.regulations.gov>; by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. Comments should indicate that they are submitted in response to "RIN 2900-AN77-Due Date of Initial Application Requirements for State Home Construction Grant." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Tom Graves, Director (114), State Home Construction, 810 Vermont Ave., NW., Washington, DC 20420, (202) 461-6084. (This is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** Under 38 U.S.C. 8131 through 8138, VA is authorized to award grants to assist States in constructing, remodeling, altering, or expanding State home facilities that will furnish specified types of care to veterans. VA has implemented this statutory authority at 38 CFR part 59.

Under 38 U.S.C. 8135, States that wish to receive assistance for a State home construction project (or acquisition of an existing facility to be used as a State home facility) must submit an application that includes

certain information and documentation described in the statute. VA has implemented the application requirement in current § 59.20(a), which requires that applicants seeking inclusion on the priority list for grants awarded during the next fiscal year submit to VA an original and one copy of a completed VA Form 10-0388-1 and all information, documentation, and other forms specified by VA Form 10-0388-1. Under current § 59.20(c), VA encourages the submission of the application by April 15 but considers any application submitted before August 16. VA maintains the "priority list" pursuant to current 38 CFR 59.50.

We propose to revise § 59.20(c) to improve the clarity and efficacy of the application process and to address certain administrative challenges presented by the current rule. We also propose to make technical revisions to related provisions in part 59.

First, we propose to change the phrase at the beginning of the first sentence of § 59.20(c) from "[t]he information requested under paragraph (a) of this section" to "[t]he items requested under paragraph (a) of this section". Paragraph (a) requires the submission of forms and documentation as well as information, and all of the items described in paragraph (a) must be timely submitted in order for VA to consider the project for inclusion on the priority list for the next fiscal year. Yet, the current rule could be misinterpreted to require timely submission of only the "information" described in paragraph (a), and not the "documentation, and other forms specified." This is a technical, clarifying change.

Next, we propose to change the date that initial applications must be received by VA. Current § 59.20(c) states that applications "should be submitted to VA by April 15," but "must be received by VA by August 15" in order for VA to consider the application on the next year's priority list. The regulation does not address the distinction between submission and receipt and does not explain the four-month gap between the two dates. As a practical matter, this often results in the items not being received by VA until August 15. At the same time, current 38 CFR 59.20(d), 59.50(a), and 59.70(b) use the August 15 date without mentioning the April 15 date, which leads to further confusion as to which date actually applies.

A U.S. Government fiscal year begins on October 1 of a calendar year and extends through September 30 of the next calendar year. A fiscal year carries the date of the calendar year in which it ends. For example, if a State seeks

assistance for a Fiscal Year 2012 construction project, the State's application must be received by VA, under the current rule, on or before August 15, 2011, so that the application can be on the priority list for the next fiscal year, which begins on October 1, 2011. As a matter of custom and practice, and to ensure the quick and efficient distribution of funds to States that need VA's assistance, VA seeks to issue the priority list shortly after the beginning of the fiscal year to which it applies. Under current § 59.20(c), we have from August 16 to September 30, before the beginning of the fiscal year, to analyze and process the applications. We need more time to evaluate all of the applications so that we can make fully-informed decisions concerning the allocation of grant money to the States. For Fiscal Year 2011, VA had to evaluate 111 applications in order to prepare the priority list before October 1, 2010. Therefore, we propose to revise § 59.20(c) to require that all initial applications be received by VA no later than April 15, and also to amend §§ 59.20(d) and 59.50(a) in accordance with the April 15 requirement.

We recognize that this will require some States to submit their initial applications up to 4 months earlier than has been their custom in the past. However, the April 15 submission date is already encouraged in current § 59.20(c) and implies that States should submit applications to VA as soon as possible before the current August 15 deadline. The proposed revision to § 59.20(c) would prescribe only one date, the date that the application must be received by VA. This revision would clarify the regulation. We note that the proposal does not otherwise expand the application requirements or in any way change the nature of the items submitted.

Consistent with our need to and proposal for amending § 59.20(c), we also propose to amend § 59.70(b). Specifically, we propose to amend the date, from August 15 to April 15, by which a State must commit funds for a project in order for that project to be eligible for inclusion in priority group 1 of the priority list for the next fiscal year. (Priority group 1 projects are projects that have State matching funds. State matching funds are not required to be placed in priority groups 2-7 on the priority list.) Paragraph (b) of § 59.70 requires that, as a condition of receiving a grant for a project, a State must make sufficient funds available for the project so that the project may proceed upon approval of the grant without further action required by the State to make the funds available. An authorized State

budget official must certify that the State funds are, or will be, available for the project, so that if VA awards the grant, the project may proceed without further State action. That certification must be updated each year by every State with a priority group 1 project. Under the current rule, a State must make such funds available by August 15 of the year prior to the fiscal year for which the grant is requested to be eligible for inclusion in priority group 1. Under the proposed amendment of § 59.70(b), a State would be required to make the funds available by April 15 of the year prior to the fiscal year for which the grant is requested. We recognize that the budgetary deadlines for the States differ and that the revision will result in some projects being excluded from priority group 1 of the priority list for a given fiscal year. However, VA's need to have sufficient time to prepare the priority list before the beginning of an upcoming fiscal year necessitates this change.

