

*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, to the extent allowable 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 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. 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. The basis for this determination is that our decision is on a State regulatory program and does not involve a Federal program involving Indian lands.

*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*

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

*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 that 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.

*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, geographic regions, or Federal, State or local governmental agencies; 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 a cost of \$100 million or more in any given year on any governmental entity or the private sector.

**List of Subjects in 30 CFR Part 935**

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 21, 2007.

**H. Vann Weaver,**

*Acting Regional Director Appalachian Region.*

[FR Doc. E7-8171 Filed 4-27-07; 8:45 am]

**BILLING CODE 4310-05-P**

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

[Docket No. TX-057-FOR]

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

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

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

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of a proposed amendment to the Texas regulatory program (Texas program) and the Texas abandoned mine land plan (Texas plan) under the Surface Mining

Control and Reclamation Act of 1977 (SMCRA or the Act). Texas proposes revisions to its regulations regarding postmining land uses; terms and conditions of the bond; topsoil redistribution; standards for revegetation success; public hearings; review of notice of violation or cessation order; determination of amount of penalty; assessment of separate violation for each day; request for hearing; and liens. Texas also proposes revisions to its statute regarding liens and administrative penalties for violation of permit conditions. Texas intends to revise its program to be consistent with the corresponding Federal regulations and/or SMCRA, to clarify ambiguities, and to improve operational efficiency.

This document gives the times and locations that the Texas program and Texas plan and the proposed amendment are available for your inspection, the period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

**DATES:** We will accept written comments on this amendment until 4 p.m., c.t. May 30, 2007. If requested, we will hold a public hearing on the amendment on May 25, 2007. We will accept requests to speak at a hearing until 4 p.m., c.t. on May 15, 2007.

**ADDRESSES:** You may submit comments, identified by Docket No. TX-057-FOR, by any of the following methods:

- *E-mail:* [athomas@osmre.gov](mailto:athomas@osmre.gov). Include "Docket No. TX-057-FOR" in the subject line of the message.
- *Mail/Hand Delivery:* A. Dwight Thomas, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101st East Avenue, Suite 145, Tulsa, Oklahoma 74128
- Fax: (918) 581-6419
- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*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 Texas program and Texas plan, 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.

A. Dwight Thomas, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101st East Avenue, Suite 145, Tulsa, Oklahoma 74128, *Telephone:* (918) 581-6430, *E-mail:* [athomas@osmre.gov](mailto:athomas@osmre.gov).

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

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

**FOR FURTHER INFORMATION CONTACT:** A. Dwight Thomas, Acting Director, Tulsa Field Office. *Telephone:* (918) 581-6430. *E-mail:* [athomas@osmre.gov](mailto:athomas@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

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

**I. Background on the Texas Program and Texas Plan**

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 (Secretary) 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 of the Texas program in the February 27, 1980, **Federal Register** (45 FR 12998). You can also find later actions concerning the Texas program and program amendments at 30 CFR 943.10, 943.15 and 943.16.

The Abandoned Mine Land Reclamation Program was established by Title IV of the Act (30 U.S.C. 1201 *et seq.*) in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded by a reclamation fee

collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal mines and for other authorized activities. Section 405 of the Act allows States and Indian Tribes to assume exclusive responsibility for reclamation activity within the State or on Indian lands if they develop and submit to the Secretary of the Interior (Secretary) for approval, a program (often referred to as a plan) for the reclamation of abandoned coal mines. On the basis of these criteria, the Secretary approved the Texas plan on June 23, 1980. You can find background information on the Texas plan, including the Secretary's findings, the disposition of comments, and the approval of the plan in the June 23, 1980, **Federal Register** (45 FR 41937). You can find later actions concerning the Texas plan and amendments to the plan at 30 CFR 943.25.

**II. Description of the Proposed Amendment**

By letter dated February 14, 2007 (Administrative Record No. TX-662), and at its own initiative, Texas sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Below is a summary of the changes proposed by Texas. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

*A. Revisions to Texas' Regulations, Title 16 Texas Administrative Code (TAC)*

1. Section 12.147 Reclamation Plan: Postmining Land Uses

Texas proposes to delete paragraph (a)(2) that requires permit applicants to submit a detailed management plan if the postmining land use is to be range or grazing. Texas also proposes to redesignate paragraphs (a)(3) and (a)(4) as paragraphs (a)(2) and (a)(3).

2. Section 12.309 Terms and Conditions of the Bond

Texas proposes to add to paragraph (g)(2) a requirement that a letter of credit used as security in areas requiring continuous bond coverage must be forfeited and collected by the Railroad Commission of Texas if it is not replaced by other suitable bond or letter of credit at least 30 days before it expires.

