

### III. Electronic Access

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Dated: June 7, 2006.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 943

[Docket No. TX-054-FOR]

#### Texas Regulatory Program

**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 an amendment to the Texas regulatory program (Texas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Texas proposed to revise its fish and wildlife habitat revegetation guidelines by adding technical guidelines and management practices concerning habitat suitable for bobwhite quail and other grassland bird species. Texas intends to revise its program to encourage reclamation practices that are suitable for bobwhite quail and other grassland bird species.

**DATES:** *Effective Date:* June 14, 2006.

**FOR FURTHER INFORMATION CONTACT:** Michael C. Wolf from, Director, Tulsa Field Office. Telephone: (918) 581-6430. E-mail: [mwolfm@osmre.gov](mailto:mwolfm@osmre.gov).

#### SUPPLEMENTARY INFORMATION:

- I. Background on the Texas Program
- II. Submission of the Amendment
- III. OSM's Findings
- IV. Summary and Disposition of Comments
- V. OSM's Decision
- VI. Procedural Determinations

#### I. Background on the Texas 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 of the Interior conditionally approved the Texas program effective February 16, 1980. You can find background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval, in the February 27, 1980, **Federal Register** (45 FR 12998). You can find later actions on the Texas program at 30 CFR 943.10, 943.15, and 943.16.

#### II. Submission of the Amendment

By letter dated July 26, 2005 (Administrative Record No. TX-659), Texas sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Texas sent the amendment at its own initiative.

We announced receipt of the proposed amendment in the August 31, 2005, **Federal Register** (70 FR 51689). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one requested one.

During our review of the amendment, we identified concerns relating to Texas' revegetation guidelines document at Section V.D.1., Fish and Wildlife Habitat; Section V.D.2., Woody-Plant Stocking; Appendix B, Summary of Revegetation Success Standards (Fish and Wildlife Habitat Only); and Attachment 2, Minimum Woody Vegetation Stocking Rates. We notified Texas of the concerns by letters dated October 17, 2005, and February 8, 2006 (Administrative Record Nos. TX-659.07 and TX-659.13). On January 12 and March 10, 2006, Texas sent us revisions to its amendment (Administrative Record Nos. TX-659.11 and TX-659.12).

Based on Texas' revisions to its amendment, we reopened the public comment period in the April 21, 2006, **Federal Register** (71 FR 20602). The public comment period ended on May 8, 2006. We received comments from one industrial group, one mining association, one State agency, and one Federal agency.

#### III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment as described below. Any revisions that we do not

specifically discuss below concern nonsubstantive wording or editorial changes.

#### A. Section V. Revegetation Success Standards

At the request of the Texas Parks and Wildlife Department (TPWD), Texas proposed to revise the following provisions in Section V of its August 1999 revegetation success guidelines document.

##### 1. Table of Contents

Texas revised the Table of Contents for Section V.D. Fish and Wildlife by adding two sub-categories entitled "General Category" and "Bobwhite Quail and Other Grassland Bird Species."

Because these changes are minor, we find that they will not make Texas' revegetation success guidelines document less effective than the corresponding Federal regulation at 30 CFR 816.116(a)(1). This Federal regulation requires that standards for success and statistically valid sampling techniques for measuring success be selected by the regulatory authority and included in an approved regulatory program.

##### 2. Section V.D.1. Fish and Wildlife Habitat—Ground Cover

At Section V.D.1., Texas added a ground cover technical standard for bobwhite quail and other grassland bird species and added other associated changes. Texas also made some minor clarifying changes to existing provisions.

a. Texas changed the heading of the third paragraph from "Use of Technical Standard" to "Use of General Technical Standard."

Because this change is minor, we find that it will not make Texas' revegetation success guidelines document less effective than the corresponding Federal regulation at 30 CFR 816.116(a)(1).

b. Use of Bobwhite Quail and Other Grassland Bird Species Technical Standard.

(1) Texas proposed to add two new paragraphs concerning the technical standard for bobwhite quail and other grassland bird species. They read as follows:

*Use of Bobwhite Quail and Other Grassland Bird Species Technical Standard.* The technical standard is 63% to 70% ground cover.

Erosion of landscapes is a natural process dependent on relief, type of geologic material, precipitation, and vegetative cover. Appropriate reclamation land use planning takes these factors into account and will ensure that in all cases ground cover will be adequate to control erosion.

(2) Texas revised the second, third, and fourth sentence of the paragraph entitled “Statistical Comparison” to read as follows:

The success standard for Bobwhite Quail habitat ground cover reflects a range since the technical standard is expressed as a range with a lower and upper value. For this habitat the success standard range is reflected by the lowest value of 57% [63% × 0.9] and the highest value of 77% [70% × 1.1]

If the reclaimed area ground cover is equal to or greater than the lowest acceptable value, or in the case of Bobwhite Quail habitat also equal to or less than the highest acceptable value, there is no need to calculate a confidence interval (in this case, the reclaimed area will have met the revegetation success standard).

If the reclaimed area ground cover does not meet the acceptable value(s), perform a hypothesis test, using a one-sided 90% confidence interval (see Appendix A, bionomically-distributed data).

During our technical review, we found that the optimal habitat for bobwhite quail and many native grassland bird species is comprised of native warm season grasses with an approximate 63 to 70 percent ground cover density. This cover standard is recognized by past research and agencies with wildlife management responsibilities within the State of Texas. The technical standard for this habitat cover reflects a value range since the standard is expressed as a range with a lower and upper value. The 63 to 70 percent cover standard increases habitat suitability for game birds and allows flexibility to ensure erosion control and soil stabilization. Based on our technical review, we find that Texas’ proposed technical standard meets the requirements of 30 CFR 816.116(a) and 816.116(b)(3)(iii). These regulations provide that success of revegetation must be judged on the effectiveness of the vegetation for the approved postmining land use. We, also, find that Texas’ statistical comparison proposal is no less effective than 30 CFR 816.116(a)(2), which states, in part, that groundcover will be considered equal to the approved success standard when it is not less than 90 percent of the success standard. We further find that Texas’ provision concerning erosion of landscapes will ensure that in all cases ground cover will be adequate to control erosion. Therefore, we are approving all the

changes that Texas proposed for Section V.D.1.

3. Section V.D.2. Fish and Wildlife Habitat—Woody-Plant Stocking

Texas added the following new paragraph under the heading “Use of Technical Standards.”

Motte locations planted to support Bobwhite Quail and other grassland bird species habitat shall be mapped at the time of planting. The success of woody plant stocking (stem count) will be based on meeting or exceeding the technical standard for motte density per acre and by counting the number of stems per motte.

We find that the above paragraph is no less effective than the Federal regulation at 30 CFR 816.116(b)(3)(i), which requires that minimum stocking and planting arrangements be specified by the regulatory authority on the basis of local and regional conditions and after consultation with and approval by the State agencies responsible for the administration of forestry and wildlife programs. Attachment 2, which is discussed below, contains the minimum woody vegetation stocking rates and planting standards for mottes. Texas requires consultation and approval on a permit-specific basis. Therefore, we are approving Section V.D.2.

B. Appendix B Summary of Revegetation Success Standards—Fish and Wildlife Habitat Only

Texas revised revegetation parameters and performance standards for the ground cover and woody-plant stocking rate sections of the table in Appendix B.

