

9. Section 256.35, Qualifications of lessees, is amended by adding paragraph (c) as follows:

**§ 256.35 Qualification of lessees.**

\* \* \* \* \*

(c) MMS may disqualify you from acquiring any new leaseholdings or lease assignments if your operating performance is unacceptable according to 30 CFR 250.12.

10. Section 256.73 is revised to read as follows:

**§ 256.73 Effect of suspensions on lease term.**

(a) Normally, a suspension extends the term of a lease. The extension is equal to the length of time the suspension is in effect. The suspension will not extend the lease term when the Regional Supervisor directs a suspension because of:

(1) Gross negligence; or

(2) A willful violation of a provision of the lease or governing regulations.

(b) MMS issues suspensions for a period of up to 5 years. The Regional Supervisor will set the length of the suspension based on the conditions of the individual case involved. MMS may grant consecutive suspensions. For more information on suspension of operations or production refer to 30 CFR 250.19.

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 943

[SPATS No. TX-040-FOR]

#### Texas Regulatory Program and Abandoned Mine Land Reclamation Plan

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

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

**SUMMARY:** OSM is announcing receipt of a proposed amendment to the Texas regulatory program and abandoned mine land plan (hereinafter the "Texas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of codification of the Texas Coal Mining Regulations in the Texas Administrative Code at Title 16, Economic Regulations, Chapter 12. The amendment is intended to conform the Texas Coal Mining Regulations to Texas

Administrative Code formatting syntax, to correct typographical errors, and to allow for the publication of the rules in the Texas Administrative Code in full text rather than by reference.

This document sets forth the times and locations that the Texas program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

**DATES:** Written comments must be received by 4:00 p.m., c.s.t., March 16, 1998. If requested, a public hearing on the proposed amendment will be held on March 10, 1998. Requests to speak at the hearing must be received by 4:00 p.m., c.s.t. on March 2, 1998.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Michael C. Wolfrom, Director, Tulsa Field Office, at the address listed below.

Copies of the Texas program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Tulsa Field Office.

Michale C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135-6547, Telephone: (918) 581-6430.

Surface Mining and Reclamation Division, Railroad Commission of Texas, 1701 North Congress Avenue, P.O. Box 12967, Austin, Texas 78711-2967, Telephone: (512) 463-6900.

**FOR FURTHER INFORMATION CONTACT:** Michael C. Wolfrom, Director, Tulsa Field Office, Telephone: (918) 581-6430.

#### SUPPLEMENTARY INFORMATION:

##### I. Background on the Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. General 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 Texas program can be

found at 30 CFR 943.10, 943.15, and 943.16.

##### II. Description of the Proposed Amendment

By letter dated January 23, 1998, (Administrative Record No. TX-645), Texas submitted a proposed amendment to its program pursuant to SMCRA. Texas submitted the proposed amendment at its own initiative. Texas proposes to codify the Texas Coal Mining Regulations (TCMR) in the Texas Administrative Code (TAC) at Title 16, Chapter 12 in full text rather than by reference.

Specifically, Texas proposes to codify TCMR Parts 700 through 850, pertaining to surface coal mining and reclamation operations, at 16 TAC §§ 12.1 through 12.710. Texas also proposes to codify TCMR §§ 051.800 through 0.51.817, pertaining to the Texas abandoned mine land reclamation program, at 16 TAC §§ 12.800 through 12.817. The codification proposal includes conforming Texas' regulations to the TAC formatting syntax, correcting typographical errors, and making other editorial changes.

##### III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Texas program.

##### Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Tulsa Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

##### Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.s.t. on March 2, 1998. The location and time of the hearing will be arranged with those persons requesting the hearing. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

#### Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

#### IV. 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 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (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 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. 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 counterpart Federal regulations.

#### Unfunded Mandates

OSM has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on local, state, or tribal governments or private entities.

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

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 6, 1998.

#### Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD01-97-020]

RIN 2115-AE47

#### Drawbridge Operation Regulations: Passaic River, NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change the operating rules for five bridges over the Passaic River in New Jersey: the Jackson Street Bridge, at mile 4.6, the Bridge Street Bridge, at mile 5.6, the Clay Street Bridge, at mile 6.0, the New Jersey Transit Rail Operations (NJTRO) Bridge, at mile 11.7, and the Route 3 Bridge, at mile 11.8.

Essex and Hudson counties in New Jersey who jointly own the Jackson Street, Bridge Street and Clay Street bridges have requested that their bridges open on signal after a four hour notice is given. The New Jersey Transit Rail Operations (NJTRO) and New Jersey Department of Transportation (NJDOT) who own the NJTRO Bridge and the Route 3 Bridge, both over the Passaic River, have requested that their bridges open on signal after a six month notice is given.

This proposal will relieve the bridge owners of the burden of constantly having personnel available to open the bridges and should continue to provide for the needs of navigation.

**DATES:** Comments must reach the Coast Guard on or before April 14, 1998.

**ADDRESSES:** You may mail comments to Commander (obr), First Coast Guard District, 408 Atlantic Avenue, Boston, Ma. 02110-3350, or deliver them to the same address between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223-8364. The District Commander maintains the public docket for this rulemaking. Comments and documents as indicated in this preamble will become part of this docket and will be available for inspection or copying at the above address during business hours.

**FOR FURTHER INFORMATION CONTACT:** John W. McDonald, Project Officer, First Coast Guard District, (617) 223-8364.

#### SUPPLEMENTARY INFORMATION:

#### Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting