

fault protection for equipment, earth-leakage detectors, and similar equipment are not acceptable substitutes. These devices, which may also be NRTL approved, interrupt the circuit at higher trip levels and, in some cases, do not function to trip the circuit automatically at all.

4. Does the standard require GFCIs to be used with branch circuits supplying temporary lighting?

The standard requires GFCI protection for temporary circuits supplying lighting only when those circuits also supply receptacles. Employers are not required by the standard to install GFCIs for lighting if the design of the temporary lighting is such that the circuits do not also supply receptacles.<sup>7</sup>

**Exemptions From Notice and Comment and Delay in Effective Date**

Under the Administrative Procedure Act (APA), an agency may make a “good cause” finding that notice and comment rulemaking procedures would be impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B); see also 26 CFR 1911.5 (permitting OSHA to promulgate minor changes or amendments to standards without notice and comment when the changes are accompanied by a statement of good cause for the absence of notice and comment). An agency may similarly make the rule effective upon publication when it determines that delaying the effective date of the rule, as normally required by 5 U.S.C. 553, is unnecessary and good cause exists to make the rule effective immediately. 5 U.S.C. 553(d)(3).

In this instance, OSHA finds that good cause exists under 5 U.S.C. 553(b)(B) and (d)(3) to forego public notice and comment for these minor amendments and to make them effective immediately upon publication in the **Federal Register**. Notice and comment procedures for the amendments herein, as well as a delay in the effective date of the amendments, are unnecessary because the amendments are minor clarifications and typographical corrections that do not affect the substantive requirements or coverage of the standards involved, modify or revoke existing rights and obligations, or establish new rights and obligations. Moreover, the clarifications respond to

<sup>7</sup> OSHA notes that Section 590.4(D) of the 2005 National Electrical Code (NEC) prohibits the installation of receptacles on branch circuits that supply temporary lighting for construction sites. This requirement is intended to ensure that temporary lighting is not subject to tripping by the GFCIs required on construction sites. Subpart S does not contain a similar prohibition.

requests for immediate formal guidance to assist employers in complying with the existing standards.

**List of Subjects in 29 CFR Part 1910**

Electric power, Fire prevention, Hazardous substances, Occupational safety and health, Safety.

**Authority**

This document was prepared under the direction of Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210.

This action is taken pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor’s Order No. 5–2007 (72 FR 31160), and 29 CFR part 1911.

Signed at Washington, DC, this 24th day of October 2008.

**Edwin G. Foulke, Jr.,**

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

Part 1910 of Title 29 of the Code of Federal Regulations is amended as follows:

**PART 1910—[AMENDED]**

**Subpart S—[Amended]**

■ 1. The authority citation for subpart S is revised to read as follows:

**Authority:** Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor’s Order No. 8–76 (41 FR 25059), 1–90 (55 FR 9033), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), as applicable; 29 CFR part 1911.

**§ 1910.303 General.**

■ 2. Amend Table S–3 by correcting “2.81” and “9.01,” the first entries under the column heads “m” and “ft,” to read “2.8” and “9.0,” respectively.

■ 3. Revise the introductory text to § 1910.304(b)(3)(ii) to read as follows:

**§ 1910.304 Wiring design and protection.**

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(ii) The following requirements apply to temporary wiring installations that are used during construction-like activities, including certain maintenance, remodeling, or repair activities, involving buildings, structures or equipment.

\* \* \* \* \*

**DEPARTMENT OF THE INTERIOR**

**Minerals Management Service**

**30 CFR Parts 203 and 260**

**RIN 1010–AD29**

**Royalty Relief for Deepwater Outer Continental Shelf Oil and Gas Leases—Conforming Regulations to Court Decision**

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** MMS is delaying until December 8, 2008, 60 days from the date of publication, the effective date of a rule that will conform the regulations at 30 CFR parts 203 and 260 to the Federal Court’s decision in *Santa Fe Snyder Corp. v. Norton*, 385 F.3d 884 (5th Cir. 2004). This delay of effective date is necessary to comply with the Congressional review provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801 *et seq.* (the Congressional Review Act).

**DATES:** The effective date of the rule amending 30 CFR parts 203 and 260 published at 73 FR 58467, October 7, 2008 is delayed until December 8, 2008.

**FOR FURTHER INFORMATION CONTACT:** Marshall Rose, Chief, Economics Division, Minerals Management Service at (703) 787–1536.

**SUPPLEMENTARY INFORMATION:** The rule published October 7, 2008, amends 30 CFR parts 203 and 260 to conform the regulations to the decision in *Santa Fe Snyder*. That decision found that certain provisions of the MMS regulations interpreting section 304 of the Deep Water Royalty Relief Act are contrary to the requirements of the statute. Under the rule, MMS will determine lessees’ royalty under leases subject to Deep Water Royalty Relief Act section 304, for both past and future periods, in a manner consistent with the decision in *Santa Fe Snyder*. As stated in the preamble therein, the final rule has been determined to be both “major” and “economically significant.”