As a result of the change, projects in States that obtain funding before April 15 would be eligible for priority group 1 for the upcoming fiscal year, and projects in States that obtain funding after April 15 would not be eligible. In any given year, the only impact of the change will be realized for projects funded by States after April 15 and before August 16. As mentioned above, projects that are not eligible for inclusion in priority group 1 because funds are unavailable would still be eligible for inclusion in priority groups 2–7 because the initial application does not require the commitment of funds. For all of the priority groups, the date on which an application for a project is received by VA affects the position of the project on the priority list (the earlier the application was received, the higher the priority given within a specific priority group or, where relevant, subpriority group). See 38 CFR 59.50.

Finally, we are making a technical amendment to add, after the authority citation for § 59.20, a parenthetical noting that the Office of Management and Budget (OMB) has approved the information collection required by that regulation. It is VA's practice to include notations concerning the information collection approval number at the end of regulations containing information collections, and the omission here was an oversight.

#### Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before

issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any given year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

#### Paperwork Reduction Act

Although this document contains provisions constituting collections of information, at 38 CFR 59.20, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), no new or proposed revised collections of information are associated with this proposed rule. The information collection requirements for § 59.20 are currently approved by OMB and have been assigned OMB control number 2900–0661.

#### Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a regulatory action as a “significant regulatory action,” requiring review by OMB unless OMB waives such review, if it is a regulatory action that is likely to result in a rule that may: (1) 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, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866.

#### Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would 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. The rule affects States and has no impact on any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

#### Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program numbers and titles for this rule are as follows: 64.005, Grants to States for Construction of State Home Facilities; 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

#### Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on February 8, 2011, for publication.

#### List of Subjects in 38 CFR Part 59

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Veterans.

Dated: February 23, 2011.

#### Robert C. McFetridge,

*Director, Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.*

For the reasons set forth in the preamble, VA proposes to amend 38 CFR part 59 as follows:

#### PART 59—GRANTS TO STATES FOR CONSTRUCTION OR ACQUISITION OF STATE HOMES

1. Revise the authority citation for part 59 to read as follows:

**Authority:** 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137.

2. Amend § 59.20 by:

a. Revising paragraph (c).  
b. Removing “August” from paragraph (d) and adding, in its place, “April”.

c. Adding an information collection approval parenthetical after the authority citation at the end of the section.

The revision and addition read as follows:

**§ 59.20 Initial application requirements.**

\* \* \* \* \*

(c) The items requested under paragraph (a) of this section must be received by VA no later than April 15 in order for VA to include the application on the priority list for the award of grants during the next fiscal year. See § 59.50, Priority List.

\* \* \* \* \*

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0661.)

**§ 59.50 [Amended]**

3. Amend § 59.50 by removing “August” from the introductory text of paragraph (a) and adding, in its place, “April”.

**§ 59.70 [Amended]**

4. Amend § 59.70 by removing “August” from paragraph (b) and adding, in its place, “April”.

[FR Doc. 2011–4431 Filed 2–28–11; 8:45 am]

**BILLING CODE** 8320–01–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R07–OAR–2010–0168; FRL–9271–4]

**Approval and Promulgation of Implementation Plans; State of Missouri**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Missouri to add two new rules which implement restrictions on the idling of heavy duty diesel vehicles in the Kansas City Metropolitan Area and in the St. Louis Ozone Nonattainment Area. EPA is proposing this revision because the standards and requirements set by the rules will strengthen the Missouri SIP. EPA’s approval of this SIP revision is

being done in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** Comments on this proposed action must be received in writing by March 31, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R07–OAR–2010–0168, by mail to Amy Bhesania, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Amy Bhesania at (913) 551–7147, or by e-mail at [bhesania.amy@epa.gov](mailto:bhesania.amy@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of the **Federal Register**, EPA is approving the state’s SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: February 16, 2011.

**Karl Brooks,**

*Regional Administrator, Region 7.*

[FR Doc. 2011–4371 Filed 2–28–11; 8:45 am]

**BILLING CODE** 6560–50–P

**DEPARTMENT OF DEFENSE**

**Defense Acquisition Regulations System**

**48 CFR Parts 211, 212, and 252**

**RIN 0750–AG83**

**Defense Federal Acquisition Regulation Supplement; Reporting of Government-Furnished Property (DFARS Case 2009–D043)**

**AGENCY:** Defense Acquisition Regulations System; Department of Defense (DoD).

**ACTION:** Notice of public meeting on proposed rule.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to revise and expand reporting requirements for Government-furnished property to include items uniquely and non-uniquely identified, and to clarify policy for contractor access to Government supply sources.

**DATES:** *Public Meeting:* DoD is hosting a public meeting to discuss the proposed rule on March 18, 2011, from 1 p.m. to 4 p.m. DST. Attendees should register for the public meeting at least one week in advance to ensure adequate room accommodations. Registrants will be given priority if room constraints require limits on attendance. To register, please go to <http://www.acq.osd.mil/dpap/dars/Government-furnished-property.html> and submit the following information:

- (1) Company or organization name;
- (2) Names of persons attending;
- (3) Identity if desiring to speak; limit to a 10-minute presentation per company or organization.

**FOR FURTHER INFORMATION CONTACT:**

Send questions about registration or the submission of comments to the e-mail address identified at <http://www.acq.osd.mil/dpap/dars/Government-furnished-property.html>. Please cite “Public Meeting, DFARS Case 2009–D043” in the subject line of the e-mail.

**ADDRESSES:** *Public Meeting:* The public meeting will be held in the General Services Administration multipurpose room, 2nd floor, One Constitution Square, 1275 First Street, NE., Washington, DC 20417.

Interested parties are encouraged to arrive at least 30 minutes early. Government ID holders (PIV Cards) will be able to scan their cards to enter the building. Other visitors will be able to enter the building by entering through the Visitors’ Center, and will require a