

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. Pennsylvania does not regulate any Native Tribal 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 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 fact that the Pennsylvania submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose 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 fact that the Pennsylvania submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal

regulation did not impose an unfounded mandate.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 18, 2003.

Brent Wahlquist,

Regional Director, Appalachian Regional Coordinating Center.

■ For the reasons set out in the preamble, 30 CFR part 938 is amended as set forth below:

PART 938—PENNSYLVANIA

■ 1. The authority citation for part 938 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

§ 938.16 [Amended]

■ 2. Section 938.16 is amended by removing and reserving paragraph (h). [FR Doc. 03–25300 Filed 10–6–03; 8:45 am]

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LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 260

[Docket No. 2001–1 CARP DSTRA2]

Determination of Reasonable Rates and Terms for the Digital Performance of Sound Recordings by Preexisting Subscription Services

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule; technical amendment.

SUMMARY: The Copyright Office of the Library of Congress is making a non-substantive technical amendment to its final regulations adjusting the royalty rates and terms under the Copyright Act for the statutory license for the use of sound recordings by preexisting subscription services for the period January 1, 2002, through December 31, 2007.

DATES: *Effective Date:* August 4, 2003.

Applicability Date: The regulations apply to the license period January 1, 2002 through December 31, 2007.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION: Section 106(6) of the Copyright Act, title 17 of

the United States Code, gives copyright owners of sound recordings an exclusive right to perform their copyrighted works publicly by means of a digital audio transmission. This right is limited by section 114(d), which allows certain noninteractive digital audio services to make digital transmissions of a sound recording under a compulsory license, provided that the services pay a reasonable royalty fee and comply with the terms of the statutory license. Moreover, these services may make any necessary ephemeral reproductions to facilitate the digital transmission of the sound recording under a second license set forth in section 112(e) of the Copyright Act.

On June 18, 2003, the Copyright Office published final regulations effectuating an agreement on the terms that would govern SoundExchange¹ when it functions as the designated agent for the purpose of receiving royalty payments and statements of account from nonexempt subscription digital transmission services for transmissions of sound recordings made under a statutory license prior to January 1, 2002. 68 FR 36469 (June 18, 2003). Pursuant to the agreement, the Office amended § 260.7 by removing the word “fees” and replacing it with the word “payments.” 68 FR at 36470.

On July 3, 2003, the Copyright Office published final regulations implementing an agreement to adjust the royalty rates and terms for the section 114 license for the use of sound recordings by preexisting subscription services for the current license period—January 1, 2002, through December 31, 2007. 68 FR 39837 (July 3, 2003). Pursuant to the second agreement, the Office amended § 260.7 once again; however, the amendatory language did not reflect the aforementioned amendment made on June 18. As a result, the intended amendment to the final clause of § 260.7 could not be effectuated. The technical amendment published today rectifies this oversight, correctly identifying the language being amended.

List of Subjects in 37 CFR Part 260

Copyright, Digital audio transmissions, Performance right, Sound recordings.

Final Regulation

■ In consideration of the foregoing, the Copyright Office amends part 260 of 37 CFR as follows:

¹ SoundExchange is an unincorporated division of the Recording Industry Association of America, Inc. that administers statutory licenses.

PART 260—RATES AND TERMS FOR PREEXISTING SUBSCRIPTION SERVICES' DIGITAL TRANSMISSIONS OF SOUND RECORDINGS AND THE MAKING OF EPHEMERAL PHONORECORDS

■ 1. The authority citation for part 260 continues to read as follows:

Authority: 17 U.S.C. 114, 801(b)(1).

§ 260.7 [Amended]

■ 2. Section 260.7 is amended by removing “the cost of the administration of the collection and distribution of the royalty payments” and adding “any costs deductible under 17 U.S.C. 114(g)(3)” in its place.

Dated: September 5, 2003.

Marybeth Peters,

Register of Copyrights.

James H. Billington,

The Librarian of Congress.

[FR Doc. 03-25381 Filed 10-6-03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL-7566-6]

Use of Alternative Analytical Test Methods in the Reformulated Gasoline, Anti-Dumping, and Tier 2 Gasoline Sulfur Control Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This direct final rule allows the use of certain alternative analytical test methods for measuring sulfur in gasoline and butane to be used in the Federal reformulated gasoline (RFG) and anti-dumping program and the Federal gasoline sulfur control program. This direct final rule also establishes that a refinery may use any reasonable test method designed for measuring the sulfur content of butane until January 1, 2004. After that date, either the designated analytical test method or an allowed alternative analytical test method must be used. The purpose of today's rule is to grant temporary flexibility until we issue a comprehensive performance-based analytical test methods rule and to fulfill the terms of a recent settlement agreement related to gasoline sulfur test methods.

DATES: This direct final rule is effective December 8, 2003, unless we receive adverse comments or a request for a public hearing by November 6, 2003. If

the Agency receives adverse comments or a request for public hearing, we will withdraw this direct final rule by publishing a timely withdrawal in the **Federal Register**.

The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of December 8, 2003.

ADDRESSES: To request a public hearing, please contact Anne Pastorkovich, Attorney/Advisor, Transportation & Regional Programs Division, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., (6406J), Washington, DC 20460 or by e-mail to pastorkovich.anne-marie@epa.gov. No confidential business information (CBI) should be submitted by e-mail.

EPA has established a public docket for this direct final rule under Docket ID No. OAR-2003-0050, which is available for public viewing at the Air and Radiation Docket and Information Center (EPA/DC) in the EPA Docket Center, EPA West, Room B102, 1301 Constitution Avenue, NW., Washington DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566-1742. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to submit or view public comments, access the index listings of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select “search,” then key in the docket ID number identified above.

Any comments related to the direct final rule should be submitted to EPA within 30 days of this notice, and according to the following detailed instructions: Submit your comments to EPA online using EDOCKET (our preferred method) or by mail to EPA Docket Center, Environmental Protection Agency (6102T), 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

EPA's policy is the public comments, whether submitted electronically or in paper format, will be made available for public viewing in EDOCKET as EPA receives them and without charge, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public