

Service Bulletin 145-34-0026, Change No. 01, dated June 23, 1999, constitutes terminating action for the requirements of this AD.

(d) As of the effective date of this AD, no person shall install on any airplane anemometric static ports 1, 2, 3, and 4, unless they have been modified in accordance with paragraph (b) of this AD.

Alternative Methods of Compliance

(e) 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, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, Atlanta ACO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(g) Except as provided by paragraph (a) of this AD, the actions shall be done in accordance with Embraer SB 145-34-0026, Change No. 01, dated June 23, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Brazilian airworthiness directive 1999-06-01R2, dated July 19, 1999.

(h) This amendment becomes effective on October 18, 1999.

Issued in Renton, Washington, on September 27, 1999.

D.L. Riggins,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 99-25593 Filed 9-30-99; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 900

[Docket No. 99N-1502]

Medical Devices: Quality Mammography Standards; Delay of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule; delay of effective date.

SUMMARY: The Food and Drug Administration (FDA) published a direct final rule in the *Federal Register* of June 17, 1999 (64 FR 32404). The document notified the public of FDA's intention to amend the regulations that govern mammography quality standards to incorporate changes required by the Mammography Quality Standards Reauthorization Act. This document delays the effective date of the direct final rule.

EFFECTIVE DATE: The effective date of the direct final rule published at 64 FR 32404 is delayed until January 28, 2000.

FOR FURTHER INFORMATION CONTACT: Roger L. Burkhardt, Center for Devices and Radiological Health (HFZ-240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20857, 301-594-3332.

SUPPLEMENTARY INFORMATION: FDA solicited comments concerning the direct final rule for a 75-day period ending August 31, 1999. FDA stated that the effective date of the direct final rule would be on November 1, 1999, 60 days after the end of the comment period, unless any significant adverse comment was submitted to FDA during the comment period. FDA did not receive any significant adverse comment.

However, FDA has not yet received approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) of the information collection requirements in this rule. Therefore, FDA is revising the effective date of this rule to January 28, 2000. By that date, FDA expects to have received clearance from the Office of Management and Budget for the information collection requirements in the rule. This document delays the effective date of the direct final rule.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, notice is given that no significant adverse comments were filed on the June 17, 1999, direct final

rule. Accordingly, the amendments issued thereby are effective January 28, 2000.

Dated: September 27, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.
[FR Doc. 99-25556 Filed 9-30-99; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010-AC42

Coastal Zone Consistency Review of Exploration Plans and Development and Production Plans

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This final rule amends regulations that specify how States review Exploration Plans (EP) and Development and Production Plans (DPP) for coastal zone consistency. The amended regulation clarifies that a State coastal zone consistency review occurs under the authority of the National Oceanic and Atmospheric Administration (NOAA) regulations and that when MMS prepares a DPP environmental impact statement (EIS), we will give the draft EIS to those States requiring the draft EIS as necessary information to conduct a DPP consistency review.

EFFECTIVE DATE: The rule is effective on November 1, 1999.

FOR FURTHER INFORMATION CONTACT: Maureen Bornholdt, Environmental Assessment Branch, (703) 787-1656.

SUPPLEMENTARY INFORMATION: This rulemaking seeks to correct discrepancies between MMS and NOAA regulations. We last revised our current rules in 1988 for Outer Continental Shelf (OCS) plan submission and approval. At that time, several statements concerning State coastal zone consistency reviews were placed in our regulations alerting lessees to the requirements that had to be met before we could approve activities associated with an EP or a DPP. Since 1988, some of these provisions conflict with the NOAA rules governing State coastal zone consistency review of OCS plans. Thus, we are revising our regulations to conform with the NOAA requirements.

Additionally, we believe it is in the interest of all parties for States to have the best available information in evaluating the consistency certification

by applicants for a DPP under the State's coastal management program and in making important coastal zone management (CZM) decisions. Accordingly, when we prepare a DPP EIS, we will give the draft EIS to those States requiring a DPP National Environmental Policy Act (NEPA) document as necessary information that the State must receive before consistency review can begin.

