

Proposed Rules

Federal Register

Vol. 74, No. 6

Friday, January 9, 2009

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

[SATS No. OK-032-FOR; Docket ID: OSM-2008-0023]

Oklahoma Regulatory Program

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

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

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of a proposed amendment to the Oklahoma regulatory program (Oklahoma program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Oklahoma is proposing revisions to the Appeals procedures in section 460:20-5-13, Appeals board in section 460:20-5-14, and Notice of violations in section 460:20-59-4.

This document gives the times and locations that the Oklahoma program and proposed amendments to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that will be followed for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., c.d.t., February 9, 2009. If requested, we will hold a public hearing on the amendment on February 3, 2009. We will accept requests to speak at a hearing until 4 p.m., c.d.t. on January 26, 2009.

ADDRESSES: You may submit comments, identified by Docket ID: OSM-2008-0023, by any of the following methods:

- E-mail: aclayborne@osmre.gov. Include "Docket ID: OSM-2008-0023" in the subject line of the message.
- Mail/Hand Delivery: Alfred L. Clayborne, Director, Tulsa Field Office,

Office of Surface Mining Reclamation and Enforcement, 1645 South 101st East Avenue, Suite 145, Tulsa, Oklahoma 74128-4629.

- Fax: (918) 581-6419.
- Federal eRulemaking Portal: <http://www.regulations.gov>. The proposed rule has been assigned Docket ID: OSM-2008-0023. If you would like to submit comments through the Federal eRulemaking Portal, go to www.regulations.gov and do the following. Click on the "Advanced Docket Search" button on the right side of the screen. Type in the Docket ID OSM-2008-0023 and click the "Submit" button at the bottom of the page. The next screen will display the Docket Search Results for the rulemaking. If you click on OSM-2008-0023, you can view the proposed rule and submit a comment. You can also view supporting material and any comments submitted by others.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. 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: For access to the docket to review copies of the Oklahoma regulations, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office.

Alfred L. Clayborne, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101st East Avenue, Suite 145, Tulsa, Oklahoma 74128-4629, Telephone: (918) 581-6430, E-mail: aclayborne@osmre.gov.

In addition, you may review a copy of the amendment during regular business hours at the following locations:

Oklahoma Department of Mines, 2915 N. Classen Blvd., Suite 213, Oklahoma City, Oklahoma 73106-5406, Telephone: (405) 427-3859; Federal eRulemaking Portal: www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Alfred L. Clayborne, Director, Tulsa

Field Office, Telephone: (918) 581-6430, E-mail: aclayborne@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Oklahoma Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

I. Background on the Oklahoma 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, "* * * 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 Oklahoma program on January 19, 1981. You can find background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Oklahoma program in the January 19, 1981, **Federal Register** (46 FR 4902). You can also find later actions concerning the Oklahoma program and program amendments at 30 CFR 936.10, 936.15 and 936.16.

II. Description of the Proposed Amendment

By letter dated November 26, 2008 (Administrative Record No. OK-998), Oklahoma sent us a proposed amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Oklahoma sent the amendment at its own initiative. Below is a summary of the changes proposed by Oklahoma. Any revisions that we do not specifically discuss below concern nonsubstantive wording or editorial changes or corrections of cross-references. They can be found in the full text document of the program amendment, which is available for you to read at the locations listed above under **ADDRESSES**.

Specifically, Oklahoma proposes to make the following revisions to its program.

A. Section 460:20-5-13—Appeals procedures [Revoked]

Oklahoma proposes to delete Appeals procedures for State employees.

(a) Employees have the right to appeal an order for remedial action under Section 460:20-5-12, and shall have 30 days to exercise this right before disciplinary action is initiated. Employees may file their appeal, in writing, with the Appeals board established in Section 460:20-14 below.

(b) Members of advisory boards, the Oklahoma Mining Commission, and commissions representing multiple interests should follow any appeals process provided for by the Oklahoma Governor's Office, Director of Appointments.

B. Section 460:20-5-14—Appeals board [Revoked]

Oklahoma proposes to delete the Appeals board for State employees. A department appeals board, composed of three persons appointed by the Director as representatives of the Department, shall hear any grievance from Department personnel concerning termination, salary disputes, conflict of interest, or other personnel matters which have been determined by the Director.

(1) Any decisions rendered by the appeals board shall be a majority vote, after both parties have had an opportunity to be heard in an individual proceeding under the Administrative Procedures Act.

(2) Should the appeals board vote against the decision of the Chief Administrative Officer, the matter shall be taken to the Director, and his or her decision shall be considered a final order, appealable under the Administrative Procedures Act.

C. Section 460:20-59-4—Notice of violation

Oklahoma proposes to make editorial changes by adopting language similar to 30 CFR 843.12 (f)(1), which specifies the circumstances which may qualify a surface coal mining operation for an abatement period of more than 90 days. Oklahoma proposes new language at line (F)(2) allowing for situations where the permittee of an ongoing permitted operation has timely applied for and diligently pursued a permit revision which abates an outstanding violation and which includes no other changes to permit design or plans, but such revision approval has not or will not be issued within 90 days for reasons not within the control of the permittee.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Written or Electronic Comments

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent Tribal or Federal laws or regulations, technical literature, or other relevant publications. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (see **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Tulsa Field Office may not be logged in.

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., c.s.t. on January 26, 2009. 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 a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the 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 amendment, 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 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 Oklahoma program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Oklahoma 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 the Office of Management and Budget 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 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 9, 2008.

William Joseph,

Acting Regional Director, Mid-Continent Region.

[FR Doc. E9–204 Filed 1–8–09; 8:45 am]

BILLING CODE 4310–05–P

GENERAL SERVICES ADMINISTRATION**41 CFR Part 102–192**

[FMR Amendment 200X–XXX; FMR Case 2008–102–4; Docket 2008–0001; Sequence 1]

RIN 3090–AI79

Federal Management Regulation; FMR Case 2008–102–4, Mail Management; Financial Requirements for All Agencies

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Proposed rule.

SUMMARY: The General Services Administration is amending the mail management section of the Federal Management Regulation (FMR). The proposed changes will help agencies show accountability for their costs regardless of whether they choose to use commercial payment processes.

DATES: Interested parties should submit comments in writing on or before March 10, 2009 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FMR case 2008–102–4 by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Search for any document by first selecting the proper document types and selecting “General Services Administration” as the agency of choice. At the “Keyword” prompt, type in the FMR case number (for example, FMR Case 2008–102–4) and click on the “Submit” button. You may also search for any document by clicking on the “Advanced search/document search” tab at the top of the screen, selecting from the agency field “General Services Administration”, and typing the FMR case number in the keyword field. Select the “Submit” button.

- *Fax:* 202–501–4067.