

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 because 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.

#### *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*

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; 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 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 914**

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 24, 2001.

**Charles E. Sandberg,**

*Acting Regional Director, Mid-Continent Regional Coordinating Center.*

For the reasons set out in the preamble, 30 CFR Part 914 is amended as set forth below:

#### **PART 914—INDIANA**

1. The authority citation for Part 914 continues to read as follows:

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

2. Section 914.17 is amended by revising the section heading and paragraph (b) to read as follows:

#### **§ 914.17 State regulatory program and proposed program amendment provisions not approved.**

\* \* \* \* \*

(b) The amendment at Indiana Code 14–34–5–8.2(4) submitted on May 14, 1998 concerning postmining land use changes is not approved effective August 15, 2001.

\* \* \* \* \*

[FR Doc. 01-20447 Filed 8-14-01; 8:45 am]  
BILLING CODE 4310-05-P

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#### **DEPARTMENT OF THE INTERIOR**

#### **Office of Surface Mining Reclamation and Enforcement**

#### **30 CFR Part 938**

**[PA-133-FOR]**

#### **Pennsylvania Regulatory Program**

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** OSM is announcing the approval of a proposed amendment to the Pennsylvania regulatory program (Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment references Pennsylvania's anthracite coal mining regulations when describing conditions for meeting Stage 2 bond release where prime farmlands were present prior to mining. The amendment is intended to satisfy the conditions of the required regulatory program amendment at 30 CFR 938.16(p) and make the Pennsylvania program consistent with the corresponding federal regulations.

**EFFECTIVE DATE:** August 15, 2001.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Biggi, Director Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, Harrisburg Transportation Center, Third Floor, suite 3C, 4th and Market Streets, Harrisburg, Pennsylvania 17101; Telephone (717) 782-4036.

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Pennsylvania 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 Pennsylvania Program

Section 503(a) of the Surface Mining Control and Reclamation Act (the Act) permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act \* \* \*" and "rules and regulations consistent with regulations issued by the Secretary" pursuant to the Act. See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Pennsylvania program on July 30, 1982. You can find background information on the Pennsylvania program, including the Secretary's findings, the disposition of comments, and the conditions of the approval in the July 30, 1982, **Federal Register** (47 FR 33050). Subsequent actions concerning the conditions of approval and regulatory program amendments are codified at 30 CFR 938.11, 938.12, 938.15 and 938.16.

### II. Submission of the Amendment

By letter dated January 3, 2001 (Administrative Record Number PA-875.00), the Pennsylvania Department of Environmental Protection (PADEP) submitted an amendment to its approved permanent regulatory program pursuant to the Federal regulations at 30 CFR 732.17(b). Pennsylvania included a cross reference dealing with prime farmlands to satisfy a required regulatory program amendment at 30 CFR 938.16(p) to make the Pennsylvania program consistent with the corresponding Federal regulations. The proposed rulemaking was published in the March 5, 2001 **Federal Register** (66 FR 13277). The public comment period closed on April 4, 2001. No member of the general public provided comments. No one requested an opportunity to

speak at a public hearing, so no hearing was held.

### III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the amendments to the Pennsylvania permanent regulatory program.

#### *Section 86.174(b)(3) Standards for Release of Bonds*

PADEP is amending this subsection to include a reference to Chapter 88, Anthracite Coal. This subsection deals with the standards for Stage 2 bond release if prime farmlands are present and refers to reclamation plans for the various categories of coal mining. The previous version of this regulation contained references to Chapter 87, which relates to bituminous coal surface mining, Chapter 89, which relates to underground mining of bituminous coal and coal preparation facilities and Chapter 90, which relates to coal refuse disposal. This version did not contain a reference to Chapter 88, which relates to anthracite coal mining. This oversight was corrected when the regulations on post mining discharges, licensing and bonding became final, vol. 27, Pennsylvania Bulletin, no. 46, Page 6041, November 15, 1997. Subsection 86.174(b)(3), Page 6054, now states, in part, "\* \* \* under the reclamation plan approved in Chapters 87-90." The Director finds the proposed revision satisfies the required amendment codified in the Federal regulations at 30 CFR 938.16(p), and is therefore removing that required amendment.

### IV. Summary and Disposition of Comments

#### *Federal Agency Comments*

On March 5, 2001, we asked for comments from various Federal agencies that may have an interest in the Pennsylvania amendment (Administrative Record Number 875.01.) We solicited comments in accordance with section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the Federal regulations.

In letters dated February 6 and 7, 2001, the Federal Mine Safety and Health Administration responded that, while it does not regulate bonding and reclamation of mined lands, the amendment appears adequate to ensure restoration of prime farmlands to full productivity after completion of mining. (Administrative Records Numbers PA-875.02 and PA 875.03.)

### *Environmental Protection Agency (EPA)*

Pursuant to 30 CFR 732.17(h)(11)(i) and (ii), OSM is required to solicit comments from EPA on all amendments, and to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). By letter dated January 31, 2001, we requested comments and concurrence from EPA, on the State's proposed amendment of January 3, 2001 (Administrative Record Number PA-875.00). EPA in its April 11, 2001, response letter (Administrative Record Number PA-875.05) stated that the proposed amendment complies with the Clean Water Act.

