

U. Conducting oversight responsibilities (e.g., inspection, monitoring, enforcement).

V. Identifying technology assessment and research needs.

W. Preventing waste.

X. Conserving resources.

*Specific questions:*

18. What options should MMS consider as alternatives to facility removal? Are there unique issues (such as liability) associated with those options?

19. What engineering challenges should be considered when operating in an OCS environment?

20. What safety issues exist when operating an energy production facility on the OCS?

21. How should operational activities be monitored (e.g. annual on-site inspections with verification of operating plans)? Is there an appropriate role for the applicant and independent third party certification agents? Describe existing models that could serve as a prototype inspection and monitoring program.

22. Are there special considerations that MMS should examine in developing an inspection program that covers a diverse set of renewable production facilities? If so, what are they?

#### *Program Area: Payments and Revenues*

*Description:* MMS has the responsibility to ensure a fair return to the United States for the use of any lease, easement, or right-of-way granted. The MMS is required to establish bonus bids, rentals, fees, royalties, or other payments to ensure that return. Additionally, cost recovery fees may be collected to compensate for the administrative costs of providing various services. Developing a payment and revenue structure, as well as appropriately designing fiscal terms applicable to energy and alternate use projects, requires additional information.

*General issues:* Please provide information on:

Y. Bonus bids.

Z. Rentals.

AA. Royalty terms.

BB. Fees, including cost recovery fees or other payments.

CC. Assessing value/benefits and impacts, Public, Private.

DD. Valuing leases, easements or rights-of-way.

EE. Comparable fiscal systems.

FF. Surety bonds.

*Specific questions:*

23. What should the payment structure be designed to collect? Should payments be targeted at charging for use

of the seabed? Should payments try to capture the opportunity costs of other activities displaced by the activity?

Should the payment structure be designed to capture a portion of the revenue stream, and if so, under what circumstances?

24. Offshore renewable energy technologies are in their infancy. Should the payment structure be designed to encourage the development of these activities until the technologies are better established?

25. What methods are used by the renewable energy industry to quantify the risk and uncertainty involved with estimating the size of a renewable energy resource, and evaluating its profitability?

26. What measures of profitability are commonly used as renewable energy investment decision criteria? How do bonus bids, rents, royalties, fees and other payment methods impact the profitability of these projects?

27. Are there economic models available to calculate the profitability of renewable energy proposals?

28. Increased reliance on renewable energy offers both economic and environmental benefits. What are the public benefits to society and do they differ from market driven benefits?

29. In section 8 (p) of the OCSLA as amended by Section 388 of the Energy Policy Act, the Secretary must require the holder of a lease, easement or right of way granted under that subsection to furnish a surety bond or other form of security. What options should MMS consider to comply with this requirement?

#### *Coordination and Consultation*

*Description:* Section 8(p) of the OCSLA, as amended, includes several provisions relating to coordination and consultation with interested and affected parties. Those provisions call for coordinating and consulting with state governors or local government executives concerning activities that may affect them, developing and implementing regulations in consultation with certain Federal agencies and the governors of affected states, and ensuring that activities are carried out in a manner that provides for coordination with relevant Federal agencies. MMS views these requirements as essentially covering all aspects and phases of the non-oil and gas energy and alternate use program established by the Energy Policy Act of 2005.

*Questions relating to coordination and consultation:*

30. While MMS considers this ANPR an appropriate start at consultation with

interested and affected parties, what other efforts could be undertaken at this early stage of program development?

31. Should a broad approach be taken to developing a program or should efforts be targeted to specific regions with commensurate coordination and consultation?

32. Would the establishment of Federal/state cooperatives for targeted areas be useful? Similar to the process for OCS oil and gas program formulation, should we solicit comments on which areas of the OCS should be included or excluded from the program? After establishing where there is consensus in support of program activities, should coordination and consultation efforts be directed to those areas? Conversely, should such efforts be curtailed or abandoned for areas recommended for exclusion?

33. What are the critical stages (e.g. site evaluation, application, competitive sale) for consultation with affected parties?

34. Should procedures for consulting with interested and affected parties be codified in the regulations? In general? In detail?

