DEPARTMENT OF THE INTERIOR
Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936 [SPATS No. OK–025–FOR]

Oklahoma Regulatory Program

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

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

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Oklahoma regulatory program (Oklahoma program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Oklahoma proposes revisions to its rules concerning permit revisions. Oklahoma intends to revise its program to be consistent with the corresponding Federal regulations.

This document gives the times and locations that the Oklahoma program and the proposed 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 we will follow for the public hearing, if one is requested.

DATES: We will accept written comments until 4 p.m., c.s.t., March 19, 2001. If requested, we will hold a public hearing on the amendment on March 12, 2001. We will accept requests to speak at the hearing until 4 p.m., c.s.t. on March 2, 2001.

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 Oklahoma program, the proposed 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.


FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office, Telephome: (918) 581–6430. Internet: mwolfrom@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Oklahoma Program

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

II. Description of the Proposed Amendment

By letter dated January 25, 2001 (Administrative Record No. OK–990), the Oklahoma Department of Mines (Department) sent us an amendment to the Oklahoma program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Oklahoma sent the amendment at its own initiative. Oklahoma is amending its rules at 460:20–17–3 concerning permit revisions by providing guidelines for determining when a permit revision is major/significant or minor and by specifying a time period for approval or disapproval of a permit revision application. Below is a summary of the changes proposed by Oklahoma.

1. OAC 460:20–17–3(a) General. At Section 460:20–17–3(a) Oklahoma is adding the following provision:

Any revision application to the approved mining or reclamation plan will be subject to review and approval by the Department. During the review revision, the revision will be classified as either: (1) Major or Significant; or (2) Minor.

2. OAC 460:20–17–3(b) Application requirements and procedures. Oklahoma is removing the existing provisions in Section 460:20–17–3(b), and adding the following new provisions:

(b) Application requirements and procedures. A permittee is required to submit any permit revision applications to the Chief of Technical Services for review. The Technical Service review shall determine:

(1) Whether the permittee has provided all information the Department deems necessary to adequately evaluate and find that the revision meets the requirements of the statutes and of this Chapter; and

(2) Whether the revision application contains any deficiencies. The Department is required to send written notification to the permittee of any deficiencies along with a response date deadline for answering the deficiencies noted. Any deadline extension requests shall be in writing and are subject to the approval of the Chief of Technical Services. Failure of the permittee to file written responses within the required time frames, will result in the denial of the revision application.

3. OAC 460:20–17–3(c) Significant revisions. Oklahoma is moving the existing provision in Section 460:20–17–3(c) to new Section 460:20–17–3(f), and is adding the following provision to Section OAC 460:20–17–3(c):

A significant revision to the mining or reclamation plan will be subject to the permit application information requirements and procedures of this Subchapter, including notice, public participation, and notice of decision requirements of Sections 460:20–15–5, 460:20–15–8(b)(1) and (3), and 460:20–23–9 prior to approval by the Department and implementation by the permittee.

4. OAC 460:20–17–3(d) Departmental consideration. Oklahoma is moving the existing provision in Section 460:20–17–3(d) to new Section 460:20–17–3(g), and is adding the following new provisions to Section OAC 460:20–17–3(d):

(d) Departmental consideration. The Department will consider any proposed revision to be significant if its implementation could reasonably be expected, in the opinion of the Director, to result in any adverse impact to persons, property, or the environment outside the permit area. Revisions with impacts confined to the permit area will be evaluated on a case by case basis to determine if significant. While consideration will be given to the size, location, type and extent of impact in classifying a revision, the following will typically be considered significant:

(1) Incidental boundary changes;

(2) Hydrology plan changes which could have adverse impacts outside the permit area, such as:

(A) The addition or relocation of permanent impoundments;

(B) The addition, deletion, or relocation of stream diversions;

(C) The addition or deletion of acid mine drainage treatment facilities;

(3) The addition of a coal wash plant;

(4) The addition of or changes to a non coal waste storage plan;

(5) Construction or relocation of county roads;

(6) Addition of blasting plans;

(7) Postmining land use changes to residential, industrial or commercial (except for changes involving oil and gas wells and private roads), recreation, or developed water resources as discussed 460:20–27–14(a)(2);

(8) Changes impacting historical or cultural areas, high value wildlife habitat, and parks and public places;

(9) Permanent changes which could have a limiting or adverse effect on the long term future of the land; and

(10) Other changes deemed significant by the Director which affect the landowner and or the public.
IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations. Section 503(a)(7) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be in accordance with the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations “consistent with” regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of this 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 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(b)(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

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State program provision does not constitute a major Federal action within the meaning of
Section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget 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. Therefore, 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.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

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.


Charles E. Sandberg,
Acting Regional Director, Mid-Continent Regional Coordinating Center.

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Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA–132–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 regulatory program (Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of excerpts of House Bill 393 containing costs in mine proceedings legislation. The amendment is intended to revise the Pennsylvania program to be consistent with the corresponding federal regulations.

DATES: If you submit written comments, they must be received by 4 p.m. (local time), March 19, 2001. If requested, a public hearing on the proposed amendment will be held on March 12, 2001. Requests to speak at the hearing must be received by 4 p.m. (local time), on March 2, 2001.

ADDRESSES: Mail or hand-deliver your written comments and requests to speak at the hearing to Mr. Robert J. Biggi, at the address listed below.

You may review 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 at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the proposed amendment by contacting OSM’s Harrisburg Field Office.

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, e-mail: bbiggi@osmre.gov.

Pennsylvania Department of Environmental Protection, Bureau of Mining and Reclamation, Rachel Carson State Office Building, P.O. Box 8461, Harrisburg, Pennsylvania 17105–8461, Telephone: (717)787–5103.

FOR FURTHER INFORMATION CONTACT: Robert J. Biggi, Director, Harrisburg Field Office, Telephone: (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. You can find background information on the Pennsylvania program, including the Secretary’s findings, the disposition of comments, and the conditions of the approval in the July 31, 1982, Federal Register (47 FR 33050). You can find subsequent actions concerning the conditions of approval and program amendments at 30 CFR 938.11, 938.12, 938.15 and 938.16.

II. Description of the Proposed Amendment

By letter dated January 3, 2001, (Administrative Record No. PA–848.25), Pennsylvania submitted a proposed amendment to its program at the Pennsylvania Consolidated Statutes, Title 27 (Environmental Resources), Chapter 77, section 7708. The full text of the amendment is:

Excerpts of House Bill 393 Containing Costs in Mine Proceedings Legislation

Amending Title 27 (Environmental Resources) of the Pennsylvania Consolidated Statutes, providing for participation in environmental law or regulation and for costs in mining proceedings.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 27 of the Pennsylvania Consolidated Statutes is amended by adding chapters to read:

Subpart A

General provisions

Chapter 77. Costs and fees

Sec. 7708. Costs for mining proceedings.

(A) Purpose.—This section establishes costs and fees available in proceedings involving coal mining activities. The purpose of this section is to provide costs and fees to the same extent of section 525(e) of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95–87, 30 U.S.C. § 1201

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