Background

Section 307(c)(3)(B) of the Coastal Zone Management Act (CZMA) requires that lessees conduct activities described in OCS plans in a manner consistent with enforceable policies of federally approved State Coastal Management Programs (CMP). Consequently, any person submitting an OCS plan to us must include a certificate of "coastal zone consistency," i.e., a certification that lessee activities are consistent with the enforceable policies of CMP. Under section 307(c)(3)(B), Federal agencies cannot grant any Federal licenses or permits for any activity in the OCS plan until the State concurs with, or is conclusively presumed to concur with, the consistency certification, or the Secretary of Commerce overrides the State's consistency objection.

The CZMA requires three items for State consistency review: the OCS plan, the consistency certification, and any necessary data and information. Because many State CMPs describe information requirements for assessing consistency, States must make copies of their CMP available to help applicants identify necessary data and information. NOAA also encourages applicants to discuss consistency information needs with the State.

In addition to using CMP information requirements for OCS plan review, NOAA has instructed States to use "information received pursuant to the Department of the Interior's operating regulations governing (OCS) exploration, development and production" to determine consistency (15 CFR 930.77(a)). The State may ask for information in addition to that required by § 930.77, but such requests do not extend the start of its consistency review (15 CFR 930.78). Consistency review begins when the State receives a copy of the OCS plan, consistency certification, and required necessary data and information (15 CFR 930.78).

Changes to Our Regulations

We are revising our rules to start consistency review upon receipt of the EP or DPP. This will comply with the NOAA requirement (15 CFR 930.77) to begin consistency review when the State receives the OCS plan (the version that MMS deems submitted), the lessee's consistency certification, and required necessary data and information. We are adding this NOAA reference on starting consistency review to the regulations found at 30 CFR 250.203(f) and 250.204(i).

Additionally, we are replacing the statement about the relationship between the NEPA process and the State consistency review with one describing when we will forward a draft EIS to the State CZM agency.

In 1979, the Department of the Interior (DOI) expressed the view that delaying the CZMA consistency process until after preparation of a NEPA compliance document would not be consistent with congressional intent. Specifically, in response to a comment suggesting a delay in the CZMA process when an EIS is needed for a DPP, the 1979 preamble to the current rule stated:

It is clear from the provisions of Section 25 of the Act that a State's coastal zone consistency review is independent of the National Environmental Policy Act review procedures, and the coastal zone consistency review should be completed within the timeframe specified in the Act and the implementing regulations. The Environmental Report is designed to provide all the information needed for the consistency review. To adopt the suggested procedure would result in a delay that is contrary to the intent of Congress. 44 Fed. Reg. 53686 (Sept. 14, 1979).

DOI has reconsidered this position for two reasons. First, 19 years of OCS program experience under the old rule have led us to conclude that the lack of an EIS in a State's review of a CZMA consistency certification has contributed to many State objections and a more contentious process than necessary in developing our Nation's offshore natural gas and oil. Accordingly, we have determined to support, to the extent permitted by law, the States' efforts to obtain the best reasonably available environmental information before making consistency decisions under the CZMA.

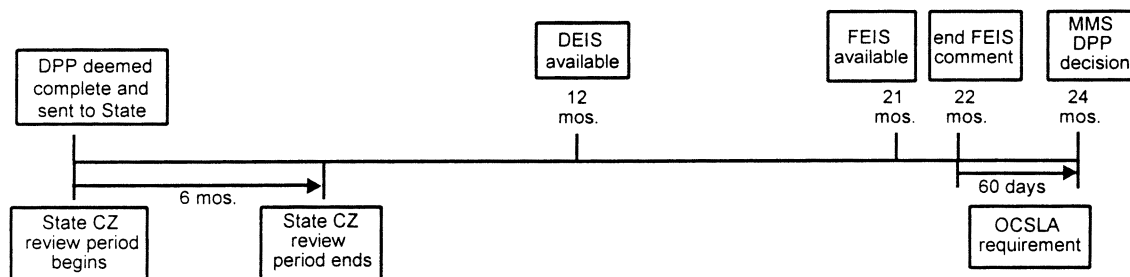
Second, as a matter of law, the NEPA, CZMA, and OCS Lands Act (OCSLA) do not expressly state their relationship to each other, and the relationship (or lack

