

interfering with constitutionally protected property rights.

Energy Supply, Distribution, or Use (Executive Order 13211)

This rule is not a significant rule and is not subject to review by OMB under Executive Order 12866. The rule may have a small positive effect on energy supplies.

Civil Justice Reform (Executive Order 12988)

With respect to Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

National Environmental Policy Act (NEPA) of 1969

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. The Department of the Interior has established that "issuance and/or modification of regulations" is considered a categorically excluded action as it results only in administrative effects causing no significant impacts on the environment and, therefore, will not require preparation of an environmental assessment or impact statement. MMS has determined that this action does not represent an exception to the categorical exclusion. A detailed statement under NEPA is not required.

Unfunded Mandate Reform Act (UMRA) of 1995 (Executive Order 12866)

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands-mineral resources, Public lands—right-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: December 21, 2001.

James E. Cason,
Acting Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the Minerals Management Service (MMS) proposes to amend 30 CFR 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1331, *et seq.*

2. In § 250.175, redesignate the existing text as paragraph (a) and add a new paragraph (b) to read as follows:

§ 250.175 When may the Regional Supervisor grant an SOO?

* * * * *

(b) The Regional Supervisor may grant an SOO not to exceed 3 years in the Western Gulf of Mexico when all of the following conditions are met:

- (1) The lease was issued with an initial lease term of 5 years, or with an initial term of 8 years with a requirement to drill within 5 years;
- (2) The lessee has collected and analyzed appropriate geophysical information prior to the end of the third lease year;
- (3) The geophysical information confirms the presence of a salt sheet as well as evidence that a drillable objective may exist beneath the salt sheet;
- (4) The applicant has completed additional reprocessing prior to submitting the application for suspension; and
- (5) The applicant demonstrates that additional time is necessary to gather new geophysical data or to reprocess or reinterpret existing data to further define drilling objectives beneath a salt sheet.

[FR Doc. 02-521 Filed 1-8-02; 8:45 am]

BILLING CODE 4310-MR-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

[NM-042-FOR]

New Mexico Regulatory Program

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

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

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of a proposed amendment to the New Mexico regulatory program (hereinafter, the "New Mexico program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). New Mexico proposes revisions to and additions of rules about definitions, general environmental resource information, operations that may have an adverse impact on publicly owned parks or places listed on the National Register of Historic Places, bond release applications, termination of jurisdiction, prime farmland reclamation, inspection frequency of abandoned sites, hearings for charges of violation, the qualifying criteria for assistance under the small operator's program, areas where mining is prohibited or limited, criteria for designating areas unsuitable for surface coal mining, applications for and approval of coal exploration operations of more than 250 tons, criteria for permit approval or denial, application and approval criteria for demonstrating valid existing rights, the one square mile criterion in the definition of intermittent streams, and miscellaneous non-substantive editorial revisions. New Mexico intends to revise its program to be consistent with the corresponding Federal regulations and SMCRA and improve operational efficiency.

DATES: We will accept written comments on this amendment until 4 p.m., m.s.t., February 8, 2002. If requested, we will hold a public hearing on the amendment on February 4, 2002. We will accept requests to speak until 4 p.m., m.s.t., on January 24, 2002.

ADDRESSES: You should mail or hand-deliver written comments and requests to speak at the hearing to Willis L. Gainer at the address listed below.

You may review copies of the New Mexico program, this 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 Albuquerque Field Office.

Director, Albuquerque Field Office,
Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue NW, Suite 1200,
Albuquerque, New Mexico 87102,
Telephone: 505-248-5096.
Director, Mining and Minerals Division,
Energy, Minerals and Natural Resources Department, 1120 South St.

Francis Drive, Santa Fe, New Mexico 87505, Telephone: 505-476-3400.

FOR FURTHER INFORMATION CONTACT:

Willis L. Gainer, Telephone: 505-248-5096.

SUPPLEMENTARY INFORMATION:

- I. Background on the New Mexico Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

I. Background on the New Mexico Program

Section 503(a) of 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 New Mexico program on December 31, 1980. You can find background information on the New Mexico program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the New Mexico program in the December 31, 1980, **Federal Register** (45 FR 86459). You can also find later actions concerning New Mexico's program and program amendments can be found at 30 CFR 931.11, 931.15, 931.16, and 931.30.

II. Description of the Proposed Amendment

By letter dated November 28, 2001, New Mexico sent us a proposed amendment (administrative record No. NM-853) to its program under SMCRA (30 U.S.C. 1201 *et seq.*). New Mexico sent the amendment in response to the June 19, 1997, and April 2, 2001, letters (administrative record Nos. NM-796 and NM-851) that we sent to New Mexico in accordance with 30 CFR 732.17(c); in response to the required program amendments at 30 CFR 931.16(e), (u) and (v); and to include changes made at its own initiative. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

Specifically, New Mexico proposes, in response to the June 19, 1997, 30 CFR part 732 letter, to:

1. Revise 19.8.1.7.O(5) NMAC, the definition of "other treatment facilities," to include chemical treatments or

mechanical structures that have a point-source discharge and are utilized to comply with all applicable State and Federal water-quality laws and regulations;

2. Revise 19.8.1.7.P(12) NMAC, the definition of "previously mined areas," to mean land affected by surface coal mining operations prior to August 3, 1977, that has not been reclaimed to the requirements of SMCRA, the Act, and the New Mexico regulatory standards;

3. Revise 19.8.1.7.Q(1) NMAC, the definition of "qualified laboratory," to specify, in addition to the listed services, those services allowed under the small operator assistance program (SOAP) at 19.8.32.3203 NMAC;

4. Revise 19.8.8.801.B, concerning general environmental resources information in a permit application, to require (1) at paragraph B(1), a description (based on all available information, including, but not limited to, data of State and local archeological, historical, and cultural preservation agencies) of the nature of cultural and historic resources listed or eligible for listing on the National Register of Historic Places and known archeological features within the proposed permit and adjacent areas, and (2) at paragraph B(2), further evaluation of important historic and archeological resources that may be eligible for listing on the National Register of Historic Places, through collection of additional information, field investigations, or other appropriate analyses;

5. Revise 19.8.9.912 NMAC, concerning proposed operations that may have an adverse effect on any publicly owned parks or any places listed on the National Register of Historic Places, to (1) require a plan to either (a) describe the measures to be used to prevent adverse impacts, or (b) minimize adverse impacts when valid existing rights exist or joint agency approval must be obtained, and (2) require the applicant to prevent or minimize impacts to any historic or archeological properties listed on or eligible for listing on the National Register of Historic Places through appropriate mitigation and treatment measures, which may be required to be taken after permit issuance provided that the required measures are completed before the properties are affected by any mining operation.

6. Revise 19.8.14.1412 NMAC, concerning general requirements for bonding, by adding paragraph (2)(h) that requires an operator to include in an application for bond release a notarized statement which certifies that all applicable reclamation activities have been accomplished in accordance with

the requirements of SMCRA, the Act, the regulatory program, and the approved reclamation plan;

7. Add 19.8.14.1415.A and B NMAC, concerning termination of jurisdiction, stating that the Director (1) may terminate regulatory jurisdiction over a reclaimed surface coal mining and reclamation operation upon a written finding that all reclamation requirements have been successfully completed or the performance bond has been released and (2) must reassert jurisdiction over a site if it is demonstrated that either the written finding to release a performance bond or regulatory jurisdiction was based upon fraud, collusion, or misrepresentation of a material fact;

8. Revise 19.8.20.2057.A NMAC, the definition of "thin overburden," to allow a variation from backfilling to the approximate original contour when the overburden thickness times the swell factor, plus the thickness of other available waste materials, is less than the combined thickness of the overburden and the coal bed prior to removing the coal;

9. Revise 19.8.20.2058.A NMAC, the definition of "thick overburden," to allow a variation from backfilling to the approximate original contour when the overburden thickness times the swell factor exceeds the combined thickness of the overburden and the coal bed prior to removing the coal;

10. Revise 19.8.24.2400 NMAC, concerning performance standards for operations on prime farmlands, by adding paragraph C requiring that the aggregate total prime farmland acreage shall not be decreased from that which existed prior to mining; water bodies, if any, to be constructed during mining and reclamation operations must be located within the post-reclamation non-prime farmland portions of the permit area; and the creation of any such water bodies must be approved by the regulatory authority with the consent of all affected property owners within the permit area;

11. Add 19.8.29.2900.G and H NMAC that define "abandoned site" to mean a surface coal mining and reclamation operation for which the Director has made specified written findings and allow for a reduced inspection frequency determined by specified conditions at the site, but no less frequently than one complete inspection per quarter;

12. Revise 19.8.31.3107.A NMAC, concerning a request for a hearing by a person charged with a violation, to allow 30 rather than 15 days from the date of service of the conference officer's action for the person to contest

the proposed penalty or alleged violation;

13. Revise 19.8.32.3200.B NMAC by allowing an applicant to be eligible for assistance under SOAP if he establishes that his probable total actual and attributed production from all locations during any consecutive 12-month period either during the permit term or during the first 5 years after issuance of his permit, whichever period is shorter, will not exceed 300,000 rather than 100,000 tons;

