

associated with exposure to high concentrations of diesel particulate matter. The Agency, therefore, intends to include these studies in both rulemaking records and make them available to interested parties upon request. These studies do not change the Agency's proposed findings.

The Agency is also announcing that it will hold public hearings on its proposed rule addressing diesel particulate matter exposure in underground metal and nonmetal mines in the following locations: Salt Lake City, Utah; Albuquerque, New Mexico; St. Louis, Missouri; and Knoxville, Tennessee.

**DATES:** Written comments on the three studies and on both proposed rules must be submitted on or before April 30, 1999.

The hearing dates, times and specific locations will be announced by a separate notice in the **Federal Register**. The rulemaking record for the metal and nonmetal proposed rule will remain open 60 days after the last public hearing.

**ADDRESSES:** Copies of the three studies are available to interested members of the public and may be obtained from the Office of Standards, Regulations and Variances, 703-235-1910.

Comments on the proposed rules may be transmitted by electronic mail, fax, or mail. Comments by electronic mail must be clearly identified as such and sent to this E-mail address:

comments@msha.gov. Comments by fax must be clearly identified as such and sent to: MSHA, Office of Standards, Regulations, and Variances, 703-235-5551. Send mail comments to: MSHA, Office of Standards, Regulations, and Variances, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203-1984. Interested persons are encouraged to supplement written comments with computer files or disks; please contact the Agency with any questions about format.

**FOR FURTHER INFORMATION CONTACT:** Carol J. Jones, Acting Director; Office of Standards, Regulations, and Variances; MSHA; 703-235-1910.

**SUPPLEMENTARY INFORMATION:** On April 9, 1998 (63 FR 17492) and October 29, 1998 (63 FR 58104), MSHA published proposed rules to reduce the risks to underground coal and metal and nonmetal miners, respectively, of serious health hazards that are associated with exposure to high concentrations of diesel particulate matter (dpm). DPM is a very small particle in diesel exhaust. Underground miners are exposed to far higher

concentrations of this fine particulate than any other group of workers.

#### **A. Cumulative Evidence**

In its proposals, MSHA stated that the best available evidence indicates that such high exposures put these miners at excess risk of a variety of adverse health effects, including lung cancer. There is clear evidence that exposure to high concentrations of dpm can result in a variety of serious health effects. These health effects include: (1) Sensory irritations and respiratory symptoms serious enough to distract or disable miners; (2) death from cardiovascular, cardiopulmonary, or respiratory causes; and (3) lung cancer.

The Agency has reviewed cumulative evidence to support its findings that underground miners are at risk from exposure to dpm. MSHA intends to supplement the rulemaking records with the following studies:

(1) Christie, D.G., et al., "Mortality in the New South Wales Coal Industry, 1973-1992," *Medical Journal of Australia*, 163(1):19-21, July 3, 1995.

(2) Johnston, A.M., et al., "Investigation of the Possible Association Between Exposure to Diesel Exhaust Particulates in British Coal Mines and Lung Cancer," *Institute of Occupational Medicine (IOM), Report TM/97/08*, (Edinburgh, Scotland), November 1997.

(3) Steenland, Kyle, et al., "Diesel Exhaust and Lung Cancer in the Trucking Industry: Exposure-Response Analyses and Risk Assessment," *American Journal of Industrial Medicine*, 34:220-228, 1998.

These studies are available and may be obtained by contacting the Office of Standards, Regulations and Variances, 703-235-1910.

#### **B. Diesel Particulate Matter Exposure of Underground Coal Miners**

The post-hearing comment period for the proposed rule addressing diesel particulate matter exposure of underground coal miners was scheduled to close on February 16, 1999 (63 FR 55811). However, in response to requests from the public to extend the post-hearing comment period, and in order to give the public an opportunity to comment on the three studies, the record for the coal proposed rule will remain open until April 30, 1999. This provides a total of 12 months from date of publication for the public to comment on the proposed rule.

#### **C. Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners**

The comment period for the proposed rule addressing diesel particulate matter exposure of underground metal and nonmetal miners was scheduled to close

on February 26, 1999 (63 FR 58104). The Agency has received several requests from the public for additional time to prepare their comments on the proposed rule. Since the Agency also intends to supplement the rulemaking record with three new studies, the public comment period will be extended until April 30, 1999.

MSHA believes that extension of the comment periods for both rulemakings will provide sufficient time for all interested parties to review the studies and the proposed rules, and submit comments. All interested members of the mining community are encouraged to submit comments prior to April 30, 1999.

#### **D. Public Hearings**

MSHA plans to hold public hearings on the proposed rule addressing diesel particulate matter exposure of underground metal and nonmetal miners. The hearings will be held in Salt Lake City, Utah; Albuquerque, New Mexico; St. Louis, Missouri; and Knoxville, Tennessee. The hearing dates, times, and specific locations will be announced by a separate document in the **Federal Register**. The hearings will be held under Section 101 of the Federal Mine Safety and Health Act of 1977.

Dated: February 9, 1999.

**Marvin W. Nichols, Jr.,**

*Deputy Assistant Secretary  
for Mine Safety and Health.*

[FR Doc. 99-3474 Filed 2-11-99; 8:45 am]

BILLING CODE 4510-43-U

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## **DEPARTMENT OF THE INTERIOR**

### **Office of Surface Mining Reclamation and Enforcement**

#### **30 CFR Part 943**

[SPATS No. TX-045-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 an amendment to the Texas regulatory program (Texas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Texas proposes revisions to regulations concerning air pollution control plans; reclamation plans; general requirements; air resources protection; stabilization of surface areas; and coal

processing plants: performance standards. Texas intends to revise its program to be consistent with the corresponding Federal regulations.

This document gives the times and locations that the Texas program and the amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that will be followed for the public hearing, if one is requested.

**DATES:** We will accept written comments until 4:00 p.m., c.s.t., March 15, 1999. If requested, we will hold a public hearing on the amendment on March 9, 1999. We will accept requests to speak at the hearing until 4:00 p.m., c.s.t. on March 1, 1999.

**ADDRESSES:** You should mail or hand deliver written comments and requests to speak at the hearing to Michael C. Wolfrom, Director, Tulsa Field Office, at the address listed below.

You may review copies of the Texas program, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office.

Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 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:** Michael C. Wolfrom, Director, Tulsa Field Office. Telephone: (918) 581-6430.  
Internet: mwolfrom@mcrgw.osmre.gov.

#### **SUPPLEMENTARY INFORMATION:**

#### **I. Background on the Texas Program**

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

#### **II. Description of the Proposed Amendment**

By letter dated January 28, 1999 (Administrative Record No. TX-647), Texas sent us an amendment to its program under SMCRA. The amendment includes changes made at Texas' own initiative. Texas proposes to amend the Texas Coal Mining Regulations. Below is a summary of the changes proposed by Texas. The full text of the program amendment is available for your inspection at the locations listed above under **ADDRESSES**.

The amendment revises the following topics and sections of the Texas Coal Mining Regulations:

1. *Section 12.143 Air Pollution Control Plan (Surface Mining).*

Texas proposes to update reference citations for applicable performance standards in paragraphs (a)(2), (b)(1) and (b)(2).

2. *Section 12.145 and Section 12.187 Reclamation Plan: General Requirements (Surface Mining and Underground Mining, respectively).*

Texas proposes to update and change one of the reference citation titles in paragraph (b)(3) of both sections from "Regrading or Stabilizing Rills and Gullies" to "Stabilization of Surface Areas."

3. *Section 12.199 Air Pollution Control Plan (Underground Mining).*

Texas proposes to update the reference citation for applicable performance standards in paragraph (2). The updated reference citation is Section 12.554 Stabilization of Surface Areas.

4. *Section 12.379 and Section 12.546 Air Resources Protection (Surface Mining and Underground Mining, respectively).*

Texas proposes to delete these two sections from its regulations.

5. *Section 12.389 and Section 12.554 Regrading or Stabilizing Rills and Gullies (Surface Mining and Underground Mining, respectively).*

Texas proposes to change the name of these two sections from "Regrading or Stabilizing Rills and Gullies" to "Stabilization of Surface Areas." Texas also proposes to delete the existing language in these sections and replace it with the following language:

(a) All exposed surface areas shall be protected and stabilized to effectively control erosion and air pollution attendant to erosion.

(b) Rills and gullies, which form in areas that have been regraded and topsoiled and which either:

(1) Disrupt the approved postmining land use or the reestablishment of the vegetative cover; or

(2) Cause or contribute to a violation of water-quality standards for receiving streams; shall be filled, regraded or otherwise stabilized; topsoil shall be replaced; and the areas shall be reseeded or replanted.

6. *Section 12.651 Coal Processing Plants: Performance Standards (Surface Mining).*

Texas proposes to delete the existing language in paragraph (9) and replace it with the following language:

(9) Erosion and air pollution attendant to erosion shall be controlled in accordance with § 12.389 of this title (relating to Stabilization of Surface Areas);

Texas also proposes to update and change one of the reference citation titles from "Regrading or Stabilizing Rills and Gullies" to "Stabilization of Surface Areas."

#### **III. Public Comment Procedures**

Under the provisions of 30 CFR 732.17(h), we are requesting comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Texas program.

#### *Written Comments*

Your written comments should be specific and pertain only to the issues proposed in this rulemaking. You should explain the reason for any recommended change. In the final rulemaking, we will not necessarily consider or include in the Administrative Record any comments received after the time indicated under **DATES** or at locations other than the Tulsa Field Office.

#### *Public Hearing*

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.s.t. on March 1, 1999. We will arrange the location and time of the hearing with those persons requesting the hearing. If you are disabled and need special accommodation to attend a public hearing, contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. We will not hold the hearing if no one requests an opportunity to speak at the public hearing.

You should file a written statement at the time you request the hearing. This will allow us 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. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after

those who have been scheduled. We will end the hearing 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, we may hold a public meeting, rather than a public hearing. If you wish to meet with us to discuss the amendment, request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will also make a written summary of each meeting part of the Administrative Record.

### IV. Procedural Determinations

#### Executive Order 12866

The Office of Management and Budget (OMB) exempts this rule from review 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, 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 program is drafted and published 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 State regulatory programs and program amendments 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

This rule does not require an environmental impact statement since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on 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. Therefore, this rule will ensure that existing requirements previously published 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.

#### Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on local, state, or tribal governments or private entities.

#### List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 4, 1999.

#### Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 99-3435 Filed 2-11-99; 8:45 am]

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### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 165

[CGD01-98-175]

RIN 2121-AA97

#### Safety Zone: New York Super Boat Race, Hudson River, New York

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a permanent safety zone that will be enacted annually for the New York Super Boat Race. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel

traffic in the lower Hudson River, New York.

**DATES:** Comments must be received on or before April 13, 1999.

**ADDRESSES:** Comments may be mailed to the Waterways Oversight Branch (CGD01-98-175), Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, New York 10305, or deliver them to room 205 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The Waterways Oversight Branch of Coast Guard Activities New York maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room 205, Coast Guard Activities New York, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant J. Lopez, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4193.

#### SUPPLEMENTARY INFORMATION:

#### Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD01-98-175) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the waterways Oversight Branch at the address under Addresses. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

#### Background and Purpose

Super Boat International Productions sponsors this annual high-speed power