

The temporary regulations in this issue of the Federal Register amend the regulations in 27 CFR Part 53. For the text of the temporary regulations, see T.D. ATF-380 published in the Rules and Regulations section of this issue of the Federal Register.

#### Drafting Information

The author of this document is Mary Lou Blake, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Signed: May 30, 1996.

Bradley A. Buckles,  
*Acting Director.*

Approved: June 10, 1996.

John P. Simpson,

*Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).*

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 948

[WV-075-FOR]

#### West Virginia Permanent Regulatory Program

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

**ACTION:** Proposed Rule; reopening of comment period.

**SUMMARY:** OSM is reopening the public comment period on a proposed amendment to the West Virginia permanent regulatory program (hereinafter referred to as the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment revises the West Virginia Surface Mining Reclamation Regulations concerning topsoil substitutes. The amendment is intended to improve the effectiveness of the West Virginia program.

**DATES:** Written comments must be received on or before 4:00 p.m. on July 31, 1996.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Mr. James C. Blankenship, Jr., Director, Charleston Field Office at the address listed below.

Copies of the proposed amendment, the West Virginia program, and the administrative record on the West Virginia program are available for public review and copying at the addresses below, during normal business hours,

Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting the OSM Charleston Field Office.

Mr. James C. Blankenship, Jr., Director,  
Charleston Field Office, Office of  
Surface Mining Reclamation and  
Enforcement, 1027 Virginia Street,  
East, Charleston, West Virginia 25301  
Telephone: (304) 347-7158  
West Virginia Division of  
Environmental Protection, 10  
McJunkin Road, Nitro, West Virginia  
25143, Telephone: (304) 759-0515

In addition, copies of the proposed amendment are available for inspection during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 75 High Street, Room 229, P.O. Box 886, Morgantown, West Virginia 26507, Telephone: (304) 291-4004  
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. James C. Blankenship, Jr., Director,  
Charleston Field Office; Telephone:  
(304) 347-7158.

#### SUPPLEMENTARY INFORMATION:

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

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

##### II. Discussion of the Proposed Amendment

By letter dated April 2, 1996 (Administrative Record Number WV-1024), the West Virginia Division of Environmental Protection (WVDEP) submitted an amendment to its approved permanent regulatory program pursuant to 30 CFR 732.17. The amendment contains revisions to the West Virginia Surface mining Reclamation Regulations (CSR § 38-2-1 *et seq.*). The proposed amendments were announced in the April 23, 1996, Federal Register (61 FR 17859). However, a proposed amendment to

§ 38-2-14.3(c) concerning topsoil substitutes was inadvertently omitted from that notice. Therefore, OSM is reopening the public comment period only on the following proposed amendment.

Section 38-2-14.3(c)(2) is amended by adding the word "reasonably" immediately following the word "best." As amended, subsection (c)(2) reads as follows: "The resulting soil medium is the best reasonably available in the permit area to support vegetation; and."

#### III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comments on the proposed amendment submitted by the State of West Virginia to its permanent regulatory program. Specifically, OSM is seeking comments on the revision to the State's regulations that was submitted on April 2, 1996 (Administrative Record No. WV-1024), and is identified above. Comments should address whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the West Virginia program.

#### Written Comments

Written comments should be specific, pertain only to the issue proposed in this notice and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the OSM Charleston Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

#### IV. Procedural Determinations

##### Executive Order 12291

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 (Reduction of Regulatory Burden) for actions related to approval or conditional approval of State regulatory programs, actions and program amendments. Therefore, preparation of a regulatory impact analysis is not necessary, and OMB regulatory review is not required.

##### Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards

are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of the Surface Mining Control and Reclamation Act (SMCRA) (30 U.S.C. 1253 and 1255) and 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.

#### *National Environmental Policy Act*

No environmental impact statement is required for this rule since 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 the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3507 *et seq.*

#### *Regulatory Flexibility Act*

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

#### *Unfunded Mandates*

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

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

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 8, 1996.

Tim L. Dieringer,

*Acting Regional Director, Appalachian Regional Coordinating Center.*

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### DEPARTMENT OF VETERANS AFFAIRS

#### 38 CFR Part 17

RIN 2900-AH89

#### VA Homeless Providers Grant and Per Diem Program Clarification of Per Diem Eligibility

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Proposed rule.

**SUMMARY:** It is proposed to amend the regulations implementing the VA Homeless Providers Grant and Per Diem Program concerning per diem assistance by: Establishing more detailed criteria for determining which entities are eligible for obtaining per diem assistance; establishing a priority for funding eligible entities; clarifying the requirements for continued receipt of per diem payments; and clarifying the maximum amount payable for per diem assistance. The proposal is designed to ensure that the appropriate entities receive the appropriate amount of per diem assistance under fair and objective procedures. This document also proposes to obtain approval of collection of information provisions concerning applicants for grants and per diem.

**DATES:** Comments must be received on or before September 16, 1996.

**ADDRESSES:** Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Room 1154, Department of Veterans Affairs, 810 Vermont Ave., NW, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-AH89." All written comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** Roger Casey, VA Homeless Providers Grant and Per Diem Program, Mental Health and Behavioral Sciences Service (111C1E), Department of Veterans Affairs, 810 Vermont Avenue, NW,

Washington, DC 20420; (202) 273-8442. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** It is proposed to amend the regulations implementing VA's Homeless Providers Grant and Per Diem Program (38 CFR part 17.700) concerning per diem assistance by: (1) Establishing more detailed criteria for determining which entities are eligible for obtaining per diem assistance; (2) establishing a priority for funding eligible entities; (3) clarifying the requirements for continued receipt of per diem payments; and (4) clarifying the maximum amount payable for per diem assistance. These regulations were established pursuant to Homeless Veterans Comprehensive Services Act of 1992 (Pub. L. 102-590, as amended by Pub. L. 104-110). The regulations set forth provisions to assist public or non-profit private entities in establishing new programs to furnish supportive services and supportive housing for homeless veterans through grants. The regulations also provide for per diem payments, or in-kind assistance in lieu of per diem payments, to entities that are receiving grants or to entities eligible to receive a grant that established supportive services or a supportive housing program for homeless veterans after November 10, 1992.

Some homeless veterans service providers have informed us they understood the regulations allowed only grant recipients to apply for per diem assistance. However, neither the Act nor the regulations limit per diem assistance to grant recipients. Nevertheless, the Act does limit per diem assistance to entities that meet basic criteria applicable to grant recipients. "Eligible entity" under the Act means a public or nonprofit private entity that: Has the capacity to effectively administer a grant under the Act; demonstrates that adequate financial support will be available to carry out the project for which the grant is sought; and agrees to meet the applicable criteria and requirements of the grant program. Grant program criteria and requirements applicable to the receipt of per diem include: Targeting the homeless veteran population; coordinating with the community; providing the needed services; and establishing a project plan that details the goals that will be used in evaluating participants' progress as well as program successes with increasing veterans' residential stability, skill and/or income level, and self determination. It is proposed to subject per diem applicants to these criteria. It appears this would ensure that the entities awarded per diem assistance