

§ 935.15 Approval of regulatory program amendments.

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(zzz) The following amendment (Program Amendment 63R) pertaining to the Ohio regulatory and Abandoned Mined Land reclamation programs, as submitted to OSM on February 2, 1995, is approved, effective November 9, 1995: Reduction and reorganization of engineering staff.

[FR Doc. 95-27807 Filed 11-8-95; 8:45 am]
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30 CFR Part 936

[SPATS No. OK-016-FOR]

Oklahoma Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Oklahoma regulatory program (hereinafter referred to as the "Oklahoma program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Oklahoma proposed a revision to its rules pertaining to procedures for assessment conference. The amendment is intended to revise the Oklahoma program to improve operational efficiency.

EFFECTIVE DATE: November 9, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Jack R. Carson, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, suite 470, Tulsa, Oklahoma 74135-6548, Telephone: (918) 581-6430.

SUPPLEMENTARY INFORMATION:

- I. Background on the Oklahoma Program
- II. Submission of the Proposed 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. Background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the January 19, 1981, Federal Register (46 FR 4902). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 936.15 and 936.16.

II. Submission of the Proposed Amendment

By letter dated July 5, 1995 (Administrative Record No. OK-972), Oklahoma submitted a proposed amendment to its program pursuant to SMCRA. Oklahoma submitted the proposed amendment at its own initiative. Oklahoma proposed to revise its rules at Oklahoma Administrative Code (OAC) 460:20-61-10 concerning procedures for assessment conference.

OSM announced receipt of the proposed amendment in the July 27, 1997, Federal Register (60 FR 38533), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on August 28, 1995.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

The proposed amendment submitted by Oklahoma adds the word "original" before the word "abatement" in the second sentence of OAC 460:20-61-10(b)(1). The effect of this proposed revision is that civil penalty assessment conferences will be held within 60 days from the date of issuance of the proposed assessment or the end of the *original* abatement period, whichever is later. The Federal counterpart regulation at 30 CFR 845.18(b)(1) provides that the assessment conference be held within 60 days from the date the conference request is received or the end of the abatement period, whichever is later.

The current time frame for holding Federal civil penalty assessment conferences resulted from a revision to 30 CFR 845.18(b)(1) which was effective April 8, 1991 (56 FR 10060, March 8, 1991). In the Federal Register document announcing the regulation revision, the preamble addressed the effect of the revision in States with primacy:

Section 518(i) of the Act and 30 CFR 840.13(c) of the regulations require approved State programs to contain civil penalty assessment procedures which are the same as or similar to the provisions of section 518 of the Act and consistent with those of 30 CFR part 845. The time allowed for holding an assessment conference is not prescribed in the Act; thus, the applicable standard governing the adequacy of State program provisions under 30 CFR 840.13(c) is whether the approved State programs contain procedural requirements relating to civil penalties which are consistent with (i.e., no less effective than) 30 CFR 845.18, as amended. Because OSM allows the States reasonable latitude in establishing certain

procedural time frames, and because this rule merely extends one of such time frames, States do not have to adopt this change.

As indicated in the preamble provision quoted above, OSM allows the States reasonable latitude in establishing certain procedural time frames, and Oklahoma's proposed rule still provides for a minimum 60-day time frame for holding civil penalty assessment conferences. Therefore, the Director finds that Oklahoma's proposed revision does not render its rule at OAC 460:20-61-10(b)(1) less effective than the Federal regulation at 30 CFR 845.18(b)(1), and he is approving the proposal.

IV. Summary and Disposition of Comments*Public Comments*

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received, and because no one requested an opportunity to speak at a public hearing, no hearing was held.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Oklahoma program. The Department of the Army, U.S. Army Corps of Engineers, responded that its review of the amendment found the changes to be satisfactory (Administrative Record No. OK-972.02). The United States Department of the Interior, Bureau of Land Management, responded that the amendment appears to be an improvement because it promotes timely procedures (Administrative Record No. OK-972.03).

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated 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.*). The revision that Oklahoma proposed to make in this amendment did not pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. OK-972.01). EPA did not respond to OSM's request.

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

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP. No response was received from either agency.

V. Director's Decision

Based on the above finding, the Director approves the proposed amendment as submitted by Oklahoma on July 5, 1995.

The Director approves the rule as proposed by Oklahoma with the provision that it be fully promulgated in identical form to the rule submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR Part 936, codifying decisions concerning the Oklahoma program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) 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 such 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

No environmental impact statement is required for this rule since 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 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 corresponding 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. Accordingly, 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 corresponding Federal regulations.

List of Subjects in 30 CFR Part 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 27, 1995.

Brent Wahlquist,
Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations 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 by adding paragraph (q) to read as follows:

§ 936.15 Approval of regulatory program amendments.

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(q) Revision to the following rule, as submitted to OSM on July 5, 1995, is approved effective November 9, 1995:
OAC 460:20-61-10(b)(1). Procedures for assessment conference.

[FR Doc. 95-27810 Filed 11-8-95; 8:45 am]
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30 CFR Part 943

[SPATS No. TX-026-FOR]

Texas Regulatory Program

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

ACTION: Notice of decision.

SUMMARY: OSM is announcing its decision not to approve a proposed amendment to the Texas regulatory program (hereinafter referred to as the "Texas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Texas proposed a revision to its rules pertaining to surface mining permit applications—minimum requirements for information on environmental resources: cross sections, maps, and plans. The amendment was intended to allow professional biologists to prepare and certify cross sections, maps, and plans that are included as part of the permit application.

EFFECTIVE DATE: November 9, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Jack R. Carson, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma, 74135-6548, Telephone: (918) 581-6430.

SUPPLEMENTARY INFORMATION:

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

I. Background on the Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. Background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the February 27, 1980, Federal Register (45 FR 12998). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 943.10, 943.15, and 943.16.