

she satisfies the requirements of paragraph (b)(1) of this section for each year. J continues to reside in Possession C until September 6, 2010, when she accepts new employment and moves to State H. J's principal place of business from January 1 through September 5, 2010 is in Possession C, and during that period (which totals at least 183 days) J does not have a closer connection to the United States or a foreign country than to Possession C. For the remainder of 2010 and throughout years 2011 through 2013, D continues to live and work in State H and is not a bona fide resident of Possession C. J satisfies the tax home and closer connection tests for 2010 with respect to Possession C under paragraphs (d)(2)(i), (e)(2), and (f)(2)(i) of this section. Accordingly, assuming that J also satisfies the presence test of paragraph (c) of this section, J is a bona fide resident of Possession C for all of taxable year 2010.

**Example 9. Year of move from Puerto Rico.** R, a U.S. citizen who files returns on a calendar year basis satisfies the requirements of paragraphs (b) through (e) of this section for years 2006 and 2007. From January through April 2008, R continues to reside and maintain his principal place of business in and closer connection to Puerto Rico. On May 5, 2008, R moves and changes his principal place of business (tax home) to State N and later that year establishes a closer connection to the United States than to Puerto Rico. R does not satisfy the presence test of paragraph (c) for 2008 with respect to Puerto Rico. Moreover, because R had a tax home outside of Puerto Rico and establishes a closer connection to the United States in 2008, R does not satisfy the requirements of paragraph (d)(1) or (e)(1) of this section for 2008. However, because R was a bona fide resident of Puerto Rico for at least two taxable years before his change of residence to State N in 2008, he is a bona fide resident of Puerto Rico from January 1 through May 4, 2008 under paragraphs (b)(5) and (f)(2)(ii) of this section. See section 933(2) and § 1.933-1(b) for rules on attribution of income.

(h) **Information reporting requirement.** The following individuals are required to file notice of their new tax status in such time and manner as the Commissioner may prescribe by notice, form, instructions, or other publication (see § 601.601(d)(2) of this chapter):

(1) Individuals who take the position for U.S. tax reporting purposes that they qualify as bona fide residents of a possession for a tax year subsequent to a tax year for which they were required to file Federal income tax returns as citizens or residents of the United States who did not so qualify.

(2) Citizens and residents of the United States who take the position for U.S. tax reporting purposes that they do not qualify as bona fide residents of a possession for a tax year subsequent to a tax year for which they were required to file income tax returns (with the Internal Revenue Service, the tax authorities of a possession, or both) as individuals who did so qualify.

(3) Bona fide residents of Puerto Rico or a section 931 possession (as defined in § 1.931-1T(c)(1)) who take a position for U.S. tax reporting purposes that they qualify as bona fide residents of that possession for a tax year subsequent to a tax year for which they were required to file income tax returns as bona fide residents of the United States Virgin Islands or a section 935 possession (as defined in § 1.935-1T(a)(3)(i)).

(i) **Effective date.** Except as provided in this paragraph (i), this section applies to taxable years ending after January 31, 2006. Paragraph (h) of this section also applies to a taxpayer's 3 taxable years immediately preceding the taxpayer's first taxable year ending after October 22, 2004. Taxpayers also may choose to apply this section in its entirety to all taxable years ending after October 22, 2004 for which the statute of limitations under section 6511 is open.

#### § 1.937-1T [Removed]

■ **Par. 9.** Section 1.937-1T is removed.

### PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 10.** The authority citation for part 602 continues to read as follows:

**Authority:** 26 U.S.C. 7805.

■ **Par. 11.** In § 602.101, paragraph (b) is amended by removing the entry for "1.937-1T" and adding a new entry for "1.937-1" in numerical order to the table to read as follows:

#### § 602.101 OMB Control numbers.

* * * * *				
(b) * * *				
CFR part or section where identified and described				Current OMB control No.
* * * * *				*
1.937-1	.....			1545-1930
* * * * *				*

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

Approved: January 20, 2006.

**Eric Solomon,**

*Acting Deputy Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 06-818 Filed 1-30-06; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 915

[Docket No. IA-015-FOR]

#### Iowa 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 Iowa regulatory program (Iowa program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Iowa proposed to amend its rules regarding its small operator assistance program. Iowa intends to revise its program to be consistent with the corresponding Federal regulations and SMCRA.

**EFFECTIVE DATE:** January 31, 2006.

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

#### SUPPLEMENTARY INFORMATION:

- I. Background on the Iowa 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 Iowa 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 Iowa program effective April 10, 1981. You can find background information on the Iowa program, including the Secretary's findings, the disposition of comments, and conditions of approval, in the January 21, 1981, **Federal Register** (46 FR 5885). You can also find later actions concerning Iowa's program and program amendments at 30 CFR 915.10, 915.15, and 915.16.

## II. Submission of the Amendment

By letter dated August 19, 2005 (Administrative Record No. IA-450), the Iowa Department of Agriculture and Land Stewardship, Division of Soil Conservation (IDSC) sent us a copy of the coal mine rules that it had adopted on March 30, 2005. Included in the adopted rules were changes to Iowa Administrative Code (IAC) 27-40.41(207) regarding Iowa's small operator assistance program that we had not previously approved. Iowa proposed the changes in response to a required program amendment at 30 CFR 915.16(b) that we codified on June 1, 2004 (69 FR 30821).

We announced receipt of the amendment in the October 18, 2005, **Federal Register** (70 FR 60478). 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. The public comment period ended on November 17, 2005. We did not receive any comments.

## 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.

### *IAC 27-40.41(207) Permanent Regulatory Program—Small Operator Assistance Program*

On June 1, 2004 (69 FR 30821), we codified a required program amendment at 30 CFR 915.16(b). We required Iowa to revise Iowa Code section 207.4(1)(d) to include the revisions that were made to section 507(c)(1) of SMCRA on November 5, 1990, and October 24, 1992, before implementing its rule at IAC 27-40.41(207). The revisions to SMCRA changed the eligibility requirements for small operator assistance program participation by (1) increasing probable total annual production of coal from all locations of a coal surface mining operation from 100,000 tons to 300,000 tons and (2) increasing the types of technical services that are eligible for funding. The Federal regulations at 30 CFR 795.6(a)(2) and 795.9(b)(3) through 795.9(b)(6) implement the revisions made to section 507(c)(1) of SMCRA. In response to our required amendment, Iowa proposed to incorporate the requirements of 30 CFR 915.16(b) in its rule at IAC 27-40.41(207) instead of updating its statute at Iowa Code section

207.4(1)(d). IAC 27-40.41(207) adopts 30 CFR part 795, as in effect on July 1, 2002, by reference. More specifically Iowa proposed to add subrules IAC 27-40.41(3) and 40.41(4). These subrules read as follows:

#### *Subrule IAC 27-40.41(3)*

Eligibility thresholds for annual production in tons at 30 CFR 795.6(a)(2) shall not apply until the same threshold at Iowa Code section 207.4(1)(d) has been amended from 100,000 tons to 300,000 tons.

#### *Subrule IAC 27-40.41(4)*

Program services at 30 CFR 795.9(b)(3) through 795.9(b)(6) shall not apply until Iowa Code section 207.4(1)(d) has been amended to authorize these services.

As shown above, new subrules IAC 27-40.41(3) and 40.41(4) do not allow Iowa to implement its small operator assistance program until Iowa Code section 207.4(1)(d) is revised to authorize the new eligibility requirements for small operator assistance. Currently, Iowa is not implementing a small operator assistance program and does not have any potential operators that may qualify for program assistance. Therefore, we are approving subrules IAC 27-40.41(3) and 40.41(4) as acceptable responses to 30 CFR 915.16(b), and we are removing the required amendment.

## IV. Summary and Disposition of Comments

### *Public Comments*

We asked for public comments on the amendment, but did not receive any.

### *Federal Agency Comments*

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 Iowa program (Administrative Record No. IA-450.1). We did not receive any comments.

### *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 Iowa proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from EPA (Administrative Record No. IA-450.1). EPA did not respond to our request.

### *State Historic 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 September 2, 2005, we requested comments on Iowa's amendment (Administrative Record No. IA-450.1), but neither responded to our request.

## V. OSM's Decision

Based on the above findings, we approve the amendment Iowa sent us on August 19, 2005.

We approve the rules proposed by Iowa with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR part 915, which codify decisions concerning the Iowa 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 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.

### *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” 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 Iowa program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Iowa 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 regulation did not impose an unfunded mandate.

#### **List of Subjects in 30 CFR Part 915**

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 28, 2005.

**Charles E. Sandberg,**  
*Regional Director, Mid-Continent Region.*

■ For the reasons set out in the preamble, 30 CFR part 915 is amended as set forth below:

#### **PART 915—IOWA**

■ 1. The authority citation for part 915 continues to read as follows:

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

■ 2. Section 915.15 is amended in the table by adding a new entry in chronological order by “Date of final publication” to read as follows:

#### **§ 915.15 Approval of Iowa regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
August 19, 2005	January 31, 2006	IAC 27C40.41(3) and 40.41(4).

■ 3. Amend § 915.16 as follows:

- a. Revise the section heading to read as set forth below; and
- b. Remove and reserve the text, in its entirety, of the section.

**§ 915.16 Required program amendments. [Reserved]**

[FR Doc. 06-881 Filed 1-30-05; 8:45 am]

BILLING CODE 4310-05-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD05-05-102]

RIN 1625-AA09

#### **Drawbridge Operation Regulations; Atlantic Intracoastal Waterway (AICW), Cape Fear River, and Northeast Cape Fear River, NC**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is changing the drawbridge operation regulations of three North Carolina Department of Transportation (NCDOT) bridges: The S.R. 74 Bridge, across the AICW mile 283.1 at Wrightsville Beach; the Cape Fear River Memorial Bridge, mile 26.8, at Wilmington; and the Isabel S. Holmes (US 117) Bridge, at mile 1.0, across Northeast Cape Fear River at Wilmington, North Carolina. This rule will allow the bridges to remain in the closed position at particular dates and times to accommodate road races, marathons and triathlons. Vessels that can pass under the bridges without a bridge opening may do so at all times.

**DATES:** This rule is effective March 17, 2006.

**ADDRESSES:** The Fifth Coast Guard District maintains the docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in docket, are part of docket CGD05-05-102 and are available for inspection or copying at the Commander (obr), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, Virginia 23703-5004, between 8 a.m. and 4 p.m.,

Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Gary Heyer, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398-6629.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory History**

On October 3, 2005, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulations; Atlantic Intracoastal Waterway (AICW), Cape Fear River, and Northeast Cape Fear River, NC" in the **Federal Register** (70 FR 57524). We received no comments on the proposed rule. No public meeting was requested, and none was held.

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

On behalf of the Young Men's Christian Association (YMCA), NCDOT requested changes to the operating drawbridge regulations to accommodate the Tri-Span Run, Battleship Half Marathon, and Triathlon Run. The races are annual events sponsored by the YMCA, attracting spectators and participants from the surrounding cities and states.

In accordance with 33 CFR 117.37(a) for reasons of public safety or for public functions, the District Commander may authorize the opening and closing of a drawbridge for a specified period of time.

NCDOT, who owns and operates the S.R. 74 Bridge across the AICW mile 283.1 at Wrightsville Beach; the Cape Fear River Memorial Bridge mile 26.8 across the Cape Fear River, at Wilmington, North Carolina; and the Isabel S. Holmes Bridge mile 1.0 (U.S. 117, across Northeast Cape Fear River at Wilmington, North Carolina), requested the following drawbridge changes:

##### *Atlantic Intracoastal Waterway*

The S.R. 74 Bridge, at AICW mile 283.1 at Wrightsville Beach, has a vertical clearance of 20 feet at mean high water and 24 feet at mean low water in the closed position to vessels. The existing operating regulations are set out in 33 CFR 117.821(a)(5).

A Triathlon race is held on the third Saturday in September of every year with the fourth Saturday used as the alternate day. To facilitate the race, the bridge will be maintained in the closed-to-navigation position from 7 a.m. to 11

a.m. on the third or fourth Saturday in September of every year.

##### *Cape Fear River*

The Cape Fear Memorial Bridge mile 26.8, in Wilmington, has a vertical clearance of 65 feet at mean high water and 68 feet at mean low water in the closed position to vessels. The existing regulation is listed at 33 CFR 117.5, which requires the bridge to open on signal.

Both races, the Tri-Span run and the Battlefield Half Marathon, cross the Cape Fear River Memorial Bridge in Wilmington. The Tri-Span run is held on the second Saturday of July. To facilitate the race, the bridge will be maintained in the closed-to-navigation position from 8 a.m. to 10 a.m. on the second Saturday of July of every year.

The Battleship Half Marathon is held on the second Sunday of November. To facilitate the marathon, the bridge will be maintained in the closed-to-navigation position from 7 a.m. to 11 a.m. on the second Sunday of November of every year.

##### *Northeast Cape Fear River*

The Isabel S. Holmes Bridge, U.S. 17, SR 133 at mile 1.0, in Wilmington has a vertical clearance of 26 feet at mean high water and 30 feet at mean low water in the closed position to vessels. The existing regulation is listed at 33 CFR 117.829.

Both races, the Tri-Span run and the Battlefield Half Marathon, cross the Isabel S. Holmes Memorial Bridge in Wilmington. The Tri-Span run is held on the second Saturday of July. To facilitate the race, the bridge will be maintained in the closed-to-navigation position from 8 a.m. to 10 a.m. on the second Saturday of July of every year.

The Battleship Half Marathon is held on the second Sunday of November of every year. To facilitate the marathon, the bridge will be maintained in the closed-to-navigation position from 7 a.m. to 11 a.m. on the second Sunday of November of every year.

The Coast Guard believes that the proposed changes are reasonable due to the short duration that the drawbridges will be maintained in the closed position to vessels, because these events have been observed in past years with little or no impact to marine or vehicular traffic. It is also a necessary measure to facilitate public safety that