of relationship) among these statutes is not as clear as the preamble to the 1979 rulemaking asserts. The 1979 preamble statement relied upon certain statements in the legislative history, not the statutory text. (See, e.g., H.R. REP. No. 590, 95th Cong., 2d Sess. 167, reprinted in the 1978 U.S. CODE CONG. & ADMIN. NEWS 1572, 1573.) While the CZMA, OCSLA, and NEPA processes have somewhat different timeframes, we do not find in them any requirement to achieve compliance with the separate mandates of those statutes in any rigid order. The Secretary's general rulemaking authority in Section 5 of the OCSLA, 43 U.S.C. 1334, provides considerable discretion to administer the OCS program. The Solicitor's Office advises that this authority gives the Secretary discretion to provide a more flexible approach to achieving that compliance. Thus, the Secretary may allow MMS to give a draft EIS to those States that require a draft EIS before starting the DPP consistency review.

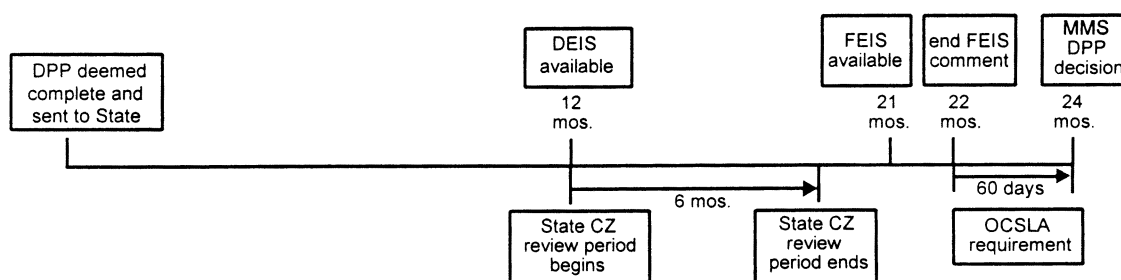
Therefore, we will give the draft EIS to those States that require the DPP NEPA document as necessary information that must be received before consistency review can begin. Any delay in beginning the DPP consistency review until the draft EIS is available will not affect the mandated 60-day timeframe for our decision on the DPP. When a DPP EIS is prepared, OCSLA requires that we approve, disapprove, or require modification of the DPP 60 days after the release of the final EIS. Typically, there are about 8 to 9 months between the availability of the draft and final EISs. We use this time period to solicit public comment (written and oral) on the draft EIS, respond to comments, make changes, and conduct internal reviews and other administrative matters associated with the EIS production. This time interval would allow the State sufficient time to complete its DPP consistency review (see the chart following this paragraph). We want to make good science and analysis available for states to use in making CZMA decisions. We can further that effort by providing the State with the best available information in order to concur with an applicant's DPP consistency certification. It also helps us to base the OCS program on consensus, not conflict, and to be good neighbors to the coastal States.

BILLING CODE 4310-MR-P

DPP EIS Schedule Using Former MMS Regulations



DPP EIS Schedule Using New Final MMS Regulations



BILLING CODE 4310-MR-C

Comments on the Rule

We received comments from nine groups including State Governments and the offshore petroleum industry:

- American Petroleum Institute
- State of California
 - California Coastal Commission
 - Resources Agency of California
- State of Florida
 - Department of Community Affairs
 - Office of the Governor
- Chevron U.S.A. Production Company
- State of North Carolina
 - Department of Environmental and Natural Resources
- Phillips Petroleum Company
- Texaco Exploration and Production Inc.

We considered the comments and have modified the final language as appropriate.

Comments and Responses

In addition to the proposed changes in the regulations, we sought comment on whether to apply the proposed language to pending DPP applications. We decided not to apply the new rule retroactively. When we published the proposal, the only MMS-pending DPP application (Destin Dome 56 Unit Offshore Florida) had received a State consistency objection (February 1998). The applicant had filed its consistency appeal with the Secretary of Commerce

in March 1998. The Department of Commerce (DOC) has begun to compile and review the record in this appeal. They have asked Federal agencies to submit comments for the record and have scheduled a public hearing in September 1999. The appeal's public record remains open until 30 days after the DOC public hearing. MMS will publish the DPP draft EIS while the appeal record is open, and we will forward a copy to DOC.

Comment: Several commenters expressed concern that the proposed changes give the States up to 18 months, and perhaps longer, to complete their consistency review.

Response: The CZMA controls and sets the deadlines and criteria for consistency review through NOAA's implementing regulations, not the MMS regulations. The NOAA consistency regulations set a 6-month deadline for the State's consistency decision:

Concurrence by the State agency shall be conclusively presumed in the absence of a State agency objection to the consistency certification within six months following commencement of State agency review. (15 CFR 930.79(b))

The NOAA consistency regulations determine when the CZMA clock starts:

State agency review of the person's consistency certification begins at the time the State agency receives a copy of the OCS plan, consistency certification, and required

necessary data and information. (15 CFR 930.78)

The MMS regulations have incorporated the NOAA process in 30 CFR 250.204(i)

The [DPP] plan will be processed in accordance with the regulations in this section and the regulations governing Federal CZM consistency procedures (15 CFR part 930).

The new rule does not alter the CZMA/NOAA time requirements for State consistency review.

Comment: Several commenters were concerned that the proposal will cause delays in the OCS permitting and the consistency appeals process.

Response: When MMS prepares a DPP EIS, OCSLA requires that we approve, disapprove, or require modification of the DPP 60 days after the release of the final EIS. The new rule will not affect the mandated 60-day timeframe to issue our DPP decision. Regarding the comment about delaying the consistency appeals process, one of our objectives of the new rule is to decrease the number of State consistency objections based on insufficient information. NOAA regulations found at 15 CFR 930 govern the consistency appeal process. The new rule does not alter and cannot change the NOAA appeal process. Providing the draft EIS to States amending their coastal program will ensure that those States

have a comprehensive analysis of the OCS plan's environmental impacts to use in making their consistency decisions. Indeed, allowing States to use the draft EIS' analysis may result in fewer consistency objections, associated consistency appeals, and attendant delays.

Comment: Several commenters stated that the current process to collect information for State consistency review purposes is adequate.

Response: The discretion for deciding what information is required to determine consistency lies with the affected State. The new rule will not change the current information collection process outlined in the NOAA consistency regulations. Instead, the rule informs States and OCS operators that MMS reconsidered the relationship between the NEPA process and State consistency reviews, and we will give the draft EIS to those States that require the DPP NEPA document as necessary information that the State must receive before consistency review can begin.

Comment: A commenter suggested that we provide the States with all the comments on the draft EIS in addition to the draft EIS.

Response: We did not incorporate this suggestion into the final rule. We will provide the State, upon request, a copy of the comments on the draft EIS. The purpose of supplying information is to help the State determine consistency through understanding how the proposed project could affect coastal resources and uses. The draft EIS is our primary source of environmental analytical information focusing on impacts of the OCS project on the human, marine, and coastal environments. The comments we receive on the draft EIS, while very useful, are a critique of the proposal and the draft EIS and not an environmental impact analysis. To obtain public comment on the OCS proposal, the NOAA regulations require the States to comply with certain public notice and comment requirements. Through those NOAA processes, the States can acquire public opinions/concerns about the OCS consistency review.