1. The first paragraph of the ground cover portion of the table is revised by adding the word “General.” The revised paragraph reads as follows:

90% of the Following General Technical Standard: 78%

2. Texas proposed to add a second paragraph to the ground cover portion of the table that reads as follows:

90% (lower limit) and 110% (upper limit) of the following Bobwhite Quail and [Other] Grassland Bird Species Technical Standard: 63%–70%

3. Texas revised the first paragraph of the Woody-Plant Stocking Rate portion of the table as follows:

90% of the Following Technical Standard except for mottes used to support Bobwhite Quail and [Other] Grassland Bird Species the standard for which is based on meeting or exceeding the following Technical Standard:

Site-specific success standards will be developed by the permittee through consultation with the Texas Parks and Wildlife Department. Standards will be approved by the Texas Parks and Wildlife Dept.

We find that the above revisions and addition are no less effective than the Federal regulation at 30 CFR 816.116(b)(3). Therefore, we are approving the changes made to Appendix B.

C. Attachment 2—Texas Parks and Wildlife Department (TPWD) Recommendations for the Development of Success Standards for Woody-Plant Stocking Rates

Texas made changes to the “Minimum Woody Vegetation Stocking Rates” table that is included in Attachment 2. The current table pertains to all fish and wildlife land use habitat categories. The revised table will include a general fish and wildlife land use habitat category and a specific fish and wildlife land use habitat category for bobwhite quail and other grassland bird species.

1. General Wildlife Land Type Category and Stocking Rates/Planting Standards

a. Texas added the headings “General Wildlife Land Type Category” and “Stocking Rates/Planting Standards” to the existing table.

b. Under the “General Wildlife Land Type Category” heading, Texas added the language “(See Note 1)” after the subheading of “Hardwood.” Texas added “Note 1” to the bottom of the revised table. It reads as follows: “Note 1: Up to 30% of the planting standard can be pine. Longleaf pine is preferred, with native warm season grasses interspersed.” Texas also removed the subheading of “Pine” along with the “Statewide” designation. Under the Stocking Rates/Planting Standards heading, Texas removed the language “0 stems per acre” for pine.

2. Fish & Wildlife Habitat—Bobwhite Quail and Other Grassland Bird Species and Stocking Rates/Planting Standards

Texas added to the existing “Minimum Woody Vegetation Stocking Rates” table, as shown below, a new land use habitat category for bobwhite quail and other grassland bird species and the associated stocking rates and planting standards.

| Fish & Wildlife Habitat—Bobwhite Quail and other grassland bird species | Stocking rates/planting standards |
|---|-----------------------------------|
| Native Brush:   |                                   |

| Fish & Wildlife Habitat—Bobwhite Quail and other grassland bird species | Stocking rates/planting standards  |
|---|--|
| Statewide—Mottes .....  | a. density of 2 mottes per acre.<br>b. mottes 30–50 feet in diameter.<br>c. 125 stems per motte or 250 stems per acre. |
| Hardwood or Pine Statewide .....  | 0 to a maximum 20 stems per acre.  |

During our technical review, we found that Texas' changes to the "Minimum Woody Vegetation Stocking Rates" table meet the requirements in the Texas Agricultural Extension Service, Publication L-5196. We further find that the "Minimum Woody Vegetation Stocking Rates" table is no less effective than the Federal regulation at 30 CFR 816.116(b)(3)(i). This Federal regulation requires that minimum stocking and planting arrangements be specified by the regulatory authority on the basis of local and regional conditions and after consultation with and approval by the State agency responsible for the administration of wildlife programs. In this case, the State agency is the Texas Parks and Wildlife Department. Therefore, we are approving the revisions made by Texas to the "Minimum Woody Vegetation Stocking Rates" table.

*D. Normal Husbandry Practices for Surface-Mined Lands in Texas*

1. Texas revised the Table of Contents by adding "Bobwhite Quail and Other Grassland Bird Species Habitat Management Practices" to Section IV.E. Fish and Wildlife Habitat.

2. Texas revised Section IV.E. Fish and Wildlife Habitat by adding the following technical guidelines for "Bobwhite Quail and Other Grassland Bird Species Habitat Management Practices": Native Grass and Forb Restoration; Grazing, Patch Burning; Strip Discing; Brush Management; Prescribed Burning; and Bobwhite Ecology and Management.

Texas submitted revisions to its revegetation success guidelines document that describes the normal husbandry practices for managing bobwhite quail and other grassland bird species habitat that may be used by the permittee during the period of responsibility for revegetation success and bond liability without restarting the extended responsibility period. The Texas Coal Mining Regulation at 16 TAC 12.395(c)(4) allows Texas to approve selective husbandry practices provided it obtains prior approval from OSM that the practices are normal husbandry practices. The Federal regulation at 30 CFR 816.116(c)(4) allows each regulatory authority to approve selective husbandry practices

as normal husbandry practices, excluding augmented seeding, fertilization, or irrigation, provided it obtains prior approval for the practices from OSM in accordance with 30 CFR 732.17. These normal husbandry practices may be implemented without extending the period of responsibility for revegetation success and bond liability if such practices can be expected to continue as part of the postmining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices must be normal husbandry practices within the region for unmined lands having land uses similar to the approved postmining land use of the disturbed area, including any pruning, reseeded, and transplanting needed because of these practices.

As discussed in the findings above, we find that the normal husbandry practices contained in Texas' revegetation success guidelines document satisfy the requirements of 30 CFR 816.116(c)(4).

**IV. Summary and Disposition of Comments**

*Public Comments*

We asked for public comments on the amendment, and we received comments from one industrial group, one mining association, and one State agency. All the commenters agreed with the amendment.

On September 26, 2005, TXU Power (TXU) and on September 29, 2005, Texas Mining and Reclamation Association (TMRA) commented on the proposed amendment (Administrative Record Nos. TX-659.04 and TX-659.05). TXU and TMRA commented that the reestablishment of vegetation and post-mine land use on mined land in Texas offers a unique opportunity for the creation of habitat for the benefit of upland and grassland bird species. They both commented that the proposed changes are based on the biology, ecology, and habitat requirements of bobwhite quail and other grassland bird species. They believed these changes will increase flexibility in revegetation options and make grassland bird habitat a viable post-mine land use alternative.

On October 4, 2005, TPWD commented on the proposed amendment (Administrative Record No. TX-659.06). TPWD commented that it coordinated this effort for over two years with TMRA, Texas Department of Agriculture, Texas Quail Technical Support Committee, Texas Quail Council, and U.S. Fish and Wildlife Service (FWS). TPWD stated that each of these groups is concerned that bobwhite quail and other grassland bird species are experiencing a downward trend in population, primarily due to declining native grassland habitats. They all see this as an opportunity to work on establishment of early successional and grassland habitats on reclaimed mine lands in Texas to assist in the recovery of these species. The TPWD further commented that the flexibility that is proposed in these revisions will allow mine companies to reclaim areas in native vegetation that is more suitable to these birds as well as other grassland species. This will provide opportunity for thousands of acres to be reclaimed in Texas for the benefit of these species.

We agree with all of the commenters; see our findings above approving the amendment.

*Federal Agency Comments*

On August 10, 2005, and March 24, 2006, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Texas program (Administrative Record Nos. TX-659.01 and TX-659.14). FWS responded on September 6, 2005 (Administrative Record No. TX-659.02), that it provided input to TPWD during the development of the proposed revegetation guidelines. FWS also stated that it believed these new guidelines will make it easier for mining companies in Texas to use native grasses and forbs in their revegetation projects and recommend they be approved as proposed.

We agree with FWS; see our findings above approving the amendment.

*Environmental Protection Agency (EPA) Concurrence and Comments*

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence

from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Texas proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

On August 10, 2005, and March 24, 2006, under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record Nos. TX-659.01 and TX-659.14). The EPA did not respond to our request.

*State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On August 10, 2005, and March 24, 2006, we requested comments on Texas' amendment (Administrative Record Nos. TX-659.01 and TX-659.14), but neither responded to our request.

#### V. OSM's Decision

Based on the above findings, we approve the amendment Texas sent us on July 26, 2005, and as revised on January 12, 2006, and March 10, 2006.

To implement this decision, we are amending the Federal regulations at 30 CFR part 943, which codify decisions concerning the Texas program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule 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 regulations.

*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 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 regulations did not impose an unfunded mandate.

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

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 18, 2006.

**Ervin J. Barchenger,**

*Acting Regional Director, Mid-Continent Region.*

■ For the reasons set out in the preamble, 30 CFR part 943 is amended as set forth below:

**PART 943—TEXAS**

■ 1. The authority citation for part 943 continues to read as follows:

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

■ 2. Section 943.15 is amended in the table by adding a new entry in chronological order by “Date of final publication” to read as follows:

**§ 943.15 Approval of Texas regulatory program amendments.**

\* \* \* \* \*

| Original amendment submission date | Date of final publication | Citation/description  |
|------------------------------------|---------------------------|---|
| July 26, 2005                      | June 14, 2006             | Procedures and Standards for Determining Revegetation Success on Surface-Mined Lands in Texas—Table of Contents; Section V.D.1., D.2.; Appendix B; Attachment 2; Normal Husbandry Practices for Surface-Mined Lands in Texas—Table of Contents; Section IV.E. |

[FR Doc. E6-9286 Filed 6-13-06; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[CGD05-06-055]

RIN 1625-AA00

**Safety Zone: Fort Story, Chesapeake Bay, Virginia Beach, VA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone in support of the Joint Logistics Over the Shore Naval Operations to be held on the Chesapeake Bay in the vicinity of Fort Story, Virginia Beach, VA. This action is intended to restrict vessel traffic from certain areas of the Chesapeake Bay in the vicinity of Fort Story. The safety zone is necessary to protect mariners from the hazards associated with the naval operations.

**DATES:** This rule is effective from 12:01 a.m. eastern time on June 5, 2006 to 11:59 p.m. eastern time on June 26, 2006.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD05-06-055 and are available for inspection or copying at USCG Sector Hampton Roads, 200 Granby Street, Suite 700, Norfolk, VA 23510, between 9:30 a.m. and 2 p.m., Monday through Friday, except on Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Bill Clark, project officer, USCG Sector Hampton Roads, telephone number (757) 668-5580.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM because it is impracticable and contrary to the public interest to delay in making this rule effective, because we did not receive notice of planned exercises from the Navy in time to publish an NPRM. The event will take place between 12:01 a.m. eastern time on June 5, 2006 and 11:59 p.m. eastern time on June 26, 2006. Due to the dangers posed by the naval operations, it is in the public interest to have these regulations in effect during the operations.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30

days after publication in the **Federal Register**. Because we did not receive notice of planned exercises from the Navy in time to publish an NPRM and the hazards associated with the naval operations, a limited access area is necessary to provide for the safety of mariners.

**Background and Purpose**

Between 12:01 a.m. eastern time on June 5, 2006 and 11:59 p.m. eastern time on June 26, 2006 the Joint Logistics Over the Shore Naval Operations will be held on the Chesapeake Bay in the vicinity of Fort Story, Virginia Beach, VA. Due to the need for protection of mariners from the hazards associated with the naval operations, vessel traffic will be temporarily restricted.

**Discussion of Rule**

The Coast Guard is establishing a safety zone on specified waters of the Chesapeake Bay in the vicinity of Fort Story. The U.S. Navy will be providing assistance to the Coast Guard in regards to the patrol and enforcement of this zone. The regulated area will include all waters contained within the following coordinates: 36-55-33N/076-02-47W; 36-56-38N/076-04-00W; 36-57-12N/076-04-00W; 36-56-33N/076-01-34W and 36-55-12N/076-01-33W. This safety zone will be enforced from 12:01 a.m. to 11:59 p.m. eastern time on June 5 to June 26, 2006. General navigation