

be disposed after a single use. Administration of vaginal inserts for periods greater than 7 days may result in reduced fertility. Dinoprost solution as provided by No. 000009 in § 510.600(c) of this chapter.

Dated: June 6, 2002.

**Stephen F. Sundlof,**

Director, Center for Veterinary Medicine.

[FR Doc. 02-15633 Filed 6-19-02; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 926

[SPATS No. MT-021-FOR]

### Montana Abandoned Mine Land Reclamation Plan

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

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

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving a proposed amendment to the Montana abandoned mine land reclamation (AMLR) plan (hereinafter referred to as the "Montana plan") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Montana proposed revisions and additional explanatory information about the Department of Environmental Quality (DEQ), its authority, organization, personnel staffing policies, and purchasing and procurement policies. Montana also provided information about the AMLR plan, the goals and objectives of the emergency program, reclamation project ranking and selection, the coordination among agencies, policies and procedures for land acquisition, reclamation of private land, consent for entry, the accounting system, and a new appendix concerning the abandoned inactive mines scoring system (AIMSS). Montana revised its plan to meet the requirements of the corresponding Federal regulations and to be consistent with SMCRA, to clarify ambiguities, and to improve operational efficiency.

**EFFECTIVE DATE:** June 20, 2002.

**FOR FURTHER INFORMATION CONTACT:** Guy Padgett, Director, Casper Field Office; Telephone: (307) 261-6550; Internet address: [gpadgett@osmre.gov](mailto:gpadgett@osmre.gov).

#### SUPPLEMENTARY INFORMATION:

- I. Background on the Montana Plan
- II. Submission of the Proposed Amendment

III. OSM's Findings  
IV. Summary and Disposition of Comments  
V. OSM's Decision  
VI. Procedural Determinations

#### I. Background on the Montana Plan

The AMLR Program was established by Title IV of the Act (30 U.S.C. 1201 *et seq.*) in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded by a reclamation fee which is collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal mines and for other authorized activities. Section 405 of the Act allows States and Indian tribes to assume exclusive responsibility for reclamation activity within the State or on Indian lands if they develop and submit to the Secretary of the Interior for approval, a program (often referred to as a "plan") for the reclamation of abandoned coal mines.

On November 24, 1980, the Secretary of the Interior approved the Montana plan. You can find general background information on the Montana plan, including the Secretary's findings and the disposition of comments, in the October 24, 1980, **Federal Register** (45 FR 70445). You can also find later actions concerning Montana's plan and plan amendments at 30 CFR 926.21 and 926.25.

#### II. Submission of the Proposed Amendment

By letter dated August 15, 2000, Montana sent us a proposed amendment to its plan (SPATS No. MT-021-FOR, Administrative Record No. MT-18-01) under SMCRA (30 U.S.C. 1201 *et seq.*). Montana sent the amendment in response to a required plan amendment at 30 CFR 926.21(a) and at its own initiative.

Montana proposed to delete its abandoned mine land (AML) rule definitions of "abandoned mine land reclamation fund," "emergency," and "extreme danger" at the Administrative Rules of Montana (ARM) 26.4.301 and its definitions of "abandoned mine land reclamation fund," "emergency," "expended," "extreme danger," "fund," "left or abandoned in either an unreclaimed or inadequately reclaimed condition," "Montana abandoned mine reclamation program," and "reclamation activities" at ARM 26.4.1231. Montana proposed a revised definition of "abandoned" at ARM 26.4.301 and a revised ARM 26.4.1303. Montana also proposed to delete the AML rules at ARM 26.4.1232 through 26.4.1242 and to rely instead on its AMLR plan and on the statutory provisions at the Montana

Code Annotated (MCA) 82-4-239, 242, 323, 371, 372, 424, 445 and 446. Montana proposed revisions to MCA 82-4-239 to reflect the reorganized duties of the Board of Environmental Review and the DEQ. Montana presented its 1995 reorganization plan abolishing the Department of State Lands and creating the DEQ.

We announced receipt of the proposed amendment in the September 25, 2000, **Federal Register** (65 FR 57581; Administrative Record No. MT-18-06). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on October 25, 2000. We received comments from three Federal agencies.

