

straight line east-southeast until it reaches the beginning point of Buckley Canyon, approximately three fifths of a mile;

(12) The boundary then follows Buckley Canyon in an easterly direction to the point where it meets Cherry Canyon;

(13) The boundary then follows Cherry Canyon in a northeasterly direction to the point where it meets Grapevine Canyon on the Mt. Livermore, Texas-Chihuahua, U.S.G.S. map;

(14) The boundary then proceeds in a straight line from the intersection of Cherry and Grapevine Canyons to the peak of Bear Cave Mountain, on the Fort Davis, Texas, U.S.G.S. map;

(15) The boundary then proceeds in a straight line from the peak of Bear Cave Mountain to the point where Farm Road 1832 begins;

(16) The boundary then follows Farm Road 1832 back to its intersection with Texas Highway 17, at the point of beginning.

Dated: February 6, 1998.

**John W. Magaw,**  
Director.

Approved: February 23, 1998.

**Dennis M. O'Connell,**

*Acting Deputy Assistant Secretary  
(Regulatory, Tariff and Trade Enforcement).*  
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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 918

[SPATS No. LA-015-FOR]

#### Louisiana Regulatory Program; Approval of Amendment

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** OSM is approving a proposed amendment to the Louisiana regulatory program (hereinafter referred to as the "Louisiana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of the addition of a definition for "replacement of water supply" to the Louisiana Surface Mining Regulations (LSMR). The amendment is intended to revise the Louisiana program to be consistent with the corresponding Federal regulations.

**EFFECTIVE DATE:** March 11, 1998.

**FOR FURTHER INFORMATION CONTACT:** Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135-6548, Telephone: (918) 581-6430.

#### SUPPLEMENTARY INFORMATION:

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

#### I. Background on the Louisiana Program

On October 10, 1980, the Secretary of the Interior conditionally approved the Louisiana program. Background information on the Louisiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the October 10, 1980, **Federal Register** (45 FR 67340). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 918.15 and 918.16.

#### II. Submission of the Proposed Amendment

By letter dated December 4, 1997 (Administrative Record No. LA-363), Louisiana submitted a proposed amendment to its program pursuant to SMCRA. Louisiana submitted the proposed amendment in response to a July 2, 1996, letter (Administrative Record No. 358) that OSM sent to Louisiana in accordance with 30 CFR 732.17(c). Louisiana proposed to amend section 105 of the Louisiana Surface Mining Regulations by adding a definition for "replacement of water supply."

OSM announced receipt of the proposed amendment in the January 7, 1998, **Federal Register** (63 FR 712), and in the same document opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the proposed amendment. The public comment period closed on February 6, 1998, and because no one requested a public hearing or meeting, none was held.

#### III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

**LSMR Section 105 Definitions.** Louisiana the following definition concerning the replacement of water

supplies that have been adversely impacted by coal mining operations.

*Replacement of water supply*—with respect to protected water supplies contaminated, diminished, or interrupted by coal mining operations, provision of water supply on both a temporary and permanent basis equivalent to premining quantity and quality. Replacement includes provision of an equivalent water delivery system and payment of operation and maintenance costs in excess of customary and reasonable delivery costs for premining water supplies.

a. Upon agreement by the permittee and the water supply owner, the obligation to pay such operation and maintenance costs may be satisfied by a one-time payment in an amount which covers the present worth of the increased annual operation and maintenance costs for a period agreed to by the permittee and the water supply owner.

b. If the affected water supply was not needed for the land use in existence at the time of loss, contamination, or diminution, and if the supply is not needed to achieve the postmining land use, replacement requirements may be satisfied by demonstrating that a suitable alternative water source is available and could feasibly be developed. If the latter approach is selected, written concurrence must be obtained from the water supply owner.

Louisiana's proposed definition contains language that is substantively the same as the counterpart Federal definition for "replacement of water supply" at 30 CFR 701.5. Therefore, the Director finds that the proposed definition at section 105 of the Louisiana Surface Mining Regulations is no less effective than the Federal definition.

#### IV. Summary and Disposition of Comments

##### Public Comments

OSM solicited public comments on the proposed amendment, but none were received.

##### Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Louisiana program (Administrative Record No. LA-363.03).

The U.S. Army Corps of Engineers responded by letter dated January 27, 1998, that it found the changes to be satisfactory (Administrative Record No. LA-363.04).

##### Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated

under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Louisiana proposed to make in this amendment pertain to air or water quality standards. Therefore, OSM did not request the EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from the EPA (Administrative Record No. LA-363.01). The EPA did not respond to OSM's request.

*State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

Pursuant to 30 CFR 732.17(h)(4), OSM is required to solicit comments on proposed amendments which may have an effect on historic properties from the SHPO and ACHP. OSM solicited comments on the proposed amendment from the SHPO and ACHP (Administrative Record No. LA-363.02). Neither the SHPO nor ACHP responded to OSM's request.

#### V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Louisiana on December 4, 1997.

The Director approves the regulation as proposed by Louisiana with the provision that it be fully promulgated in identical form to the regulation submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR Part 918, codifying decisions concerning the Louisiana program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

#### VI. Procedural Determinations

##### *Executive Order 12866*

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

##### *Executive Order 12988*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed 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 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.

##### *National Environmental Policy Act*

No environmental impact statement is required for this rule since 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 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 which is the subject of this rule is based upon corresponding 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 corresponding Federal regulations.

##### *Unfunded Mandates*

OSM has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on local, state, or tribal governments or private entities.

##### **List of Subjects in 30 CFR Part 918**

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 25, 1998.

**Brent Wahlquist,**

*Regional Director, Mid-Continent Regional Coordinating Center.*

For the reasons set out in the preamble, 30 CFR Part 918 is amended as set forth below:

#### **PART 918—LOUISIANA**

1. The authority citation for Part 918 continues to read as follows:

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

2. Section 918.15 is amended in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

##### **§ 918.15 Approval of Louisiana regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
* * *	* * *	* * *
December 4, 1997 .....	March 11, 1998 .....	LSMR section 105.