

a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 931

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 24, 1996.

Richard J. Seibel,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 96-1989 Filed 1-31-96; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 943

[SPATS No. TX-029-FOR]

Texas 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 Texas regulatory program (hereinafter the "Texas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Texas Coal Mining Regulations pertaining to road systems, support facilities, and utility installations. The amendment is intended to revise the Texas program to be consistent with the corresponding Federal regulations and incorporate the additional flexibility afforded by the revised Federal regulations.

DATES: Written comments must be received by 4:00 p.m., c.s.t., March 4, 1996. If requested, a public hearing on the proposed amendment will be held on February 26, 1996. Requests to speak at the hearing must be received by 4:00 p.m., c.s.t., on February 16, 1996.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Jack R. Carson, Acting Director, Tulsa Field Office, at the address listed below.

Copies of the Texas 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 Tulsa Field Office.

Jack R. Carson, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma, 74135-6547, Telephone: (918) 581-6430.

Surface Mining and Reclamation Division, Railroad Commission of Texas, 1701 North Congress Avenue, P.O. Box 12967, Austin, Texas, 78711-2967, Telephone: (512) 463-6900.

FOR FURTHER INFORMATION CONTACT: Jack R. Carson, Acting Director, Tulsa Field Office, Telephone: (918) 581-6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. General 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 Texas program can be found at 30 CFR 943.10, 943.15, and 943.16.

II. Description of the Proposed Amendment

By letter dated December 20, 1995 (Administrative Record No. TX-608), Texas submitted a proposed amendment to its program pursuant to SMCRA. Texas submitted the proposed amendment in response to a February 21, 1990, letter (Administrative Record No. TX-476) that OSM sent to Texas in accordance with 30 CFR 732.17(c) and at its own initiative. The provisions of the Texas Coal Mining Regulations (TCMR) that Texas proposes to amend are TCMR 708.008(71), definition of road; 780.154, road systems and support facilities; 816.400-403, roads, primary roads, utility installations, and support facilities (surface); 784.198, road systems and support facilities

(underground); 817-569-572, roads, primary roads, utility installation, and support facilities (underground); 815.327, coal exploration performance standards; and 827.651, coal processing plants performance standards.

1. TCMR 701.008(71), Definition of Road.

Texas proposes to revise its definition of road to read as follows.

"Road" means a surface right-of-way for purposes of travel by land vehicles used in surface coal mining and reclamation operations or coal exploration. A road consists of the entire area within the right-of-way, including the roadbed, shoulders, parking and side areas, approaches, structures, ditches, and surface. The term includes access and haulroads constructed, used, reconstructed, improved, or maintained for use in surface coal mining and reclamation operations or coal exploration, including use by coal-hauling vehicles to and from transfer, processing, or storage areas. The term does not include ramps and routes of travel within the immediate mining area or within spoil or coal mine waste disposal areas.

2. TCMR 780.154 (Surface Mining) and 784.198 (Underground Mining), Road Systems and Support Facilities.

Texas proposes to remove its current provisions at TCMR 780.154 for surface mining operations and TCMR 784.198 for underground mining operations, entitled Transportation Facilities, and replace them with the following provisions, entitled Road Systems and Support Facilities. Significant differences between the surface and underground regulations are shown with the underground language in brackets.

(a) Plans and drawings. Each applicant for a surface [an underground] coal mining and reclamation permit shall submit plans and drawings for each road, as defined in Section 701.008 of this chapter, to be constructed, used, or maintained within the proposed permit area. The plans and drawings shall:

(1) Include a map, appropriate cross sections design drawings and specifications for road widths, gradients, surfacing materials, cuts, fill embankments, culverts, bridges, drainage ditches, low-water crossings, and drainage structures;

(2) Contain the drawings and specifications of each proposed road that is located in the channel of an intermittent or perennial stream, as necessary for approval of the road by the Commission in accordance with Section 816.400(d)(1) [817.569(d)(1)] of this chapter;

(3) Contain the drawings and specifications for each proposed ford of perennial or intermittent streams that is

used as a temporary route, as necessary for approval of the ford by the Commission in accordance with Section 816.401(c)(2) [817.570(c)(2)] of this chapter;

(4) Contain a description of measures to be taken to obtain approval of the Commission for alteration or relocation of a natural stream channel under Section 816.401(d)(5) [817.570(d)(5)] of this chapter;

(5) Contain the drawings and specifications for each low-water crossing of perennial or intermittent stream channels so that the Commission can maximize the protection of the stream in accordance with Section 816.401(d)(6) [817.570(d)(6)] of this chapter; and

(6) Describe the plans to remove and reclaim each road that would not be retained under an approved postmining land use, and the schedule for this removal and reclamation.

(b) Primary road certification. The plans and drawings for each primary road shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer with experience in the design and construction of roads as meeting the requirements of this chapter; current, prudent engineering practices; and any design criteria established by the Commission.

(c) Support Facilities. Each applicant for a surface [underground] coal mining and reclamation permit shall submit a description, plans, and drawings for each support facility to be constructed, used, or maintained within the proposed permit area. The plans and drawings shall include a map, appropriate cross sections, design drawings, and specifications sufficient to demonstrate compliance with Section 816.403 [817.572] of this chapter for each facility.

3. Texas proposes to repeal its current regulations pertaining to roads, other transportation facilities, support facilities, and utility installations at TCMR 816.400 through 422 for surface mining operations and at TCMR 817.569 through 591 for underground mining operations.

4. *TCMR 816.400 (Surface Mining) and TCMR 817.569 (Underground Mining), Roads: General.*

At TCMR 816.400 for surface mining operations and TCMR 817.569 for underground mining operations, Texas proposes the following new provisions pertaining to general requirements for roads. Differences between the surface and underground regulations are shown with the underground language in brackets.

(a) Road classification system.

(1) Each road, as defined in Section 701.008 of this chapter, shall be classified as either a primary road or an ancillary road.

(2) A primary road is any road which is:

- (i) Used for transporting coal or spoil;
- (ii) Frequently used for access or other purposes for a period in excess of six months; or
- (iii) To be retained for an approved postmining land use.

(3) An ancillary road is any road not classified as a primary road.

(b) Performance standards. Each road shall be located, designed, constructed, reconstructed, used, maintained, and reclaimed so as to:

(1) Control or prevent erosion, siltation, and the air pollution attendant to erosion, including road dust as well as dust occurring on other exposed surfaces, by measures such as vegetating, watering, using chemical or other dust suppressants, or otherwise stabilizing all exposed surfaces in accordance with current, prudent engineering practices;

(2) Control or prevent damage to fish, wildlife, or their habitat and related environmental values;

(3) Control or prevent additional contributions of suspended solids to stream flow or runoff outside the permit area;

(4) Neither cause nor contribute to, directly or indirectly, the violation of State or Federal water quality standards applicable to receiving waters;

(5) Refrain from seriously altering the normal flow of water in streambeds or drainage channels;

(6) Prevent or control damage to public or private property, including the prevention or mitigation of adverse effects on lands within the boundaries of units of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including designated study rivers, and National Recreation Areas designated by Act of Congress; and

(7) Use nonacid- and nontoxic-forming substances in road surfacing.

(c) Design and construction limits and establishment of design criteria. To ensure environmental protection appropriate for their planned duration and use, including consideration of the type and size of equipment used, the design and construction or reconstruction of roads shall incorporate appropriate limits for grade, width, surface materials, surface drainage control, culvert placement, and culvert size, in accordance with current, prudent engineering practices, and any

necessary design criteria established by the Commission.

(d) Location.

(1) No part of any road shall be located in the channel of an intermittent or perennial stream unless specifically approved by the Commission in accordance with the applicable portions of Sections 816.339 through 816.355 [817.509 through 817.524] of this chapter.

(2) Roads shall be located to minimize downstream sedimentation and flooding.

(e) Maintenance.

(1) A road shall be maintained to meet the performance standards of this part and any additional criteria specified by the Commission.

(2) A road damaged by a catastrophic event, such as a flood or earthquake, shall be repaired as soon as is practicable after the damage has occurred.

(f) Reclamation. A road not to be retained under an approved postmining land use shall be reclaimed in accordance with the approved reclamation plan as soon as practicable after it is no longer needed for mining and reclamation operations. This reclamation shall include:

(1) Closing the road to traffic;

(2) Removing all bridges and culverts unless approved as part of the postmining land use;

(3) Removing or otherwise disposing of road-surfacing materials that are incompatible with the postmining land use and revegetation requirements;

(4) Reshaping cut and fill slopes as necessary to be compatible with the postmining land use and to complement the natural drainage pattern of the surrounding terrain;

(5) Protecting the natural drainage patterns by installing dikes or cross drains as necessary to control surface runoff and erosion; and

(6) Scarifying or ripping the roadbed; replacing topsoil or substitute material, and revegetating disturbed surfaces in accordance with Sections 816.334 through 816.338 and 816.390 through 816.396 [817.504 through 817.508 and 817.555 through 817.561] of this chapter.

5. *TCMR 816.401 (Surface Mining) and TCMR 817.570 (Underground Mining), Primary Roads.*

At TCMR 816.401 for surface mining operations and 817.570 for underground mining operations, Texas proposes the following new provisions pertaining to primary roads. Differences between the surface and underground regulations are shown with the underground language in brackets.

Primary roads shall meet the requirements of Section 816.400

[817.569] and the additional requirements of this section.

(a) Certification. The construction or reconstruction of primary roads shall be certified in a report to the Commission by a qualified registered professional engineer [with experience in the design and construction of roads]. The report shall indicate that the primary road has been constructed or reconstructed as designed and in accordance with the approved plan.

(b) Safety Factor. Each primary road embankment shall have a minimum static factor of 1.3 or meet the requirements established under Section 780.154 [784.198] of this chapter.

(c) Location.

(1) To minimize erosion, a primary road shall be located, insofar as is practicable, on the most stable available surface.

(2) Fords of perennial or intermittent streams by primary roads are prohibited unless they are specifically approved by the Commission as temporary routes during periods of road construction.

(d) Drainage control. In accordance with the approved plan:

(1) Each primary road shall be constructed or reconstructed, and maintained to have adequate drainage control, using structures such as, but not limited to bridges, ditches, cross drains, and ditch relief drains. The drainage control system shall be designed to safely pass the peak runoff from a 10-year, 6-hour precipitation event, or greater event as specified by the Commission;

(2) Drainage pipes and culverts shall be installed as designed, and maintained in a free and operating condition and to prevent or control erosion at inlets and outlets;

(3) Drainage ditches shall be constructed and maintained to prevent uncontrolled drainage over the road surface and embankment;

(4) Culverts shall be installed and maintained to sustain the vertical soil pressure, the passive resistance of the foundation, and the weight of vehicles using the road;

(5) Natural stream channels shall not be altered or relocated without the prior approval of the Commission in accordance with applicable Sections 816.339 through 816.355 [817.509 through 817.524] of this chapter; and

(6) Except as provided in paragraph (c)(2) of this Section, structures for perennial or intermittent stream channel crossings shall be made using bridges, culverts, low-water crossings, or other structures designed, constructed, and maintained using current, prudent engineering practices. The Commission shall ensure that low-water crossings are

designed, constructed, and maintained to prevent erosion of the structure or streambed and additional contributions of suspended solids to steamflow.

(e) Surfacing. Primary roads shall be surfaced with material approved by the Commission as being sufficiently durable for the anticipated volume of traffic and the weight and speed of vehicles using the road.

6. *TCMR 816.402 (Surface Mining) and TCMR 817.571 (Underground Mining), Utility Installations.*

At TCMR 816.402 for surface mining operations and TCMR 817.571 for underground mining operations, Texas proposes the following new provision pertaining to utility installations. There is no difference in the language of the surface and underground regulations.

All surface coal mining operations [underground mining activities] shall be conducted in a manner which minimizes damage, destruction, or disruption of services provided by oil, gas, and water wells; oil, gas, and coal-slurry pipelines; railroads; electric and telephone lines; and water and sewage lines which pass over, under, or through the permit area, unless otherwise approved by the owner of those facilities and the Commission.

7. *TCMR 816.403 (Surface Mining) and TCMR 817.572 (Underground Mining), Support Facilities.*

At TCMR 816.403 for surface mining operations and TCMR 817.572 for underground mining operations, Missouri proposes the following new provisions pertaining to support facilities. There is no difference in the language of the surface and underground regulations.

(a) Support facilities shall be operated in accordance with a permit issued for the mine or coal preparation operation to which it is incident or from which its operation results.

(b) In addition to the other provisions of this part, support facilities shall be located, maintained, and used in a manner that:

(1) Prevents or controls erosion and siltation, water pollution, and damage to public or private property; and

(2) to the extent possible using the best technology currently available—

(i) Minimizes damage to fish, wildlife, and related environmental values; and

(ii) Minimizes additional contributions of suspended solids to streamflow or runoff outside the permit area. Any such contributions shall not be in excess of limitations of State or Federal law.

8. *TCMR 815.327, Performance Standards For Coal Exploration.*

Texas proposes to remove the existing language in subsections (c)(1) through

(c)(4) and replace it with the following language.

(c) All roads or other transportation facilities used for coal exploration shall comply with the applicable provisions of Sections 816.400 (b) through (f), 816.402, and 816.403 of this chapter.

9. *TCMR 827.651, Coal Processing Plants: Performance Standards.*

1. At TCMR 827.651(b), Texas proposes to change the sections referenced from "400-.422" to "816.400 and 816.401 of this chapter."

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 Texas 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 Tulsa 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 4:00 p.m., c.s.t. on February 16, 1996. The location and time of the hearing will be arranged with those persons requesting the hearing. 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**. If no one requests an opportunity to speak 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

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

IV. Procedural Determinations

Executive Order 12866

This 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 counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 25, 1996.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 96-1990 Filed 1-31-96; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN57-1-7204b; FRL-5334-1]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA proposes to approve Indiana's August 25, 1995, request to ban residential open burning in Clark, Floyd, Lake, and Porter Counties as part of the State's 15 percent Rate of Progress Plan control measures for Volatile Organic Compounds emissions. In the final rules section of this Federal Register, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are

received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received on or before March 4, 1996.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Regulation Development Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Regulation Development Section, Regulation Development Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-3299.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this Federal Register.

Dated: October 31, 1995.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96-1844 Filed 1-31-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[IL112-1-6759b; FRL-5331-8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) proposes to approve Illinois' October 24, 1994, site-specific State Implementation Plan (SIP) revision request establishing RACT requirements for Alumax Incorporated, Morris, Illinois facility's aluminum rolling mills. In the final rules section of this