

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Fremont, OH, to accommodate aircraft executing the proposed GPS SIAP, 090° helicopter point in space approach for Memorial Hospital of Sandusky County Heliport by modifying existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth 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 will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a 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

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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 the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

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

* * * * *

AGL OH E5 Fremont, OH [Revised]

Fremont Airport, OH
(Lat. 41° 20' 03"N., long. 83° 09' 36"W.)
Memorial Hospital of Sandusky County, OH
Point In Space Coordinates
(Lat. 41° 20' 18"N., long. 83° 08' 57"W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Fremont Airport, and within a 6.0-mile radius of the Point in Space serving Memorial Hospital of Sandusky County.

* * * * *

Issued in Des Plaines, Illinois on October 29, 1998.

Maureen Woods,

Manager, Air Traffic Division.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

[SPATS No. IL–094–FOR]

Illinois Regulatory Program

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 revisions to and explanatory information for a previously proposed amendment to the Illinois regulatory program (Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions concern areas unsuitable for surface coal mining operations, permitting, violation information, impoundments, explosives, revegetation, and administrative and judicial review. Illinois intends to revise its program to be consistent with the corresponding Federal regulations and SMCRA, to clarify existing regulations, and to improve operational efficiency.

DATES: We will accept written comments until 4:00 p.m., e.s.t., December 1, 1998.

ADDRESSES: You should mail or hand deliver written comments to Andrew R. Gilmore, Director, Indianapolis Field Office at the address listed below.

You may review copies of the Illinois program, the proposed amendment, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the proposed amendment by contacting OSM's Indianapolis Field Office.

Andrew R. Gilmore, Director
Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana 46204–1521, Telephone: (317) 226–6700.

Illinois Department of Natural Resources, Office of Mines and Minerals, 524 South Second Street, Springfield, Illinois 62701–1787, Telephone: (217) 782–4970.

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Director, Indianapolis Field Office. Telephone: (317) 226–6700. Internet: agilmore@mcrgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Illinois Program

On June 1, 1982, the Secretary of the Interior conditionally approved the Illinois program. You can find background information on the Illinois program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the June 1, 1982, **Federal Register** (47 FR 23883). You can find later actions concerning the Illinois program at 30 CFR 913.15, 913.16, and 913.17.

II. Discussion of the Proposed Amendment

By letter dated February 26, 1998 (Administrative Record No. IL–5009), Illinois sent us an amendment to revise its regulations in response to letters dated January 6 and June 17, 1997 (Administrative Record Nos. IL–1951 and IL–2000, respectively), that we sent to Illinois under 30 CFR 732.17(c) and in response to required program amendments at 30 CFR 913.16. Illinois also proposed to amend its program to clarify existing regulations. We announced receipt of the proposed amendment in the April 6, 1998, **Federal Register** (63 FR 16719) and invited public comment on its

adequacy. The public comment period ended May 6, 1998.

During our review of the amendment, we identified concerns relating to 62 IAC 1773.15(c)(11), written findings for permit application approval; 62 IAC 1778.14(c), required information in permit application; 62 IAC 1816.116 and 1817.116, revegetation standards; 62 IAC 1816.117(c)(3) and 1817.117(c)(3), tree and shrub vegetation; 62 IAC 1847.3, hearings; 62 IAC 1847.3(g), burden of proof for permit hearings; 62 IAC 1847.9(g), burden of proof for bond release hearings; and editorial errors in various regulations. We notified Illinois of these concerns on June 2, 1998 (Administrative Record No. IL-5019). By letter dated November 5, 1998 (Administrative Record No. IL-5025), Illinois sent us a revised amendment package. Illinois proposed the following changes to its amendment.

