Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, mostly reflects the State's policy choices not required by or prohibited by Federal law. The part of this rule disapproving one of the State's proposed revisions 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. In making the determination as to whether this part of the rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding 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 on an analysis of the State submittal, which mostly reflects State policy choices not required by or prohibited by Federal law. For the part of this rule disapproving one of the State's proposed revisions, the determination is based on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates Reform Act

This rule will not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based on an analysis of the State submittal, which mostly reflects State policy choices not required by or prohibited by Federal law. For the part of this rule disapproving one of the State's proposed revisions, the determination is based on an analysis of the corresponding Federal regulations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Thomas D. Shope,

Regional Director, North Atlantic—Appalachian Region.

For the reasons set out in the preamble, the Office of Surface Mining Reclamation and Enforcement amends 30 CFR part 917 as set forth below:

PART 917—KENTUCKY

■ 1. The authority citation for part 917 continues to read as follows:

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

■ 2. Section 917.12 is amended by adding paragraph (i) to read as follows:

§ 917.12 State regulatory program and proposed program amendment provisions not approved.

* * * * *

(i) We are not approving revisions to KRS 350.0301 made by 2018 Ky. Acts ch. 85 that would have eliminated a requirement that Kentucky promulgate regulations providing that operators must place proposed civil penalty assessments into an escrow account prior to a formal hearing on the amount of the assessment.

■ 3. Section 917.15 is amended by adding a new entry to the table in paragraph (a) in chronological order by ''Date of Final Publication'' to read as follows:

§ 917.15 Approval of Kentucky regulatory program amendments.

(a) * * *

Original amendment submission date	Date of final publication	Citation/description
* * * * * * *		
September 19, 2018	August 15, 2024	KRS 350.064, KRS 350.070, KRS 350.518, and KRS 350.990.

* * * * *

[FR Doc. 2024–18040 Filed 8–14–24; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

[SATS No. UT–048–FOR; Docket ID No. OSM–2012–0011; S1D1S SS08011000 SX064A000 245S180110; S2D2S SS08011000 SX064A000 24XS501520]

Utah Regulatory Program

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

ACTION: Final rule.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are not approving the State of Utah's proposed amendment to the Utah regulatory program (''the Utah program'') under the Surface Mining Control and Reclamation Act of 1977 (''SMCRA'' or ''the Act''). In May of 2011, an environmental advocacy group notified OSMRE that the Utah legislature modified its Judicial Code of the Utah Code Annotated by adding a new section that requires plaintiffs who seek an administrative stay or preliminary injunction in an environmental action to first post a surety bond or cash equivalent. After determining that the legislative change would affect the implementation of the Utah program, OSMRE notified the Utah Division of Oil, Gas and Mining (''DOGM'' or ''the Division'') that the changes to the State law must be submitted as a proposed Utah program amendment. DOGM subsequently submitted this amendment proposing to incorporate legislative changes made to the Utah program.

DATES: Effective September 16, 2024.

FOR FURTHER INFORMATION CONTACT:

Howard E. Strand, Manager, Denver Field Branch, Office of Surface Mining Reclamation and Enforcement, One Denver Federal Center Building 41, Lakewood, Colorado 80225–0065.

Telephone: (303) 236–2931. Email: *hstrand@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program

Subject to OSMRE's oversight, sec. 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 program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Utah program on January 21, 1981. You can find background information on the Utah program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Utah program in the January 21, 1981, **Federal Register** (46 FR 5899). You can also find later actions concerning Utah's program and program amendments at 30 CFR 944.15, 944.16, and 944.30.

II. Submission of the Amendment

The Governor of Utah signed H.B. 399 into law on March 21, 2011. On May 16, 2011, OSMRE received a letter from an environmental advocacy group notifying the agency of Utah's legislative changes under H.B. 399 (Administrative Record No. OSM–2012–0011–0010). That letter asserted that H.B. 399 resulted in changes to Utah law that required OSMRE's review and approval through the State program amendment process under 30 CFR part 732 before such legislative changes could become an effective part of Utah's program.

In response to the citizen letter, OSMRE, in a letter dated August 8, 2011, requested that DOGM clarify whether the enactment of H.B. 399 resulted in a change to the Utah program (Administrative Record No. OSM–2012–0011–0005). On October 31, 2011, DOGM provided a response to OSMRE's request. In its response, DOGM explained that H.B. 399 modified title 78 of the Utah Judicial Code (Administrative Record No. OSM–2012–0011–0006). DOGM's letter also stated its uncertainty as to whether the enactment of H.B. 399 represented a change in State law approved as part of the Utah program, modified the rights of any party for judicial review in a manner that would conflict with the requirements of 30 CFR 732.15, or was inconsistent with the Federal law (Administrative Record No. OSM–2012–0011–0006). In a letter dated February 24, 2012, OSMRE determined that a change of condition had occurred under 30 CFR 732.17(e)(2); therefore, OSMRE required DOGM to submit the legislative changes as a proposed program amendment pursuant to 30 CFR 732.17(f) (Administrative Record No. OSM–2012–0011–0007). DOGM submitted the language of H.B. 399 as a State program amendment on April 18, 2012 (Administrative Record No. OSM–2012–0011–0003).

We announced receipt of the proposed amendment in the June 12, 2012, **Federal Register** (77 FR 34892). 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 (Administrative Record No. OSM–2012–0011–0001). We did not hold a public hearing or meeting because one was not requested. The public comment period ended on July 12, 2012. We received three public comments and one comment from a Federal agency.

III. OSMRE's Findings

The following are the findings we made concerning the proposed amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. As described below, we are not approving the amendment.

DOGM's proposed amendment seeks approval to apply the terms of H.B. 399 under Utah's Program. H.B. 399 modified, and was codified under, title 78 of the Utah Judicial Code, Utah Code Ann. sec. 78B–5–828, and applies to environmental actions. ''Environmental action'' is defined as a cause of action filed on or after May 10, 2011, that seeks judicial review of a final agency action to issue a permit. Utah Code Ann. sec. 78B–5–828(b). This provision specifically applies to permits issued by the Department of Transportation, the School and Institutional Trust Lands Administration, or the Department of Natural Resources (''DNR''), which includes DOGM's coal permitting actions issued pursuant to Utah's program. Utah Code Ann. sec. 78B–5–828(b)(ii)(A)–(C).

Under the proposed amendment incorporating the terms of H.B. 399, a court or agency may not grant a plaintiff's request for temporary relief (administrative stay or preliminary injunction) related to a challenged State environmental permitting decision until the plaintiff posts a surety bond or cash equivalent (herein referred to as a bond or environmental litigation bond). Utah Code Ann. sec. 78B–5–828(3). This bond would be imposed in an amount that either the reviewing agency or court deems sufficient to compensate for damages the defendant may sustain as a result of a stay or injunction later found to have been unwarranted. Utah Code Ann. sec. 78B–5–828(3)(a). The bond is required to be written by a surety licensed to do business within the State and must be made payable to each defendant in the event the plaintiff does not prevail on the merits of the environmental action. Utah Code Ann. sec. 78B–5–828(3)(b)–(c) and (5). A reviewing agency or court decision refusing to require the posting of a bond is immediately appealable. Utah Code Ann. sec. 78B–5–828(6).

While the changes outlined in H.B. 399 (Utah Code Ann. sec. 78B–5–828) apply to multiple State agencies, this final rule pertains only to the application of Utah Code Ann. sec. 78B–5–828 to DOGM's coal permitting actions issued pursuant to the approved Utah program under SMCRA. Utah's program consists of the Utah Coal Mining and Reclamation Act, Utah Code Ann. sec. 40–10–1 through 40–10–31, and the Utah Administrative Code rules, R645–100 through –403. While DOGM's submission does not amend the text of the already approved Utah program, application of Utah Code Ann. sec. 78B–5–828 would markedly alter implementation of the Utah program and render the program inconsistent with, and less stringent and effective than, SMCRA and Federal regulations. Both DOGM, which is responsible for administering the Utah coal program under SMCRA, and the Board of Oil, Gas and Mining (''the Board''), which is an administrative body with rulemaking and adjudicatory responsibilities under Utah's coal program, are entities within DNR and, therefore, are subject to the environmental litigation bond requirement.

SMCRA sec. 503 provides that a State may assume primary responsibility to regulate coal mining and reclamation operations within its State borders. To obtain and maintain primacy under 30 CFR 730.5 and 732.15(a), a State regulatory authority must submit a State program, or proposed amendments thereto, that contain requirements that are consistent with, and no less stringent and effective than, SMCRA and Federal regulations. As the proposed language from H.B. 399 applies to administrative stays issued by a State agency and preliminary injunctions granted by a court, SMCRA

requires that Utah's program must provide, at minimum, the same opportunities for judicial review and citizen participation that are available under SMCRA and the Federal regulations.

The approved Utah program is similar to SMCRA and the Federal regulations regarding the available opportunities to seek temporary relief during an administrative hearing or proceeding. After a permit is issued, the Utah program, at Utah Code Ann. sec. 40–10–14(4) and R645–300–212, provides that the Board may grant temporary relief it deems appropriate pending final determination of the proceedings, in accordance with SMCRA sec. 514(d) and 30 CFR 775.11(b). Both the Utah and the Federal programs allow for an administrative hearing prior to judicial review, which would be adjudicatory in nature, regarding the agency's reasons for its permitting decision. The presiding authority may grant temporary relief if the person requesting relief shows that there is a substantial likelihood that they will prevail on the merits of their case, among other criteria. *See* SMCRA sec. 514(d)(1)–(3) (30 U.S.C. 1264(d)(1)–(3); 30 CFR 775.11(b)(2)(i) through (iv); Utah Code Ann. sec. 40–10–14(4)(a)–(c); and R645–300–212.220, 212.210–212.400. The Utah program, similar to SMCRA and the Federal regulations, leaves discretion to the deciding authority to grant temporary relief during administrative review so long as the above-cited criteria for such relief are satisfied. Neither SMCRA nor the approved Utah program requires the posting of a bond prior to granting a request for temporary relief during administrative review.

Both SMCRA, at sec. 526(e) (30 U.S.C. 1276(e)), and the Utah program, at Utah Code Ann. sec. 40–10–30, establish that administrative hearing decisions are subject to judicial review. Thus, an interested person who participated in the administrative proceedings and is aggrieved by the regulatory authority's decision is provided an opportunity for appeal in a court of competent jurisdiction. SMCRA sec. 514(f) (30 U.S.C. 1264(f)); 30 CFR 775.13; Utah Code Ann. sec. 40–10–14(6); and R645–300–221. As provided under the Utah Code, the Utah Supreme Court has jurisdiction to review all final agency actions resulting from formal adjudicative proceedings. Utah Code Ann. sec. 40–10–14(6)(a); *see also* the Utah Administrative Procedures Act at Utah Code Ann. sec. 63G–4–403 and 78A–3–102(6) (stating the Utah Supreme Court ''shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its review of agency adjudicative proceedings.''). Under the Utah Rules of Civil Procedure (''URCP''), the Utah courts have authority to require that an applicant submit a form of security to the court before it issues an order of injunction. However, URCP rule 65A also allows the court to forgo the security requirement if ''it appears that none of the parties will incur or suffer costs, attorney fees or damage as the result of any wrongful order or injunction, or . . . there exists some other substantial reason for dispensing with the requirement of security.'' URCP 65A(c). While the Federal Rules of Civil Procedure, at rule 65(c), generally mandate that a court require the posting of a bond before issuing a preliminary injunction in an amount the court deems proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained, neither SMCRA sec. 525(c) (30 U.S.C. 1275(c)) nor sec. 526(c) (30 U.S.C. 1276(c)) contain such a mandate. Rather, the conditions of any temporary relief ordered are reserved (not mandated) to the discretion of the Secretary in administrative proceedings and to the court in judicial proceedings.

In addition to the opportunities afforded to persons challenging a final agency decision, citizen suits filed in court provide another pathway for persons to challenge perceived violations of the Act, including violations of any rule, regulation, order, or permit issued pursuant to the Act or failure to perform a non-discretionary duty. Under the State or Federal citizen suit provision, found at Utah Code Ann. sec. 40–10–21 or SMCRA sec. 520 (30 U.S.C. 1270), an interested person may commence a civil action against the United States or a State agency to the extent permitted by the Eleventh Amendment, or against any other person, to compel compliance with the corresponding State or Federal Act. Utah Code Ann. sec. 40–10–21(4)(b) and SMCRA sec. 520(d) (30 U.S.C. 1270(d)) both provide that, if a temporary restraining order or preliminary injunction is sought through the course of a citizen suit, a court ''may'' require the filing of a bond or equivalent security in accordance with the applicable rules of civil procedure. Thus, Utah's existing preliminary injunction standards are consistent within the Utah program, at Utah Code Ann. sec. 40–10–14(5), the Utah Administrative Procedures Act at Utah Code Ann. sec. 63G–4–404, and the URCP at rule 65A. The provisions in H.B. 399 that would be implemented under the proposed amendment appear somewhat duplicative of these pre-existing provisions, but some of the other provisions in H.B. 399, including the bond requirement, would cause confusion regarding the appropriate temporary relief to apply with respect to decisions involving coal permitting actions.

While Congress acknowledged a court's authority under SMCRA sec. 520(d) (30 U.S.C. 1270(d)) to require the posting of a bond, the legislative history of this section explains that in drafting the citizen suit provision, the Committee intended ''that the courts will carefully consider the circumstances and probable outcome of litigation in deciding whether to require a bond. This will minimize the possibility that this section might be subject to misuse either by the commencement of frivolous actions against environmentally sound operations or as a substitute for other provisions of this bill which impose more precise requirements for citizen participation in the permit application and performance bond release proceedings.'' S. Rept. 95–128, 88 (May 10, 1977). Utah's approved program contains this discretionary authority nearly verbatim at Utah Code Ann. sec. 40–10–21(4)(b).

The Utah Code Ann. sec. 78B–5–828 enacted by the Utah legislature as H.B. 399, and submitted by DOGM as a proposed program amendment, is inconsistent with SMCRA's legislative history and would not provide a plaintiff with the opportunities to seek temporary relief when compared with SMCRA and the Federal regulations. The language of the proposed provision would remove a judge's ability and discretion to consider other factors or circumstances that may otherwise be taken into account while deciding whether a bond must be posted and in what amount. Indeed, the proposed amendment mandating imposition of a bond would conflict with existing Utah law that was already approved as part of Utah's program that makes a bond discretionary in judicial proceedings.

When deciding to grant or deny a preliminary injunction or administrative stay, SMCRA and the approved Utah program provide the deciding official with more flexibility. In enacting SMCRA, Congress recognized that ''providing citizen access to administrative appellate procedures and the courts is a practical and legitimate method of assuring the regulatory authority's compliance with the requirements of the Act.'' S. Rept. 95–128, 59 (May 10, 1977). The effect of the proposed mandatory environmental

litigation bond requirement could create an undue financial burden on plaintiffs and potentially deter citizens from bringing good faith actions. This would be inconsistent with SMCRA's purpose to ''assure that appropriate procedures are provided for the public participation in the development, revision, and enforcement of regulations, standards, reclamation plans, or programs established by the Secretary or any State under this Act. . . .'' SMCRA sec. 102(i). Further, the enactment of H.B. 399, codified as Utah Code Ann. sec. 78B–5–828, is inconsistent with SMCRA's legislative intent that bonds be used on a case-by-case basis as determined by a court.

While State laws may be more stringent than the Federal program, State law cannot conflict with the stated purposes of SMCRA, and State laws cannot provide less opportunities, including for citizen participation, than established under SMCRA and the Federal regulations. The proposed amendment is inconsistent with the congressional intent of assuring public participation and legal access for interested parties in agency decision-making. OSMRE thereby finds that Utah's amendment proposal is inconsistent with, and less stringent and effective than, SMCRA and the Federal regulations. Therefore, in accordance with 30 CFR 732.15(a) and 732.17(h)(10), OSMRE is not approving this amendment. As a result, the proposed amendment submitted by the Division will not become an effective part of the Utah coal mining regulatory program under SMCRA. OSMRE instructs the Division to continue implementing the approved Utah program as it did prior to the enactment of H.B. 399.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (Administrative Record Document ID No. OSM–2012–0011–0001) and received three responses.

We received two public comment letters sent on behalf of Southern Utah Wilderness Alliance (SUWA) and the Sierra Club dated, respectively, June 1, 2012, and July 12, 2012 (Administrative Record ID No. OSM–2012–0011–0013). Both of the letters recommended that OSMRE disapprove the amendment on the basis that it is inconsistent with SMCRA and other applicable Federal rules and that SUWA would be personally harmed by it if approved.

Additionally, we received a comment letter from a private citizen dated July 11, 2012 (Administrative Record ID No. OSM–2012–0011–0012). The commenter also recommended that OSMRE not approve the amendment because it would make environmental protection in the State of Utah more difficult with regard to coal mining operations.

In response to the above comments, we acknowledge the concerns expressed and refer the commenters to our findings in sec. III for a detailed explanation as to why OSMRE is not approving Utah's proposed amendment.

Federal Agency Comments

On May 1, 2012, under 30 CFR 732.17(h)(11)(i) and sec. 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Utah program (Administrative Record ID No. OSM–2012–0011–0011). We received comments from one Federal Agency.

The Bureau of Land Management (BLM) commented in a letter dated May 11, 2012 (Administrative Record ID No. OSM–2012–0011–0008). The BLM stated that it agreed that, due to the gravity of such granted requests by judicial actions, the requirement for surety bonding or equivalent provides necessary protection for the interest of all parties involved. In response, and as discussed in sec. III above, the conditions of any temporary relief ordered are reserved to the discretion of the Secretary or the State's deciding official in administrative proceedings, and to the court in judicial proceedings. Existing law provides the deciding official with the necessary flexibility to determine the appropriate conditions of any temporary relief on a case-by-case basis, so long as the standards for such relief are satisfied. Therefore, OSMRE does not approve the proposed 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 Utah proposed to make in this amendment pertains to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

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 August 28, 2013, we requested comments from both agencies relative to Utah's proposed amendment (Administrative Record Document ID No. OSM–2012–0011–0011), but neither agency responded to our request.

V. OSMRE's Decision

Based on the above findings, we do not approve Utah's submittal sent to us on April 12, 2012. To implement this decision, we are amending the Federal regulations at 30 CFR part 944, which codifies decisions concerning the Utah program. In accordance with the Administrative Procedure Act, this rule will take effect 30 days after the date of publication.

VI. Statutory and Executive Order Reviews

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule would not effect a taking of private property or otherwise have taking implications that would result in public property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the corresponding Federal regulations.

Executive Order 12866—Regulatory Planning and Review, Executive Order 13563—Improving Regulation and Regulatory Review, and Executive Order 14094—Modernizing Regulatory Review

Executive Order 12866, as amended by Executive Order 14094, provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993 (OMB Memo M–94–3), the approval of State program amendments is exempted from OMB review under Executive Order 12866, as amended by Executive Order 14094. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by sec. 3 of Executive Order 12988. The

Department has determined that this **Federal Register** document meets the criteria of sec. 3 of Executive Order 12988, which is intended to ensure that the agency review its legislation and proposed regulations to eliminate drafting errors and ambiguity; that the agency write its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because sec. 3 focuses on the quality of this **Federal Register** document and changes to the Federal regulations, the review under this Executive order does not extend to the language of the Utah program or to the program amendment that the State of Utah submitted.

Executive Order 13132—Federalism

This rule has potential Federalism implications, as defined under sec. 1(a) of Executive Order 13132. Executive Order 13132 directs agencies to ''grant the States the maximum administrative discretion possible'' with respect to Federal statutes and regulations administered by the States. Utah, through its approved regulatory program, implements and administers SMCRA and its implementing regulations at the State level. This rule disapproves an amendment to the Utah program submitted and drafted by the State, to ensure that the State program is ''in accordance with'' the requirements of SMCRA and ''consistent with'' the regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on the distribution of power and responsibilities between the Federal Government and Tribes. The basis for this determination is that our decision on the Utah program does not include Indian lands as defined by SMCRA or other Tribal lands and it does not affect the regulation of activities on Indian lands or other Tribal lands. Indian lands under SMCRA are regulated independently under the applicable approved Federal Indian program. The Department's consultation policy also acknowledges that our rules may have Tribal implications where the State proposing the amendment encompasses ancestral lands in areas with mineable coal. We are currently working to identify and engage with appropriate Tribal stakeholders to devise a constructive approach for consulting on these amendments.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking 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 significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

National Environmental Policy Act (NEPA)

Consistent with sec. 501(a) and 702(d) of SMCRA (30 U.S.C. 1251(a) and 1292(d), respectively) and the U.S. Department of the Interior Departmental Manual, part 516, sec. 13.5(A), State program amendments are not major Federal actions within the meaning of sec. 102(2)(C) of NEPA (42 U.S.C. 4332(2)(C). Therefore, there is no need to prepare an environmental assessment under NEPA.

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

This rule, which does not approve the State submittal, will not alter the existing federally approved Utah program, and therefore 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.*).

Small Business Regulatory Enforcement Fairness Act

This rule, which does not approve the State submittal because it would be inconsistent with SMCRA and Federal regulation, does not change the status quo of the existing approved Utah program or its implementation under SMCRA, and 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 on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates Reform Act

This rule, which does not approve the State submittal because it would be inconsistent with SMCRA and Federal regulation, does not change the status quo of the existing approved Utah program or its implementation under SMCRA, and, therefore, this rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than $100 million per year, nor does the rule have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

David A. Berry,

Regional Director, Interior Unified Regions 5, 7–11.

For the reasons set out in the preamble, the Office of Surface Mining Reclamation and Enforcement amends 30 CFR part 944 as set forth below:

PART 944—Utah

■ 1. The authority citation for part 944 continues to read as follows:

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

■ 2. Add § 944.16 to read as follows:

§ 944.16 State regulatory program amendment provisions not approved.

(a) The State of Utah submitted a proposed amendment to Utah's coal regulatory program, by letter dated April 12, 2012. The State prepared the proposed amendment in response to legislation (House Bill 399) enacted by the Utah Legislature in 2011 (Utah Code Ann. sec. 78B–5–828). The proposed amendment, which would require an environmental litigation bond be posted by a plaintiff seeking an administrative stay or a court-ordered injunction before any relief was granted, is not approved.

(b) [Reserved]

[FR Doc. 2024–18039 Filed 8–14–24; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2024–0618]

RIN 1625–AA00

Safety Zone, Kahanamoku Beach, Honolulu, HI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Kahanamoku Beach. This action is necessary to provide for the safety of life on these navigable waters near Honolulu, HI, during a drone show display at various times on August 13 through 18, 2024. This rulemaking prohibits, during the enforcement periods, persons and vessels from entering the safety zone unless authorized by the Captain of the Port Sector Honolulu or a designated representative.

DATES: This rule is effective without actual notice from August 15, 2024 through 9:30 p.m. on August 18, 2024. For the purposes of enforcement, actual notice will be used from 4:30 p.m. on August 13, 2024, until August 15, 2024.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov*, type USCG–2024–0618 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Petty Officer Vivian S. Gonzalez, Waterway Management Division, U.S. Coast Guard; telephone 808–522–8264, email *Vivian.S.Gonzalez@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On June 21, 2024, an organization notified the Coast Guard that it will be conducting a drone show display from 9 p.m. through 4:30 a.m., daily, on August 13 through 15, 2024 and from 6:30 p.m. to 9:30 p.m., daily, on August 15, 17, and 18, 2024. The drones are to be launched from a nearby parking lot approximately 200 feet southwest of the southwestern point of the Hilton Lagoon into the ''showbox'' located between the following 4 coordinates: 21°16′52.02″ N 157°50′27.88″ W; 21°16′44.24″ N 157°50′29.67″ W; 21°16′40.06″ N 157°50′16.65″ W; and 21°16′47.24″ N 157°50′13.39″ W. In response, on July 17, 2024, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone, Kahanamoku Beach, Honolulu, HI (89 FR 58095), stating why the Coast Guard issued the NPRM and invited comments on the proposed regulatory action related to this drone show. The comment period ended August 1, 2024, and the Coast Guard received no comments.

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**. Delaying the effective date of this rule would be impracticable because prompt action is needed to respond to the potential safety hazards associated with the 428 drones flying overhead at a popular surfing spot in Waikiki.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Sector Honolulu (COTP) has determined that potential hazards associated with the drone show to be used in this display will be a safety concern for anyone within the safety zone. The purpose of this rule is to ensure the safety of personnel, vessels, and the marine environment within the navigable waters of the safety zone before, during, and after the scheduled events.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published July 17, 2024. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 9 p.m. on August 13 through 9:30 p.m. on August 18, 2024. The safety zone will be enforced from 9 p.m. to 4:30 a.m., daily, on August 13, 2024, through August 15, 2024 and from 6:30 through 9:30 p.m., daily, on August 15, 17, and 18, 2024. The safety zone will cover all navigable waters located between the following 4 coordinates: 21°16′52.02″ N 157°50′27.88″ W; 21°16′44.24″ N 157°50′29.67″ W; 21°16′40.06″ N 157°50′16.65″ W; and 21°16′47.24″ N 157°50′13.39″ W. The duration of the zone is intended to ensure the safety of persons and vessels and these navigable waters during the scheduled drone shows. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the duration and time-of-day of the safety zone. This safety zone will be of limited duration to minimize any adverse impacts to persons and vessels who would be in the area. Vessel traffic will only be restricted in the limited access area while drones are in the air. Further, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM Marine Channel 16 about the zone and persons or vessels desiring to enter the safety zone may do so with permission from the COTP or a