#### *Public Comments*

No comments were received in response to our request for public comments.

### V. Director's Decision

Based on the findings above we are approving the amendment to the Pennsylvania program.

The Federal regulations at 30 CFR part 938, codifying decisions concerning the Pennsylvania program, are being amended to implement this decision. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the state's program demonstrates that the state has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. Consistency of State and Federal standards is required by SMCRA.

### VI. 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 regulation.

#### *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 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 such 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.

*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*

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 regulation.

*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 938**

Intergovernmental relations, Surface mining, underground mining.

Dated: June 18, 2001.

**Allen D. Klein,**

*Regional Director, Appalachian Regional Coordinating Center.*

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations 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.*

2. Section 938.15 is amended in the table by adding a new entry in chronological order by “Date of Final Publication” to read as follows:

**§ 938.15 Approval of Pennsylvania regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
*	*	*
January 3, 2001 .....	August 15, 2001 .....	25 Pa. Code 86.174.
*	*	*

3. Section 938.16 is amended by removing and reserving paragraph (p).

[FR Doc. 01-20445 Filed 8-14-01; 8:45 am]

BILLING CODE 4310-05-P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 164

[USCG-2000-8300]

RIN 2115-AG03

#### Exemption of Public Vessels Equipped With Electronic Charting and Navigation Systems From Paper Chart Requirements

**AGENCY:** United States Coast Guard, DOT.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** On May 2, 2001, we published a direct final rule. The rule notified the public of our excluding public vessels owned, leased, or operated by the U.S. Government from certain requirements for navigational charts and publications by allowing the use of electronic systems for charting and navigation, and in the process providing a platform for the Coast Guard to evaluate alternatives leading to integrated technology for such systems on commercial vessels. Although we received two comments on the rule, neither was adverse; therefore, this rule will go into effect as scheduled.

**DATES:** The effective date of this direct final rule is July 31, 2001.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding this rule, contact Ed LaRue, Office of Vessel Traffic Management, Coast Guard, telephone 202-267-0416. For questions on viewing, or submitting material to, the docket, contact Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

**SUPPLEMENTARY INFORMATION:** The direct final rule (66 FR 21862) amended 33 CFR Part 164 to exclude public vessels owned, leased, or operated by the U. S. Government from requirements of carrying printed navigational charts and publications. The Coast Guard also published an Advance Notice of Proposed Rulemaking [66 FR 21899] seeking comments on the practicality of allowing all commercial vessels to use electronic systems for charting and navigation.

The Coast Guard received two comments on the rule. Both suggested that the rule specifically mention both

operation under the Raster Chart Display System (RCDS) and the use of official Raster Navigation Charts (RNCs).

Let us note by way of clarification that the standards of the International Maritime Organization (IMO) for ECDIS permit the use of RNCs produced under the authority of a governmental hydrographic office. We agree that RNCs and RCDS currently meet those standards as "mode[s] of operation" (MSC 86(70)), and the rule allows the use of any electronic system for charting and navigation approved by the governmental agency exercising operational control over the vessel. Therefore, the rule needs no change to accommodate these comments. We hope this explanation avoids confusing those mariners who are already safely using RNCs and RCDS.

Dated: August 6, 2001.

**J.P. High,**

*Acting Assistant Commandant for Marine Safety & Environmental Protection.*

[FR Doc. 01-20522 Filed 8-14-01; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD09-01-103]

RIN 2115-AA97

#### Safety Zone; Candlelight on the Water, Port Washington, WI

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in Port Washington harbor for the Candlelight on the Water 2001 fireworks display. This safety zone is necessary to protect spectators and vessels from the hazards associated with the storage, preparation, and launching of fireworks. This safety zone is intended to restrict vessel traffic from a portion of the Port Washington harbor, Port Washington, Wisconsin.

**DATES:** This temporary rule is effective from 9:20 p.m. until 9:45 p.m. (CST) on August 18, 2001.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09-01-103] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207

between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

LCDR Timothy Sickler, Port Operations Chief, Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207. The phone number is (414) 747-7155.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application did not allow sufficient time for publication of an NPRM followed by a temporary final rule effective 30 days after publication. Any delay of the effective date of this rule would be contrary to the public interest by exposing the public to the known dangers associated with fireworks displays and the possible loss of life, injury, and damage to property.

#### Background and Purpose

This Safety Zone is established to safeguard the public from the hazards associated with launching of fireworks by the Wisconsin Electric coal pile, Port Washington, Wisconsin. The size of the zone was determined by using previous experiences with fireworks displays in the Captain of the Port Milwaukee zone and local knowledge about wind, waves, and currents in this particular area.

The safety zone will be in effect on August 18, from 9:20 p.m. until 9:45 p.m. (CST). The safety zone will encompass all waters bounded by the arc of a circle with a 280-foot radius with its center in approximate position 43°23'07"N, 087°51'54"W, offshore of the Wisconsin Electric coal pile, Port Washington. Coordinates are North American Datum of 1983 (NAD83). The size of this zone was determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents.

All persons and vessels shall comply with the instructions of the Captain of the Port Milwaukee or his designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Milwaukee or his designated on scene representative. The Captain of the Port Milwaukee may be contacted via VHF Channel 16.