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The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons who desire to comment have been heard.

#### *Public Meeting*

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

#### **IV. Procedural Determinations**

##### *Executive Order 12866*

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

##### *Executive Order 12988*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such 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 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.

#### *National Environmental Policy Act*

No environmental impact statement is required for this rule since 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 has determined 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 corresponding 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. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

#### *Unfunded Mandates*

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

#### **List of Subjects in 30 CFR Part 938**

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 10, 1998.

**Allen D. Klein,**

*Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 98-25117 Filed 9-18-98; 8:45 am]

**BILLING CODE 4310-05-P**

#### **DEPARTMENT OF THE INTERIOR**

#### **Office of Surface Mining Reclamation and Enforcement**

#### **30 CFR Part 934**

[ND-038-FOR, Amendment NO. XXVII]

#### **North Dakota Regulatory Program**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.  
**ACTION:** Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

**SUMMARY:** Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the North Dakota regulatory program (hereinafter, the "North Dakota program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of the addition of the: definition of water supply, and revision of existing rules on: rulemaking notices, consolidation of information in permits, water management design plans, annual maps, wildlife monitoring reports, subsoil removal approvals, soil respreading requirements, sedimentation pond performance standards, and noncoal waste disposal. In addition to the above, the U.S. Office of Surface Mining is proposing to: remove the program requirement at 30 CFR 934.16(n) concerning the submission of specific fish and wildlife resource information.

The amendment is intended to revise the North Dakota program to be consistent with the corresponding Federal regulations and incorporate the additional flexibility afforded by the revised Federal regulations and provide additional safeguards, and clarify ambiguities, and improve operational efficiency.

**DATES:** Written comments must be received by 4:00 p.m., m.d.t. October 21, 1998. If requested, a public hearing on the proposed amendment will be held on October 16, 1998. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.d.t. on October 6, 1998.

**ADDRESSES:** Written comments should be mailed or hand delivered to Guy Padgett at the address listed below.

Copies of the North Dakota program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed

amendment by contacting OSM's Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East "B" Street, Federal Building, Room 2128, Casper, Wyoming 82601-1918, Telephone: 307/261-6550

Jim Deutsch, Director, Reclamation Division, North Dakota Public Service Commission, Capitol Building, 600 E. Boulevard Ave., Bismarck, North Dakota 58505-0480, Telephone: 701/328-2251

**FOR FURTHER INFORMATION CONTACT:**

Guy Padgett, Telephone: 307/261-6550; Internet: GPadgett@OSMRE.GOV

**SUPPLEMENTARY INFORMATION:**

**I. Background on the North Dakota Program**

On December 15, 1980, the Secretary of the Interior conditionally approved the North Dakota program. General background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and conditions of approval of the North Dakota program can be found in the December 15, 1980 **Federal Register** (45 FR 82214). Subsequent actions concerning North Dakota's program and program amendments can be found at 30 CFR 934.15 and 934.16.

**II. Proposed Amendment**

By letter dated September 2, 1998, North Dakota submitted a proposed amendment to its program pursuant to SMCRA (Amendment number XXVII, administrative record No. ND-BB-01, 30 U.S.C. 1201 *et seq.*). North Dakota submitted the proposed amendment in response to a July 17, 1997 letter (administrative record No. ND-BB-02) that OSM sent to North Dakota in accordance with 30 CFR 732.17(c), and in response to the required program amendments at 30 CFR 934.16(cc) and at its own initiative. The provisions of the North Dakota Administrative Code (NDAC) that North Dakota proposed to revise and add were: (1) NDAC 69-05.2-01-02.90, Replacement of water supply; (2) NDAC 69-05.2-01-03, publication of hearing notices; (3) NDAC 69.05.2-05-09, Permit Applications—Consolidation for multiple permit operations; (4) NDAC 69-05.2-09-09, Permit applications—Operation plans—Surface water management—Ponds, impoundments, banks, dams, embankments, and diversions; (5) NDAC 69-05.2-13-02, Performance standards—General requirements—Annual map; (6) NDAC 69-05.2-13-08, Performance standards—General requirements Protection of fish, wildlife,

