

## Regulatory Certifications

### *Regulatory Flexibility Act*

The granting of exemption status relieves persons who handle the exempted products in the course of legitimate business from the registration, recordkeeping, security, and other requirements imposed by the CSA. Accordingly, the Deputy Assistant Administrator certifies that this action will not have a significant economic impact upon a substantial number of small entities whose interests must be considered under the Regulatory Flexibility Act (5 U.S.C. 601–612).

### *Executive Order 12866*

The Deputy Assistant Administrator further certifies that this rulemaking has been drafted in accordance with the principles in Executive Order 12866. It has been determined that this is not a significant regulatory action. Therefore, this action has not been reviewed by the Office of Management and Budget. This final rule exempts the identified steroid products from the regulatory controls that apply to controlled substances.

### *Executive Order 12988*

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

### *Executive Order 13132*

This rule does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

### *Unfunded Mandates Reform Act of 1995*

This rule will not result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of \$120,000,000 or more (adjusted for inflation) in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

### *Congressional Review Act*

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act). This rule will not result in an annual effect on the economy of \$100 million or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment,

productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

## 21 CFR Part 1308—Schedules of Controlled Substances

The Interim Rule with Request for Comment amending the list of exempt anabolic steroid products described in 21 CFR 1308.34 published at 71 FR 51996, September 1, 2006 is hereby adopted as a final rule without change.

Dated: March 8, 2008.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator, Office of Diversion Control.*

[FR Doc. E8–5173 Filed 3–14–08; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 943

[SATS No. TX–058–FOR; Docket No. OSM–2007–0018]

#### Texas Regulatory Program

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving an amendment to the Texas regulatory program (Texas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Texas proposed revisions to its regulations regarding annual permit fees. Texas intends to revise its program to improve operational efficiency.

**DATES:** *Effective Date:* March 17, 2008.

**FOR FURTHER INFORMATION CONTACT:** Alfred L. Clayborne, Director, Tulsa Field Office. Telephone: (918) 581–6430. E-mail: [aclayborne@osmre.gov](mailto:aclayborne@osmre.gov).

#### SUPPLEMENTARY INFORMATION:

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

#### I. Background on the Texas Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders

by demonstrating that its State program includes, among other things, “a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act \* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.” See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Texas program effective February 16, 1980. 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 on the Texas program at 30 CFR 943.10, 943.15, and 943.16.

#### II. Submission of the Amendment

By letter dated October 2, 2007 (Administrative Record No. TX–664), Texas sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Texas sent the amendment at its own initiative.

We announced receipt of the proposed amendment in the December 17, 2007, **Federal Register** (72 FR 71293). 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. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on January 16, 2008. We did not receive any public comments.

#### III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment as described below. Any revisions that we do not specifically discuss below concern nonsubstantive wording or editorial changes.

#### *16 Texas Administrative Code (TAC) Section 12.108 Permit Fees*

Texas proposed to revise its regulations at 16 TAC section 12.108(b)(1) through (b)(3) regarding annual permit fees by:

(1) Decreasing, from \$160.00 per acre to \$150.00 per acre, the amount of the fee in paragraph (b)(1) for each acre of land within the permit area on which coal or lignite was actually removed during the calendar year,

(2) Increasing, from \$3.00 to \$3.75, the amount of the fee in paragraph (b)(2) for each acre of land within a permit area

covered by a reclamation bond on December 31st of the year, and

(3) Increasing, from \$3,550.00 to \$4,200.00, the amount of the fee in paragraph (b)(3) for each permit in effect on December 31st of the year.

The Federal regulations at 30 CFR 777.17, concerning permit fees, provide that applications for surface coal mining permits must be accompanied by a fee determined by the regulatory authority. The Federal regulations also provide that the fees may be less than, but not more than the actual or anticipated cost of reviewing, administering, and enforcing the permit. In its letter dated October 2, 2007 (Administrative Record No. TX-664), Texas advised us that the monies collected from the revised annual permit fees, when coupled with the permit application fees are not expected to exceed 50 percent of the anticipated costs to administer the coal mining regulatory program for State fiscal years 2007 and 2008.

We find that Texas' proposed permit fees including the annual permit fees are reasonable and are consistent with the discretionary authority provided by the Federal regulations at 30 CFR 777.17.

#### IV. Summary and Disposition of Comments

##### *Public Comments*

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

##### *Federal Agency Comments*

On November 9, 2007, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Texas program (Administrative Record No. TX-664.01). We did not receive any comments.

##### *Environmental Protection Agency (EPA) Concurrence and Comments*

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from 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 Texas proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment. However, on November 9, 2007, under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record No. TX-664.01). 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 November 9, 2007, we requested comments on Texas' amendment (Administrative Record No. TX-664.01), but neither responded to our request.

#### V. OSM's Decision

Based on the above findings, we approve the amendment Texas sent us on October 2, 2007.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 943, which codify decisions concerning the Texas program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

#### VI. Procedural Determinations

##### *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 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 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 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 because 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 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.

##### *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 pursuant to SMCRA.

##### *Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. This determination is based on the fact that the Texas program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Texas program has no effect on federally-recognized Indian tribes.

##### *Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

*National Environmental Policy Act*

This rule does not require an environmental impact statement because 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 certifies 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. 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; and (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 an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given

year. 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 did not impose an unfunded mandate.

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

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 22, 2008.

**Ervin J. Barchenger,**  
*Acting Regional Director, Mid-Continent Region.*

■ For the reasons set out in the preamble, 30 CFR part 943 is amended as set forth below:

**PART 943—TEXAS**

■ 1. The authority citation for part 943 continues to read as follows:

*Authority:* 30 U.S.C. 1201 *et seq.*

■ 2. Section 943.15 is amended in the table by adding a new entry in chronological order by “Date of final publication” to read as follows:

**§ 943.15 Approval of Texas regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
* * * * * October 2, 2007 .....	* * * * * March 17, 2008 .....	* * * * * 16 TAC 12.108(b)(1) through (b)(3).

[FR Doc. E8-5315 Filed 3-14-08; 8:45 am]  
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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[USCG-2008-0045]

RIN 1625-AA11

**Regulated Navigation Area: Herbert C. Bonner Bridge, Oregon Inlet, NC**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard proposes to establish a temporary regulated navigation area (RNA) on the waters of Oregon Inlet, NC. The regulated navigation area (RNA) is needed to minimize the risk of potential structural

damage to the Herbert C. Bonner Bridge during fender repair work. This rule will enhance the safety of vessels transiting the area and vehicles crossing over the bridge during periods of reduced horizontal clearance in the main navigation channel.

**DATES:** This rule is effective from 5 a.m. on April 16, 2008 through 8 p.m. May 31, 2008.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-0045 and are available online at [www.regulations.gov](http://www.regulations.gov). They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and at the United States Coast Guard District Five Legal Office, 431 Crawford Street,

Portsmouth, Virginia between 9 a.m. and 3 p.m.

**FOR FURTHER INFORMATION CONTACT:** If you have questions concerning this temporary final rule, phone CWO4 Stephen Lyons, Waterways Management Division Chief, Sector North Carolina, at (252) 247-4525. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Immediate action is needed to protect the maritime public from the hazards associated with this maintenance project. The necessary information to determine whether the construction poses a threat to persons and vessels was not provided with