During our review of the amendment, we identified concerns relating to the deletion of Montana's rules concerning non-emergency AML reclamation, the deletion of Montana's rules concerning emergency reclamation, the statutes relating to Montana's AMLR plan, cross-references and quotes in the Montana plan which cited the deleted rules, and the reference to the former Department of State Lands, now the DEQ. We notified Montana of these concerns by letter dated January 24, 2001 (Administrative Record No. MT-18-08).

Montana responded in a letter dated April 30, 2001, by submitting additional explanatory information and a revised 2001 plan amendment (Administrative Record No. MT-18-11). Montana responded to each of our January 24, 2001, concerns, in particular, explaining where Montana believes it retains authority to implement its approved AMLR program (both emergency and non-emergency reclamation activities) for each deleted rule, where Montana intends to rely upon Federal authority, that the 2001 plan amendment supercedes earlier plans which may conflict with subsequent revisions, and referencing additional statutes which provide AML authority. Montana revised the AMLR plan to provide 2001 updated information, delete obsolete rule cites, change the State agency name to the Department of Environmental Quality, provide missing pages, provide an organizational chart for the DEQ, and make other editorial changes. By letter dated June 5, 2001 (Administrative Record No. MT-18-13), Montana provided a complete Attachment C to its revised plan.

Based on Montana's explanatory information and revised 2001 plan amendment, we reopened the public comment period in the June 1, 2001,

**Federal Register** (66 FR 29744, Administrative Record No. MT-18-12) and provided an opportunity for a public hearing or meeting on the adequacy of the revised amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period closed on July 2, 2001. We received comments from two Federal agencies.

### III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 884.14 and 884.15. We are approving the amendment.

#### *A. Montana State Reorganization To Create the Board of Environmental Review and the Department of Environmental Quality*

In 1995, the Montana legislature renamed the former Board of Land Commissioners to become the Board of Environmental Review and created the DEQ, formerly the Department of State Lands. This reorganization was performed in order to streamline the natural resource functions of State government. Montana submitted the statute changes resulting from the State reorganization in SPATS No. MT-017-FOR (Administrative Record No. MT-14-01).

When we reviewed the MT-017-FOR submittal, we did not find any regulatory (Title V) problems with the Montana submittal concerning the State reorganization. However, we deferred on the approval of MCA 82-4-239 concerning AML (Title IV) reclamation and placed a required plan amendment upon the Montana program (30 CFR 926.21(a)) in order to obtain more information concerning the revised AMLR plan and the AMLR reorganization. For more information, please refer to the final rule **Federal Register** notice dated January 22, 1999, on MT-017-FOR (64 FR 3604; Administrative Record No. MT-14-13).

In the August 15, 2000, submittal (SPATS No. MT-021-FOR; Administrative Record No. MT-18-01), Montana presented a copy of the 2000 State handbook concerning the creation of the Montana DEQ. This handbook contains the information we requested regarding a new organizational chart for the AMLR plan under the DEQ.

In addition, Montana has submitted a rewritten Reclamation Plan 2001 plan amendment. In this document, Montana has updated references from the former Department of State Lands to reflect management under the current DEQ. The following pages have been revised to reflect that name change: pages 1 and

2, Introduction; page 3, the Designation of the DEQ as Authorized Agency; page 5, Legal Opinion of Authority to Conduct AML Program; page 7, Goals and Objectives; page 8, Reclamation Projects Ranking and Selection; page 9, Coordination of Agencies; page 10, Policies and Procedures for Land Acquisition, Management and Disposal; page 11, Reclamation of Private Land; page 12, Consent for Entry; pages 13 through 15, Administrative and Management Structure; page 16, Personnel Staffing Policies; page 17, Purchasing and Procurement Policies; page 18, Accounting System; page 19, Parameters Related to Montana AML Reclamation Program; and Attachments C, D, E, and F concerning Abandoned Inactive Mine Scoring System (AIMSS), DEQ Personnel Staffing Policies, Purchasing and Procurement Delegation Agreement, and the Montana Administrative Register which published notices of the Montana AML plan revision in 1996, respectively.

In the response letter dated April 30, 2001 (Administrative Record No. MT-18-11), Montana stated that there are no further revisions to the State AMLR plan, other than what is included in this submittal. This explanation satisfies the required plan amendment at 30 CFR 926.21(a) as it provides us with adequate information concerning Montana's reorganization. We find Montana's AMLR plan amendment to be in compliance with SMCRA and consistent with the Federal regulations. We remove the required plan amendment at 30 CFR 926.21(a).