and related environmental values; (7) NDAC 69-05.2-15-02, Performance standards—Suitable plant growth material—Removal; (8) NDAC 69-05.2-15-04, Performance standards—Suitable plant growth material—Redistribution; (9) NDAC 69-05.2-16-09, Performance standards—Hydrologic balance—Sedimentation ponds; and (10) NDAC 69-05.2-19-04, Performance standards—Waste materials—Disposal of noncoal wastes. In addition, the U.S. Office of Surface Mining is proposing to remove the program requirement at 30 CFR 934.16(n) which would have revised NDAC 69-05.2-08-15(3)(a), to require the submission of site-specific fish and wildlife resource information when the permit or adjacent areas are likely to include species listed or proposed to be listed by North Dakota under State statutes similar to the Endangered Species Act.

**III. Public Comment Procedures**

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the North Dakota program.

**1. Written Comments**

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

**2. Public Hearing**

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.d.t. on October 6, 1998. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. The location and time of the hearing will be arranged with those persons requested the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM

officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

**3. Public Meeting**

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the administrative record.

**IV. Procedural Determinations**

**1. Executive Order 12866**

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

**2. Executive Order 12988**

The Department of the Interior had conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) 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 since each such 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 State 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.

**3. National Environmental Policy Act**

No environmental impact statement is required for this rule since 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)).

#### 4. 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.*).

#### 5. Regulatory Flexibility Act

The Department of the Interior has determined 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 that 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. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the date and assumptions for the counterpart Federal regulations.

#### 6. Unfunded Mandates

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

#### List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 10, 1998.

**Richard J. Seibel,**

*Regional Director, Western Regional Coordinating Center.*

[FR Doc. 98-25116 Filed 9-18-98; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 100

[CGD07-98-041]

RIN 2115-AE46

#### Special Local Regulations; Hillsborough Bay, Tampa, FL

AGENCY: Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Permanent Special Local Regulations are being proposed for the Gasparilla Marine Parade on Hillsborough Bay in Tampa, Florida. This event will be held annually on the first Saturday in February between 10 a.m. and 1:30 p.m. Eastern Standard Time (EST). These regulations are needed to provide for the safety of life on navigable waters during the event.

**DATES:** Comments must be received on or before November 20, 1998.

**ADDRESSES:** Comments may be mailed to Commander Coast Guard Group St. Petersburg, 600 8th Avenue SE, St. Petersburg, FL 33701, or may be delivered to the above address between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays. Comments will become part of this docket and will be available for inspection or copying at the above address.

**FOR FURTHER INFORMATION CONTACT:** LTJG Brian Hill, (305) 536-4250, or Assistant Operations Officer, Coast Guard Group St. Petersburg, FL, (813) 824-7533.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking [CGD07-98-041] and the specific section of this proposal to which each comment applies and give the reason for each comment.

The Coast Guard shall consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Assistant Operations Officer, Coast Guard Group Saint Petersburg at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If the Coast Guard determines that the opportunity for oral presentations will aid this rulemaking, it will hold a public hearing at a time and place announced by a notice in the **Federal Register**.

##### Background and Purpose

These regulations are needed to provide for the safety of life, to protect vessels participating in the parade, and to protect marine mammals during the Gasparilla Marine Parade. There will be approximately 750 participants, afloat and ashore, participating in the marine

parade. Also, 200-400 spectator craft are expected. The resulting congestion of navigable channels creates an extra or unusual hazard in the navigable waters.

The regulated area will prohibit commercial vessels, jet skis, and vessels without propulsion from entering Hillsborough Bay during the parade, and will establish an idle speed no wake zone inside the regulated area.

##### Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of the order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This regulation will only be in effect for approximately four hours in a limited area.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their field, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under section 605(b) that this proposed rule, if adopted will not have a significant effect upon a substantial number of small entities as these regulations will be in effect in a limited area for five hours only one day each year. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect your business.

##### Collection of Information

This proposed rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).