Comment: A commenter suggested that we apply the same requirement to exploration plans.

Response: Given that exploration activities are temporary and less complicated than those associated with a normally 30-year development and production project, the information and analysis requirements under NOAA consistency and MMS operating regulations provide the State with a sufficient basis on which to render a

consistency decision. Therefore, the final rule does not apply the requirement to EPs.

Comment: Several commenters stated that MMS should amend the proposal to apply to all States instead of letting the States decide what information is necessary for consistency review.

Response: As part of our NEPA process, we provide the DPP draft EIS to all affected States and will continue to do so. However, our new rule does not create CZMA consistency-related obligations. The CZMA sets the criteria for consistency review through NOAA's implementing regulations. If a State wants to obtain more information (the draft EIS) before the consistency review starts, the State must comply with NOAA's consistency regulations—in this case that means listing the draft EIS as "necessary data and information." The NOAA regulations do not require listing the draft EIS if the State simply wanted the draft EIS as "supplemental" information. Finally, some States may be satisfied with the information they receive and may not choose to require the draft EIS.

Comment: A commenter stated that current MMS regulations prevent States from reviewing for consistency certain permits issued after a plan's approval and suggested that MMS include these permitted activities in either the OCS Plan or associated NEPA document making those activities available for consistency review.

Response: NOAA's regulations preclude the States from reviewing permits associated with a plan that already received State consistency concurrence. The NOAA regulations state:

If the State agency issues a concurrence or is conclusively presumed to concur with the person's consistency certification, the person will not be required to submit additional consistency certifications and supporting information for the State agency review at the time Federal applications are actually filed for the Federal licenses and permits to which such concurrence applies. (15 CFR 930.80)

The MMS regulations incorporate the NOAA exemption:

* * * APD's must conform to the activities described in detail in the approved Exploration Plan and shall not be subject to a separate State coastal zone consistency review. (30 CFR 250.203(p))

* * * All APD's and applications to install platforms and structures, pipelines, and production equipment must conform to the activities described in detail in the approved Development and Production Plan and shall not be subject to a separate State coastal zone consistency review. (30 CFR 250.204(t))

Briefly, OCS plans include:

- the schedule for offshore activities (e.g., commencement and completion schedules, sequences for drilling wells and installing facilities, and date of first production).

- descriptions of any drilling vessels, platforms, pipelines, or other facilities/operations (including location, size, design, and safety and pollution-prevention features).

- supporting information, including descriptions of geological and geophysical data, air emissions, physical oceanography, onsite flora and fauna, and quality, and other uses of the area.

States review OCS plans to determine whether proposed activities described in them will be conducted in a manner consistent with the enforceable policies of approved coastal management programs. We are prohibited from permitting OCS plan activities until the State concurs with or is presumed to concur with the plan's consistency certification. Because the OCS plan reviewed by the State for consistency includes a description of proposed permitted activities, the subsequently filed permits are already covered by the State's consistency review.

Comment: A commenter suggested that Federal consistency determinations should be included at each stage of the NEPA process. States should be allowed to review for consistency each individual stage of the NEPA process, especially when significant changes are made to the project or analyses.

Response: NEPA documents do not trigger a consistency review. NEPA documents analyze environmental impacts. They do not approve activities by either the Government or the lessees. Nor do they approve licenses or permits. However, MMS regulations provide that if the OCS plan changes substantially (e.g., significantly changes the impacts that were previously identified and evaluated; requires additional permits; or proposes activities not previously identified and evaluated) after the State's concurrence, the proposed revised OCS plan will be subject to State consistency review.

Comment: A commenter expressed concern that delaying the State's consistency decision until later in the DPP process would not give MMS consistency-related information in a timely fashion and could result in considerable NEPA-related delays.