35. What processes can MMS use to provide for balance between consultations and the time and burden to the projects?

36. Are there specific aspects of the new ROW rule issued by the Bureau of Land Management that should be reviewed by MMS for consideration in its rulemaking?

MMS seeks responses to the questions, and comments as to which option(s) may be considered the most effective and efficient. After analyzing the comments received from this notice, MMS will determine how to proceed. MMS encourages all interested parties to respond to these questions and to provide comments on any aspect of this program.

Dated: December 7, 2005.

**Walter D. Cruickshank,**

*Acting Director, Minerals Management Service.*

[FR Doc. E5-8119 Filed 12-29-05; 8:45 am]

**BILLING CODE 4310-MR-P**

## **DEPARTMENT OF THE INTERIOR**

### **Office of Surface Mining Reclamation and Enforcement**

#### **30 CFR Part 936**

**[Docket No. OK-030-FOR]**

#### **Oklahoma Regulatory Program**

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

**ACTION:** Proposed rule; reopening and extension of public comment period on proposed amendment.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of revisions to a previously proposed amendment to the Oklahoma regulatory program (Oklahoma program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The revisions Oklahoma proposes concern subsidence control; impoundments; and revegetation success standards.

Oklahoma also elected to withdraw its proposed revisions regarding review of decision not to inspect or enforce. Oklahoma intends to revise its program to provide additional safeguards, clarify ambiguities, and improve operational efficiency.

This document gives the times and locations that the Oklahoma program and proposed amendment to that program are available for your inspection and the comment period during which you may submit written comments on the revisions to the amendment.

**DATES:** We will accept written comments until 4 p.m., c.t., January 17, 2006.

**ADDRESSES:** You may submit comments, identified by Docket No. OK-030-FOR, by any of the following methods:

- *E-mail:* [mwolfrom@osmre.gov](mailto:mwolfrom@osmre.gov). Include "Docket No. OK-030-FOR" in the subject line of the message.
- *Mail/Hand Delivery:* Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135-6547.
- *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 Oklahoma program, 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.

Michael 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, E-mail: [mwolfrom@osmre.gov](mailto:mwolfrom@osmre.gov).

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

Oklahoma Department of Mines, 4040 N. Lincoln Blvd., Suite 107, Oklahoma City, Oklahoma 73105, Telephone: (405) 427-3859.

**FOR FURTHER INFORMATION CONTACT:**

Michael C. Wolfrom, Director, Tulsa Field Office. Telephone: (918) 581-6430. E-mail: [mwolfrom@osmre.gov](mailto:mwolfrom@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

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

**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. Description of the Proposed Amendment**

By letters dated October 14, 2005, and November 17, 2005 (Administrative Record Nos. OK-946.05 and OK-946.08, respectively), Oklahoma sent us amendments to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Oklahoma sent the amendments in response to our letters dated September 15, 2005, and October 28, 2005 (Administrative Record Nos. OK-946.04

and OK-946.07, respectively) that we sent to Oklahoma under 30 CFR 732.17(c).

We announced receipt of the proposed amendment in the October 18, 2005, **Federal Register** (70 FR 60481) and invited public comment on its adequacy. The public comment period ended November 17, 2005.

During our review of the amendment, we identified concerns relating to subsidence control, impoundments, revegetation success standards, and review of decision not to inspect or enforce. We notified Oklahoma of the concerns by letters dated September 15, 2005, and October 28, 2005 (Administrative Record Nos. OK-946.04 and OK-946.07, respectively). On October 14, 2005, and November 17, 2005 (Administrative Record Nos. OK-946.05 and OK-946.08, respectively), Oklahoma sent us revised amendments (Administrative Record Nos. OK-946.05 and OK-946.08, respectively).

Below is a summary of the revisions proposed by Oklahoma. The full text of the revised amendment is available for you to read at the locations listed above under **ADDRESSES**.

*A. Oklahoma Administrative Code (OAC) 460:20-31-13. Subsidence Control Plan*

Oklahoma proposes to revise paragraph (a)(3) to require applications to include surveys of non-commercial buildings or occupied residential dwellings and structures related thereto except for areas where there is no planned subsidence. Oklahoma also proposes to require all applications to include surveys of all drinking, domestic, and residential water supplies.

*B. OAC 460:20-43-14. Impoundments*

Oklahoma proposes to revise paragraph (a)(14) to require embankment slopes of impoundments to be no closer than 100 feet, measured horizontally, to any public road right-of-way unless otherwise approved under procedures established in OAC 460:20-7-4(4). Areas where surface coal mining operations are prohibited or limited, and 460:20-7-5(d), Procedures.

*C. OAC 460:20-43-46 and OAC 460:20-45-46. Revegetation: Standards for Success*

Oklahoma proposes to add new paragraphs (b)(3)(B) and to redesignate existing paragraphs (b)(3)(B) through (b)(3)(D) as new paragraphs (b)(3)(C) through (b)(3)(E). New paragraphs (b)(3)(B) allow the Oklahoma Department of Mines (Department) to specify minimum stocking and planting

arrangements for areas to be developed for recreation, shelter belts, or forest products on the basis of local and regional conditions after consultation with and approval by the State agencies responsible for administration of forestry and wildlife programs. The consultation and approval will occur on a permit specific basis and the stocking and planting arrangements will be incorporated into an approved reclamation plan.

#### *D. OAC 460:20–45–47. Subsidence Control*

Oklahoma proposes to revise paragraph (c)(4) pertaining to repair of damage to surface lands. This new paragraph requires operators to be governed by a rebuttable presumption of causation by subsidence. The information to be considered in determination of causation is whether damage to protected structures was caused by subsidence from underground mining. All relevant and reasonably available information will be considered by the Department when making the determination.

#### *E. OAC 460:20–57–6. Review of Decision Not To Inspect or Enforce*

Oklahoma proposes to withdraw its previously proposed amendment pertaining to a review of the Department's decision to not inspect or take enforcement action with respect to any violation alleged by any person who is or may be adversely affected by a coal exploration or surface coal mining and reclamation operation.

### **III. Public Comment Procedures**

We are reopening the comment period on the proposed Oklahoma program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), we are seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Oklahoma 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: OK-030-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.

#### *Availability of Comments*

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

### **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 Oklahoma program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Oklahoma 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 936**

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 15, 2005.

**Charles E. Sandberg,**

*Regional Director, Mid-Continent Region.*

[FR Doc. E5-8105 Filed 12-29-05; 8:45 am]

**BILLING CODE 4310-05-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 80**

**[EPA-OAR-2005-0161; FRL 8016-9]**

### **Regulation of Fuels and Fuel Additives: Renewable Fuel Standard Requirements for 2006**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** EPA is proposing to interpret and clarify the 2006 default standard applicable under the Renewable Fuel Program set forth in the Energy Policy Act of 2005. The Act requires that 2.78 volume percent of gasoline sold or dispensed to consumers in the U.S. in 2006 be renewable fuel if EPA does not promulgate comprehensive regulations to implement the Renewable Fuel Program by August 8, 2006. Given the short timeframe available and the need to provide certainty to the regulated community, the Agency is proposing a limited set of regulations for the default standard for 2006 that will provide for collective compliance by refiners, blenders, and importers to meet the 2.78 volume percent requirement, with compliance determined by looking at the national pool of gasoline sold in 2006. The Agency will develop and promulgate the comprehensive program subsequent to this action.

**DATES:** *Comments:* Comments must be received on or before January 30, 2006.

*Hearings:* If EPA receives a request from a person wishing to speak at a public hearing by January 17, 2006, a public hearing will be held on January

30, 2006. If a public hearing is requested, it will be held at 10 a.m. at the EPA Office Building, 2000 Traverwood, Ann Arbor, MI 48105, or at an alternate site nearby. To request to speak at a public hearing, send a request to the contact in **FOR FURTHER INFORMATION CONTACT.**

**ADDRESSES:** Submit your comments, identified by Docket ID No. OAR-2005-0161, by one of the following methods:

- [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
- E-mail: [macallister.julia@epa.gov](mailto:macallister.julia@epa.gov).
- Fax: (734) 214-4816.
- Mail: U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Ave., NW., Room B108, Mail Code 6102T, Washington, DC 20460, Attention Docket ID No. OAR-2005-0161. Please include a total of 2 copies.
- Hand Delivery: EPA Docket Center, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. OAR-2005-0161. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid