

### III. Public Comment Procedures

In accordance with the provisions of 30 CFR 884.15(a), OSM is seeking comments on whether the proposed amendment satisfies the applicable plan approval criteria of 30 CFR 884.14. In the amendment is deemed adequate, it will become part of the North Dakota plan.

#### 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 p.m., m.d.t., October 31, 1995. 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 requesting 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 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (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 Tribe or State AMLR plans and revisions thereof since each such plan is drafted and promulgated by a specific Tribe or State, not by OSM. Decisions on proposed Tribe or State AMLR plans and revisions thereof submitted by a Tribe or State are based on a termination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231-1243) and the applicable Federal regulations at 30 CFR parts 884 and 888.

#### 3. National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed Tribe or State AMLR plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

#### 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 Tribe or State submittal which is the subject of this rule is based upon Federal regulations from 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 established by

SMCRA or previously promulgated by OSM will be implemented by the Tribe or 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.

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

Abandoned mine reclamation programs, Intergovernmental relations, Surface mining, Underground mining.

Dated: September 27, 1995.

Richard J. Seibel,

*Regional Director, Western Regional Coordinating Center.*

[FR Doc. 95-25558 Filed 10-13-95; 8:45 am]

BILLING CODE 4310-05-M

### 30 CFR Part 938

[PA-112-FOR]

#### Pennsylvania Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing.

**SUMMARY:** OSM is announcing receipt of a proposed amendment to the Pennsylvania permanent regulatory program (hereinafter referred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment (Administrative Record Number PA 933.00) revises the Pennsylvania program to incorporate changes made by Pennsylvania House Bill 1075 and subsequent Pennsylvania law Act 1994-114. The proposed amendment is intended to provide special authorization for refuse disposal in areas previously affected by mining which contain pollutional discharges.

**DATES:** Written comments must be received by 4 p.m., e.d.t. November 15, 1995. If requested, a public hearing on the proposed amendment will be held on November 13, 1995. Requests to speak at the hearing must be received by 4 p.m., e.d.t. on October 31, 1995.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Robert J. Biggi, Director, Harrisburg Field Office at the address shown below.

Copies of the Pennsylvania program, the proposed amendment, a listing of any scheduled public hearings, 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 Harrisburg Field Office. 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**:

Robert J. Biggi, Director, Office of Surface Mining Reclamation and Enforcement, Harrisburg Field Office, Harrisburg Transportation Center, Third Floor, Suite 3C, 4th and Market Streets, Harrisburg, Pennsylvania 17101, Telephone: (717) 782-4036  
 Pennsylvania Department of Environmental Resources, Bureau of Mining and Reclamation, Room 209 Executive House, 2nd and Chestnut Streets, P.O. Box 8461, Harrisburg, Pennsylvania 17105-8461, Telephone: (717) 787-5103.

A public hearing, if held, will be at the Penn Harris Motor Inn and Convention Center at the Camp Hill Bypass and U.S. Routes 11 and 15, Camp Hill, Pennsylvania.

**FOR FURTHER INFORMATION CONTACT:** Robert J. Biggi, Director, Harrisburg Field Office, (717) 782-4036.

**SUPPLEMENTARY INFORMATION:**

**I. Background on the Pennsylvania Program**

On July 31, 1982, the Secretary of the Interior conditionally approved the Pennsylvania program. Background information on the Pennsylvania program including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Pennsylvania program can be found in the July 30, 1982, Federal Register (47 FR 33050). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 938.11, 938.12, 938.15 and 938.16.

**II. Discussion of Amendment**

By letter dated September 14, 1995 (Administrative Record Number PA 837.01), Pennsylvania submitted an amendment to the Pennsylvania program. The amending language is contained in Pennsylvania House Bill 1075 and was enacted into Pennsylvania law as Act 1994-114. The amendments change Pennsylvania's Coal Refuse Disposal Act (of September 24, 1968 (P.L. 1040, No. 318) and amended on October 10, 1980 (P.L. 807, No. 154)) to provide authorization for refuse disposal in areas previously affected by

mining which contain polluttional discharges. A summary of the proposed amendments is listed below.

**1. Section 1 Findings and Declaration of Policy**

This section is amended by adding policy statements that clarify Pennsylvania's rationale for authorizing coal refuse disposal on areas previously affected by mining which contain polluttional discharges.

**2. Section 3 Definitions**

This section is amended to provide definitions for the following terms: "Abatement plan," "Actual improvements," "Baseline pollution load," "Best technology," "Coal refuse disposal activities," "Pollution abatement area," and "Public recreational impoundment."

**Section 3.2 Powers and Duties of the Environmental Quality Board**

New subsection (b) is added to require the Environmental Quality Board to enact regulations that are consistent with the requirements of section 301(p) of the Federal Water Pollution Control Act (62 Stat 1155, 33 U.S.C. section 1311(p)) and the State remining regulations for surface coal mining activities.

**Section 4.1 Site Selection**

This new section is added to establish the criteria for selecting sites for coal refuse disposal.

Subsection (a) establishes the criteria for preferred sites polluted by acid mine drainage such as a watershed.

Subsection (b) identifies the areas where coal refuse disposal shall not occur, such as on prime farmland.

Subsection (c) requires the identification of alternative sites that were considered for new refuse disposal areas that support existing mining. This provision also requires a demonstration of the basis for the exclusion of other sites.

Subsection (d) requires the identification of alternative sites that were considered for new refuse disposal areas that support other than existing coal mining activity. This provision also requires a demonstration of the basis for the exclusion of other sites.

Subsection (e) provides that the alternatives analyses required by section 4.1 must satisfy the Dam Safety and Encroachments Act (November 26, 1978 (P.L. 1375, No. 325)).

**Section 6.1 Designating Areas Unsuitable for Coal Refuse Disposal**

Subsection (h)(5) is amended to provide for a variance to the 100-foot

stream buffer zone provision for coal refuse disposal.

**Section 6.2 Coal Refuse Disposal Activities on Previously Affected Areas**

This is a new section added.

Subsection (a) provides that a special authorization must be requested to engage in coal refuse disposal on areas with pre-existing polluttional discharges resulting from previous mining.

Subsection (b) provides the criteria under which the State may grant a special authorization to engage in such coal refuse disposal.

Subsection (c) provides that the State may not grant a special authorization unless the operator seeking a special authorization for coal refuse disposal demonstrates certain specified provisions such as that the pollution abatement plan will result in a significant reduction of the baseline pollution load.

Subsection (d) provides that an authorization may be denied if granting it will or is likely to affect any legal responsibility or liability for abating the polluttional discharges from or near the pollution abatement area.

Subsection (e) provides that an operator may be required to provide specified additional information related to delineation of the pollution abatement area, the hydrologic balance of the area, and the abatement plan.

Subsection (f) provides that an operator who is granted a special authorization shall implement the approved water monitoring program and abatement plan, and notify the State immediately prior to the completion of each step of the abatement plan and to provide progress reports.

Subsection (g) specifies how pre-existing discharges shall be treated by the operator.

Subsection (h) provides the criteria under which treatment of a pre-existing discharge may be discontinued.

Subsection (i) sets forth requirement for reinstating treatment of a discharge and for the discontinuance of that treatment.

Subsection (j) provides the criteria and schedule for release of bonds for pollution abatement areas with a special authorization.

Subsection (k) sets forth the standard of successful revegetation for reclamation plans approved as part of a special authorization.

Subsection (l) provides that forfeited funds in the Surface Mining Conservation and Reclamation Fund shall be applied as a credit to the bond required for a special authorization. In addition, the area shall be exempt from permit reclamation fees.

Subsection (m) establishes the criteria for relieving an operator for all preexisting discharges under the special authorization.

### 3. Section 6.3 Experimental Practices

This new section sets forth criteria established to encourage practices that will advance coal refuse disposal practices and advance technology or practices that will enhance environmental protection with respect to coal refuse disposal activities.

### 4. Section 15.1 Suspension of Implementation of Certain Provisions

This new provision provides for the suspension of any provision of Act 1994-114 found to be inconsistent with SMCRA.

## 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 Pennsylvania program.

### 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 Harrisburg Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

### Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., e.d.t. on October 31, 1995. The location and time of the hearing will be arranged with those persons requesting 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 speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing

will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

### Public Meeting

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## IV. Procedural Determinations

### 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).

### Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (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 for the corresponding Federal regulations.

### List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 27, 1995.

Allen D. Klein,

*Regional Director, Appalachian Regional Coordinating Center.*

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## 30 CFR Part 943

[TX-024-FOR]

### Texas Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Proposed rule; reopening and extension of public comment period on proposed amendment.

**SUMMARY:** OSM is announcing receipt of a revision pertaining to a previously proposed amendment to the Texas regulatory program (hereinafter, the "Texas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed revision to the proposed amendment pertains to self-bonding. The proposed amendment is intended to revise the State program to be consistent with the corresponding Federal regulations.

This notice sets forth the times and locations that the Texas program and