

included in the Instructions for Continued Airworthiness (ICA). The ventilation system ducting must be protected by a flame arrestor.

Note: The applicant may find additional useful information in Society of Automotive Engineers, Aerospace Recommended Practice 85, Rev. E, entitled "Air Conditioning Systems for Subsonic Airplanes," dated August 1, 1991.

7. Means must be provided to contain spilled foods or fluids in a manner that will prevent the creation of a slipping hazard to occupants and will not lead to the loss of structural strength due to airplane corrosion.

8. Cooktop installations must provide adequate space for the user to immediately escape a hazardous cooktop condition.

9. A means to shut off power to the cooktop must be provided at the galley containing the cooktop and in the cockpit. If additional switches are introduced in the cockpit, revisions to smoke or fire emergency procedures of the AFM will be required.

Issued in Renton, Washington, on March 29, 2001.

Donald L. Riggins,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

[SPATS No. AR-038-FOR]

Arkansas Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Arkansas regulatory program (Arkansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Arkansas proposes revisions and additions of regulations concerning definitions; areas where surface coal mining operations are prohibited or limited; exception for existing operations; procedures for compatibility findings for surface coal mining operations on federal lands in national forests; procedures for relocating or

closing public roads or waiving prohibitions on surface coal mining operations within the buffer zone of public roads; procedures for waiving prohibitions on surface coal mining operations within the buffer zone of occupied dwellings; submission and processing of requests for valid existing rights determinations; director's obligations at time of permit application review; interpretative rule related to subsidence due to underground coal mining in areas designated by act of Congress; applicability to lands designated as unsuitable for mining; exploration on land designated as unsuitable for surface coal mining operations; procedures: initial processing, recordkeeping, and notification requirements; permit requirements for exploration that will remove more than 250 tons of coal or that will occur on lands designated as unsuitable for surface coal mining operations; relationship to areas designated unsuitable for mining; protection of publicly owned parks and historic places; relocation or use of public roads; road systems; public notices of filing of permit applications; legislative public hearing; and criteria for permit approval or denial. Arkansas intends to revise its program to be consistent with the corresponding Federal regulations and at its own initiative to enhance enforcement of the State program.

This document gives the times and locations that the Arkansas program and the proposed amendment to that program are available for public inspection, the comment period during which you may submit written comments on the amendment, and the procedures we will follow for the public hearing, if one is requested.

DATES: We will accept written comments until 4 p.m., c.s.t., May 7, 2001. If requested, we will hold a public hearing on the amendment on May 1, 2001. We will accept requests to speak at the hearing until 4 p.m., c.s.t. on April 23, 2001.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Michael C. Wolfrom, Director, Tulsa Field Office, at the address listed below.

You may review copies of the Arkansas program, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office.

Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135-6547, Telephone: (918) 581-6430.
Arkansas Department of Pollution Control and Ecology, Surface Mining and Reclamation Division, 8001 National Drive, Little Rock, Arkansas 72219-8913, Telephone (501) 682-0744.

FOR FURTHER INFORMATION CONTACT:

Michael C. Wolfrom, Director, Tulsa Field Office. Telephone: (918) 581-6430. Internet: mwolfrom@tokgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Arkansas Program

On November 21, 1980, the Secretary of the Interior conditionally approved the Arkansas program. You can find background information on the Arkansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the November 21, 1980, **Federal Register** (45 FR 77003). You can find later actions on the Arkansas program at 30 CFR 904.10, 904.12, 904.15, and 904.16.

II. Description of the Proposed Amendment

By letter dated March 1, 2001 (Administrative Record No. AR-567.04), Arkansas sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Arkansas sent the amendment in response to our letter dated August 23, 2000 (Administrative Record No. AR-567), that we sent to Arkansas under 30 CFR 732.17(c). The amendment also includes changes made at Arkansas' own initiative. Arkansas proposes to amend the Arkansas Surface Coal Mining and Reclamation Code (ASCMRC). Below is a summary of the changes proposed by Arkansas. The full text of the program amendment is available for your inspection at the locations listed above under **ADDRESSES**.

A. Section 761.5 Definitions

Arkansas proposes to revise the definitions of "public buildings," and "valid existing rights," and to add the definition of "publicly owned park."

B. Section 761.11 Areas Where Surface Coal Mining Operations Are Prohibited or Limited

Arkansas proposes to replace the existing language in this section with counterpart language to 30 CFR 761.11 that describes the lands where surface

coal mining operations may not be conducted, except as provided under 30 CFR 761.12 and 761.16.