Response: The new rule will not delay our NEPA process. Before we prepare an EIS, we conduct "scoping." Scoping identifies the extent and significance of important environmental issues associated with a proposed Federal action. During scoping, we ask the public; local, State, and Federal agencies; and interested organizations or individuals to identify issues, resources,

impacts, and any alternatives to the proposed action that the EIS should address. Issues identified and ultimately analyzed in the impact statement typically include those covered by the State's coastal management program. We also include State CZM agencies in our scoping process.

Comment: A commenter suggested that we clarify proposed language to be sure that the OCS plan the State receives to begin its consistency review is the version that MMS deems complete.

Response: The new rule makes that change.

Comment: A commenter suggested to change the language to require MMS to send the final EIS.

Response: When MMS prepares a DPP EIS, OCSLA requires that we approve, disapprove, or require modification of the DPP 60 days after the release of the final EIS. State consistency review takes from 3 to 6 months. Therefore, starting consistency review upon the release of the final EIS would violate the required deadline in OCSLA.

Procedural Matters

Federalism (Executive Order (E.O.) 12612)

According to E.O. 12612, the rule does not have significant Federalism implications. A Federalism assessment is not required.

Takings Implications Assessment (E.O. 12630)

According to E.O. 12630, the rule does not have significant takings implications. A Takings Implication Assessment is not required.

Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under E.O. 12866.

(1) This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The rule simply clarifies the authority of NOAA regulations for State coastal zone consistency review. It also makes available to those States requiring it, a copy of the draft DPP EIS when MMS prepares one.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. There are no new requirements in this rule. The rule simply clarifies existing regulations.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. The clarifications contained in the rule do not change existing regulations and therefore do not alter the budgetary effects, grants, user fees etc.

(4) This rule does not raise novel legal or policy issues. The clarifications in the rule are based on the longstanding legal authority of the OCSLA, CZMA, NEPA and other laws. As previously stated it clarifies the authority of NOAA regulations.

Civil Justice Reform (E.O. 12988)

According to E.O. 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA of 1969 is not required.

Paperwork Reduction Act (PRA) of 1995

The information collection requirements in subpart B remain unchanged. The current information collection requirements of Subpart B, Exploration and Development and Production Plans, have been approved by OMB under 44 U.S.C. 3507 and assigned OMB control number 1010-0049.

Regulatory Flexibility Act

DOI certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The revision to the rule will clarify, but not change, the requirements currently in place for OCS plan review and approval. The changes make clear that NOAA regulations govern State coastal zone consistency review of OCS plans submitted to us. There will be no change to current procedures resulting from the amendment to the rule. DOI has determined that these changes to the rule will not have a significant effect on a substantial number of small entities. In general, most entities that engage in offshore activities are not considered small due to the technical and financial resources and experience necessary to conduct such activities safely. However, those lessees that are classified as small businesses will not be affected. DOI also determined that there are no indirect effects of this rulemaking on small

entities that provide support for offshore activities. Small government entities, such as small local governments in an affected State's coastal zone, can participate in State coastal zone review and can request that the Regional Supervisor provide copies of plans. None of the proposed changes will affect this process.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free (888) 734-3247.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under (5 U.S.C. 804(2)) SBREFA. This rule:

(a) Does not have an annual effect on the economy of \$100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandate Reform Act (UMRA) of 1995

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. A statement containing the information required by UMRA (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: September 3, 1999.

Sylvia V. Baca,

Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the Minerals Management Service amends 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1334.

2. In § 250.203, paragraph (f) is revised to read as follows:

§ 250.203 Exploration Plan.

* * * * *

(f) Within 2 working days after we deem the Exploration Plan submitted, the Regional Supervisor will send by receipted mail a copy of the plan (except those portions exempt from disclosure under the Freedom of Information Act and 43 CFR part 2) to the Governor or the Governor's designated representative and the CZM agency of each affected State. Consistency review begins when the State's CZM agency receives a copy of the deemed submitted plan, consistency certification, and required necessary data and information as directed by 15 CFR 930.78.

* * * * *

3. In § 250.204, paragraphs (i) and (j) are revised to read as follows:

§ 250.204 Development and Production Plan.

* * * * *

(i) We will process the plan according to this section and 15 CFR part 930. Accordingly, consistency review begins when the State's CZM agency receives a copy of the deemed submitted plan, consistency certification, and required necessary data and information as directed by 15 CFR 930.78.

(j) The Regional Supervisor will evaluate the environmental impact of the activities described in the Development and Production Plan (DPP) and prepare the appropriate environmental documentation required by the National Environmental Policy Act of 1969. At least once in each planning area (other than the western and central Gulf of Mexico planning areas), we will prepare an environmental impact statement (EIS) and send copies of the draft EIS to the Governor of each affected State and the executive of each affected local government that requests a copy. Additionally, when we prepare a DPP

EIS and when the State's federally approved coastal management program requires a DPP NEPA document for use in determining consistency, we will forward a copy of the draft EIS to the State's CZM Agency. We will also make copies of the draft EIS available to any appropriate Federal Agency, interstate entity, and the public.

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[FR Doc. 99-25499 Filed 9-30-99; 8:45 am]

BILLING CODE 4310-MR-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV-082-FOR]

West Virginia Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing its approval of amendments and its decision concerning the State's request that we reconsider certain decisions on a previous program amendment to the West Virginia permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment revises the West Virginia surface mining regulations concerning definitions of "area mining operations" and "mountaintop mining operations;" variances from approximate original contour in steep slope areas; subsidence control plans; permit issuance; construction tolerance; surface owner protection; and primary and emergency spillway designs. The previous amendment being reconsidered concerns subsidence regulations. The amendment is intended to improve the operational efficiency of the State program, and to make the regulations consistent with the counterpart Federal regulations.

EFFECTIVE DATE: October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office, 1027 Virginia Street East, Charleston, West Virginia 25301. Telephone: (304) 347-7158.

SUPPLEMENTARY INFORMATION:

- I. Background on the West Virginia Program
- II. Submission of the Amendment
- III. Director's Findings
- IV. Summary and Disposition of Comments
- V. Director's Decision
- VI. Procedural Determinations

I. Background on the West Virginia Program

On January 21, 1981, the Secretary of the Interior conditionally approved the West Virginia program. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of the approval in the January 21, 1981, **Federal Register** (46 FR 5915-5956). You can find later actions concerning the West Virginia program and previous amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Submission of the Amendment

By letter dated May 5, 1999 (Administrative Record Number WV-1127), the West Virginia Division of Environmental Protection (WVDEP) submitted an amendment to the West Virginia permanent regulatory program pursuant to 30 CFR 732.17. The amendment concerns changes to the West Virginia regulations made by the State Legislature in House Bill 2533 which was enacted on April 2, 1999. In addition, the WVDEP requested that OSM reconsider its disapproval of parts of CSR 38-2-3.12 (concerning subsidence control plan) and 38-2-16.2 (concerning surface owner protection) and remove the corresponding required regulatory program amendments specified in the February 9, 1999, **Federal Register** (64 FR 6201-6218) in light of the April 27, 1999, United States Court of Appeals decision on Case No. 98-5320.

We announced receipt of the proposed amendment in the May 27, 1999, **Federal Register** (64 FR 28771), invited public comment, and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on June 28, 1999. No one requested an opportunity to speak at a public hearing, so none was held.

III. Director's Findings

Following, according to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are our findings concerning the proposed amendment. Any revisions that we do not specifically discuss below concern nonsubstantive wording changes or revised paragraph notations to reflect organizational changes that result from this amendment.

1. *CSR 38-2-2.11 Definition of "Area Mining Operation."* In this new definition, "Area Mining Operation" is defined to mean a mining operation where all disturbed areas are restored to approximate original contour (AOC) unless the operation is located in steep