14. Revise 19.8.32.3203.A and B NMAC, concerning the small operators assistance program, to allow funding for additional services performed by a qualified laboratory including engineering analyses and designs necessary for the determination of probable hydrologic consequences, drilling, development of cross-section maps and plans, collection of archaeological and historic information and related plans, pre-blast surveys, and collection of site specific resources information and production of protection and enhancement plans for fish and wildlife habitats; and

15. Revise 19.8.32.3206.A and A(2) and (3) NMAC to clarify that the SOAP applicant shall reimburse the Director for the costs of the services rendered if either the applicant's actual and attributed annual production of coal for all locations exceeds 300,000 tons (rather than 100,000 tons) or the permit is sold, transferred or assigned to another person and the transferee's total actual attributed annual production of coal for all locations exceeds 300,000 tons (rather than 100,000 tons) during any consecutive 12-month period either during the permit term or during the first 5 years after issuance of his permit.

In response to the April 2, 2001, 30 CFR part 732 letter, New Mexico proposes revisions and additions of rules concerning valid existing rights (VER). Specifically, New Mexico proposes to:

1. Revise 19.8.2.201.C NMAC, concerning areas where mining is prohibited or limited, to prohibit mining within 300 feet of any occupied dwelling unless, among other things, an access or haul road connects with an existing public road on the side of the public road opposite the dwelling;

2. Revise 19.8.2.201.E NMAC, concerning areas where mining is prohibited or limited, to prohibit mining within 100 feet of a cemetery, unless the cemetery is relocated in accordance with all applicable laws and regulations;

3. Add 19.8.2.201.F.(5) NMAC, concerning areas where mining is prohibited or limited, to prohibit mining on federal lands within a national forest,

unless the U.S. Secretary of the Department of the Interior finds that there are no significant recreational, timber, economic, or other values that may be incompatible with surface coal mining operations and any surface operations or surface impacts will be incidental to an underground coal mine, or, with respect to lands that do not have significant forest cover within national forests west of the 100th meridian, the U.S. Secretary of Agriculture has determined that the surface mining operation is in compliance with several Federal acts;

4. Revise 19.8.2.202 NMAC, concerning areas designated unsuitable for mining, to incorporate new procedures for determining whether an applicant proposes surface coal mining operations on lands protected under 19.8.2.201 NMAC and, if proposed, whether the applicant has valid existing rights to disturb protected lands;

5. Add 19.8.2.203 NMAC, concerning criteria for designating areas unsuitable for mining, to identify when the prohibitions and limitations of 19.8.2.201 NMAC do not apply;

6. Revise 19.8.3.300.C, concerning criteria for designating lands unsuitable for mining, to add a statement that all lands protected under 19.8.2 NMAC, concerning areas designated unsuitable for surface coal mining, are subject to designation as unsuitable for all or certain types of surface coal mining operations pursuant to the appropriate petitions;

7. Revise 19.8.6.602.A(9), concerning an application for coal exploration of more than 250 tons and lands designated as unsuitable for mining, to add the requirements that an applicant (1) demonstrate that the proposed exploration will minimize interference with values for which the land was designated unsuitable and (2) include documentation of consultation with the owner of the feature causing the land to be protected and, when applicable, the agency with the primary jurisdiction over the feature;

8. Add 19.8.6.603.B(4) NMAC, concerning approval of coal exploration for more than 250 tons, to require that the Director of the New Mexico program approve an application only if he finds that the activities on any lands protected under 19.8.2.201 NMAC will minimize interference with the values for which the lands were designated as unsuitable for mining. Prior to making this finding, the Director must provide reasonable opportunity to the owner of the features and, when applicable, to the agency with primary jurisdiction over the features, to comment on whether the finding is appropriate;

9. Revise 19.8.7.704.C, concerning application requirements for identification of areas with a proposed permit that are within areas designated unsuitable for mining, to require that when an applicant proposes to conduct surface coal mining operations within 100 feet of a public road, an applicant must meet the requirements concerning the necessary approvals and public notice and hearing provided for at 19.8.2.202.D;

10. Revise 19.8.11.1106.D(3), concerning the criteria for permit approval or denial, to require that the Director find that the proposed permit area is not within an area designated as unsuitable for surface coal mining operations under 19.8 NMAC Parts 3 and 4, or within an area subject to the prohibitions of 19.8.2.201 NMAC; and

11. Add a new part at 19.8.35.1 NMAC through 19.8.35.14 NMAC, concerning the definition of "valid existing rights" (VER), the requirement for an applicant to demonstrate compliance with the "good faith/all permits standard" or the "need for and adjacent standard" with respect to areas with VER, roads and VER, the submission and processing of requests for VER determinations, the requirements for a VER property rights demonstration, the initial review of a VER request, the public notice and comment requirements and procedures for processing a VER request, how decisions on a VER request will be made, opportunities for administrative and judicial review of VER determinations, and the availability of records for VER requests and determinations.

