

Aviation Regulations (14 CFR Part 71) to amend the Class E airspace area at Malone, NY. A GPS RWY 5 SIAP and a GPS RWY 23 SIAP have been developed for the Malone-DuFort Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate these SIAPs and for IFR operations at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

#### PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, is proposed to be amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

#### AEA NY E5 Malone, NY [Revised]

Malone-DuFort Airport, NY  
(Lat. 44°51'13"N., long. 74°19'43"W.)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Malone-DuFort Airport, excluding the airspace within Canada.

\* \* \* \* \*

Issued in Jamaica, New York, on September 22, 1998.

**Franklin D. Hatfield,**

*Manager, Air Traffic Division, Eastern Region.*

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 943

#### Texas Abandoned Mine Land Reclamation Plan Amendment

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

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

**SUMMARY:** OSM is announcing receipt of additional explanatory information and revisions pertaining to a previously proposed amendment to the Texas abandoned mine land reclamation plan (from now on referred to as the “Texas plan”) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The additional explanatory information and revisions for Texas’s proposed plan amendment pertain to eligible coal lands and water; reclamation priorities for noncoal program; land acquisition authority—noncoal; lien requirements; satisfaction of liens; entry and consent to reclaim; appraisals; entry for emergency reclamation; land eligible for acquisition; disposition of reclaimed lands; liens; and editorial corrections. Texas intends to revise its regulations to conform selected parts to amended Federal regulations and to reorganize its regulations to align more clearly with federal counterpart regulations.

**DATES:** We must receive your written comments by 4:00 p.m., c.d.t. October 19, 1998.

**ADDRESSES:** You should mail or hand deliver written comments to Michael C. Wolfrom, Director, Tulsa Field Office, at the address listed below.

We will make copies of the Texas plan, the proposed amendment, and all written comments received in response to this document available for public review at the addresses listed below. The copies will be available during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the proposed 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@mcrwgw.osmre.gov.

Railroad Commission of Texas, Surface Mining and Reclamation Division, 1701 North Congress Avenue, P. O. Box 12967, Austin, Texas 78711-2967, Telephone: 512-463-6900.

#### FOR FURTHER INFORMATION CONTACT:

Michael C. Wolfrom, Director, Tulsa Field Office, Telephone: (918) 581-6430.

#### SUPPLEMENTARY INFORMATION:

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

#### I. Background on the Texas Plan

On June 23, 1980, the Secretary of the Interior approved the Texas Abandoned Mine Land Plan. You can find general background information on the Texas plan, including the Secretary’s findings, the disposition of comments, and the conditions of approval in the June 23, 1980, **Federal Register** (45 FR 41937). You can find later actions concerning the Texas plan at 30 CFR 943.25.

#### II. Discussion of the Proposed Amendment

By letter dated December 1, 1997 (Administrative Record No. TAML-61), Texas submitted a proposed amendment to its plan under the provisions SMCRA. Texas submitted the proposed amendment at its own initiative. We announced receipt of the proposed amendment in the December 29, 1997, **Federal Register** (62 FR 67592) and invited public comment on its adequacy. The public comment period ended January 28, 1998.

During our review of the amendment, we identified concerns relating to the following sections: Eligible coal lands and water; Reclamation priorities for noncoal program; Land acquisition authority-noncoal; Lien requirements; Satisfaction of liens; Entry and consent to reclaim; Appraisals; Entry for emergency reclamation; Land eligible

for acquisition; Disposition of reclaimed lands; Liens; and editorial corrections in the two sections, Responsibilities and Definitions. We notified Texas of the concerns by facsimiles dated March 9 and August 25, 1998 (Administrative Record Nos. TAML-61.08 and TAML-61.10, respectively). Texas responded in letters dated July 20 and September 3, 1998, by submitting additional explanatory information and a revised amendment (Administrative Record Nos. TAML-61.09 and TAML-61.12, respectively).

Texas proposes the additional revisions as follows:

**1. Section 12.803 Eligible Coal Lands and Water**

In paragraph (7), Texas proposes to change the incorrect reference of "Subchapter E" to the correct reference of "Subchapter K."

**2. Section 12.809 Reclamation Priorities for Noncoal Program**

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

(b) Following certification by the Commission of the completion of all known coal projects, the projects and construction of public facilities identified in subsection (a) of this section shall reflect the following priorities in the order stated:

**3. Section 12.811 Land Acquisition Authority-Noncoal**

Texas proposes to revise this section to read as follows:

The requirements specified in §§ 12.813, 12.814, and 12.818 through 12.823 of this title (respectively relating to Written Consent for Entry; Entry and Consent to Reclaim; Entry for Emergency Reclamation; Land Eligible for Acquisition; Procedures for Acquisition; Acceptance of Gifts of Land; Management of Acquired Land; and Disposition of Reclaimed Land) shall apply to the Commission's noncoal program except that, for purposes of this section, the references to coal shall not apply. In lieu of the term coal, the word noncoal should be used.

**4. Section 12.812 Lien Requirements**

Texas proposes to revise this section to read as follows:

The lien requirements found in §§ 12.815 through 12.817 of this title (relating to Appraisals, Liens, and Satisfaction of Liens, respectively), shall apply to the Commission's noncoal reclamation program under § 12.808 of this title (relating to Certification of Completion of Coal Sites), except that for purposes of this section, references made to coal shall not apply. In lieu of

the term coal, the word noncoal should be used.

**5. Section 12.814 Entry and Consent to Reclaim**

Texas proposes to revise this section to require that the State provide a minimum of 30 days written notice before entering property where they have not obtained the owner's permission to enter or where the owner is not known or is readily available. If the owner is known, the State will send the written notice by mail, return receipt requested, along with a copy of the written findings required under paragraph (c)(1) of this section. If the owner is not known, or if the current mailing address of the owner is not known, the State will post a notice in one or more places on the property to be entered where it is readily visible to the public. The State will also advertise once in a newspaper of general circulation in the locality in which the land is located. The advertisement must include a statement of where the findings required under paragraph (c)(1) of this section may be inspected or obtained.

**6. Section 12.815 Appraisals**

Texas proposes not to repeal this section, but to retain it. Texas also proposes to update the reference in paragraph (d) as a result of the currently proposed revisions in this proposed amendment.

**7. Section 12.816 Liens**

Texas proposes to renumber this section from section 12.821 to 12.816. In paragraph (a)(2), Texas proposes to add a provision that allows them to notify landowners of the amount of the proposed lien and to give the landowners a reasonable amount of time to pay the lien before the lien is placed against the property. Also, Texas proposes to revise paragraph (b) to read: "(b) The statement is a lien on the land second only to a property tax lien. The amount of the lien may not exceed the amount determined by either of two appraisals, as provided under § 12.815 (relating to Appraisals), to be the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past mining practices." In addition, Texas proposes to revise paragraph (c), so that the State cannot file liens, under this section, against the property of anyone who owned the surface before May 2, 1977, and did not consent to, participate in, or exercise control over the mining operation that made the reclamation under this chapter necessary. Finally,

Texas proposes to add two new paragraphs. New paragraph (e) allows the Commission to waive the lien if the cost of filing exceeds the increase in fair market value as a result of the reclamation activity. New paragraph (f) allows the Commission to waive the lien if the reclamation work performed on private land primarily benefits health, safety or environmental values of the community or area in which the land is located, or if reclamation is necessary because of an unforeseen occurrence and the work performed to restore the land will not result in a significant increase in the market value of the land as it existed immediately before the occurrence.

**8. Section 12.817 Satisfaction of Liens**

Texas proposes not to repeal this section, but to retain it.

**9. Section 12.818 Entry for Emergency Reclamation**

Texas proposes to renumber this section from section 12.815 to 12.818.

