

Dated: March 4, 2011.

**Ari Alexander,**

*Director, Center for Faith-Based and Community Initiatives.*

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 938

[PA-160-FOR; OSM 2010-0019]

#### Pennsylvania Regulatory Program

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

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

**SUMMARY:** We are announcing receipt of a proposed amendment to the Pennsylvania regulatory program (the "Pennsylvania program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). In response to correspondence related to implementation of the approved Pennsylvania program, Pennsylvania has submitted regulatory changes for approval to render its program no less effective than the Federal regulations as they relate to effluent limitations for post-mining discharges that are amenable to passive treatment technology.

This document gives the times and locations that the Pennsylvania program and this submittal are available for your inspection, the comment period during which you may submit written comments, and the procedures that we will follow for the public hearing, if one is requested.

**DATES:** We will accept written comments until 4 p.m., local time April 25, 2011. If requested, we will hold a public hearing on April 19, 2011. We will accept requests to speak until 4 p.m., local time on April 11, 2011.

**ADDRESSES:** You may submit comments, identified by "PA-160-FOR; Docket ID: OSM-2010-0019" by either of the following two methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. The proposed rule has been assigned Docket ID: OSM-2010-0019. If you would like to submit comments through the Federal eRulemaking Portal, go to <http://www.regulations.gov> and follow the instructions.

*Mail/Hand Delivery/Courier:* Mr. George Rieger, Chief, Pittsburgh Field

Division, Office of Surface Mining Reclamation and Enforcement, Harrisburg Transportation Center, 415 Market St., Suite 304, Harrisburg, PA 17101.

*Instructions:* 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:* In addition to obtaining copies of documents at <http://www.regulations.gov>, information may also be obtained at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Pittsburgh Field Division Office.

George Rieger, Chief, Pittsburgh Field Division, Office of Surface Mining Reclamation and Enforcement, Harrisburg Transportation Center, 415 Market St., Suite 304, Harrisburg, Pennsylvania 17101, *Telephone:* (717) 782-4036, *E-mail:* [grieger@osmre.gov](mailto:grieger@osmre.gov).  
Thomas Callaghan, P.G., Director, Bureau of Mining and Reclamation, Pennsylvania Department of Environmental Protection, Rachel Carson State Office Building, P.O. Box 8461, Harrisburg, Pennsylvania 17105-8461, *Telephone:* (717) 787-5015, *E-mail:* [tcallaghan@state.pa.us](mailto:tcallaghan@state.pa.us).

**FOR FURTHER INFORMATION CONTACT:** George Rieger, *Telephone:* (717) 782-4036. *E-mail:* [grieger@osmre.gov](mailto:grieger@osmre.gov).

#### **SUPPLEMENTARY INFORMATION:**

- I. Background on the Pennsylvania Program
- II. Description of the Request
- III. Public Comment Procedures
- IV. Procedural Determinations

#### **I. Background on the Pennsylvania 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 Pennsylvania program on July 30, 1982. You can find background information on the Pennsylvania program, including the Secretary's findings, the disposition of comments, and conditions of

approval of the Pennsylvania program in the July 30, 1982, **Federal Register** (47 FR 33050). You can also find later actions concerning the Pennsylvania program and program amendments at 30 CFR 938.11, 938.12, 938.13, 938.15, and 938.16.

#### **II. Description of the Request**

By letter dated October 1, 2010, (Administrative Record Number PA 854.03), Pennsylvania sent us a request to approve statutory language and revised regulations related to post-mining pollutional discharges, the use of passive treatment technologies on regulated coal mining sites, and the elimination of manganese effluent limits on certain pollutional discharges under the influence of identified precipitation events. Pennsylvania is requesting approval of the statutory language found at Section 4.2(j) of PA Surface Mining Conservation Reclamation Act (PA SMCRA) and the revised regulations found at: 25 Pa Code Chapters 86.1; 87.102(a) and (e); 88.92(a) and (e); 88.187(a) and (e); 88.292(a) and (e); 89.52(c); and 90.102(a) and (e).

This proposed amendment was initiated by Pennsylvania as a result of a coal mine permit inspection, conducted by OSM, in which a post mining pollutional discharge was observed being treated under the provisions of 87.102(e). Section 87.102(e), Postmining pollutional discharges and corresponding provisions in Chapters 88, 89, and 90, were published in the Pennsylvania Bulletin on November 15, 1997, and have been implemented. To date, these regulations have not been submitted as a program amendment to Pennsylvania's approved regulatory program. Federal regulations at 30 CFR 732.17(g) provide that no change to laws or regulations shall take effect for the purposes of a State program until approved as an amendment. In a letter dated July 7, 2010, OSM notified Pennsylvania that until the regulations are approved by OSM, use of the provisions to approve the construction of new passive treatment facilities at regulated coal mine permits must be discontinued.

*Statutory Changes:* Section 4.2(j) of PA SMCRA is available online at [Regulations.gov](http://Regulations.gov) and in the Administrative Record at the addresses listed above under **ADDRESSES**.

*Regulatory Changes:* Pennsylvania submits the following summary of the proposed regulatory provisions changes at 25 Pa Code: The revision to 86.1 includes the definitions of "Passive Treatment System" and "Post-mining Pollutional Discharge." The revisions to Sections 87.102(a), 88.92(a), 88.187(a),

88.292(a), 89.52(c), and 90.102(a) result in the elimination of the manganese limits for Group B discharges which include surface runoff and discharges during precipitation events less than or equal to the 10 year/24 hour storm event. The addition of 87.102(e); 88.92(e); 88.187(e); 88.292(e); and 90.102(e) establish three specific categories of discharges that can be adequately treated using passive treatment technologies. They are: where pH is always greater than 6.0 and alkalinity always exceeds acidity; where acidity is always less than 100mg/l, iron is always less than 10mg/l, manganese is always less than 18mg/l, and flow is always less than 3 gpm; and where net acidity is always less than 300mg/l. The regulations do not limit applicability to only these three categories. The proposed regulations also establish construction and performance criteria for the treatment systems.

#### *Supporting Documentation:*

Pennsylvania also provided references to OSM's regulations, excerpts from 40 CFR part 434, references to past correspondence with EPA on this issue, and a 1994 Pennsylvania report entitled "Best Professional Judgment Analysis for the Treatment of Post-Mining Discharges from Surface Mining Activities."

### III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the submission satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Pennsylvania program.

#### *Electronic or Written Comments*

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent Tribal or Federal laws or regulations, technical literature, or other relevant publications. We cannot ensure that comments received after the close of the comment period (*see DATES*) or sent to an address other than those listed above (*see ADDRESSES*) will be included in the docket for this rulemaking and considered.

#### *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 may 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. We will not consider anonymous comments.

#### *Public Hearing*

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., local time April 11, 2011. If you are disabled and need reasonable 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 the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a 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 there is only limited interest in participating in a public hearing, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the submission, 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 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

#### *Other Laws and Executive Orders Affecting Rulemaking*

When a State submits a program amendment to OSM for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

#### **List of Subjects in 30 CFR Part 938**

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 31, 2011.

**Thomas D. Shope,**  
Regional Director, Appalachian Region.  
[FR Doc. 2011-7107 Filed 3-24-11; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### **33 CFR Part 117**

[Docket No. USCG-2010-1117]

RIN 1625-AA09

#### **Drawbridge Operation Regulation; Raritan River, Arthur Kill and Their Tributaries, Staten Island, NY and Elizabeth, NJ**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change the drawbridge operation regulations governing the operation of the Arthur Kill (AK) Railroad Bridge at mile 11.6, across Arthur Kill between Staten Island, New York and Elizabeth, New Jersey. This proposed rule would provide relief to the bridge owner from crewing their bridge by allowing the bridge to be operated from a remote location while continuing to meet the present and future needs of navigation.

**DATES:** Comments and related material must be received by the Coast Guard on or before May 24, 2011.

**ADDRESSES:** You may submit comments identified by docket number USCG-