1. General

Illinois corrected typographical errors, punctuation, citation references, and other editorial-type errors throughout the amended regulations. Illinois also simplified its use of numbers: for example, in 62 IAC 1701.5, Appendix A, in the definition of "Head-of-hollow fill," a reference to "twenty (20) degrees" was changed to "20 degrees"; in 62 IAC 1761.12(c), references to "one hundred (100) feet" were changed to "100 feet"; in 62 IAC 1773.15(a), a reference to "sixty (60) days" was changed to "60 days"; in 62 IAC 1774.11(a)(1), a reference to "five (5) years" was changed to "five years"; and in 62 IAC 1800.40, a reference to "sixty (60) percent" was changed to "60%."

2. 62 IAC 1761.12 Procedures for Areas Designated by Act of Congress

In section 1761.12(b)(2), Illinois proposes to replace the reference to "Section 1761.11(a), (f) or (g)" with a reference to "Section 1761.11(a)(6) and (7)."

3. 62 IAC 1764 State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations

In section 1764.15(a), Illinois added the heading "Processing of Petitions"; and in section 1764.15(c), Illinois added the heading "Land Report and Public Comment."

4. 62 IAC Part 1773 Requirements for Permits and Permit Processing

Illinois removed its reference to 1816.116(a)(2)(B) and 1816.117(a)(2)(B) at 62 IAC 1773.15(c)(11) and added the following provision for written findings at 62 IAC 1773.15(c)(13):

(13) For a proposed reining operation where the applicant intends to reclaim in accordance with the requirements of 62 Ill. Adm. Code 1816.116(a)(2)(B) or 1817.116(a)(2)(B), the site of the operation is land eligible for reining as defined in 62 Ill. Adm. Code 1701, Appendix A.

5. 62 IAC Part 1774.13 Permit Revisions

At 1774.13(b)(3), Illinois is changing a reference from "1773.19(b)" to "1773.19(a)(3)(A) and (C)."

6. 62 IAC 1778.14 Violation Information

At 62 IAC 1778.14(c), Illinois proposes to replace its currently proposed introductory language with the following language:

(c) A list of all violation notices received by the applicant during the three-year period preceding the application date, and a list of all outstanding violation notices received prior to the date of the application by any surface coal mining operation that is deemed or presumed to be owned or controlled by the applicant under the definition of "owned or controlled" and "owns or controls" in 62 Ill. Adm. Code 1773.5. For each notice of violation issued pursuant to 62 Ill. Adm. Code 1843.12 or under a Federal or State program for which the abatement period has not expired, the applicant shall certify that such notice of violation is in the process of being corrected to the satisfaction of the agency with jurisdiction over the violation. For each violation notice reported, the list shall include the following information, as applicable:

7. 62 IAC Part 816 Permanent Program Performance Standards for Surface Mining Activities and 62 IAC Part 817, Permanent Program Performance Standards for Underground Mining Operations

a. At 62 IAC 1816.49(a)(3)(B) and 1817.49(a)(3)(B), concerning impoundments, Illinois proposes to replace the reference to "Practice Standard 378, Ponds, April 1987" with a reference to "Practice Standard IL 278, Ponds, June 1992."

b. At 62 IAC 1816.66(d), relating to explosives, Illinois added the heading "Proximity to buildings and other facilities."

c. Illinois added the following new revegetation provision at 62 IAC 1816.116(a)(2)(G) and 1817.116(a)(2)(G):

(G) Other Management Practices:

The Department shall approve the use of deep tillage for prime farmland and high capability land as a beneficial practice that will not restart the five year period of responsibility, if the following conditions are met:

- (i) The Permittee has submitted a request to use the practice and has identified the field that will be deep tilled;
- (ii) One or more hay crops, or other acceptable row crops, have been grown or

will be grown to dry out the subsoil prior to deep tilling the field; and

(iii) The Department has determined that the use of deep tillage will be beneficial to the soil structure and long term crop production of the field and the benefits will continue well beyond the responsibility period.

The Department shall notify the permittee in writing of its decision. Such written notice shall be in the form of an inspection report or other document issued by the Department.

Illinois proposed the above provision to replace a provision at 62 IAC 1816.116(a)(2)(F)(i) and 1817.116(a)(2)(F)(i) that also concerned deep tillage. We had disapproved the provision at 62 IAC 1816.116(a)(2)(F)(i) and 1817.116(a)(2)(F)(i) on May 29, 1996 (61 FR 26801). By letter dated June 15, 1998 (Administrative Record No. IL-5024), Illinois submitted explanatory information and supporting documentation for consideration of the above proposed provision.

d. Illinois proposes to delete the following language from 62 IAC 1816.116(a)(4)(ii):

The Department may approve a field to represent non-contiguous areas less than or equal to four acres of the same capability if it determines that the field is representative of reclamation of such areas. These areas shall be managed and vegetated in the same manner as the representative field.

e. Illinois proposes to withdraw the revisions currently proposed for 62 IAC 1816.117(c)(3) and 1817.117(c)(3) that would have limited the number of plots needed to sample tree or shrub areas to 200 for areas of 50 acres or more.

8. 62 IAC Part 1847 Administrative and Judicial Review

a. Illinois proposes the following revised language for 62 IAC 1847.3(g)(2):

(2) In all other proceedings held under this Section, the party seeking to reverse the Department's decision shall have the burden of proving by a preponderance of evidence that the Department's decision is in error.

b. Illinois proposes the following revised language for 62 IAC 1847.9(g):

(g) Burden of proof. The party seeking to reverse the Department's proposed release of bond shall have the burden of proving by a preponderance of the evidence that the Department's decision is in error.

III. Public Comment Procedures

We are reopening the comment period on the proposed Illinois program amendment to provide you an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials sent to us. Under the provisions of 30 CFR 732.17(h), we are requesting comments on whether the amendment satisfies the program approval criteria of 30 CFR

732.15. If the amendment is approved, it will become part of the Illinois program.

Written Comments

Your written comments should be specific and pertain only to the issues proposed in this rulemaking. You should explain the reason for any recommended change. We may not consider in the final rulemaking or include in the administrative record any comments we receive after the close of the comment period (see **DATES**) or at locations other than the Indianapolis Field Office.

IV. Procedural Determinations

Executive Order 12866

The Office of Management and Budget (OMB) exempts this rule from review under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and 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 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

This rule does not require an environmental impact statement since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on 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. Therefore, 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 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 6, 1998.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

[SPATS No. IL-093-FOR]

Illinois Abandoned Mine Land Reclamation Plan

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Illinois abandoned mine land reclamation plan (Illinois plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Illinois is proposing revisions and additions to the Illinois

plan relating to agency reorganization, legal opinion, definitions, project priorities, utilities and other facilities, eligible coal lands and water, eligible non-coal lands and water, project selection, annual grant process, liens, rights of entry, public participation, bidding requirements and conditions, contracts, and contractor responsibility. Illinois intends to revise the Illinois plan to be consistent with the corresponding Federal regulations and SMCRA and to improve operational efficiency.

DATES: Written comments must be received by 4:00 p.m., e.s.t., December 16, 1998. If requested, we will hold a public hearing on the amendment on December 11, 1998. We will accept requests to speak at the hearing until 4:00 p.m., e.s.t. on December 11, 1998.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Andrew R. Gilmore, Director, Indianapolis Field Office, at the address listed below.

You may review copies of the Illinois program, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document 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 Indianapolis Field Office.

Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana 46204.

Illinois Department of Natural Resources, 524 South Second Street, Springfield, Illinois 62701-1787.

FOR FURTHER INFORMATION CONTACT:

Andrew R. Gilmore, Director, Indianapolis Field Office. Telephone: (317) 226-6700. Internet: agilmore@mcrgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of SMCRA established an Abandoned Mine Land Reclamation (AMLR) program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. As enacted in 1977, lands and waters that were mined or affected by mining and abandoned or left in an inadequate reclamation status before August 3, 1977, and for which there was no continuing reclamation responsibility under State or Federal