

NATIONAL LABOR RELATIONS BOARD**29 CFR Part 102****Procedure Governing Advisory Opinions and Rules Governing Summary Judgment Motions and Advisory Opinions**

AGENCY: National Labor Relations Board.

ACTION: Notice of extension of time for filing comments to proposed rulemaking.

SUMMARY: Pursuant to a request from the American Bar Association Subcommittee on NLRB Practice and Procedure, the NLRB gives notice that it is extending by approximately 30 days the time for filing comments on the proposed rule changes published on July 5, 1996 (61 FR 35172) which would eliminate the notice-to-show-cause procedure in summary judgment cases and remove provisions which permit parties to pending state proceedings to file petitions with the Board for an advisory opinion on jurisdiction.

DATES: The comment period which currently ends on August 5, 1996, is extended to September 5, 1996.

ADDRESSES: Comments on the proposed rulemaking should be sent to: Office of the Executive Secretary, 1099 14th Street, NW, Rm 11600, Washington, D.C. 20570.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, Telephone: (202) 273-1940.

Dated, Washington, D.C., July 29, 1996.

By direction of the Board.

John J. Toner,

Executive Secretary.

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DEPARTMENT OF THE INTERIOR**Office of Surface Mining Reclamation and Enforcement****30 CFR Part 936**

[SPATS No. OK-019-FOR]

Oklahoma Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Oklahoma

regulatory program (hereinafter, the "Oklahoma program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of additions and revisions to Oklahoma's regulations pertaining to repair or compensation for material damage resulting from subsidence caused by underground coal mining operations and to replacement of water supplies adversely impacted by underground coal mining operations. The amendment is intended to revise the Oklahoma program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4:00 p.m., c.d.t., September 3, 1996. If requested, a public hearing on the proposed amendment will be held on August 27, 1996. Requests to present oral testimony at the hearing must be received by 4:00 p.m., c.d.t. on August 19, 1996.

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

Copies of the Oklahoma program, the proposed amendment, 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 on 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.

Oklahoma Department of Mines, 4040 N. Lincoln Blvd., Suite 107, Oklahoma City, Oklahoma 73105, Telephone: (404) 521-3859.

FOR FURTHER INFORMATION CONTACT: Jack R. Carson, Telephone (918) 581-6430.

SUPPLEMENTARY INFORMATION:**I. Background on the Oklahoma Program**

On January 19, 1981, the Secretary of the Interior conditionally approved the Oklahoma program. General background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Oklahoma program can be found in the January 19, 1981, Federal Register (46 FR 4902). Subsequent actions concerning Oklahoma's program and program amendments can be found at 30 CFR 936.15 and 936.16.

II. Proposed Amendment

By letter dated July 17, 1996, Oklahoma submitted a proposed amendment to its program pursuant to SMCRA (Administrative Record No. OK-975). Oklahoma submitted the proposed amendment in response to a May 20, 1996, letter that OSM sent to Oklahoma in accordance with 30 CFR 732.17(c). Oklahoma proposed to revise the Oklahoma Coal Rules and Regulations at Oklahoma Administrative Code (OAC) 460:20-3-5, definitions; OAC 460:20-31-7, hydrologic information; OAC 460:20-31-13, subsidence control plan; OAC 460:20-45-8, hydrologic-balance protection; and OAC 460:20-45-47, subsidence control. Specifically, Oklahoma proposes the following additions and revisions to its regulations.

1. OAC 460:20-3-5 Definitions

Oklahoma proposes to add definitions for the terms "drinking, domestic or residential water supply"; "material damage"; "non-commercial building"; and "replacement of water supply."

2. OAC 460:20-31-7 Hydrologic Information

Oklahoma proposes to add a new provision at OAC 460:20-31-7(e)(3)(D) that requires the PHC determination to include findings on "whether the underground mining activities conducted after October 24, 1992 may result in contamination, diminution or interruption of a well or spring in existence at the time the permit application is submitted and used for domestic, drinking, or residential purposes within the permit or adjacent areas."

3. OAC 460:20-31-13 Subsidence Control Plan

Oklahoma proposes to remove the existing introductory paragraph and to replace it with new subsections (a) and (b). Paragraphs (a) (1) through (3) contain requirements for an application to include a map, a narrative, and a pre-subsidence survey indicating the location, type, and condition of structures and renewable resource lands that subsidence may materially damage or diminish in value and of drinking, domestic, and residential water supplies that subsidence may contaminate, diminish, or interrupt.

Subsection (b) contains revised requirements for a subsidence control plan. A new introductory paragraph provides that no further information need be provided in the application if the survey conducted under paragraph (a) shows that no structures; drinking,

domestic, or residential water supplies; or renewable resource lands exist or that no material damage or diminution in value or reasonably foreseeable use of such structures or lands and no contamination, diminution, or interruption of such water supplies would occur as a result of mine subsidence. The Department must agree with the conclusion of the survey. A subsidence control plan is required if the survey identifies the existence of structures, renewable resource lands, or water supplies; if subsidence could cause material damage or diminution in value or foreseeable use, or contamination, diminution, or interruption of protected water supplies; or if the Department determines that such damage or diminution could occur.

The language in existing paragraph (7) was removed and new language was added to require operators conducting operations that result in planned and controlled subsidence to describe the subsidence control measures they will use to minimize subsidence and subsidence-related material damage to non-commercial buildings and occupied residential dwellings and related structures; or to submit the written consent of the owner of the structure or facility that minimization measures need not be taken; or to demonstrate that the costs of minimizing damage to these structures exceed the anticipated cost of repair and are not needed to prevent a threat to health or safety.

Existing paragraph (8) was redesignated paragraph (b)(9) and new paragraph (b)(8) requires a description of the measures to be taken to replace adversely affected protected water supplies or to mitigate or remedy any subsidence-related material damage to protected land and structures.

4. OAC 460:20-45-8 Hydrologic-balance protection

Oklahoma proposes to add new subsection (j) that requires the permittee to replace any drinking, domestic or residential water supply that is contaminated, diminished or interrupted by underground mining activities conducted after October 24, 1992.

5. OAC 460:20-45-47 Subsidence Control

Oklahoma proposes to revise subsection (a) by adding the title "Operator measures to prevent or minimize damage"; by numbering the existing provision (1); and by adding two new provisions. Paragraph (a)(2) provides that if planned subsidence is used, the operator must minimize material damage to the extent

technologically and economically feasible unless he has the written consent of the owners or the costs would exceed the anticipated costs of repair. Paragraph (a)(3) provides that the standard method of room-and-pillar mining is not prohibited.

Oklahoma proposes to revise subsection (b) by adding the title "Operator compliance."

Oklahoma proposes to revise subsection (c) by adding the title "Repair of damage to surface lands"; by deleting the existing language and adding new language in paragraph (2); and by adding new paragraphs (3), (4), and (5). New paragraph (c)(2) requires the operator to repair or compensate the owner for subsidence-related material damage to non-commercial buildings or occupied residential dwellings that existed at the time of mining.

New paragraph (c)(3) provides for repair or compensation for subsidence-related material damage to structures or facilities not protected by paragraph (c)(2).

New paragraph (c)(4)(A) provides that if damage to non-commercial buildings or occupied residential dwellings and related structures occurs as a result of earth movement within the area determined by projecting a specified angle of draw from underground mine workings to the surface, a rebuttable presumption exists that the permittee caused the damage. The presumption will normally apply to a 30-degree angle of draw. New paragraph (c)(4)(B) provides that the operator may request that the presumption apply to a different site-specific angle of draw based on a site-specific geotechnical analysis of the potential surface impact of the mining operation that demonstrates that the proposed angle of draw has a more reasonable basis than the one established in the Oklahoma program. New paragraph (c)(4)(C) provides that no rebuttable presumption will exist if the operator is denied access to the land or property for the purpose of conducting a pre-subsidence survey. New paragraph (c)(4)(D) provides for a rebuttal of presumption under specified circumstances. New paragraph (c)(4)(E) provides that all relevant and reasonably available information will be considered in determining whether damage to protected structures was caused by subsidence. New paragraph (c)(5) provides for an adjustment of bond amount for subsidence-related material damage to protected land, structures, or facilities and for contamination, diminution, or interruption to a water supply. No additional bond is required if repairs, compensation or replacement

is completed within 90 days of the occurrence of damage. Oklahoma may extend the 90-day time frame, not to exceed one year, under specified circumstances.

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 Oklahoma program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the cementer'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 testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t. on August 19, 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 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.

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

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 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (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 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 of 1969 (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 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.

Unfunded Mandates

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 25, 1996.

Deborah Watford,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FRL Doc. 96-19610 Filed 8-1-96; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-5545-6]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Delete Northwest 58th Landfill Site from the National Priorities List: request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region IV announces its intent to delete the Northwest 58th Street Landfill Site from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Florida Department of Environmental Protection

(FDEP) have determined that the Site poses no significant threat to public health or the environment and therefore, further response measures pursuant to CERCLA are not appropriate.

DATES: Comments concerning this Site may be submitted on or before: September 3, 1996.

ADDRESSES: Comments may be mailed to: Richard D. Green, Acting Director, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street NE, Atlanta, Georgia 30365.

Comprehensive information on this Site is available through the Region IV public docket, which is available for viewing at the Northwest 58th Street information repositories at two locations. Locations, contacts, phone numbers and viewing hours are:

U.S. EPA Record Center, 345 Courtland Street, NE, Atlanta, Georgia 30365, Phone: (404)347-0506, Hours: 8:00 a.m. to 4:00 p.m., Monday through Friday By Appointment Only
Metropolitan Dade County, Department of Environmental Resource Management, Hazardous Waste Section, 33 S.W. 2nd Avenue, Suite 800, Miami, Florida 33130, Phone: (305) 372-6804, Hours: 8:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Pamela Scully, U.S. EPA Region IV, Mail Code: WD-SSRB, 345 Courtland Street NE, Atlanta, Georgia 30365, (404)347-2643 x6246.

SUPPLEMENTARY INFORMATION:

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- I. Introduction
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- IV. Basis for Intended Site Deletion

I. Introduction

The EPA Region IV announces its intent to delete the Northwest 58th Street Site, Dade County, Florida, from the NPL, which constitutes Appendix B of the NCP, 40 CFR Part 300, and requests comments on this deletion. EPA identifies sites on the NPL that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Trust Fund (Fund). Pursuant to Section 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action.

EPA will accept comments concerning this Site for thirty days after publication of this notice in the Federal Register.