



4310-05-P

## **DEPARTMENT OF THE INTERIOR**

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

#### **30 CFR Part 943**

**[SATS No. TX-071-FOR; Docket ID: OSM-2019-0011;  
S1D1S SS08011000 SX064A000 201S180110;  
S2D2S SS08011000 SX064A000 20XS501520]**

#### **Texas Abandoned Mine Land Reclamation Plan**

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

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

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are announcing receipt of a proposed amendment to the Texas Abandoned Mine Land Plan (hereinafter, the Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Texas proposes revisions to its Plan to allow its AML program to receive limited liability protection for certain non-coal reclamation projects. Texas intends to revise its Plan in order to meet the requirements of SMCRA and the implementing Federal regulations. This document gives the times and locations where the Texas Plan and this proposed amendment to that Plan are available for your inspection, establishes the comment period during which you may submit written comments on the amendment, and describes the procedures that we will follow for the public hearing, if one is requested.

**DATES:** We will accept written comments on this amendment until 4:00 p.m., CST, [Insert date 30 days after the date of publication in the FEDERAL REGISTER]. If requested, we will hold a public hearing on the amendment on [Insert date 25 days after date of publication in the FEDERAL REGISTER]. We will accept requests to speak at a hearing until 4:00 p.m., CST on [Insert date 15 days after date of publication in the FEDERAL REGISTER].

**ADDRESSES:** You may submit comments, identified by SATS No. TX-071-FOR, by any of the following methods:

- *Mail/Hand Delivery:* Joseph R. Maki, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101<sup>st</sup> East Avenue, Suite 145, Tulsa, Oklahoma 74128-4629.
- *Fax:* (918) 581-6419
- *Federal eRulemaking Portal:* The amendment has been assigned Docket ID OSM-2019-0011. If you would like to submit comments go to <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 Texas Plan, 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 OSMRE's Tulsa Field Office, or the full text of the program amendment is available for you to review at [www.regulations.gov](http://www.regulations.gov).

Joseph R. Maki, Director

Tulsa Field Office

Office of Surface Mining Reclamation and Enforcement

1645 South 101<sup>st</sup> East Avenue, Suite 145

Tulsa, Oklahoma 74128-4629

Telephone: (918) 581-6430

Email: [jmaki@osmre.gov](mailto:jmaki@osmre.gov)

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

Surface Mining and Reclamation Division

Railroad Commission of Texas

1701 North Congress Avenue

P.O. Box 12967

Austin, Texas 78711-2967

Telephone: (512) 463-6900

**FOR FURTHER INFORMATION CONTACT:** Joseph R. Maki, Director, Tulsa Field Office. Telephone: (918) 581-6430, email: [jmaki@osmre.gov](mailto:jmaki@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

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

**I. Background on the Texas Plan**

The Abandoned Mine Land Reclamation Program was established by Title IV of the Act (30 U.S.C. 1201 *et seq.*), in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded by a reclamation fee collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal mines and for other authorized activities. Section 405 of the Act allows States and Tribes to assume exclusive responsibility for reclamation activity within the State or on Tribal lands if they develop and submit to the Secretary of the Interior for approval, a program (often referred to as a Plan) for the reclamation of abandoned coal mines. On the basis of these criteria, the Secretary of the Interior approved the Texas Plan June 23, 1980. You can also find later actions concerning the Texas Plan and amendments to the Plan at 30 CFR 943.25.

## **II. Description of the Proposed Amendment**

By letter dated December 3, 2019 (Administrative Record No. TX-708), Texas sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*) in response to a March 6, 2019, letter (Administrative Record No. TX-0707) OSMRE sent to Texas in accordance with 30 CFR 884.15. The full text of the plan amendment is available for you to read at the locations listed above under **ADDRESSES**.

Effective March 9, 2015, OSMRE published a final rule allowing certified AML programs to receive limited liability protection for certain non-coal reclamation projects (80 FR 6435). In the March 6, 2019, letter (Administrative Record No. TX-0707), we notified Texas that the state must update its Plan in order to meet the requirements of SMCRA and the implementing Federal regulations.

Texas proposes to amend its Plan to meet the requirements to receive limited liability protection for certain non-coal reclamation projects, and to meet the requirements of SMCRA and the implementing Federal regulations.

Texas also proposes to amend several sections of its Coal Mining Regulations at 16 TAC Chapter 12. Major revisions and/or additions include section 12.804, Reclamation Objectives and Priorities and section 12.805, Water Supply Restoration.

Changes and additions to section 12.804 include updating references and adding project priority information from Section 403(a) of SMCRA. Changes to section 12.805

include changing the section title from Utilities and Other Facilities to Water Supply Restoration, defining water supply projects and other administrative changes.

Any changes not specifically mentioned here are administrative in nature and considered not substantive.

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

We are seeking your comments on whether the amendment satisfies the applicable plan approval criteria of 30 CFR 884.14 and 884.15. If we approve the amendment, it will become part of the state Plan.

#### *Electronic or Written Comments*

If you submit written comments, they should be specific, confined to issues pertinent to the proposed Plan, 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 plan 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 State 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 (see **ADDRESSES**) will be

included in the docket for this rulemaking and considered.

### *Public Availability of Comments*

Before including your address, phone number, email 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 can 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.

### *Public Hearing*

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., CST on [Insert date 15 days after date of publication in the FEDERAL REGISTER]. 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 a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the 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 only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, 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*

Pursuant to Office of Management and Budget (OMB) Guidance dated October 12, 1993, the approval of state plan amendments is exempted from OMB review under Executive Order 12866.

*Other Laws and Executive Orders Affecting Rulemaking*

When a State submits a Plan amendment to OSMRE for review, our regulations at 30 CFR 884.14 and 884.15, and agency policy require public notification and an opportunity for public comment. We accomplish this by publishing a notice in the **Federal Register** indicating receipt of the proposed amendment and its text or a summary of its terms. 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 943**

Intergovernmental relations, Surface mining, Underground mining.

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Alfred L. Clayborne, Regional Director

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