*B. Deletion of Definitions Concerning "Abandoned Mine Land Reclamation Fund," "Emergency" and "Extreme Danger" at ARM 26.4.301; Revision of Definition of "Abandoned" at ARM 26.3.301 and ARM 26.4.1303; and the Deletion of ARM 26.4.1231, 26.4.1232, 26.4.1233, 26.4.1234, 26.4.1235, 26.4.1236, 26.4.1237, 26.4.1238, 26.4.1239, 26.4.1240, 26.4.1241, and 26.4.1242*

As part of the Montana Governor's directive to reduce ARM rules by at least 5%, Montana proposed to delete all State rules (listed above) concerning its AMLR program (see Attachment F, 2001 State Plan Amendment) in 1996. Montana decided to rely on its AMLR plan; the State statutes at MCA 82-4-239, 242, 323, 371, 372, 424, 445, and 446; and the Federal authority contained in the Code of Federal Regulations at 30 CFR subchapter R.

In response to these deletions, we sent Montana a letter dated January 24, 2001, requesting a description of where the deleted sections were covered

elsewhere, either in the approved AMLR plan or the State statutes (Administrative Record No. MT-18-08). In response, Montana provided a rewritten AMLR plan, as well as a letter dated April 30, 2001, detailing where the information from the deleted rules is addressed elsewhere in the State AMLR plan (Administrative Record No. MT-18-11). The replacement authority for the deleted rules in the Montana AMLR plan is as follows:

#### a. Montana's Emergency AMLR Program

Montana states that it will use the Federal definitions for "emergency" and "extreme danger" which are contained in 30 CFR 870.5. Montana has also attached its approved 1983 Emergency Program Plan Amendment to the 2001 State Plan Amendment as Attachment A. The 1983 Emergency Program Plan and the original 1980 plan address the provisions of ARM 26.4.1231 and 26.4.1232 concerning AMLR definitions and the AMLR fund. Montana states that most of the remaining rule deletions do not pertain to Montana's emergency AMLR program and are covered elsewhere in the plan. A copy of Montana's original 1980 AMLR plan, which is referenced in the following discussions, may be obtained from the DEQ.

#### b. ARM 26.4.1233, Abandoned Mine Land Reclamation: Eligible Lands and Waters

The most current definition of eligible lands and waters is contained in the 1995 Montana plan amendment (SPATS No. MT-016-FOR; Administrative Record No. MT-AML-01). This definition was expanded to include certain coal mine sites where there had been a forfeiture of inadequate bonds or where bonds were forfeited from an insolvent surety.

#### c. ARM 26.4.1234, Abandoned Mine Land Reclamation: Reclamation Objectives and Priorities

The requirements for this deleted rule are contained in the original 1980 plan beginning on page 11, Volume 1. The AML goals and objectives are addressed on page 7 of the 2001 State Plan Amendment (SPATS No. MT-021-FOR; Administrative Record No. MT-18-11).

#### d. ARM 26.4.1235, Abandoned Mine Land Reclamation: Reclamation Project Evaluation

Montana's criteria for AML project ranking and selection are contained on page 14, Volume 1 of the 1980 original AMLR plan. In addition, Montana has incorporated at Attachment C of the 2001 State Plan Amendment, the

AIMSS, a procedure for ranking and evaluating projects (SPATS No. MT-021-FOR; Administrative Record No. MT-18-11).

e. ARM 26.4.1236, Abandoned Mine Land Reclamation: Consent to Enter Lands

Montana's original 1980 plan lists the criteria for AML consent of entry on page 25, Volume 1. In addition, page 12 of the 2001 State Plan Amendment addresses consent for entry (SPATS No. MT-021-FOR; Administrative Record No. MT-18-11).

f. ARM 26.4.1237, Abandoned Mine Land Reclamation: Land Eligible for Acquisition

Montana's original 1980 plan defines the policies and procedures for land acquisition, management, and disposal on pages 19 through 21, Volume 1, as does page 10 of the 2001 State Plan Amendment (SPATS No. MT-021-FOR; Administrative Record No. MT-18-11).

g. ARM 26.4.1238, Abandoned Mine Land Reclamation: Procedures for Acquisition

Montana's original 1980 AMLR plan addresses the procedures for land acquisition on pages 19 through 21, Volume 1, as does the 2001 State Plan Amendment on page 10 (SPATS No. MT-021-FOR; Administrative Record No. MT-18-11).

h. ARM 26.4.1239, Abandoned Mine Land Reclamation: Acceptance of Gifts of Land

Montana's original 1980 AMLR plan defines the policies and procedures for land acquisition, management, and disposal on pages 19 through 21, Volume 1.

i. ARM 26.4.1240, Abandoned Mine Land Reclamation: Management of Acquired Lands

Montana's original 1980 AMLR plan defines the policies and procedures for land acquisition, management and disposal on pages 19 through 21, Volume 1.

j. ARM 26.4.1241, Abandoned Mine Land Reclamation: Disposition of Reclaimed Lands

Montana's original 1980 AMLR plan defines the policies and procedures for land acquisition, management, and disposal on pages 19 through 21, Volume 1.

k. ARM 26.4.1242, Abandoned Mine Land Reclamation: Reclamation on Private Land

The requirement to reclaim private land is addressed in the Montana

Constitution at Article IX, in the original 1980 AMLR plan on page 24, and in the 2001 State Plan Amendment at page 11 (SPATS No. MT-021-FOR; Administrative Record No. MT-18-11).

In addition to discussion a. through k. above, pages five through 19 of the 2001 Plan Amendment address the content of an AML plan. The Federal equivalent is contained at 30 CFR 884.13. Therefore, based on the above description, we find that the proposed Montana deletions and revisions, considered together with other statutes and plan amendments, compare, all together, with applicable requirements of the Federal regulations and SMCRA sufficient to ensure that the Montana plan, as a whole, meets all applicable Federal requirements.

*C. MCA 82-4-239, Reclamation*

Montana revised MCA 82-4-239 in SPATS No. MT-017-FOR to reflect the reorganized duties of the Board of Environmental Review and the DEQ. However, we deferred our decision on MCA 82-4-239 in SPATS No. MT-017-FOR as it was unclear what the new reorganization of the Montana AMLR plan consisted of, as well as which AMLR rules and statutes had been revised as a result of the 1995 State reorganization (January 22, 1999, **Federal Register** notice; 64 FR 3604).

In MT-021-FOR, Montana has presented the same revisions to MCA 82-4-239 as we reviewed in MT-017-FOR. However, in MT-021-FOR, Montana has also presented the information that we requested in the required plan amendment at 30 CFR 926.21(a). Specifically, Montana has presented an organizational chart for the new DEQ, a narrative description of changes made to the AMLR plan in a letter dated May 30, 2001, a rewritten AMLR plan (see finding B of this final rule), as well as assurances that no other revisions exist to the AMLR program. With this information, we can approve revised MCA 82-4-239 as in compliance with SMCRA and consistent with Federal regulations. We approve the revisions to MCA 82-4-239.

**IV. Summary and Disposition of Comments**

*Public Comments*

We asked for public comments on the amendment by letter dated September 13, 2000 (Administrative Record No. MT-18-03), but did not receive any.

*Federal Agency Comments*

Under 30 CFR 884.14(a)(2) and 884.15(a), we requested comments on the amendment from various Federal agencies with an actual or potential

interest in the Montana plan by letter dated September 13, 2000 (Administrative Record No. MT-18-03). The Bureau of Indian Affairs (BIA) responded by letters dated September 29, 2000, and May 30, 2001, that it had no concerns with the proposed Montana AMLR revisions (Administrative Record Nos. MT-18-05 and MT-18-14). The BIA's September 29, 2000, letter also gave positive comments concerning Montana's revegetation program, which is the subject of another State Program Amendment, SPATS No. MT-019-FOR. The Mine Safety and Health Administration (MSHA) sent in letters from three offices (Denver, CO; Arlington, VA; and Pittsburgh, PA) which stated that it had no concerns with the proposed Montana AMLR revisions. Those letters are dated October 18, 2000, November 13, 2000, and June 11, 2001 (Administrative Record Nos. MT-18-04, MT-18-07, and MT-18-15).

