

counterparts and have been reviewed and a determination made that they do not have takings implications. This determination is based on the fact that the provisions have no substantive effect on the regulated industry.

*Executive Order 12866—Regulatory Planning and Review*

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

*Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

*Executive Order 13132—Federalism*

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to “establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.” Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be “in accordance with” the requirements of SMCRA, 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 the Texas program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Texas 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 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 the provisions in 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.*). This determination is based upon the fact that the provisions are not expected to have a substantive effect on 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 State provisions are not expected to have a substantive effect on the regulated industry.

*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 provisions are not expected to have a substantive effect on the regulated industry.

**List of Subjects in 30 CFR Part 943**

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 20, 2004.

**Ervin J. Barchenger,**

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

[FR Doc. 04-4636 Filed 3-2-04; 8:45 am]

**BILLING CODE 4310-05-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

**[CGD05-04-024]**

**RIN 1625-AA08**

**Special Local Regulations for Marine Events; Norfolk Harbor, Elizabeth River, Norfolk and Portsmouth, VA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to amend the special local regulations established for marine events held annually in the Norfolk Harbor, Elizabeth River, between Norfolk and Portsmouth, Virginia by changing the date on which the regulations are in effect for the marine event “Cock Island Race”. This action is intended to restrict vessel traffic in portions of the Elizabeth River during the start of the Cock Island Race. This action is necessary to provide for the safety of life on navigable waters during the event.

**DATES:** Comments and related material must reach the Coast Guard on or before May 3, 2004.

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

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

#### **SUPPLEMENTARY INFORMATION:**

##### **Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05-04-024), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

##### **Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the address listed under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

##### **Background and Purpose**

The regulations at 33 CFR 100.501 are effective annually for the duration of each marine event listed in Table 1 of Section 100.501. Table 1 lists the effective date for the Cock Island Race

as the third Saturday in July. For the past several years the event has been held on the third Saturday in June. The sponsor intends to hold this event annually on the third Saturday in June.

##### **Discussion of Proposed Rule**

The Coast Guard proposes to amend the regulations at 33 CFR 100.501 by changing the date on which the regulations are in effect for the Cock Island Race from annually on the third Saturday in July to annually on the third Saturday in June. This proposed change is needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

##### **Regulatory Evaluation**

This proposed 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 Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. The effect of this proposed action merely changes the date on which the existing regulations would be in effect and would not impose any new restrictions on vessel traffic.

##### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Elizabeth River during the event.

This proposed rule would not have a significant economic impact on a

substantial number of small entities for the following reasons. This proposed rule would merely change the date on which the existing regulations would be in effect and would not impose any new restrictions on vessel traffic.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

##### **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 proposed 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**.

##### **Collection of Information**

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

##### **Federalism**

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

##### **Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

##### **Taking of Private Property**

This proposed rule would not effect a taking of private property or otherwise have taking implications under

Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect 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.

### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(h), of the Instruction, from further environmental documentation. Special local

regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under that section.

### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 100 as follows:

### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.1.

2. Amend § 100.501 by revising Table 1 to read as follows:

#### § 100.501 Norfolk Harbor, Elizabeth River, Norfolk and Portsmouth, VA.

\* \* \* \* \*

#### Table 1 of § 100.501

Harborfest

Sponsor: Norfolk Harborfest, Inc.

Date: First Friday, Saturday, and Sunday in June

Great American Picnic

Sponsor: Festevents, Inc.

Date: July 4

Cock Island Race

Sponsor: Ports Events, Inc.

Date: Third Saturday in June

Rendezvous at Zero Mile Marker

Sponsor: Ports Events, Inc.

Date: Third Saturday in August

U.S. Navy Fleet Week Celebration

Sponsor: U.S. Navy

Date: Second Friday in October

Holidays in the City

Sponsor: Festevents, Inc.

Date: Fourth Saturday in November

New Years Eve Fireworks Display

Sponsor: Festevents, Inc.

Date: December 31

Dated: February 9, 2004.

**Sally Brice-O'Hara,**

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 04-4647 Filed 3-2-04; 8:45 am]

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## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### 37 CFR Subparts 1, 2, 10 and 11

[Docket No.: 2002-C-005]

RIN 0651-AB55

### Changes to Representation of Others Before The United States Patent and Trademark Office

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Notice of extension of comment period.

**SUMMARY:** The United States Patent and Trademark Office (Office or USPTO) is extending the public comment period on proposed rules 1.4(d)(2), 1.8(a)(2)(iii)(A), 1.21(a)(6) through (a)(9), 1.21(a)(11), 1.21(a)(12), 2.11, 2.17, 2.24, 2.33, 2.61, 11.2(b)(4) through 11.2(b)(7), 11.3(b) and (c), 11.5(b), 11.8(d), 11.9(c) (last two sentences), 11.9(d), 11.10(c) (second sentence), 11.10(d) (second sentence), 11.10(e) (second sentence), 11.11(b) through (f), 11.12 through 11.62, and 11.100 through 11.900, as well as the definitions in proposed rule 11.1 of terms that are used only in rules in Subparts B, C and D, USPTO Rules of Professional Conduct, published in the **Federal Register** on December 12, 2003 (68 FR 69442). This extension applies to all portions of Subparts C and D of the proposed rules, and those portions of Subparts A and B not relating to enrollment of new patent practitioners. This extension will allow additional time following publication on December 12, 2003, for public comment regarding the Office's proposals for annual fees, mandatory continuing education, and processes for handling investigations and disciplinary proceedings.

**DATES:** You must submit your comments by Friday, June 11, 2004. The Office may not necessarily consider or include in the Administrative Record for the proposed rule comments that the Office receives after the close of this extended comment period or comments delivered to an address other than those listed below.

**ADDRESSES:** Comments should be sent by electronic mail over the Internet addressed to: [ethicsrules.comments@uspto.gov](mailto:ethicsrules.comments@uspto.gov). Comments may also be submitted by mail addressed to: Mail Stop OED-Ethics Rules, United States Patent and Trademark Office, PO Box 1450, Alexandria, Virginia 22313-1450 or by facsimile to (703) 306-4134, marked to the attention of Harry I. Moatz. Although comments may be submitted by mail or facsimile, the Office prefers