**10. Section 12.819 Land Eligible for Acquisition**

Texas proposes to renumber this section from section 12.816 to 12.819, to revise paragraph (2) to read, "the Commission determines and makes written findings that;" and to make some editorial changes in paragraph (2)(C). Texas also proposes to add new paragraph (3) stating that OSM approves, in advance, any lands the Commission acquired by purchase or condemnation. The new paragraph states how much interest in land the Commission can acquire for the reclamation work planned or the post-reclamation use of the land and under what circumstances.

**11. Section 12.820 Procedures for Acquisition**

Texas proposes to renumber this section from section 12.817 to 12.820.

**12. Section 12.821 Acceptance of Gifts of Land**

Texas proposes to renumber this section from section 12.818 to 12.821.

**13. Section 12.822 Management of Acquired Land**

Texas proposes to renumber this section from section 12.819 to 12.822.

**14. Section 12.823 Disposition of Reclaimed Land**

Texas proposes to renumber this section from section 12.820 to 12.823. Texas also proposes to add a new paragraph (c) that allows the Commission to transfer administrative

responsibility for land acquired under this subchapter to any agency or political subdivision of the State with or without cost to that agency. In addition, Texas proposes to redesignate old paragraph (c) as new paragraph (d) and to add language that requires the State to publish a notice of the proposed land disposition. Finally, the State proposes to redesignate old paragraphs (d) and (e) as new paragraphs (e) and (f), respectively.

### III. Public Comment Procedures

We are reopening the comment period on the proposed Texas plan amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials Texas submitted. Under the provisions of 30 CFR 884.14 and 884.15(a), we are seeking comments on whether the proposed amendment satisfies the applicable plan approval criteria of 30 CFR 884.14. If we decide the amendment is adequate, it will become part of the Texas plan.

#### Written Comments

Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. In the final rulemaking, we will not necessarily consider comments received after the time indicated under "DATES" or at locations other than the Tulsa Field Office. Also, we will not necessarily include these comments in the Administrative Record.

### IV. Procedural Determinations

#### Executive Order 12866

This proposed 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 abandoned mine land reclamation plans and revisions since each plan is drafted and published by a specific State, not by OSM. Decisions on proposed State abandoned mine land reclamation plans and revisions submitted by a State are based on a determination of whether the submittal meets the requirements of Title IV of

SMCRA (30 U.S.C. 1231–1243) and 30 CFR Parts 884 and 888.

#### National Environmental Policy Act

This rule does not require an environmental impact statement since agency decisions on proposed State abandoned mine land reclamation plans and revisions are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

#### 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 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 established by SMCRA or previously published 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 in the analyses for the corresponding Federal regulations.

#### Unfunded Mandates

OSM has determined and certifies under 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 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 25, 1998.

#### Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[FRL–6171–6]

#### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of intent for partial deletion of the Rocky Mountain Arsenal National Priorities List Site from the National Priorities List; request for comments.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 8 announces its intent to delete the western tier parcel of the Rocky Mountain Arsenal National Priorities List Site (RMA/NPL Site) On-Post Operable Unit (OU) from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This partial deletion of the RMA/NPL Site is proposed in accordance with 40 CFR 300.425(e) and Notice of Policy Change: Partial Deletion of Sites listed on the National Priorities List (November 1, 1995).

EPA bases its proposal to delete the western tier of the RMA/NPL Site on the determination by EPA and the State of Colorado, through the Colorado Department of Public Health and Environment (CDPHE), that all appropriate actions under CERCLA have been implemented to protect human health, welfare and the environment and that no further response action by responsible parties is appropriate.

This partial deletion pertains only to the western tier of the On-Post OU of the RMA/NPL Site and does not include the rest of the On-Post OU or the Off-Post OU. The rest of the On-Post OU and the Off-Post OU will remain on the NPL and response activities will continue at those OUs.

**DATES:** Comments concerning this proposed partial deletion may be submitted on or before November 2, 1998.

**ADDRESSES:** Comments may be mailed to: Rob Henneke, Community Involvement Coordinator (8OC), U.S. EPA, Region 8, 999 18th Street, Suite 500, Denver, Colorado, 80202–2466, 1–800–227–8917 or (303) 312–6734.