

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 9, 2003.

Brent Wahlquist,

Regional Director, Appalachian Regional Coordinating Center.

■ For the reasons set out in the preamble, 30 CFR part 938 is amended as set forth below:

PART 938—PENNSYLVANIA

■ 1. The authority citation for part 938 continues to read as follows:

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

■ 2. Section 938.12 is amended by adding paragraph (b) as follows:

§ 938.12 [Amended]

* * * * *

(b) We are not approving the following portions of provisions of the proposed program amendment that Pennsylvania submitted on November 22, 1999:

(1) Sections 25 Pa. Code 86.124(f) and 25 Pa. Code 86.125(j) are not approved to the extent that these sections would allow Pennsylvania more time to

complete a final written decision on a lands unsuitable for surface mining activities petition than is allowed by the provisions of the Federal regulations at 30 CFR 764.19(b).

■ 3. Section 938.15 is amended in the table by adding a new entry in chronological order by "DATE OF FINAL PUBLICATION" to read as follows:

§ 938.15 Approval of Pennsylvania regulatory program amendments.

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Original amendment submission date	Date of final publication	Citation/description
* * * * *	* * * * *	* * * * *
November 22, 1999	July 7, 2003	25 Pa. Code 86.1 definition of "valid existing rights;" 86.101 definitions of "fragile lands," "historic lands," "public building," "public park," "renewable resource lands," "significant recreational value, timber, economic or other values incompatible with surface mining operations," and "surface mining operations;" 86.102(1), (3) through (5), and (7) through (12); 86.103(c), (d), and (e); 86.121, 86.123(c) and (c)(5); 86.124(a), (c), (d) and (f); 86.125; 86.126; 86.127; 86.128; 86.129; and 86.130(b).

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DEPARTMENT OF THE INTERIOR**Office of Surface Mining Reclamation and Enforcement****30 CFR Part 943**

[TX-043-FOR]

Texas 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 Texas regulatory program (Texas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The Railroad Commission of Texas, Surface Mining and Reclamation Division (Texas or Commission) proposed to add a new rule to its administrative hearing procedures concerning telephonic hearing proceedings. Texas intends to revise its program to improve operational efficiency.

EFFECTIVE DATE: July 7, 2003.

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SUPPLEMENTARY INFORMATION:

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

I. Background on the Texas 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 State 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 Texas program effective February 16, 1980. You can find background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval, in the February 27, 1980, **Federal Register** (45 FR 12998). You can find later actions on the Texas program at 30 CFR 943.10, 943.15, and 943.16.

II. Submission of the Amendment

By letter dated February 12, 2003 (Administrative Record No. TX-654), Texas sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Texas sent the amendment at its own initiative. Texas proposed to add Texas Administrative Code (TAC) 1.130 to Title 16, Subchapter G, of its General Rules of Practice and Procedure. This new rule contains the procedures for conducting all or part of a prehearing conference or hearing by telephone.

We announced receipt of the proposed amendment in the April 10, 2003, **Federal Register** (69 FR 17566). 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 May 12, 2003. We did not receive any public comments.

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.

16 TAC 1.130 Telephonic Proceedings

As shown below, the Commission's rule at 16 TAC 1.130 outlines the method to request a telephonic