

Original amendment submission date	Date of final publication	Citation/description
October 5, 2000	May 9, 2001	10 CSR 40–3.010(6); 3.020(3); 3.040(2)(A)1, 2, 3.B, 4, 5, 6; 3.040(4)(A)1 and (B)3; 3.040(6)(A), (B), (C), (E), (F), (G), (H), (Q), (T), (U); 3.040(8); 3.040(10)(A), (B)5, (L), (M), (N), (O), (O)1, (O)2.A and B, (O)2.C, (O)3, (O)3.A and B; 3.040(10)(O)3.C [not approved]; 3.040(13)(A)1.A and (B)1; 3.040(14)(B)3; 3.040(17); 3.050 Purpose; 3.050(1)(D)1.A; 3.050(2)(A); 3.050(3)(C)1; 3.080(1)(A); 3.080(3)(D); 3.080(8)(A); 3.090; 3.110(4)(A); 3.110(5)(A); 3.110(6)(B); 3.120(5); 3.120(8)(A)4, (B), (D)2 and 8; 3.140(1)(A); 3.200(2)(A)1, 2, 3.A, 4, 5, 6; 3.200(4)(B)3; 3.200(6)(A), (B), (C), (E), (F), (G), (Q), (T), (U); 3.200(8), 3.200(10)(A), (B)5, (K), (L), (M), (N), (O), (O)1, (O)2.A, B, and C, (O)3, (O)3.A and B; 3.200(10)(O)3.C [not approved]; 3.200(12) (A)1.A and (B)1; 3.200(13)(B)3; 3.200(16); 3.240 [partial approval]; 3.270(5); 3.270(8)(A)4 and (B); 4.010 Purpose; 4.010 (3)(J); 4.020(2)(B); 4.030 Purpose; 4.030 (3)(A); 4.030(4)(A), (B), (C); 4.030(6)(A), 4.030(7)(B)2 and 7; 4.050(11), (12); 5.010(1)(B); 5.010(2)(E); 6.010(4)(B)2; 6.010(6)(A); 6.020 Purpose; 6.020(5); 6.020(7)(A); 6.030(1)(C), (D), (I); 6.030(2)(C); 6.040(5)(B)1.E; 6.040(16)(C)1 and 3; 6.050(1); 6.050(5)(B)11, (C), and (C)1; 6.050(7)(D)1; 6.050(9)(C)3 and 4, (D)3, (E); 6.050(11)(A), (A)1.A, 2 and 3, (B), (C), (F); 6.050(17)(B); 6.060(4)(C)1 and 5, (D)1, (E)5; 6.070(3) and (3)(B); 6.070(4)(A); 6.070(5)(B)4; 6.070(8)(C), (D)3; 6.070(10) (D); 6.090(4)(B)2; 6.090(6)(A); 6.090(7); 6.100(1)(I); 6.100(2)(C); 6.120(5)(E); 6.120(7)(A), (A)2 and 3, (B)1, (C), (F); 6.120(12)(D)1; 6.120(14)(B)10, (C)1; 6.120(15)(B); 7.011(6)(A)8, (D)2.C(II), 5.A and C, 8; 7.021(1)(C) and (D); 7.021(2)(A), (B)5 and 6; 7.021(3)(C) and (D); 8.010(1) (A)9, 12, 52.C, 59, 73, 82, 87, 89, and 97B; 8.030(1)(F)4.A and (G); 8.030(6)(A)3 and (B)1; 8.030(10)(A); 8.030(12)(C); 8.050 Purpose; 8.050(1); 8.050(2)(B); 8.050(5)(A) and (B); 8.050(9)(A); 8.070(2)(C)1.A(II)(a) [partial approval] and 10.F, (F), (G).

4. Section 925.16 is amended by removing and reserving paragraphs (b), (f)(1), (g), (p)(5), (p)(9), (p)(10), (p)(11), (p)(12), (p)(14), (p)(16), (p)(18), (p)(21), (q), (q)(2), and (u); by revising paragraphs (p), (p)(4), and (p)(20) and adding paragraph (v) to read as follows:

§ 925.16 Required program amendments.

(p) By May 10, 2002, Missouri shall amend its program as follows:

(4) At 10 CSR 40–3.240 by providing performance standards that address air

quality in a manner no less effective than the Federal regulations at 30 CFR 817.95(a).

(20) At 10 CSR 40–8.070(2)(C)1.A(II)(a) and (b) to revise the definition of cumulative measurement period to provide appropriate dates for the end of the period for which cumulative production and revenue is reported that are no earlier than September 29, 1992, in accordance with the Federal regulation requirements at 30 CFR 702.5(a)(2)(i) and (ii).

(v) By May 10, 2002, Missouri must submit either an amendment or a description of an amendment to be proposed, together with a timetable for adoption of proposed revisions to remove its provisions at 10 CSR 40–3.040(10)(O)3.C and 40–3.200(10)(O)3.C.

5. Section 925.25 is amended in the table by adding a new entry in chronological order by “Date of final publication” to read as follows:

§ 925.25 Approval of Missouri abandoned mine land reclamation plan amendments.

Original amendment submission date	Date of final publication	Citation/description
October 5, 2000	May 9, 2001	10 CSR 40–9.020(1)(D)4 and (F).

[FR Doc. 01–11635 Filed 5–8–01; 8:45 am]
BILLING CODE 4310–05-P

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: Final rule, approval of amendment.

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

EFFECTIVE DATE: May 9, 2001.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining,

5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6548. Telephone: (918) 581–6430. Internet: mwolfrom@osmre.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

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

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. Submission of the 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 OAC 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.

We announced receipt of the amendment in the February 15, 2001, **Federal Register** (66 FR 10403). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment period closed on March 19, 2001. Because no one requested a public hearing or meeting, we did not hold one.

III. Director's Findings

Following, under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the amendment to the Oklahoma program.

The Federal regulations at 30 CFR 774.13(b)(1) and (2) require regulatory authorities to establish—

(1) A time period within which the regulatory authority will approve or disapprove an application for a permit revision; and

(2) Guidelines establishing the scale or extent of revisions for which all the permit application information requirements and procedures of Subchapter G, including notice, public participation, and notice of decision requirements of 30 CFR 773.13, 773.19(b)(1) and (3), and 778.21 apply. All permit application information requirements and procedures must apply at a minimum to significant permit revisions.

As shown below, we found that Oklahoma's guidelines meet the requirements of the Federal regulations

at 30 CFR 774.13(b)(1) and (2). Any revisions that we do not discuss below are about minor wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

A. *OAC 460:20-17-3(a) General*. At Section 460:20-17-3(a) Oklahoma is adding the following provision:

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

The Federal regulation at 30 CFR 774.13(b)(2) requires the regulatory authority to establish guidelines for the scale or extent of revisions for which all the permit application requirements will apply. It allows flexibility to the regulatory authority to establish both significant and insignificant permit revision guidelines suitable to the operation of the State program. We find that Oklahoma's rule at OAC 460:20-17-3(a) meets the requirements of this Federal regulation, and we are approving it.

B. *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 technical and public notice requirement 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.

The Federal regulation at 30 CFR 774.13(b)(2) requires the regulatory authority to establish guidelines for the scale or extent of revisions for which all the permit application requirements will apply. The Federal regulations provide flexibility to the regulatory authority to establish guidelines suitable to the operation of the State program. We find that Oklahoma's rule at OAC 460:20-17-3(b) meets the requirement

of the Federal regulation, and we are approving it.

C. *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):

(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.

The Federal regulation at 30 CFR 774.13(b)(2) requires all permit application information requirements and procedures of Subchapter G, including notice, public participation, and notice of decision requirements of 30 CFR 773.13, 773.19(b)(1) and (3), and 778.21 to apply at a minimum to significant permit revisions. We find that Oklahoma's rule at OAC 460:20-17-3(c) contains the same requirements for significant permit revisions, and therefore, is no less effective than the Federal regulation.

D. *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 acres, such as:
 - (A) The addition or relocation of permanent impoundments;
 - (B) The addition, deletion, or relocation of stream diversions; and
 - (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.

The Federal regulation at 30 CFR 774.13(b)(2) requires the regulatory authority to establish guidelines for the scale or extent of revisions for which all the permit application requirements will apply. The Federal regulations provide flexibility to the regulatory authority to establish permit revision guidelines suitable to the operation of the State program. We find that Oklahoma's rule at OAC 460:20–17–3(d) meets the requirement of this Federal regulation, and we are approving it.

E. *OAC 460:20–17–3(e) Minor revisions.* Oklahoma is adding the following new provisions at OAC 460:20–17–3(e):

(e) Minor revisions. The following revisions are typically considered minor revisions:

- (1) Changes to pond designs;
- (2) Addition or deletion of dewatering pipes on ponds;
- (3) Addition, deletion or changes to office facilities, explosive storage areas, temporary haul roads, and coal pads;
- (4) Changes to surface and groundwater monitoring plans;
- (5) Vegetation changes;
- (6) Change of operator without a change of permittee; and
- (7) Conversion to incremental bonding or change to bond increments, pursuant to the requirements of Subchapter 37 of this Chapter.

The Federal regulation at 30 CFR 774.13(b)(2) requires the regulatory authority to establish guidelines for the scale or extent of revisions for which all the permit application requirements will apply. It allows flexibility to the regulatory authority to establish both significant and insignificant permit revision guidelines suitable to the operation of the State program. We find that Oklahoma's rule at OAC 460:20–17–3(e) meets the requirements of this Federal regulation, and we are approving it.

F. *OAC 460:20–17–3(h) Application decisions.* Oklahoma is adding the following new provision at Section 460:20–17–3(h):

(h) The Department will make a decision of approval or denial of a revision application within six months of receipt of the application unless the application, or some aspect of the application, is under technical, administrative or judicial review.

The Federal regulation at 30 CFR 774.13(b)(1) requires a regulatory authority to establish a time period within which he or she will approve or disapprove an application for a permit revision. The Federal regulation provides flexibility to the regulatory authority in establishing time periods suitable to operation of the State program. We find that Oklahoma's rule at OAC 460:20–17–3(h) meets the requirements of the Federal regulation, and we are approving it.

IV. Summary and Disposition of Comments

Federal Agency Comments

On February 5, 2001, under section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the Federal regulations, we requested comments from various Federal agencies with an actual or potential interest in the Oklahoma amendment (Administrative Record No. OK–990.01). The U. S. Army Corps of Engineers responded on March 2, 2001 (Administrative Record No. OK–990.02), that the proposed amendment was satisfactory to the agency.

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain the written concurrence of the EPA for those provisions of the program amendment that relate to air or water quality standards issued 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.*). None of the revisions that Oklahoma proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask the EPA for its concurrence.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record No. OK–990.01). The EPA did not respond to our request.

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

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On February 5, 2001, we requested comments on Oklahoma's amendment (Administrative Record No. OK–990.01), but neither responded to our request.

Public Comments

We requested public comments on the amendment, but did not receive any.

V. Director's Decision

Based on the above findings, we approve the amendment as sent to us by Oklahoma on January 25, 2001.

We approve the rules that Oklahoma proposed with the provision that they be promulgated in identical form to the rules sent to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 936, which codify decisions concerning the Oklahoma program. We are making this final rule effective immediately to expedite the State program amendment process and to encourage Oklahoma to bring its program into conformity with the Federal standards. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) 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 regulation.

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)(1) 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 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 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

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides a decision on a proposed State regulatory program provision does not constitute 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 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. 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.

Dated: April 25, 2001.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR Part 936 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 in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

§ 936.15 Approval of Oklahoma regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
January 25, 2001	May 9, 2001	OCA 460:20-17-3.

[FR Doc. 01-11634 Filed 5-8-01; 8:45 am]
BILLING CODE 4310-05-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01-01-062]

RIN 2115-AE47

Drawbridge Operation Regulations: Hackensack River, NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary final rule

governing the operation of the Lincoln Highway Bridge, at mile 1.8, across the Hackensack River at Jersey City, New Jersey. This temporary final rule requires vessels to provide a one-hour daytime advance notice and a four-hour nighttime advance notice for bridge openings from May 8, 2001 through July 31, 2001. This action is necessary to facilitate completion of maintenance at the bridge.

DATES: This temporary final rule is effective from May 8, 2001 through July 31, 2001.

ADDRESSES: The public docket and all documents referred to in this notice are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, 7 a.m. to

3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Yee, Project Officer, First Coast Guard District, (212) 668-7165.

SUPPLEMENTARY INFORMATION:

Regulatory Information

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after publication in the **Federal Register**. This temporary rule will extend the time period the bridge will operate on an advance notice basis in order to complete maintenance repairs that were scheduled to be completed by May 7, 2001. The Coast