Accordingly, the Congressional Review Act requires that before this final rule can take effect, an agency shall submit the rule to Congress for review for a period of 60 days from the date of publication in the **Federal Register** or receipt of the rule by Congress, whichever is later. 5 U.S.C. 801(a)(3)(A). This delay of the effective date will assure ample time for that required review.

Dated: October 23, 2008.

**C. Stephen Allred,**

*Assistant Secretary—Land and Minerals Management.*

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## DEPARTMENT OF DEFENSE

### Department of the Navy

#### 32 CFR Part 726

[USN-2008-0009]

RIN 0703-AA85

#### Payments of Amounts Due Mentally Incompetent Members of the Naval Service

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Navy amends its rules to update existing sections relating to the authority and procedures to designate trustees for Navy and Marine Corps service members who have been determined to be mentally incompetent pursuant to 37 U.S.C. Chapter 11. The amendments will comport with current policy reflected in Chapter XIV of the Manual of the Judge Advocate General (JAGMAN).

**DATES:** This rule is effective October 29, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Lieutenant Commander Tanya M. Cruz, JAGC, U.S. Navy, Office of the Judge Advocate General (Administrative Law), Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374-5066, telephone: 703-614-7245.

**SUPPLEMENTARY INFORMATION:** The Department of the Navy published a proposed rule at 73 FR 38350 on July 7, 2008, to amend regulations concerning the authority and procedures to designate trustees for members of the Naval service who have been determined to be mentally incompetent in accordance with 37 U.S.C. Chapter 11. As a result of organizational change in the Office of the Judge Advocate General, the functions under Chapter XIV were transferred from the Judge Advocate General to the Defense Finance and Accounting Service-Cleveland Center (DFAS-CL), Office of Continuing Government Activity (CGA). No comments on the proposed rule were submitted. Accordingly, the Department of the Navy amends its rules concerning the authority and procedures to designate trustees for Navy and Marine

Corps service members who have been determined to be mentally incompetent pursuant to 37 U.S.C. Chapter 11. It has been determined that this rule amendment is not a major rule within the criteria specified in Executive Order 12866, as amended by Executive Order 13258, and does not have substantial impact on the public.

#### Matters of Regulatory Procedure

Executive Order 12866, "Regulatory Planning and Review." It has been determined that the changes to 32 CFR part 726 are not considered a "significant regulatory action." The rule does not:

(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 the 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 this Executive Order.

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104-4). It has been certified that 32 CFR part 726 does not contain a Federal Mandate that may result in the expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year.

Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601). It has been determined that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule implements the processing of the proper administrative processing and consideration of claims on behalf of and against the United States, and does not economically impact the Federal government's relations with the private sector.

Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35). This rule does not impose collection of information requirements for purposes of the Paperwork Reduction Act (44 U.S.C. Chapter 35, 5 CFR part 1320). U.S.C. Chapter 35).

Executive Order 13132, "Federalism". It has been certified that 32 CFR part 726 does not have federalism

implications as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

- (1) The States;
- (2) The relationship between the National Government and the States; or
- (3) The distribution of power and responsibilities among the various levels of government.

#### List of Subjects in 32 CFR Part 726

Administrative practice and procedure, Military personnel, Reporting and recordkeeping requirements, Trusts and trustees.

■ For the reasons set forth in the preamble, the Department of the Navy amends 32 CFR part 726 as follows:

#### PART 726—PAYMENTS OF AMOUNTS DUE MENTALLY INCOMPETENT MEMBERS OF THE NAVAL SERVICE

■ 1. The authority citation for 32 CFR part 726 is revised to read as follows:

**Authority:** 5 U.S.C. 301; 10 U.S.C. 5013, and 5148; 37 U.S.C. 601-604, and 1001; 32 CFR 700.105 and 700.312.

##### § 726.1 [Amended]

■ 2. Section 726.1 is amended by removing the words "title 11 of chapter 37" and adding the words "Chapter 11 of Title 37" in their place.

##### § 726.2 [Amended]

■ 3. Section 726.2 is amended by adding three new sentences to the end of paragraph (a) to read as follows:

##### § 726.2 Scope.

(a) \* \* \* The Secretary of the Navy has authority to designate a trustee in the absence of notice that a legal committee, guardian, or other legal representative has been appointed by a State court of competent jurisdiction (37 U.S.C. 601-604). This authority is exercised by the Defense Finance and Accounting Service-Cleveland Center (DFAS-CL), who has delegated it to DFAS-CL, Office of Continuing Government Activity (DFAS-CL(CGA)). Trustees receive the active duty pay and allowances, amounts due for accrued or accumulated leave, and retired pay or retainer pay, that are otherwise payable to a member found by competent medical authority to be mentally incapable of managing his affairs.

\* \* \* \* \*

##### § 726.3 [Amended]

■ 4. Section 726.3 is amended by removing "The Judge Advocate General or his designee" and adding "DFAS-CL (CGA)" in its place.

■ 5. Section 726.4 is revised to read as follows: