

*State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP. No response was received from either agency.

**V. Director's Decision**

Based on the above finding, the Director approves the proposed amendment as submitted by Oklahoma on July 5, 1995.

The Director approves the rule as proposed by Oklahoma with the provision that it be fully promulgated in identical form to the rule submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR Part 936, codifying decisions concerning the Oklahoma program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

**VI. 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 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 27, 1995.

Brent Wahlquist,  
*Regional Director, Mid-Continent Regional Coordinating Center.*

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

**PART 936—OKLAHOMA**

1. The authority citation for Part 936 continues to read as follows:

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

2. Section 936.15 is amended by adding paragraph (q) to read as follows:

**§ 936.15 Approval of regulatory program amendments.**

\* \* \* \* \*

(q) Revision to the following rule, as submitted to OSM on July 5, 1995, is approved effective November 9, 1995:  
OAC 460:20-61-10(b)(1). Procedures for assessment conference.

[FR Doc. 95-27810 Filed 11-8-95; 8:45 am]  
BILLING CODE 4310-05-M

**30 CFR Part 943**

[SPATS No. TX-026-FOR]

**Texas Regulatory Program**

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

**ACTION:** Notice of decision.

**SUMMARY:** OSM is announcing its decision not to approve a proposed amendment to the Texas regulatory program (hereinafter referred to as the "Texas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Texas proposed a revision to its rules pertaining to surface mining permit applications—minimum requirements for information on environmental resources: cross sections, maps, and plans. The amendment was intended to allow professional biologists to prepare and certify cross sections, maps, and plans that are included as part of the permit application.

**EFFECTIVE DATE:** November 9, 1995.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jack R. Carson, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma, 74135-6548, Telephone: (918) 581-6430.

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Texas Program
- II. Submission of the Proposed Amendment
- III. Director's Findings
- IV. Summary and Disposition of Comments
- V. Director's Decision
- VI. Procedural Determinations

I. Background on the Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. Background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the February 27, 1980, Federal Register (45 FR 12998). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 943.10, 943.15, and 943.16.

## II. Submission of the Proposed Amendment

By letter dated August 31, 1995, (Administrative Record No. TX-596), Texas submitted a proposed amendment to its program pursuant to SMCRA. Texas submitted the proposed amendment at its own initiative. Texas proposed to revise the Texas Coal Mining Regulations (TCMR) at § 779.137 pertaining to cross sections, maps, and plans included in a surface mining permit application.

OSM announced receipt of the proposed amendment in the September 20, 1995, Federal Register (60 FR 48677), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on October 20, 1995.

## III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

Texas proposed a revision at TCMR 779.137(l) which would allow professional biologists, as appropriate, to prepare and certify cross sections, maps, and plans that are submitted as part of the surface mining permit application. Currently the Texas program only allows qualified registered professional engineers or professional geologists, with assistance from experts in related fields such as land surveying and landscape architecture, to prepare and certify cross sections, maps, and plans.

Section 507(b)(14) of SMCRA, as amended on November 4, 1983, by section 115, Pub. L. 98-146, 97 Stat. 938, requires that cross sections, maps, or plans included in an application for a surface mining and reclamation permit be prepared by or under the direction of and certified by a qualified registered professional engineer, or professional geologist, or qualified registered professional land surveyor in any State which authorizes land surveyors to prepare and certify such maps or plans, with assistance from experts in related fields such as landscape architecture. The implementing Federal regulations at 30 CFR 779.25(b), as amended on April 24, 1985 (50 FR 16194), also require that cross sections, maps, and plans included in a permit application be prepared by or under the direction of and certified by the same professions specified in section 507(b)(14) of SMCRA. Thus under SMCRA and its implementing Federal regulations, only

professional engineers, geologists, and land surveyors may prepare and certify cross sections, maps, and plans in surface mining and reclamation permit applications.

Additionally, considering the Federal provisions under section 507(b)(14) of SMCRA and 30 CFR 779.25(b), Texas did not provide adequate information and documentation to support its proposed amendment to TCMR 779.137(l). Information on the types of cross sections, maps, and plans professional biologists would be allowed to prepare and certify was not provided. Information as to whether or not professional biologists possess the same expertise as qualified registered professional engineers and geologists with respect to preparation of cross sections, maps and plans included in surface coal mining permit applications was not provided. Also, documentation as to whether professional biologists are authorized by Texas law to prepare and certify these documents for surface coal mining permit applications was not provided.

Therefore, the Director finds that the proposed revision would render TCMR 779.136(l) inconsistent with both section 507(b)(14) of SMCRA and the Federal regulations at 30 CFR 779.25(b) and is not approving it.

## IV. Summary and Disposition of Comments

### Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received, and because no one requested an opportunity to speak at a public hearing, no hearing was held.

### Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Texas program (Administrative Record No. 596.01). Comments were received from the U.S. Bureau of Land Management, the U.S. Army Corps of Engineers, and the Natural Resources Conservation Service.

The U.S. Bureau of Land Management responded on September 15, 1995, that the revised regulation appeared to exceed Federal coal standards (Administrative Record No. 596.04). The U.S. Army Corps of Engineers responded on September 18, 1995, that the proposed regulation change was satisfactory to its agency (Administrative Record No. 596.02). The Natural Resources Conservation Service

responded on October 2, 1995, that it supported the amendment (Administrative Record No. 596.05).

As discussed in section III, neither SMCRA nor the Federal regulations authorize professional biologists to prepare and certify cross sections, maps, and plans included in surface mining and reclamation permit applications.

### Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated 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.*).

The revision that Texas proposed to make in this amendment did not pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. TX-596.01). EPA did not respond to OSM's request.

### State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP. Neither responded to the request for comments.

## V. Director's Decision

Based on the above finding in section III, the Director is not approving the proposed amendment, as submitted by Texas on August 31, 1995, that would allow professional biologists to prepare and certify cross sections, maps, and plans for surface mining permit applications.

The Federal regulations at 30 CFR Part 943, codifying decisions concerning the Texas program, are being amended to implement this decision. The final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

### Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program

be submitted to OSM for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In the oversight of the Texas program, the Director will recognize only the statutes, regulations and other materials approved by OSM, together with any consistent implementing policies, directives and other materials, and will require the enforcement by Texas of only such provisions.

#### VI. 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 the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

##### *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 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 27, 1995.

Brent Wahlquist,

*Regional Director, Mid-Continent Regional Coordinating Center.*

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

#### **PART 943—TEXAS**

1. The authority citation for Part 943 continues to read as follows:

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

2. Section 943.15 is amended by adding paragraph (k) to read as follows:

##### **§ 943.15 Approval of regulatory program amendments.**

\* \* \* \* \*

(k) Effective November 9, 1995, the revision to TCMR 779.137(l), as submitted to OSM on August 31, 1995, is not approved to the extent that it would allow professional biologists to prepare and certify cross sections, maps, and plans included in surface mining permit applications.

[FR Doc. 95-27811 Filed 11-8-95; 8:45 am]

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#### **FEDERAL COMMUNICATIONS COMMISSION**

##### **47 CFR Part 73**

[MM Docket No. 90-103, RM-7174]

##### **Radio Broadcasting Services; Mt. Pleasant, IA**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; petition for reconsideration.

**SUMMARY:** This document denies the petition for reconsideration filed by Susan I. Coloff of our *Report and Order*, 55 FR 47764 (Nov. 15, 1990) in this proceeding. The *Report and Order* substituted FM channel 288C3 for Channel 288A at Mount Pleasant and modified the license for Station KILJ to specify operation on the higher powered channel. The Commission determined that the public interest would be served by the substitution of Channel 288C3 for Channel A since it would provide the community with a wide coverage area FM service. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** November 9, 1995.

**FOR FURTHER INFORMATION CONTACT:** Arthur D. Scrutchins, Mass Media Bureau, (202) 776-1660.

**SUPPLEMENTARY INFORMATION:** This a synopsis of the Commission's *Order*, MM Docket No. 90-103, adopted October 24, 1995, and released November 2, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

##### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Douglas W. Webbink,

*Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 95-27721 Filed 11-8-95; 8:45 am]

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