C. Section 761.12 Exception for Existing Operations

Arkansas proposes to replace the existing language in this section with the following language:

The prohibitions and limitations of Section 761.11 do not apply to surface coal mining operations for which a valid permit, issued under Subchapter G of this chapter, exists when the land comes under the protection of Section 761.11. This exception applies only to lands within the permit area as it exists when the lands comes under the protection of Section 761.11.

D. Section 761.13 Procedures for Compatibility Findings for Surface Coal Mining Operations on Federal Lands in National Forests

Arkansas proposes to add a new section that explains what an applicant must do to conduct surface coal mining operations on Federal lands within a national forest.

E. Section 761.14 Procedures for Relocating or Closing a Public Road or Waiving the Prohibition on Surface Coal Mining Operations Within the Buffer Zone of a Public Road

Arkansas proposes to add a new section that explains the procedures an applicant must follow for relocating or closing a public road or waiving the prohibition on surface coal mining operations within the buffer zone of a public road.

F. Section 761.15 Procedures Waiving the Prohibition on Surface Coal Mining Operations Within the Buffer Zone of an Occupied Dwelling

Arkansas proposes to add a new section that explains the procedures an applicant must follow for waiving the prohibition on surface coal mining operations within the buffer zone of an occupied dwelling.

G. Section 761.16 Submission and Processing of Requests for Valid Existing Rights Determinations

Arkansas proposes to add a new section that explains the applicable definition of valid existing rights and which agency is responsible for making valid existing rights determinations on: (1) Federal lands within the areas listed at 30 CFR 761.11(a) and (b); and (2) all non-Federal lands within the areas listed at 30 CFR 761.11(a) and any lands listed at 30 CFR 761.11(c) through (g). This new section also explains the procedures applicants and agencies follow for valid existing rights determinations.

H. Section 761.17 Director's Obligations at Time of Permit Application Review

Arkansas proposes to add a new section that explains what the Director of the Arkansas Department of Environmental Quality or his authorized representative must do when an applicant submits an administratively complete application for: (1) a permit for a surface coal mining operation; or (2) a revision of the boundaries of a surface coal mining operation permit.

I. Section 761.200 Interpretative Rule Related to Subsidence due to Underground Coal Mining in Areas Designated by Act of Congress

Arkansas proposes to add a new section that reads as follows:

(a) Interpretation of Section 761.11 B AREAS WHERE MINING IS PROHIBITED OR LIMITED. Subsidence due to underground coal mining is not included in the definition of surface coal mining operations under Section 4(16) of the Act and Section 700.5 of this chapter and therefore is not prohibited in areas protected under Section 26(a)(1) of the Act.

J. Section 762.14 Applicability to Lands Designated as Unsuitable by Congress and Section 762.15 Exploration on Land Designated as Unsuitable for Surface Coal Mining Operations

Arkansas proposes to redesignate existing section 762.14 as new section 762.15 and to add a new section 762.14 to read as follows:

Pursuant to appropriate petitions, lands listed in Section 761.11 of this chapter are subject to designation as unsuitable for all or certain types of surface coal mining operations under this part and Part 764 of this chapter.

K. Section 764.15 Procedures: Initial Processing, Recordkeeping, and Notification Requirements

Arkansas proposes to revise this section by replacing the reference to an "informal conference" with a reference to a "legislative public hearing."

L. Section 776.12 Permit Requirements for Exploration That Will Remove More Than 250 Tons of Coal or That Will Occur on Lands Designated as Unsuitable for Surface Coal Mining Operations

Arkansas proposes to replace the existing language in this section. The proposed replacement language explains the procedures applicants and the Director of the Arkansas Department of Environmental Quality or his authorized representative must follow: (1) for a permit for conducting coal

exploration outside a permit area during which more than 250 tons of coal will be removed; or (2) for a permit which will take place on lands designated as unsuitable for surface mining under Subchapter F.

M. Section 778.16 Relationship to Areas Designated Unsuitable for Mining

Arkansas proposes to revise this section to include requirements for surface coal mining operations within 100 feet of a public road, and by replacing the term "surface coal mining and reclamation operations" with the term "surface coal mining operations."

N. Section 780.31 Protection of Publicly Owned Parks and Historic Places

Arkansas proposes to change the section heading from "Protection of public parks and historic places" to "Protection of publicly owned parks and historic places." Arkansas also proposes to revise section 780.31(a)(2) by including a cross reference to the proposed valid existing rights regulations at section 761.17(d).

O. Section 780.33 Relocation or Use of Public Roads

Arkansas proposes to revise the introductory paragraph to read as follows:

Each plan shall describe, with appropriate maps and cross section drawings, the measures to be used to ensure that the interests of the public and landowners affected are protected if, under Section 761.14, the applicant seeks to have the Department's approval of

P. Section 780.37 Road Systems

Arkansas proposes to change the section heading from "Transportation facilities" to "Road Systems." Arkansas also proposes to replace the existing language in this section with counterpart language to 30 CFR 780.37. The proposed language requires applicants to submit plans and drawings for each proposed road on a surface coal mining operation permit area. It also describes who is required to prepare and certify the plans and drawings.

Q. Section 786.11 Public Notices of Filing of Permit Applications

At section 786.11(a)(4), Arkansas proposes to replace the reference to an "informal conference" with a reference to a "legislative public hearing." Also, Arkansas proposes to revise section 786.11(a)(5) to read as follows:

(5) If an applicant seeks a permit to mine within 100 feet of the outside right-of-way of a public road or to relocate or close a public road, except where public notice and hearing

have previously been provided for this particular part of the road in accordance with Section 761.14 of this Chapter, a concise statement describing the public road, the particular part to be relocated or closed, and the duration of the relocation or closing.

R. Section 786.14 Legislative Public Hearing

Arkansas proposes to revise section 786.14(c) by deleting the reference to section 761.12(d) and replacing it with a reference to section 761.14(c).

S. Section 786.19 Criteria for Permit Approval or Denial

Arkansas proposes to revise section 786.19(d)(1) to read as follows:

(1) Not within an area designated unsuitable for surface coal mining operations under Parts 762 and 764 of this Chapter or within an area subject to the prohibitions of Section 761.11 of this Chapter; or,

Arkansas also proposes to delete sections 786.19(d)(4) and (d)(5) and redesignate sections 786.19(d)(6) through (d)(8) as sections 786.19(d)(4) through (d)(6).

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Arkansas program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS NO. AR-038-FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Tulsa Field Office at (918) 581-6430.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at OSM's Tulsa Field Office (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the administrative record, which we

will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing: If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., c.s.t. on April 23, 2001. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

If you are disabled and need a special accommodation to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Public Meeting: If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with us to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will also make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

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 under SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 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 program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of 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

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

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.

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.
- 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 State 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 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 904

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 15, 2001.

Richard J. Seibel,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 01-8498 Filed 4-5-01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 100**

[CGD 13-01-004]

RIN 2115-AE46

Modification to Special Local Regulation (SLR) for Seafair Unlimited Hydroplane Race

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to update the Seafair Special Local Regulation (SLR) to enhance the safe execution of Seafair's hydroplane and air show event. The proposed rule adds one week to the time period within which the regulations of the SLR can become effective each year and adds restrictions on swimming and rafting within the regulated areas.

DATES: Comments and related material must reach the Coast Guard on or before June 5, 2001.

ADDRESSES: You may mail comments and related material to Commander, Thirteenth Coast Guard District (m), Jackson Federal Building, 915 Second Avenue, Room 3506, Seattle, WA, 98174-1067. The Thirteenth Coast Guard District maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents, indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Marine Safety Division, 35th floor, Thirteenth Coast Guard District, Seattle, Washington between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Jane Wong, either at the above address, or by phone at (206) 220-7224.

SUPPLEMENTARY INFORMATION:**Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD 13-01-004), indicate the specific section of this

document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting. However, you may submit a request for a meeting by writing to the person identified in the **FOR FURTHER INFORMATION CONTACT** section, or to the address under **ADDRESSES** explaining why a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

For more than 50 years the Seafair hydroplane races and air show on and over Lake Washington have been a Pacific Northwest tradition, entertaining millions of people over that period. However, these entertaining events involve risks to both spectators and participants. During the hydroplane races and air show, the marine congestion associated with the number of boats, swimmers, and spectators on shore challenges even the most experienced seaman. There is an inherent risk of a participating boat or plane losing control or crashing. This potentially violent and deadly scenario necessitates the maintenance of a regulated area to protect spectators while providing unobstructed vessel traffic lanes to ensure timely arrival of emergency response craft.

The current Seafair SLR contained in 33 CFR 100.1301 has been in effect since 1986 and allows the regulations to be effective within a two-week time period.

Discussion of Proposed Rule

The proposed rule makes several editorial changes to clarify the Seafair SLR and increase the readability of the rule with the activities regulated in each zone being more clearly identified.

There are also several modifications to the existing rule that the Coast Guard believes will increase the safety and efficiency of the event. The current SLR is only in effect during the last week of July and the first week of August. The dates for Seafair change slightly on an annual basis and could fall outside the effective dates of the current SLR. The