Original amendment submission date	Date of final publication	Citation/description
* *	* * *	* *
January 6, 1998	June 8, 1998	19 NMAC 8.2, Subparts 1 through 34 (recodification).

[FR Doc. 98–15242 Filed 6–5–98; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

[SPATS No. TX–035–FOR]

Texas 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 Texas regulatory program (hereinafter referred to as the ''Texas program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of revisions to Texas' regulations pertaining to definitions, prime farmland, small operator assistance, release of performance bond, and backfilling and grading. The amendment is intended to revise the Texas program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: June 8, 1998.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, 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.

II. Submission of the Proposed Amendment

By letter dated December 1, 1997 (Administrative Record No. TX–644), Texas submitted and amendment to its program pursuant to SMCRA. Texas submitted the amendment in response to a June 17, 1997, letter (Administrative Record No. 640) and OSM sent to Texas in accordance with 30 CFR 732.17(c). Texas amended its regulations at Chapter 12 of the Texas Administrative Code (TAC) pertaining to definitions, prime farmland, small operator assistance, release of performance bond, and backfilling and grading.

OSM announced receipt of the proposed amendment in the December 29, 1997, **Federal Register** (62 FR 67598) and in the same document opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment period closed on January 28, 1998. Because no one requested a public hearing or meeting, none was held.

During its review of the amendment, OSM identified concerns relating to release of performance bond and backfilling and grading. OSM notified Texas of the concerns by letter dated February 12, 1998 (Administrative Record No. TX–644.06). Texas responded in a letter dated March 6, 1998 (Administrative Record No. TX–644.07, by submitting revisions to its amendment. Based upon the revisions to the proposed program amendment submitted by Texas, OSM reopened the public comment period in the April 29, 1998, **Federal Register** (63 FR 23407). The public comment period closed on May 14, 1998.

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.

Revisons not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph nota6tions to reflect organizational changes resulting from this amendment.

A. Revisions to Texas' Regulations That Are Substantively Identical to the Corresponding Provisions of the Federal Regulations

The State regulations listed in the table below contain language that is the same as or similar to the corresponding sections of the Federal regulations. Differences between the State regulations and the Federal regulations are nonsubstantive.

Topic	State regulation	Federal counterpart regulation
Definition of Previously Mined Area	16 TAC 12.3	30 CFR 701.5
Definition of Qualified Laboratory	16 TAC 12.3	30 CFR 701.5
Definition of Thick Overburden	16 TAC 12.3	30 CFR 816.105(a)
Definition of Thin Overburden	16 TAC 12.3	30 CFR 816.104(a)
Prime Farmland	16 TAC 12.201(d)(5)	30 CFR 785.17(e)(5)
Terms and Conditions of the Bond	16 TAC 12.309(1)	30 CFR 800.21(f)
Release of Performance Bond—Application	16 TAC 12.312 (a)(1), (a)(2), (a)(3).	30 CFR 800.40 (a)(1), (a)(2), (a)(3)
Release of Performance Bond—Inspection	16 TAC 12.312 (b)(1), (b)(2).	30 CFR 800.40 (b)(1), (b)(2)
Release of Performance Bond—Criteria and Schedule	16 TAC 12.313 (a), (a)(1), (a)(2), (a)(3), (b), (d), (f).	30 CFR 800.40 (c), (c)(1), (c)(2), (c)(3), (d), (f), (g)
Backfilling and Grading: Thin Overburden	16 TAC 12.387	30 CFR 816.104(b)

Topic	State regulation	Federal counterpart regulation
Backfilling and Grading: Thick Overburden	16 TAC 12.388	30 CFR 816.105(b)

Because the above proposed revisions are identical in meaning to the corresponding Federal regulations, the Director finds that Texas' proposed regulations are no less effective than the Federal regulations.

B. Small Operator Assistance Program (SOAP)

1. 16 TAC 12.237 Eligibility for Assistance

At section 12.237(2), Texas amended the eligibility requirements for participation in its small operator assistance program by increasing the amount of the probable total actual and attributed production allowed for applicants from 100,000 to 300,000 tons. At section 12.237(2) (B) and (C), Texas increased the baseline percentage above which ownership will play a role in determining attributed coal production from 5 to 10 percent.

The Director finds that the proposed revisions are consistent with the requirements of the Federal regulations at 30 CFR 795.6(a)(2), and is approving them.

2. 16 TAC 12.243 Applicant Liability

Texas revised section 12.243(a) to require that a coal operator who has received assistance pursuant to sections 12.236 and 12.240 reimburse the Commission for the cost of the services rendered. Texas revised section 12.243(a)(4) to specify that reimbursement will be required if the Commission finds that the operator's actual and attributed annual production of coal for all locations exceeds 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit. Texas revised section 12.243(a)(5) to specify that reimbursement will be required if the permit is sold, transferred, or assigned to another person and the transferee's total actual and attributed production exceeds the 300,000-ton production limit during the 12 months immediately following the date on which the permit was originally issued.

The Director finds that the revisions to section 12.243 make it substantively identical to the Federal regulation at 30 CFR 795.12, and is approving the revisions.

3. 16 TAC 12.236 and 12.240

In the June 17, 1997, letter that was sent to Texas in accordance with 30 CFR 732.17(c), OSM also notified Texas of changes needed to its small operator assistance program regulations pertaining to program services and data requirements. Texas noted in this proposed amendment that it will propose revisions to its regulations at 16 TAC 12.236 (Program Services) and 12.240 (Data Requirements) in a future amendment following appropriate statutory changes. Texas also stated that it currently has no small operator assistance program and has no current or potential operations that may qualify for program assistance. Therefore, it is the Director's understanding that Texas will not implement its small operator assistance program regulations until after it amends its regulations at 16 TAC 12.236 and 12.240.

IV. Summary and Disposition of Comments

Public Comments

OSM solicited public comments on the proposed amendment, but none were received.

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 Texas program (Administrative Record No. TX–644.03). By letter dated December 24, 1997, the U.S. Army Corps of Engineers commented that its review found the changes to be satisfactory (Administrative Record No. TX–644.05).

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 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.*). None of the revisions that Texas proposed to make in this amendment pertain to air or water quality standards. Therefore, OSM did not request the EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the amendment from the EPA (Administrative Record No. TX–644.01). The 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 is required to solicit comments on proposed amendments which may have an effect on historic properties from the SHPO and ACHP. OSM solicited comments on the proposed amendment from the SHPO and ACHP (Administrative Record No. TX–644.02). Neither the SHPO nor ACHP responded to OSM's request.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Texas on December 1, 1997, and as revised on March 6, 1998.

The Director approves the regulations proposed by Texas with the provision that they be fully promulgated in identical form to the regulations submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR Part 943, codifying decisions concerning the Texas 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 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 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.

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: May 22, 1998.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR part 943 is amended as set forth below:

PART 943—TEXAS

1. The authority citation for Part 943 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 943.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 943.15 Approval of Texas regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	*
December 1, 1997	June 8, 1998	16 TAC 12.3; 12.201(d)(5); 12.237(2), (2)(B) and (C); 12.243(a), (a)(4) and (5); 12.309(1); 12.312(a) and (b); 12.313(a), (b), (d), and (f); 12.387; 12.388.

[FR Doc. 98–15241 Filed 6–5–98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SIPTRAX NO. PA110–4068a; FRL–6102–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Gasoline Volatility Requirements for the Pittsburgh-Beaver Valley Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision amends the gasoline volatility requirement for the Pittsburgh-Beaver Valley nonattainment area. The intended effect of this action is to approve a summertime gasoline Reid vapor pressure (RVP) limit of 7.8 pounds per square inch (psi) for gasoline sold in Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland counties in Pennsylvania. These seven counties comprise the Pittsburgh-Beaver Valley ozone nonattainment area.

DATES: This final rule will become effective July 23, 1998 without further notification unless the Agency receives relevant adverse comments by July 8, 1998. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: Comments may be mailed to David Arnold, Chief, Ozone and Mobile Source Section, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink at (215) 566–2104.

SUPPLEMENTARY INFORMATION: On December 3, 1997, the Commonwealth of Pennsylvania submitted a formal revision to its State Implementation Plan (SIP). The SIP revision amends the gasoline volatility requirement for the seven county Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). On April 17, 1998 the Commonwealth of Pennsylvania revised its December 3, 1997 SIP revision request by deleting the provisions relating to the use of reformulated gasoline (RFG).

I. Background

In July 1995, EPA determined that the air quality of the Pittsburgh area met the national ambient air quality standard