

§ 1.408A-4 Converting amounts to Roth IRAs.

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Q-14. [The text of proposed regulation §1.408A-4, Q-14 is the same as the text of §1.408A-4T, Q-14 published elsewhere in this issue of the **Federal Register**].

Q-14. [The text of proposed regulation § 1.408A-4, Q-14 and A-14 is the same as the text of § 1.408A-4T, Q-14 and A-14 published elsewhere in this issue of the **Federal Register**].

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 05-16404 Filed 8-19-05; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF LABOR**Mine Safety and Health Administration**

30 CFR Parts 5, 15, 18, 19, 20, 22, 23, 27, 28, 33, 35, and 36

RIN 1219-AB38

Fees for Testing, Evaluation, and Approval of Mining Products; Correction

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the preamble to a proposed rule published in the **Federal Register** of August 9, 2005, regarding fees for testing, evaluation, and approval of mining products.

FOR FURTHER INFORMATION CONTACT:

Rebecca J. Smith, Acting Director, Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Blvd., Room 2313, Arlington, Virginia 22209-3939, smith-rebecca@dol.gov, (202) 693-9440 (telephone), (202) 693-9441 (facsimile).

Corrections

1. On page 46345, in the first column, under Addresses, change the e-mail address from "comments@msha.gov" to "zzmsaha-comments@dol.gov".

2. On page 46345, in the first column, under "Regular Mail or Hand Delivery," change the zip code to "22209-3939".

3. On page 46346, in the third column, in the third paragraph under "Section 5.30 Fee Calculation," in the second sentence, change the word "revised" to "existing".

4. On page 46347, in the first column, in the second full paragraph, in the sixth sentence, change the term "part 5" to "part 15".

5. On page 46348, in the first column, in the second paragraph, in the first sentence, change the word "applied" to "apply".

§ 22.4 [Corrected]

6. On page 46352, in the second column, in the first sentence of the rule text for § 22.4(a), change the term "the active investigation of" to "an active investigation".

§ 23.3 [Corrected]

7. On page 46352, in the second column, in the first sentence of the rule text for § 23.3(a), change the term "the active investigation of" to "an active investigation".

Dated: August 16, 2005.

Robert M. Friend,

Acting Deputy Assistant Secretary.

[FR Doc. 05-16559 Filed 8-19-05; 8:45 am]

BILLING CODE 4510-43-P

DEPARTMENT OF THE INTERIOR**Office of Surface Mining Reclamation and Enforcement**

30 CFR Part 925

[Docket No. MO-738]

Public Hearing and Public Comment Period on Termination of Federal Enforcement for Parts of the Missouri Permanent Regulatory Program

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

ACTION: Proposed rule; notice of public comment period and public hearing.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), announced our decision to substitute Federal enforcement for parts of the Missouri permanent regulatory program (Missouri program) on August 22, 2003 (68 FR 50944). We are announcing today that the Governor of Missouri petitioned us to consider returning to Missouri the authority to enforce those parts of the Missouri program for which we substituted Federal enforcement. The Missouri Department of Natural Resources, Air and Land Protection Division, Land Reclamation Program (MLRP) is the regulatory authority responsible for implementing and enforcing the Missouri program. If we approve Missouri's petition, we will terminate Federal enforcement for those parts of the Missouri program for which we substituted Federal enforcement and return full enforcement authority to the MLRP.

We are providing an opportunity for interested persons to comment on the Missouri Governor's petition to reassume authority of those parts of the Missouri program currently being enforced by us (Administrative Record No. MO-664.42). This document gives the dates and times during which interested persons may submit written comments or participate in the scheduled public hearing regarding Missouri's petition. This document also includes the procedures that we will follow for the public hearing.

DATES: We will accept written comments until 4 p.m., c.d.t., September 29, 2005. Comments received after this time may not be considered in our findings on the petition from the Governor of Missouri to reassume authority of the Missouri program.

Public Hearing: We will hold a public hearing on the proposed rule on September 22, 2005, at 2 p.m., c.d.t. We will accept requests to speak at the public hearing until 4 p.m., c.d.t. on September 16, 2005. If you wish to attend and speak at the hearing, you should follow the procedures under the "Public Comment Procedures" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: You may submit comments, identified by Docket No. MO-738, by any of the following methods:

- E-mail: MCR_AMEND@osmre.gov. Include Docket No. MO-738 in the subject line of the message.

- Mail/Hand Delivery: Andrew R. Gilmore, Chief, Alton Field Division, Office of Surface Mining Reclamation and Enforcement, 501 Belle Street, Alton, Illinois 62002.

- Fax: (618) 463-6470.

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Comment Procedures" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to review copies of all administrative record documents referenced in this document, a listing of any scheduled public hearings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. Andrew R. Gilmore, Chief, Alton Field Division, Office of Surface Mining Reclamation and

Enforcement, 501 Belle Street, Alton, Illinois 62002, Telephone: (618) 463-6460, E-mail: MCR_AMEND@osmre.gov.

If you wish to attend the public hearing, it will be held at the following location:

The Missouri Department of Natural Resources, 1738 East Elm Street, Bennett Springs Room, Jefferson City, Missouri 65102.

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Chief, Alton Field Division. Telephone: (618) 463-6460. E-mail: MCR_AMEND@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Missouri Program
- II. Missouri's Responses to Required Remedial Actions
- III. Public Comment Procedures
- IV. Procedural Determinations

I. Background on the Missouri 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 this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary conditionally approved the Missouri program on November 21, 1980. You can find background information on the Missouri program, including the Secretary's findings, the disposition of comments, and conditions of approval, in the November 21, 1980, **Federal Register** (45 FR 77017). You can also find later actions concerning the Missouri program and program amendments at 30 CFR 925.10, 925.12, 925.15, 925.16, 925.17, 925.18, and 925.19.

On June 19, 2003, the MLRP notified us that the Missouri Legislature passed House Bill (HB) 6 that appropriated funds for the Missouri program. In HB 6, the Missouri Legislature did not fully fund the Missouri program for the period beginning July 1, 2003, and ending June 30, 2004. The Missouri Legislature only appropriated funds for bond forfeiture reclamation activities. The Governor of Missouri signed the appropriation bill on May 30, 2003 (Administrative Record No. MO-664).

On July 2, 2003, we met with the MLRP at the Missouri Department of Natural Resources' office in Jefferson City, Missouri (Administrative Record No. MO-664.1). During the meeting, the

MLRP made a presentation, including a series of slides, describing the recently approved appropriation bill. HB 6 contained a severe cut in general revenue dollars available as State matching funds for the regulatory program. The MLRP advised us that the moneys that were available for the regulatory program would only be used for bond forfeiture reclamation activities. Also, the MLRP advised us that the State Legislature appropriated Federal funds for the abandoned mine land reclamation (AMLR) program. In addition, the MLRP explained that as of July 18, 2003, existing regulatory program staff, with the exception of four full-time employees, would be transferred to other programs and that it would not be able to implement and maintain its inspection, enforcement, permitting, or bond release responsibilities under the currently approved Missouri program. The four full-time employees would perform the bond forfeiture reclamation activities that were authorized by the State Legislature. The MLRP indicated that it would try to gain full program funding from the Missouri Legislature for Fiscal Year (FY) 2005.

On July 21, 2003, the Governor of Missouri notified us that the State of Missouri was experiencing difficult budget and revenue shortfalls (Administrative Record No. MO-664.3). As a result of the revenue shortfalls, he requested assistance with permit reviews, inspection activities, and general oversight of the active coal mining operations in the State. He indicated that Missouri had adequate funding and staff available to maintain design and reclamation efforts for bond forfeiture sites, as well as sufficient funding and staff to maintain the AMLR program, including the emergency program. He also indicated that he was hopeful his request would be temporary and that he would continue to work with the Legislature in an attempt to assure adequate funding for all of Missouri's regulatory program responsibilities.

On August 4, 2003, we notified the Governor of Missouri that we were obligated, in accordance with 30 CFR 733.12(e), to substitute Federal enforcement for parts of the Missouri program. We cited Missouri's failure to fund and staff the Missouri program in several areas including inspection, enforcement, permitting, and bonding activities (Administrative Record No. MO-664.4).

In accordance with the provisions of 30 CFR 733.12(f), we announced our decision, effective August 22, 2003, to institute direct Federal enforcement for

those parts of the Missouri program that were not fully funded and staffed. We suspended the authority of the MLRP to enforce all portions of the Missouri program except bond forfeiture reclamation activities. We determined that the MLRP had sufficient funding and staff to implement and maintain bond forfeiture reclamation activities. With this substitution of Federal enforcement authority, we outlined a process, including remedial actions, by which Missouri could regain full authority for its program (68 FR 50944).

On April 15, 2004, we clarified our substitution of Federal enforcement for parts of the Missouri program and made findings on the status of the Missouri program (69 FR 19927).

On May 3, 2004, the MLRP notified us that the Missouri Legislature failed to fully fund the Missouri program for the period beginning July 1, 2004, and ending June 30, 2005 (Administrative Record No. MO-664.22). In the same letter, the MLRP outlined its financial and organizational plans to submit a request to its division and department legislative staff to propose funding and staffing that would be needed to reassume authority of the complete active coal regulatory program beginning July 1, 2005. On May 25, 2004, we notified the MLRP that based on its May 3, 2004, submittal, we would continue the current Federal substitution plan for one more year (Administrative Record No. MO-664.24).

By letter dated May 2, 2005, the MLRP notified us that the Director of the Missouri Department of Natural Resources (MDNR) had agreed to seek full return of the regulatory program to Missouri. The MLRP also requested a meeting with us to discuss the plan for the return of the program to Missouri. The MLRP noted that the State budget includes the necessary funding and staffing allocations and that it plans to use remaining past coal fee funds to match the Federal regulatory grant for FY 2006 (Administrative Record No. MO-664.39).

By letter dated May 12, 2005, we advised the MLRP that before Missouri can reassume full authority to implement and enforce the Missouri program, the MLRP must complete the remedial measures specified in 30 CFR 925.18. In accordance with 30 CFR 925.18(c), we requested that the MLRP submit a detailed description of the past coal fee funds that it proposed to use to match the Federal regulatory grant. We also requested that the MLRP provide us with a Missouri Attorney General's opinion on the legality of using these

funds (Administrative Record No. MO-664.40).

On May 26, 2005, we met with the Deputy Director of the MDNR to discuss (1) funding; (2) current staff for the forfeiture program and AMLR plan; (3) Cooperative Agreement funding beginning July 1, 2005, until we approve the return of authority to Missouri; (4) procedural matters; (5) program issues; and (6) bond forfeiture site reclamation progress (Administrative Record No. MO-664.44).

By letter dated May 27, 2005, the Governor of Missouri petitioned us to consider returning to Missouri the authority to implement and enforce those parts of the Missouri program for which we substituted Federal enforcement (Administrative Record No. MO-664.42).

On June 28, 2005, the Director of the MDNR submitted information on the funding and staffing plans that the MLRP would use to assume full enforcement authority for the Missouri program as required by 30 CFR 925.18(c). The Director of the MDNR also provided the Missouri Attorney General's written opinion on the legality of the funding proposal (Administrative Record No. MO-664.48).

II. Missouri's Responses to Required Remedial Actions

A. In order for the MLRP to demonstrate its intent and capability to fully implement and enforce the Missouri program as approved by the Secretary, we required the MLRP to complete certain remedial actions, which we codified at 30 CFR 925.18. The Federal regulation at 30 CFR 925.19 provides that we will consider returning to the MLRP the authority suspended under 30 CFR 925.17 provided that the State has accomplished all remedial actions specified under 30 CFR 925.18; and the MLRP petitions us in writing to consider returning authority to the State. On May 27, 2005, we received a petition from the Governor of Missouri requesting that we return, to the State, the enforcement authority that was suspended under 30 CFR 925.17 (Administrative Record No. MO-664.42). Described below are Missouri's responses to the required remedial actions.

B. *30 CFR 925.18 State Remedial Actions.* 1. 30 CFR 925.18(a)—We required the MLRP to submit to us, by August 22, 2003, a list of all outstanding enforcement actions specifying the abatement date set for each cited violation. On July 22, 2003, the Missouri Attorney General's office provided us with a copy of all outstanding enforcement actions (Administrative

Record No. MO-664.13). The notices of violation and cessation orders specified the abatement date set for each cited violation. On April 15, 2004, we determined that the MLRP had satisfied this required remedial action, and we removed paragraph (a) from 30 CFR 925.18. See 69 FR 19932, dated April 15, 2004.

2. 30 CFR 925.18(b)—In accordance with the requirements of the approved Missouri program, the MLRP was to complete administrative disposition of all enforcement actions that were initiated before August 22, 2003. As applicable, the MLRP was to conduct penalty assessments, hold informal conferences and hearings, collect penalties, and terminate or vacate enforcement actions. On November 25, 2003, the MLRP notified us that it had completed administrative disposition of five enforcement actions that were initiated before August 22, 2003 (Administrative Record No. MO-664.17). Additionally, on February 18, 2004, the MLRP notified us that it had completed administrative disposition of the balance of its enforcement actions (Administrative Record No. MO-664.18A).

3. 30 CFR 925.18(c)—Within 30 days of the date on which OSM has received and acknowledged an accurate description of available funding for the regulatory program, the MLRP must submit to OSM a plan to reassume full authority for the Missouri program. At a minimum, the proposal must provide specific and adequate provisions that address funding, staffing, and adherence to the approved program. On June 28, 2005, the Director of the MDNR submitted information on the funding and staffing plans that the MLRP would use to assume full enforcement authority for the Missouri program as required by 30 CFR 925.18(c). The Director of the MDNR also provided the Missouri Attorney General's written opinion on the legality of the funding proposal (Administrative Record No. MO-664.48).

4. 30 CFR 925.18(d)—Starting on April 1, 2004, the MLRP was to submit to us a report monthly on its progress in obtaining full funding for the Missouri program. The MLRP submitted monthly update reports on its progress in obtaining the funding and staffing needed to reassume its program beginning on May 3, 2004, and continuing through July 7, 2005 (Administrative Record Nos. MO-664.22, MO-664.23, MO-664.26—MO-664.34, MO-664.36—MO-664.45, and MO-664.50).

5. 30 CFR 925.18(e)—Effective September 8, 2003, the MLRP was to

take all steps necessary to ensure that all records, documents, correspondence, inspector logs, etc. were made secure and to supply copies of all documents to us upon request. Beginning in July 2003, the MLRP provided access to all materials that we requested (Administrative Record No. MO-664.13). The MLRP also provided us with copies of all items, such as permit review documents and bond release applications, that were pending when it lost funding for the State program. On April 15, 2004, we determined that the MLRP had satisfied this required remedial action, and we removed paragraph (e) from 30 CFR 925.18. See 69 FR 19932, dated April 15, 2004.

After the close of the public comment period and public hearing, we will announce in the **Federal Register** our decision on Missouri's responses to the required remedial actions at 30 CFR 925.18.

III. Public Comment Procedures

In accordance with 30 CFR 925.19(b), we are announcing a public comment period and a public hearing to provide interested parties a means to comment on Missouri's petition to reassume full authority for those parts of the Missouri program that we directly enforce, as specified under 30 CFR 925.17, and the termination of Federal enforcement for those parts of the Missouri program.

After the public comment period and after we review all available information, we will publish our decision to grant in whole or in part or to deny Missouri's petition to reassume full authority for the Missouri program in accordance with 30 CFR 925.19(c).

Written Comments

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific and pertain only to the issue of whether we should terminate Federal enforcement and return full regulatory authority to the State of Missouri. Please include explanations in support of your comments. We will not consider your comments 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 Alton Field Division 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: Docket No. MO-738" 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 Alton Field Division at (618) 463-6460.

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

The scope of the public hearing will include matters relevant to whether we should grant Missouri's petition to reassume authority for those parts of the Missouri program that we directly enforce and terminate Federal enforcement for those parts of the Missouri program.

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., c.d.t. on September 16, 2005. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

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.

In addition, we will follow the hearing format and rules of procedure listed below.

1. The hearing will be informal in nature. We will only accept oral and written comments.
2. We ask that attendees sign in upon entering the hearing room.
3. Those wishing to speak must sign the Speaker Registration Form.

4. Speakers will be called in the order in which they register.

5. Based on the number of speakers in attendance, each participant may be limited to 10 minutes.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based upon the nature of the action being taken.

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. 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 State regulatory programs must be based solely on a determination of whether the program 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, 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 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have

substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. This determination is based on the fact that there are no Federally-recognized Indian tribes in the State of Missouri and that the Missouri program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Missouri program has no effect on Federally-recognized Indian tribes.

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 State regulatory programs 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 the return of regulatory authority to the State of Missouri for those portions of the Missouri permanent regulatory program for which we are currently substituting Federal enforcement 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 rule is not expected to result in additional costs to the regulated industry.

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 rule is not expected to result in additional costs to the regulated industry.

Unfunded Mandates

The return of regulatory authority to the State of Missouri for those portions of the Missouri permanent regulatory program for which we are currently substituting Federal enforcement 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 nature of the action being taken.

List of Subjects in 30 CFR Part 925

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 8, 2005.

Chad Calvert,

Acting Assistant Secretary for Land and Minerals Management.

[FR Doc. 05-16573 Filed 8-19-05; 8:45 am]

BILLING CODE 4310-05-P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 117**

[CGD13-05-023]

RIN 1625-AA09

Drawbridge Operation Regulations; Willamette River, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise the drawbridge operation regulations for bridges on the Willamette River, Oregon. This proposed revision would reorganize the text into a more understandable format

with minor editing of the regulations, and change the operating regulations for the draw of the Burnside Bridge across the Willamette River, mile 12.4, at Portland, Oregon. The proposed change to the Burnside Bridge operating regulation will enable the bridge owner to provide single-leaf operation of the bridge, except during the Rose Festival, to facilitate major structural and mechanical rehabilitation of the bridge. Repairs are currently expected to last approximately two years, after which it is expected that the operating regulation will be revised to provide for double-leaf operation again.

DATES: Comments and related material must reach the Coast Guard on or before October 21, 2005.

ADDRESSES: You may mail comments and related material to Commander (oan), 13th Coast Guard District, 915 Second Avenue, Seattle, WA 98174-1067 where the public docket for this rulemaking is maintained. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Aids to Navigation and Waterways Management Branch between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Austin Pratt, Chief, Bridge Section, 13th Coast Guard District, (206)220-7282.

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 (CGD13-05-023), 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 Aids to Navigation and Waterways Management 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 operating regulations currently in effect for the drawbridges on the Willamette River are at 33 CFR 117.897. The regulations as they are currently written are confusing as to which exceptions apply to which bridge. The reorganization of the text will simplify and clarify the regulations.

The proposed rule would also enable Multnomah County, the owner of the Burnside Bridge, to rehabilitate the structure. The work includes repairing the drawbridge mechanism, replacing the concrete deck and repairing corroded steel. One side would be disabled throughout the period. The operable side will be indicated via a Local Notice to Mariners.

The Burnside Bridge in the closed position provides 65.5 feet of vertical clearance above 0.0 datum according to the Corps of Engineers at the center of the bascule and 205 feet of horizontal clearance. Drawbridge openings are provided on average 40 times monthly for recreational vessels, tugs and tows, and floating construction equipment. This averages less than twice a day for opening frequency.

The current regulation provides that the spans need not open for the passage of vessels from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Friday, except New Years Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day. From 8 a.m. to 5 p.m., Monday through Friday, one hour's notice is required for all openings of the upper deck of the Steel Bridge, the Burnside Bridge and the Morrison Bridge, and two hours notice is required at all other times for those 3 bridges. Notice at least 2 hours in advance is also required at all other times to open the draws of the Broadway and Hawthorne Bridges. The draw operates on signal during Rose Festival Week and whenever the river level reaches and remains above +12 feet.

Reorganization of Text

This proposed rule would reorganize the text of 33 CFR 117.897. Currently, the regulation is confusing as to which exceptions to normal bridge operations apply to which bridges. This change will enhance and facilitate comprehension of the regulation.

The conflict between the open period, from 8 a.m. to 5 p.m., and the closed periods, from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., would be resolved by changing the open period hours to 9