

DEPARTMENT OF THE INTERIOR**Office of Surface Mining Reclamation and Enforcement****30 CFR Part 936**

[OK-028-FOR]

Oklahoma Regulatory Program**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.**ACTION:** Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving an amendment to the Oklahoma regulatory program (Oklahoma program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Oklahoma proposed revisions to its regulations concerning employment and financial interests of State employees and members of advisory boards and commissions and remining and reclamation of previously mined and certain inadequately reclaimed lands. Oklahoma intends to revise its program to be consistent with the corresponding Federal regulations and/or statutes. Oklahoma also intends to correct some cross references and typographical and grammatical errors.

EFFECTIVE DATE: January 17, 2003.

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SUPPLEMENTARY INFORMATION:

- I. Background on the Oklahoma Program
- II. Submission of the Amendment
- III. OSM's Findings
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- V. OSM's Decision
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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, "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 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 Oklahoma's program and program amendments at 30 CFR 936.15 and 936.16.

II. Submission of the Amendment

By letter dated November 1, 2001 (Administrative Record No. OK-993), Oklahoma sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Oklahoma sent the amendment at its own initiative. Oklahoma proposed to amend the Oklahoma Administrative Code, Title 460, Chapter 20.

We announced receipt of the amendment in the December 11, 2001, **Federal Register** (66 FR 63968). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public

hearing or meeting because no one requested one. The public comment period ended on January 10, 2002. We received comments from one Federal agency (Administrative Record No. OK-993.01).

During our review of the amendment, we identified concerns regarding the review of permit applications and employment and financial interests of members of advisory boards, the Oklahoma Mining Commission, and commissions representing multiple interests. We notified Oklahoma of these concerns by letter dated March 25, 2002 (Administrative Record No. OK-993.04).

Oklahoma responded in a letter dated July 3, 2002, by sending us a revised amendment (Administrative Record No. OK-993.05). Based upon Oklahoma's revisions to its amendment, we reopened the public comment period in the August 27, 2002, **Federal Register** (67 FR 54979). The public comment period ended on September 11, 2002. We received comments from one Federal agency (Administrative Record No. OK-993.10).

III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment as described below. Any revisions that we do not specifically discuss below concern nonsubstantive wording or editorial changes.

A. Revisions to Oklahoma's Regulations That Have the Same Meaning as the Corresponding Federal Provisions

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 and/or statutes.

Topic	State regulation	Federal counterpart regulation and/or statute
Definition of "Lands eligible for remining"	Section 460:20-3-5(A) through (D), (F), (G), and (I).	30 CFR 701.5; sections 402(g)(4)(A) and (B)(i) through (ii), and 404 of SMCRA.
Definition of "Unanticipated event or condition"	Section 460:20-3-5	30 CFR 701.5.
Financial interest of State employees—Authority.	Section 460:20-5-3	30 CFR 705.3(a).
Financial interest of State employees—Who shall file.	Section 460:20-5-7(b)	30 CFR 705.11(b)
Review of permit application	Section 460:20-15-6(b)(4) through (b)(5), and (c)(13).	30 CFR 773.13(a) and (b), and 773.15(m).
Lands eligible for remining	Section 460:20-33-12	30 CFR 785.25.
Responsibility period	Section 460:20-43-46(c)(2) and (c)(3)	30 CFR 816.116(c)(2) and (c)(3)
Responsibility time frame	Section 460:20-45-46(c)(2) and (c)(3)	30 CFR 817.116(c)(2) and (c)(3).

Because the above State regulations have the same meaning as the corresponding Federal provisions, we

find that they are no less effective than the Federal regulations and/or no less

stringent than the Federal statutes. Therefore, we are approving them.