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) 381-6430. E-mail: aclayborne@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program

II. Submission of the Amendment

III. OSM’s Findings

A. Numerical Change

B. Dorland’s Change

C. New Proposed Amendment

D. Application of Executive Order 12866

E. Application of Unfunded Mandates Reform Act of 1995

F. Congressional Review Act

G. Unfunded Mandates Reform Act of 1995

H. Executive Order 12988

I. Executive Order 13132

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 the permit area 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 on non-Federal and non-Indian lands within its borders...
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.
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. 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