**V. OSM's Decision**

Based on the above findings, we approve Montana's August 15, 2000, amendment as revised by the submittal dated April 30, 2001.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 926, which codify decisions concerning the Montana plan. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 405(d) of SMCRA requires that the State have a program that is in compliance with the procedures, guidelines, and requirements established under the Act. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

**VI. 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 (Regulatory Planning and Review).

*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 allowable 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 AMLR plans and revisions thereof because each plan is drafted and promulgated by a specific State, not by OSM. Decisions on proposed State AMLR plans and revisions thereof submitted by a State are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and the applicable Federal regulations at 30 CFR part 884.

*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 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 considered: (1) 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*

No environmental impact statement is required for this rule since agency decisions on proposed State AMLR plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

*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 926**

Abandoned mine reclamation programs, Intergovernmental relations, Surface mining, Underground mining.

Dated: May 13, 2002.

**Peter Rutledge,**

*Acting Regional Director, Western 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 926—MONTANA ABANDONED MINE LAND RECLAMATION PROGRAM**

1. The authority citation for part 926 continues to read as follows:

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

\* \* \* \* \*

2. Section 926.25 is amended in the table by adding a new entry in chronological order by “Date of Final Publication” to read as follows:

**§ 926.25 Approval of Montana abandoned mine land reclamation plan amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
August 15, 2000 .....	June 20, 2002 .....	Deletion of ARM 26.4.301(1), (37), and (41), 26.4.1231, 26.4.1232, 26.4.1233, 26.4.1234, 26.4.1235, 26.4.1236, 26.4.1237, 26.4.1238, 26.4.1239, 26.4.1240, 26.4.1241, and 26.4.1242; and revision of ARM 26.4.301(1), ARM 26.4.1303, MCA 82–4–239, and the Montana Reclamation Plan 2001 Plan Amendment are approved.

**§ 926.21 [Amended]**

3. Section 926.21 is amended by removing and reserving paragraph (a).

[FR Doc. 02-15582 Filed 6-19-02; 8:45 am]

**BILLING CODE 4310-05-P**

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

[CGD05-02-029]

**RIN 2115-AE46**

**Special Local Regulations for Marine Events; Back River, Hampton, VA**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary special local regulations for the Langley Air Force Base Airshow, an event to be held over the waters of the Back River near Langley Air Force Base, Hampton, Virginia, on June 22 and June 23, 2002. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Back River during the event.

**DATES:** This rule is effective from 7 a.m. local time on June 22, 2002 to 10 p.m. local time on June 23, 2002.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket CGD05-02-029 and are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** S.L. Phillips, Project Manager, Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, at (757) 398-6204.

**SUPPLEMENTARY INFORMATION:**
**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. In keeping with 5 U.S.C. 553(b)(B) and 553(d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The event will begin on Saturday, June 22, 2002. There is not sufficient time to allow for an appropriate notice and comment period, prior to the event.

Because of the dangers posed by low flying aircraft over a confined space, special local regulations are necessary to provide for the safety of event participants, spectator craft and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event. In addition, advance notifications will be made via the Local Notice to Mariners, marine information broadcasts, and area newspapers.

**Background and Purpose**

On June 22 and June 23, 2002, Langley Air Force Base will conduct a low-flying, high-speed aerial demonstration above a portion of the Back River, including the Southern and Northwest Branches. A fleet of spectator vessels is expected to gather near the event site to view the aerial demonstration. To provide for the safety of participants, spectators and other transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during the aerial demonstration.

**Discussion of Regulations**

The Coast Guard is establishing temporary special local regulations on specified waters of the Back River, including the Southern and Northwest Branches. The temporary special local regulations will be enforced daily from 7 a.m. to 10 p.m. (local time) on June 22 and June 23, 2002. The effect will be to restrict general navigation in the regulated area during the event. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. The Patrol Commander will notify the public of specific enforcement times by Marine Radio Safety Broadcast. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

**Regulatory Evaluation**

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

Although this rule prevents traffic from transiting a portion of the Back River during the event, the effect of this

rule will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the effected portions of the Back River during the event.

Although this rule prevents traffic from transiting a portion of the Back River during the event, the effect of this rule will not be significant because of the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this temporary rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions