

MHPA provisions retroactively to September 30, 2001. Therefore, the Department is making the effective date of this interim final amendment to the regulations effective September 30, 2001. The Department is also making conforming changes extending the duration of the increased cost exemption to be consistent with the new sunset date. Since the statute is retroactive, making the regulation retroactive limits confusion and disruption to employers, plan sponsors, and workers.

Since the extension of this sunset date is not discretionary, this amendment to the MHPA regulations is promulgated on an interim final basis pursuant to Section 734 of ERISA. This interim final amendment is also promulgated pursuant to Section 553(d)(3) of the Administrative Procedure Act, allowing for regulations to become effective immediately for good cause.

C. Executive Order 12866

Under Executive Order 12866, the Department must determine whether a regulatory action is "significant" and therefore subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule: (1) Having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of the Executive Order, it has been determined that this action is not a "significant regulatory action" within the meaning of the Executive Order. This action is an amendment to the 1997 interim final regulations and merely extends the regulatory sunset date to conform to the new statutory sunset date added by H.R. 3061.

D. Paperwork Reduction Act

The information collection provisions of MHPA incorporated in the

Department's interim final rules are currently approved under OMB control numbers 1210-0105 (Notice to Participants and Beneficiaries and Federal Government of Electing One Percent Increased Cost Exemption), and 1210-0106 (Calculation and Disclosure of Documentation of Eligibility for Exemption). These information collection requests are approved through November 30, 2004 and October 31, 2004, respectively. Because no substantive or material change is made to the approved information collection provisions in connection with this interim final amendment, no submission for continuing OMB approval is required or made at this time.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) imposes certain requirements with respect to federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*). Because this amendment to the 1997 interim final regulations is being published on an interim final basis, without prior notice and a period for comment, the Regulatory Flexibility Act does not apply.

F. Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) (UMRA), as well as Executive Order 12875, this interim final amendment does not include any Federal mandate that may result in expenditures by State, local, or tribal governments, and does not include mandates that may impose an annual expenditure of \$100 million or more on the private sector.

G. Congressional Review Act

This interim final amendment is subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) (SBREFA), and has been transmitted to Congress and the Comptroller General for review. This amendment to the 1997 interim final regulations is not a major rule, as that term is defined by 5 U.S.C. 804.

H. Federalism Statement

Executive Order 13132 (August 4, 1999) outlines fundamental principles of federalism and requires the adherence to specific criteria by federal agencies in the process of their formulation and implementation of policies that have substantial direct effects on the States, the relationship

between the States, the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This interim final amendment does not have federalism implications as it only conforms the regulatory sunset date to the new statutory sunset date added by H.R. 3061.

List of Subjects in 29 CFR part 2590

Employee benefit plans, Employee Retirement Income Security Act, Health care, Health insurance, Medical child support, Reporting and recordkeeping requirements.

Pension and Welfare Benefits Administration

29 CFR part 2590 is amended as follows:

PART 2590—RULES AND REGULATIONS FOR HEALTH INSURANCE PORTABILITY AND RENEWABILITY FOR GROUP HEALTH PLANS

1. The authority citation for Part 2590 is revised to read as follows:

Authority: Secs. 107, 209, 505, 609, 701–703, 711–713, and 731–734 of ERISA (29 U.S.C. 1027, 1059, 1135, 1169, 1181–1183, 1185, 1185a, 1185b, 1191, 1191a, 1191b, and 1191c), as amended by HIPAA (Pub. L. 104–191, 110 Stat. 1936), MHPA (Pub. L. 104–204, 110 Stat. 2944, as amended by Pub. L. 107–116, 115 Stat. 2177), NMHPA (Pub. L. 104–204, 110 Stat. 2935), and WHCRA (Pub. L. 105–277, 112 Stat. 2681–436), section 101(g) of HIPAA, and Secretary of Labor's Order No. 1–87, 52 FR 13139, April 21, 1987; section 401(b) of CPSIA (Pub. L. 105–200, 112 Stat. 645).

2590.712 [Amended] (g)(2), and (i)

2. Amend § 2590.712 (f)(1), (g)(2), and (i) to remove the date "September 30, 2001" and add in its place the date "December 31, 2002".

Signed at Washington, DC this 17th day of September, 2002.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor
[FR Doc. 02–24590 Filed 9–26–02; 8:45 am]

BILLING CODE 4510–29–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Parts 2700, 2701, 2702, 2704, 2705, 2706

Commission Address Change

AGENCY: Federal Mine Safety and Health Review Commission (FMSHRC)

ACTION: Final rule.

SUMMARY: The Federal Mine Safety and Health Review Commission is amending its regulations to reflect changes to the addresses of its Headquarters office, and one of its Offices of Administrative Law Judges. FMSHRC is relocating its Headquarters office and one of its Offices of Administrative Law Judges, and these amendments to the regulations are necessary to inform the public of FMSHRC's new address.

DATES: This final rule will take effect on September 30, 2002.

ADDRESSES: This final rule is available on FMSHRC's Internet site, <http://www.fmsihrc.gov> at the "What's New/Recent Developments" icons.

FOR FURTHER INFORMATION CONTACT: Sarah Stewart, Deputy General Counsel, Office of the General Counsel, Federal Mine Safety and Health Review Commission, 1730 K Street, NW., 6th Floor, Washington, DC 20006, 202-653-5610, before September 30, 2002, and 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001, (202) 434-9935, thereafter.

SUPPLEMENTARY INFORMATION:

A. Background

On September 30, 2002, FMSHRC will move its Headquarters office from 1730 K Street, NW, 6th Floor, Washington, DC 20006 to 601 New Jersey Avenue, NW, Suite 9500, Washington, DC 20001. On that same date, FMSHRC will move its Office of Administrative Law Judges from Skyline Towers No. 2, Tenth Floor, 5203 Leesburg Pike, Falls Church, Virginia 22041 to 601 New Jersey Avenue, NW, Suite 9500, Washington, DC 20001. The Office of Administrative Law Judges presently located at 1244 Speer Boulevard, Suite 280, Denver, Colorado 80204, will remain at that location.

Because this amendment deals with agency management and procedures, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(a)(2) and (b)(3)(A).

Good cause exists to dispense with the usual 30-day delay in the effective date because the amendments are of a minor and administrative nature dealing with only a change in address.

B. Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1955 (44 U.S.C. 3501 *et seq.*).

C. Executive Order 12866 Regulatory Planning and Review

This final rule is not a "regulatory action" under section 3 of Executive Order 12866, and has not been reviewed by the Office of Management and Budget. The rule is an administrative action that changes the address of a Federal agency. Because the rule is limited to agency organization, management and personnel, it falls within the exclusion set forth in section 3(d)(3) of the Executive Order.

In promulgating this rule, FMSHRC has adhered to the regulatory philosophy and applicable principles of regulation set forth in section 1 of the Executive Order.

D. Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995, this rule does not include any Federal mandate that may result in increased expenditures by State, local or tribal governments, or by the private sector.

List of Subjects

29 CFR Part 2700

Administrative practice and procedure, Mine safety and health, Penalties, Whistleblowing.

29 CFR Part 2701

Sunshine Act.

29 CFR Part 2702

Freedom of information.

29 CFR Part 2704

Claims, Equal access to justice.

29 CFR Part 2705

Privacy.

29 CFR Part 2706

Administrative practice and procedure, Civil rights, Equal employment opportunity, Federal buildings and facilities, Individuals with disabilities.

Accordingly, Chapter XXVII of Title 29 of the Code of Federal Regulations is amended as follows:

PART 2700—PROCEDURAL RULES

1. The authority citation for Part 2700 continues to read as follows:

Authority: 30 U.S.C. 815, 820 and 823.

§ 2700.4 [Amended]

2. In § 2700.4(b)(1), the address for the Executive Director, Federal Mine Safety and Health Review Commission, is revised from "1730 K Street, NW., Sixth Floor, Washington, DC 20006-3867" to read "601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001".

§ 2700.5 [Amended]

3. In § 2700.5(b), the address for the Docket Office, Federal Mine Safety and Health Review Commission, is revised from "1730 K Street, NW., Sixth Floor, Washington, DC 20006-3867" to read "601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001; facsimile delivery as allowed by these rules (see § 2700.5(d)), shall be transmitted to (202) 434-9954".

4. In § 2700.5(g), the address for the Office of General Counsel or the Docket Office of the Federal Mine Safety and Health Review Commission is revised from "1730 K St., NW., Sixth Floor, Washington, DC 20006-3867" to read "601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001".

§ 2700.82 [Amended]

5. In § 2700.82(d), the address for the Office of General Counsel or the Docket Office of the Federal Mine Safety and Health Review Commission is revised from "1730 K Street, NW., Sixth Floor, Washington, DC 20006-3867" to read "601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001".

PART 2701—GOVERNMENT IN THE SUNSHINE ACT REGULATIONS

6. The authority citation for part 2701 continues to read as follows:

Authority: Sec. 113, Federal Mine Safety and Health Act of 1977, Pub. L. 95-165 (30 U.S.C. 823).

§ 2701.4 [Amended]

7. In § 2701.4, the address for the Office of the Executive Director, Federal Mine Safety and Health Review Commission, is revised from "1730 K Street, NW., Washington, DC 20006" to read "601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001".

PART 2702—REGULATIONS IMPLEMENTING THE FREEDOM OF INFORMATION ACT

8. The authority citation for part 2702 continues to read as follows:

Authority: Sec. 113, Federal Mine Safety and Health Act of 1977, Pub. L. 95-165 (30 U.S.C. 801 *et seq.*); 5 U.S.C. 552; Pub. L. 104-231, October 2, 1996, 110 Stat. 3048.

9. Section 2702.2 is revised to read as follows:

§ 2702.2 Location of offices.

The Commission maintains its Headquarters office at 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001. It has two offices for Administrative Law Judges, one at 601 New Jersey Avenue, NW., Suite 9500,

Washington, DC 20001, and the other at 1244 Speer Boulevard, Suite 280, Denver, Colorado 80204-3582.

§ 2702.3 [Amended]

10. In § 2702.3(a), the address for the Executive Director, Federal Mine Safety and Health Review Commission, is revised from "6th Floor, 1730 K Street NW., Washington, DC 20006-3867" to read "601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001".

PART 2704—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN COMMISSION PROCEEDINGS

11. The authority citation for part 2704 continues to read as follows:

Authority: (5 U.S.C. 504(c)(1); Pub. L. 99-80, 99 Stat. 183; Pub. L. 104-121, 110 Stat. 862.

§ 2704.201 [Amended]

12. In § 2704.201(a), the address for the Chief Administrative Law Judge of the Commission is revised from "1730 K Street NW, 6th Floor, Washington, DC 20006" to read "601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001".

§ 2704.308 [Amended]

13. In § 2704.308(b), the address for the Commission is revised from "1730 K Street NW., Washington, DC 20006" to read "601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001".

PART 2705—PRIVACY ACT IMPLEMENTATION

14. The authority citation for part 2705 continues to read as follows:

Authority: 5 U.S.C. 552a; Pub. L. 93-579.

§ 2705.4 [Amended]

15. In § 2705.4, the address for the Executive Director of the Commission is revised from "1730 K Street NW., Room 612, Washington, DC 20006" to read "601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001".

§ 2705.8 [Amended]

16. In § 2705.8, the address for the Chairman, Federal Mine Safety and Health Review Commission, is revised from "1730 K Street NW., Room 610, Washington, DC 20006" to read "601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001".

PART 2706—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

17. The authority citation for part 2706 continues to read as follows:

Authority: 29 U.S.C. 794.

§ 2706.170 [Amended]

18. In § 2706.170(c), the address for the General Counsel, Federal Mine Safety and Health Review Commission, is revised from "1730 K Street NW., Suite 600, Washington, DC 20001" to read "601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001".

Dated: September 20, 2002.

Richard L. Baker,

Executive Director, Federal Mine Safety and Health Review Commission.

[FR Doc. 02-24546 Filed 9-26-02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05-02-075]

RIN 2115-AE46

Special Local Regulations for Marine Events; Cape Fear River, Wilmington, NC

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for the "Head of the Cape Fear Regatta", a marine event to be held over the waters of the Cape Fear River, Wilmington, North Carolina. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Cape Fear River during the event.

DATE: This rule is effective from 7:30 a.m. to 5:30 p.m. on October 5, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD05-02-075 and are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: S. L. Phillips, Project Manager, Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, at (757) 398-6204.

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) and 553(d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The event will be held on Saturday, October 5, 2002. There is not sufficient time to allow for a notice and comment period, prior to the event. Because of the danger posed by other vessels operating near rowing shells competing within a confined area, special local regulations are necessary to provide for the safety of event participants, spectator craft and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event. In addition, advance notifications will be made via the Local Notice to Mariners, marine information broadcasts, and area newspapers.

Background and Purpose

On October 5, 2002, Riverfest Celebrations, Inc. will sponsor the "Head of the Cape Fear Regatta" on the waters of the Cape Fear River, Wilmington, North Carolina. The event will consist of rowing shells racing in heats of 30 against the clock along a 3-mile section of the Cape Fear River. To provide for the safety of spectators and other transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during the event.

Discussion of Rule

The Coast Guard is establishing temporary special local regulations on specified waters of the Cape Fear River. The regulated area includes all waters of the Cape Fear River from the Cape Fear Memorial Bridge upriver to the Seaboard Coast Line Railroad Bridge at Navassa Turning Basin. The temporary special local regulations will be in effect from 7:30 a.m. to 5:30 p.m. on October 5, 2002. The effect will be to restrict general navigation in the regulated area during the event. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. The Patrol Commander will allow non-participating vessels to transit the regulated area at slow speed between heats when safe to do so. These