In response to required program amendments at 30 CFR 931.16(e), (u) and (v), concerning the inclusion of a one square mile criterion in the definition of intermittent streams, New Mexico proposed an explanation of how the existing New Mexico rules governing ephemeral streams provide environmental protection for drainages of one square mile that is as effective as the Federal regulations. New Mexico's justification is based on unique regional characteristics of low rainfall in an arid environment and implementation of performance standards for diversions of ephemeral streams requiring use of site-specific designs that take into account the local watershed and rainfall conditions, use of the best technology currently available; protection against material damage both on and off-site; and, minimization of impacts to the hydrologic balance.

In addition, at its own initiative, New Mexico proposes to revise the following rules:

1. 19.8.1.7.(2) NMAC, concerning the definition of “fixed assets,” to clarify the meaning by adding “facilities and equipment not used for the production, transportation or processing of coal;”

2. 19.8.1.7.(5) NMAC, concerning the definition of “fixed assets,” to clarify that fixed assets and land or coal in place shall not be considered assets for the purposes of calculating net worth;

3. 19.8.8.802.A(1) NMAC, concerning application requirements for hydrology and geology, to replace the word “by” with “to;”

4. 19.8.13.1307.A.(1)(d) NMAC, concerning transfer, assignment or sale of permit rights, to delete an inappropriate rule reference;

5. 19.8.19.1900.A and B NMAC, concerning coal exploration, to correct a referenced rule citation;

6. 19.8.19.1902.C.(2) NMAC, concerning coal exploration, to correct reference rule citations; and

7. 19.8.20.2009.E and E(5) NMAC, concerning protection of the hydrologic balance, to correct referenced rule citations.

III. Public Comment Procedures

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

Written Comments

Send your written or electronic comments to OSM at the address given above. Your comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (see Dates). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Albuquerque Field Office may not be logged in.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the

beginning of their 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 review 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., m.s.t., on January 24, 2002. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be 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 everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please 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 make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

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 12866—Regulatory Planning and Review

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

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 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 the Federal regulations at 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 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. Section 503(a)(7) requires that state programs contain rules and regulations “consistent with” regulations issued by the Secretary pursuant to SMCRA.

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 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 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 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 did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 931

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 5, 2001.

Brent T. Wahlquist,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 02-481 Filed 1-8-02; 8:45 am]

BILLING CODE 4310-05-P

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

[CGD05-01-070]

RIN 2115-AE46

Special Local Regulations for Marine Events; Western Branch, Elizabeth River, Portsmouth, VA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish permanent special local regulations for marine events held on the waters of the Western Branch of the Elizabeth River, Portsmouth, Virginia. This action is necessary to provide for the safety of life on navigable waters during the events. This action is intended to restrict vessel traffic in portions of the Western Branch of the Elizabeth River during the events.

DATES: Comments and related material must reach the Coast Guard on or before March 11, 2002.

ADDRESSES: You may mail comments and related material to Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, hand-deliver them to Room 119 at the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays, or fax them to (757) 398-6203. The Operations Oversight Branch, Auxiliary and Recreational Boating Safety Section, Fifth Coast Guard District, maintains the public docket for this rulemaking. Comments and materials 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 above address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: S. L. Phillips, Project Manager, Auxiliary and Recreational Boating Safety Section, at (757) 398-6204.

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 (CGD05-01-070), 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 now plan to hold a public meeting. But you may submit a request for a meeting by writing to the address listed under **ADDRESSES** explaining why one 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

The City of Portsmouth, Ports Events, Inc., and other event organizers sponsor marine events throughout the year on the waters of the Western Branch of the Elizabeth River. These marine events are held adjacent to the Portsmouth City Park. A fleet of spectator vessels traditionally gathers near the event site to view the marine events. To provide for the safety of event participants, spectators and transiting vessels, the Coast Guard proposes to temporarily restrict the movement of all vessels operating in the event area during the marine events.

Discussion of Proposed Rule

The Coast Guard proposes to establish a permanent regulated area on specified waters of the Western Branch of the Elizabeth River. The proposed special local regulations will restrict general navigation in the regulated area during the events. Except for persons or vessels authorized by the Coast Guard Patrol