3. Section 12.337 Topsoil: Redistribution

Texas proposes to revise subsections (a) and (b) to read as follows:

- (a) After final grading and before the replacement of topsoil, topsoil substitutes

and other materials segregated in accordance with § 12.335 of this title (relating to Topsoil: Removal), regraded land shall be scarified or otherwise treated as required by the Commission to eliminate slippage surfaces and to promote root penetration. If the person who conducts the surface mining activities shows, through appropriate tests, and the Commission approves, that no harm will be caused to the topsoil and vegetation, scarification may be conducted after topsoiling.

(b) Topsoil material, and topsoil substitutes and other supplements shall be redistributed in a manner that:

(1) Achieves an approximate uniform, stable thickness consistent with the approved postmining land uses, contours, and surface water drainage system. Soil thickness may also be varied to the extent such variations help meet the specific revegetation goals identified in the permit;

(2) Prevents excess compaction of the topsoil, topsoil substitutes and supplements; and

(3) Protects the topsoil, topsoil substitutes and supplements from wind and water erosion before and after it is seeded and planted.

#### 4. Section 12.395 Revegetation: Standards for Success

a. Texas proposes to revise paragraph (a)(1) to require standards for success and statistically valid sampling techniques for measuring success to be described in writing and made available to the public.

b. Texas proposes to revise paragraph (b)(1) to read as follows:

(1) For areas developed as grazingland or pastureland, the ground cover and production of living plants on the revegetated area shall be at least equal to that of a reference area or such other success standards approved by the Commission;

c. Paragraph (b)(3) lists the kinds of areas whose success of vegetation is to be determined on the basis of tree and shrub stocking and vegetative ground cover. Texas proposes to revise this paragraph by adding “undeveloped land” as an area requiring this determination and by removing “shelter belts.”

d. For areas to be developed for fish and wildlife habitat, recreation, undeveloped land, or forest products, Texas proposes to revise paragraph (b)(3)(A) to allow consultation with and approval by the State agencies responsible for the administration of forestry and wildlife programs to occur on either a program-wide or permit-specific basis.

e. Texas proposes to revise paragraph (b)(3)(B) by adding instructions explaining how to meet the requirements for determining the success of stocking and the adequacy of the planting arrangement for trees and shrubs.

f. Texas proposes to revise paragraph (c)(3) to read as follows:

(3) In areas of 26.0 inches or less average annual precipitation, the period of responsibility shall continue for a period of not less than 10 full years. Vegetation parameters identified in § 12.395(b) of this title (relating to Revegetation: Standards for Success) for grazingland, pastureland, or cropland shall equal or exceed the approved success standard during the growing season of any two years after year six of the responsibility period. Areas approved for the other uses identified in § 12.395(b) of this title (relating to Revegetation: Standards for Success) shall equal or exceed the applicable success standard during the growing season of the last year of the responsibility period.

g. Texas proposes to revise paragraph (c)(4) by clarifying that selective husbandry practices may be approved if the discontinuance of the practice “after the liability period expires” will not reduce the probability of permanent revegetation success. Texas also proposes to clarify that the unmined land, for which the selective husbandry practices are normal, must be land that has a land use similar to that of the approved postmining land use of the disturbed land.

#### 5. Section 12.681 Public Hearing

a. Texas proposes to revise the title of this section to read “Informal Public Hearing.”

b. Texas proposes to revise subsection (a) so that a notice of violation or cessation order which requires cessation of mining will expire within 30 days after it is served unless an informal public hearing has been held within that time. Texas also proposes to clarify that the expiration of the notice or order will not affect the Commission’s right to assess civil penalties with respect to the period during which the notice or order was in effect. In addition, Texas proposes that no hearing will be required where the condition, practice, or violation has been abated or the hearing has been waived. Furthermore, Texas proposes to clarify, for the purpose of this section, what is included in “mining.”

c. Texas proposes to revise subsection (b) to clarify that a notice of violation or cessation order will not expire as provided in subsection (a) if the informal public hearing has been waived or if, with the consent of the person to whom the notice or order was issued, the informal public hearing is held later than 30 days after the notice or order is served. Texas also proposes to set forth the conditions under which the informal public hearing is deemed to be waived.

d. Texas proposes to revise subsections (c), (e), (f), and (g) to change

the name of the “public hearing” to “informal public hearing.” Also, Texas proposes to revise subsection (g) to clarify that the “review” mentioned in this subsection is a “formal review.”

e. Texas proposes to add new subsection (h) to read as follows:

(h) The person conducting the informal hearing for the Commission shall determine whether or not the mine site should be viewed during the hearing. In making this determination the only consideration shall be whether a view of the mine site will assist the persons conducting the hearing in reviewing the appropriateness of the enforcement action or of the required remedial action.

#### 6. Section 12.682 Review of Notice of Violation or Cessation Order

a. Texas proposes to revise the title of this section to read, “Formal Review of Notice of Violation or Cessation Order.”

b. Texas proposes to revise subsection (a) and to add new subsection (b) to read as follows:

(a) A person issued a notice of violation or cessation order under § 12.677 or § 12.678 of this title, or a person having an interest which may be adversely affected by the issuance, modification, vacation or termination of a notice or order, may request review of that action by filing an application for review and request for a hearing pursuant to the requisites of §§ 134.168–134.172 of the Act and the APA, within 30 days after receiving notice of the action.

(b) The filing of an application for review and request for a hearing under this section shall not operate as a stay of any notice or order, or any modification, termination or vacation, of either.

#### 7. Section 12.688 Determination of Amount of Penalty

Texas’ penalty schedule currently begins with a minimum penalty of \$20 and increases to a maximum penalty of \$5,000. Texas proposes to change the penalty schedule so that it starts with a minimum penalty of \$550 and increases to a maximum penalty of \$13,000. Texas proposes to increase the penalties to reflect the decreased value in the dollar since the penalty schedule was promulgated in 1979.

#### 8. Section 12.689 Assessment of Separate Violation for Each Day

Texas proposes to revise subsection (b) to increase the per day civil penalty from \$750 to \$1,025 and to make additions and/or corrections regarding regulatory and statutory citations. Texas also proposes to add new paragraph (b)(3) to clarify that the daily penalty will not be assessed for more than 30 days and that if the permittee has not abated the violation within the 30-day period, it will take appropriate action to

ensure that abatement occurs or that there will not be a reoccurrence of the failure to abate.

#### 9. Section 12.693 Request for Hearing

Texas proposes to revise this section to read as follows:

The person charged with the violation may contest the proposed penalty or the fact of the violation by submitting a petition and an amount equal to the proposed penalty or, if an assessment conference has been held, the reassessed or affirmed penalty to the Commission, to be held in escrow, within 30 days from receipt of the proposed assessment or reassessment or 30 days from the date of service of the assessment conference examiner's action, whichever is later. The fact of the violation may not be contested if it has been decided in a review proceeding commenced under § 12.682 of this title.

#### 10. Section 12.816 Liens

Texas proposes to revise subsection (c) to remove the requirement that the landowner must own the surface before May 2, 1977, before he or she is exempt from having a lien placed against his or her property because reclamation resulted in a significant increase in the fair market value of the property.

#### *B. Revisions to Texas' Statute, Chapter 134 Texas Natural Resources Code*

##### 1. Section 134.150 Lien

Texas proposes to revise subsection (c) to read as follows:

(c) A lien may not be filed under this section against the property of a person who did not consent to, participate in, or exercise control over the mining operation that necessitated the reclamation performed under this chapter.

##### 2. Section 134.174 Administrative Penalty for Violation of Permit Condition of This Chapter

Texas proposes to revise subsection (b) to read as follows:

(b) The penalty may not exceed \$13,000 for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

### 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 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 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.

#### *Electronic Comments*

Please submit Internet comments as an ASCII or Word file, avoiding the use of special characters and any form of encryption. Please also include "Attn: Docket No. TX-057-FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Tulsa Field Office at (918) 581-6430.

#### *Public 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 can 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.

#### *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.t. on May 15, 2007. If you are disabled and need special 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 only one person requests an opportunity to speak, 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 Texas program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Texas 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 OMB 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 943**

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 23, 2007.

**Ervin J. Barchenger,**

*Acting Regional Director, Mid-Continent Region.*

[FR Doc. E7-8156 Filed 4-27-07; 8:45 am]

**BILLING CODE 4310-05-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2007-0138; FRL-8302-6]**

**Approval and Promulgation of Air Quality Implementation Plans; Illinois**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve the incorporation of revised air pollution permitting and emissions standards rules into the Illinois State Implementation Plan (SIP). The State submitted this request for revision to its State Implementation Plan to EPA on May 31, 2006. Approval would make the State's rules federally enforceable.

**DATES:** Comments must be received on or before May 30, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2007-0138, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail*: [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov).

3. *Fax*: (312) 886-5824.

4. *Mail*: Pamela Blakley, Chief, Air Permits Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery*: Pamela Blakley, Chief, Air Permits Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

**FOR FURTHER INFORMATION CONTACT:** Constantine Blathras, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency,