

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA-520, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434-4809.

**FOR FURTHER INFORMATION CONTACT:** Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA-520 FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434-4809; telephone: (718) 553-4521.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 02-AEA-02". The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket closing both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

**Availability of NPRMs**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA-7, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434-4809.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

**The Proposal**

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class E airspace area at Smithfield, VA. The development of a SIAP to serve flights operating IFR into the airport makes this action necessary. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

**PART 71—[AMENDED]**

1. The authority citation for 14 CFR Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p 389.

**§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR Part 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001 and effective

September 16, 2001, is proposed to be amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

**AEA VA E5, Smithfield [NEW]**

Aberdeen Field

(Lat. 37°01'88" N., long 76°35'15" W.)

That airspace extending upward from 700 feet above the surface within a 5.0 mile radius of Aberdeen Field, Smithfield, VA.

Issued in Jamaica, New York on March 26, 2002.

**F.D. Hatfield,**

*Manager, Air Traffic Division, Eastern Region.*  
[FR Doc. 02-9123 Filed 4-15-02; 8:45 am]

**BILLING CODE 4910-13-M**

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 938**

**[PA-136-FOR]**

**Pennsylvania 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 Pennsylvania regulatory program (the "Pennsylvania program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Pennsylvania proposes revisions to rules regarding criteria for permit approval or denial and for performance standards for retention of roads following completion of surface mining activities. Pennsylvania intends to revise its program to be consistent with the corresponding Federal regulations and SMCRA and to clarify ambiguities.

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

**DATES:** We will accept written comments on this amendment until 4:00 p.m., e.d.t., May 16, 2002. If requested, we will hold a public hearing on the amendment on May 13, 2002. We will

accept requests to speak at a hearing until 4:00 p.m., e.s.t. on May 1, 2002.

**ADDRESSES:** You should mail or hand deliver written comments and requests to speak at the hearing to Beverly Brock, Acting Director, Harrisburg Field Office at the address listed below.

You may review copies of the Pennsylvania 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 Harrisburg Field Office.

Beverly Brock, Acting 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, Email: [bbrock@osmre.gov](mailto:bbrock@osmre.gov)

J. Scott Roberts, Director, Bureau of Mining and Reclamation, Pennsylvania Department of Environmental Protection, Rachel Carson State Office Building, P.O. Box 8461, Harrisburg, Pennsylvania 17105-8461, Telephone: (717) 787-5103.

**FOR FURTHER INFORMATION CONTACT:** Beverly Brock, Telephone: (717) 782-4036. Email: [bbrock@osmre.gov](mailto:bbrock@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

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

**I. Background on the Pennsylvania 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 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 conditions of approval of the Pennsylvania program in the July 30, 1982, **Federal Register** (47 FR 33050). You can also find later

actions concerning Pennsylvania program and program amendments at 30 CFR 938.11, 938.12, 938.15 and 938.16.

**II. Description of the Proposed Amendment**

By letter dated February 25, 2002, Pennsylvania sent us a proposed amendment to its program (administrative record No. PA 889.00) under SMCRA (30 U.S.C. 1201 *et seq.*). Pennsylvania sent the amendment in response to the required program amendment at 30 CFR 938.16(gggg) 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, Pennsylvania proposes to remove the phrase, "The proposed permit area \* \* \*," from 25 Pa. Code 86.37(a)(5) and replace it with, "The area covered by the operator's bond and upon which the operator proposes to conduct surface mining activities within the boundary of the proposed surface or coal mining activities permit \* \* \*." 25 Pa. Code 86.37(a) requires that a permit or revised permit application will not be approved unless Pennsylvania makes a written finding that certain conditions exist. Section (a)(5) now reads:

(5) The area covered by the operator's bond and upon which the operator proposes to conduct surface mining activities within the boundary of the proposed surface or coal mining activities permit is not one of the following:

(i) Included within an area designated unsuitable for mining under Subchapter D (relating to areas unsuitable for mining).

(ii) Within an area which has been included in a petition for designation under § 86.124(a)(6) (relating to procedures: initial processing, recordkeeping and notification requirements).

(iii) On lands subject to the prohibitions or limitations of Subchapter D.

(iv) Within 100 feet (30.48 meters) of the outside right-of-way line of any public road, except as provided for in Subchapter D.

(v) Within 300 feet (91.44 meters) from any occupied dwelling, except as provided for in Subchapter D.

(vi) Within 100 feet (30.48 meters) of a stream, except as provided for in § 86.102 (relating to areas where mining is prohibited or limited).

Additionally, Pennsylvania is making a change regarding performance standards for haul roads and access roads to its regulations at 25 Pa. Code Sections 87.160(a), 88.138(a), 88.231(a),

88.335(a), and 90.134(a). In these sections Pennsylvania has removed the requirement that a haul road or an access road's maintenance plan must be approved as part of the postmining land use before a road can be retained at the conclusion of mining activities.

Specifically, the phrase, "\* \* \*" and its maintenance plan \* \* \*" is removed from these sections.

In addition, in 25 Pa. Code 90.134(a), Pennsylvania has added the requirement that haul roads and access roads must be designed, constructed and maintained to control or prevent erosion, among other things. This was accomplished by adding the phrase, "erosion and" prior to the existing phrase, "contributions of sediment to streams or runoff outside the affected area." This section was revised to respond to the required amendment at 30 CFR 938.16(gggg).

Finally, minor grammatical changes were made to 25 Pa. Code 87.160(a) and 90.134(a).

**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 State program.

*Written Comments*

Send your written comments or electronic comments to OSM at the address given above. Your written 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 Harrisburg Field Office may not be logged in.

*Electronic Comments*

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS No. PA-136-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 Harrisburg Field Office at (717) 782-4036.

### 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 4:00 p.m., e.s.t. on May 1, 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 a hearing.

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 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 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 governmental 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 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 8, 2002.

**Vann Weaver,**

*Acting Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 02-9233 Filed 4-15-02; 8:45 am]

**BILLING CODE 4310-05-P**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD08-02-035]

RIN 2115-AE47

#### Drawbridge Operation Regulation Change, St. Croix River, MN

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to amend the regulations governing four drawbridges across the St. Croix River by adding a notice requirement for openings during the winter season. This proposed rule would allow the owners of the drawbridges to reduce the number of hours drawtenders are required to be on site between midnight and 7 a.m. from mid-October to mid-December, when there are few requests for openings.

**DATES:** Comments must reach the Coast Guard on or before June 17, 2002.

**ADDRESSES:** Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD08-02-035 and are available for inspection or copying at room 2.107f

in the Robert A. Young Federal Building at Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, St. Louis, MO 63103-2832, between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Roger K. Wiebusch, Bridge Administrator, at the address listed above or telephone (314) 539-3900, extension 378.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD08-02-035), 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 if it 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 Eighth Coast Guard District, Bridge Branch, at the address 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 draws of the Burlington Northern Santa Fe Railroad Bridge, Mile 0.2, the U.S. 16-61 Bridge, Mile 0.3, at Prescott, and the Union Pacific Railroad Bridge, Mile 17.3, at Hudson, open on signal; except that, from December 15 through March 31, the draws open on signal if at least 24-hours notice is given. Until the 1980s, the St. Croix River was extensively used for commercial navigation; however, over the past 20 years, the character of navigation on the river has changed from commercial towboats to mainly recreational and excursion boats. Except for its headwaters, the entire St. Croix River is included in the National Wild and Scenic River system. The Lower St. Croix River (between Taylor Falls and its confluence with the Upper Mississippi River at Prescott, WI) is within the "recreational" designated

area of the river. The demise of commercial barge markets and the push for preserving the scenic qualities of the St. Croix River have changed the type of navigation from commercial to recreation. Recreational traffic is heaviest during the summer months but falls off drastically with the seasonal change to fall. Recreational boating usually ceases by mid-October. Due to the high cost of bridge operations and the decrease of recreational boating in the fall, the Wisconsin Department of Transportation requested the Coast Guard change the regulation for the U.S. 16-61 bridge, Mile 0.3, at Prescott, to require 24-hour advance notice for opening from October 16 to March 31. Subsequently, due to the lack of bridge openings that have been requested from 11 p.m. to 7 a.m., the Burlington Northern Santa Fe Railroad requested a change to the regulation for the Burlington Northern Santa Fe Bridge, Mile 0.2, to open on signal from 7 a.m. to 11 p.m. and to open between midnight and 7 a.m., if the bridge was notified prior to 11 p.m. Due to the proximity of all St. Croix River drawbridges and the short length of the river, a review of the general drawbridge regulations for the St. Croix River was deemed appropriate.

An investigation was conducted for two separate actions; one for the 60-day extension of the 24-hour notification requirement from December 15 to October 15, and the other for restricting drawbridge openings between the hours of midnight and 7 a.m. Although the request was submitted by only one drawbridge owner, the approval would impact all drawbridges across the St. Croix River below Stillwater. Therefore the proposal was expanded to include the Burlington Northern Santa Fe Railroad Bridge, Mile 0.2, the U.S. 16-61 Bridge, Mile 0.3, at Prescott, and the Union Pacific Railroad Bridge, Mile 17.3, at Hudson. The S36 Bridge, mile 23.4, at Stillwater, regulation was also reviewed, but that regulation already contained a 24-hour advance notice requirement for openings beginning on October 16. Data from the three bridges showed an overall 73 percent decrease in the number of requested bridge openings after October 15 due to the onset of wintry conditions and recreational boaters stowing their boats for the winter. The character of vessel activity on the Lower St. Croix River has changed from commercial navigation to recreational boating. This resulted in an 87 percent reduction in requests for drawbridge openings between the hours of midnight and 7 a.m. for the period April 1 to December 14.