DEPARTMENT OF THE INTERIOR
Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

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

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

SUMMARY: We are announcing receipt of a proposed amendment to the Pennsylvania regulatory program (the “Pennsylvania program”) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). In response to correspondence related to implementation of the approved Pennsylvania program, Pennsylvania has submitted regulatory changes for approval to render its program no less effective than the Federal regulations as they relate to effluent limitations for post-mining discharges that are amenable to passive treatment technology.

I. Background on the Pennsylvania Program

This document gives the times and locations that the Pennsylvania program and this submittal are available for your inspection, the comment period during which you may submit written comments, 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., local time April 25, 2011. If requested, we will hold a public hearing on April 19, 2011. We will accept requests to speak until 4 p.m., local time on April 11, 2011.

ADDRESSES: You may submit comments, identified by “PA–160–FOR; Docket ID: OSM–2010–0019” by either of the following two methods:

Federal eRulemaking Portal: http://www.regulations.gov. The proposed rule has been assigned Docket ID: OSM–2010–0019. If you would like to submit comments through the Federal eRulemaking Portal, go to http://www.regulations.gov and follow the instructions.

Mail/Hand Delivery/Courier: Mr. George Rieger, Chief, Pittsburgh Field Division, Office of Surface Mining Reclamation and Enforcement, Harrisburg Transportation Center, 415 Market St., Suite 304, Harrisburg, PA 17101.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Comment Procedures” heading of the SUPPLEMENTARY INFORMATION section of this document.

Docket: In addition to obtaining copies of documents at http://www.regulations.gov, information may also be obtained 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 Pittsburgh Field Division Office.

George Rieger, Chief, Pittsburgh Field Division, Office of Surface Mining Reclamation and Enforcement, Harrisburg Transportation Center, 415 Market St., Suite 304, Harrisburg, Pennsylvania 17101, Telephone: (717) 782–4036, E-mail: grieger@osmre.gov.

Thomas Callaghan, P.G., Director, Bureau of Mining and Reclamation, Pennsylvania Department of Environmental Protection, Rachel Carson State Office Building, P.O. Box 8461, Harrisburg, Pennsylvania 17105–8461, Telephone: (717) 787–5015, E-mail: tcallaghan@state.pa.us.

FOR FURTHER INFORMATION CONTACT: George Rieger, Telephone: (717) 782–4036, E-mail: grieger@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania 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 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 rules and 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 Pennsylvania program on July 30, 1982. You can find background information on the Pennsylvania program, including the Secretary’s findings, the disposition of comments, and conditions of approval of the Pennsylvania program in the July 30, 1982, Federal Register (47 FR 33050). You can also find later actions concerning the Pennsylvania program and program amendments at 30 CFR 938.11, 938.12, 938.13, 938.15, and 938.16.

II. Description of the Request

By letter dated October 1, 2010, (Administrative Record Number PA 854.03), Pennsylvania sent us a request to approve statutory language and revised regulations related to post-mining pollutational discharges, the use of passive treatment technologies on regulated coal mining sites, and the elimination of manganese effluent limits on certain pollutational discharges under the influence of identified precipitation events. Pennsylvania is requesting approval of the statutory language found at Section 4.2(j) of PA Surface Mining Conservation Reclamation Act (PA SMCRA) and the revised regulations found at: 25 Pa Code Chapters 86.1; 87.102(a) and (e); 88.92(a) and (e); 88.187(a) and (e); 88.292(a) and (e); 89.52(c); and 90.102(a) and (e).

This proposed amendment was initiated by Pennsylvania as a result of a coal mine permit inspection, conducted by OSM, in which a post mining pollutational discharge was observed being treated under the provisions of 87.102(e). Section 87.102(e). Postmining pollutational discharges and corresponding provisions in Chapters 88, 89, and 90, were published in the Pennsylvania Bulletin on November 15, 1997, and have been implemented. To date, these regulations have not been submitted as a program amendment to Pennsylvania’s approved regulatory program. Federal regulations at 30 CFR 732.17(g) provide that no change to laws or regulations shall take effect for the purposes of a State program until approved as an amendment. In a letter dated July 7, 2010, OSM notified Pennsylvania that until the regulations are approved by OSM, use of the provisions to approve the construction of new passive treatment facilities at regulated coal mine permits must be discontinued.

Statutory Changes: Section 4.2(j) of PA SMCRA is available online at Regulations.gov and in the Administrative Record at the addresses listed above under ADDRESSES.

Regulatory Changes: Pennsylvania submits the following summary of the proposed regulatory provisions changes at 25 Pa Code: The revision to 86.1 includes the definitions of “Passive Treatment System” and “Post-mining Pollutational Discharge.” The revisions to Sections 87.102(a), 88.92(a), 88.187(a),
Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under FOR FURTHER INFORMATION CONTACT by 4 p.m., local time April 11, 2011. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under FOR FURTHER INFORMATION CONTACT. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be 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 everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If there is only limited interest in participating in a public hearing, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the submission, please 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 make a written summary of each meeting a part of the administrative record.

IV. 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.

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSM for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the Federal Register indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.