

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).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

T 210 BRADO, FL to Taylor, FL [New]

BRADO, FL	Fix	(Lat. 29°55'22" N., long. 81°28'08" W.)
OHLEE, FL	WP	(Lat. 30°16'00" N., long. 82°06'34" W.)
Taylor, FL (TAY)	VORTAC	(Lat. 30°30'17" N., long. 82°33'10" W.)

* * * * *

Issued in Washington, DC, on March 21, 2006.

Edith V. Parish,
Manager, Airspace and Rules.
 [FR Doc. 06-2920 Filed 3-24-06; 8:45 am]
BILLING CODE 4910-13-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 48, 50, and 75

RIN 1219-AB46

Emergency Mine Evacuation

AGENCY: Mine Safety and Health Administration, Labor.

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE 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.

ACTION: Change of hearing date.

SUMMARY: MSHA is rescheduling the date of a public hearing announced in the March 9, 2006 Emergency Temporary Standard on Emergency Mine Evacuation (71 FR 12252). The April 11, 2006 public hearing is rescheduled for May 9, 2006.

FOR FURTHER INFORMATION CONTACT: Robert Stone, Acting Director; Office of Standards, Regulations, and Variances, MSHA; phone: (202) 693-9440; facsimile: (202) 693-9441; E-mail: *Stone.Robert@dol.gov*.

SUPPLEMENTARY INFORMATION:

I. Public Hearings

One of the hearing dates announced in the preamble of the Emergency

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9N, Airspace Designations and Reporting Points, dated September 1, 2005, and effective September 15, 2005, is amended as follows:

Paragraph 6011 Area Navigation Routes
 * * * * *

(Lat. 29°55'22" N., long. 81°28'08" W.)
 (Lat. 30°16'00" N., long. 82°06'34" W.)
 (Lat. 30°30'17" N., long. 82°33'10" W.)

Temporary Standard conflicts with the United Mine Workers of America (UMWA) Constitutional Convention that is scheduled for the second week of April. Following a request from the UMWA, the hearing in Charleston, WV has been changed from April 11, 2006 to May 9, 2006.

For the convenience of the reader, the following table contains information on the hearing dates, locations, and phone numbers for all of the hearings for the Emergency Temporary Standard on Emergency Mine Evacuation.

Date	Location	Phone
April 24, 2006	Sheraton Denver West Hotel, 360 Union Boulevard, Lakewood, CO 80228	303-987-2000
April 26, 2006	Sheraton Suites, 2601 Richmond Road, Lexington, KY 40506	859-268-0060
April 28, 2006	MSHA Conference Room, 25th Floor, 1100 Wilson Boulevard, Arlington, VA 22209.	202-693-9440
May 9, 2006	Marriott Town Center, 200 Lee Street, East, Charleston, WV 25301	304-345-6500

Dated: March 20, 2006.
David G. Dye,
Acting Assistant Secretary for Mine Safety and Health.
 [FR Doc. 06-2907 Filed 3-24-06; 8:45 am]
BILLING CODE 4510-43-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

[Docket No. OK-030-FOR]

Oklahoma Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving an amendment to the Oklahoma regulatory program (Oklahoma program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Oklahoma proposed revisions to its rules concerning cross sections, maps, and plans; subsidence control; impoundments; revegetation success standards; and roads. Oklahoma withdrew its previously proposed revisions to its rules concerning review of decision not to inspect or enforce. Oklahoma intends to revise its program to provide additional safeguards, clarify

ambiguities, and improve operational efficiency.

DATES: *Effective Date:* March 27, 2006.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office. Telephone: (918) 581-6430. E-mail: *mwolfrom@osmre.gov*.

SUPPLEMENTARY INFORMATION:

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

I. Background on the Oklahoma 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 Oklahoma program on January 19, 1981. You can find background information on the Oklahoma program, including the Secretary’s findings, the disposition of comments, and the conditions of approval, in the January 19, 1981, **Federal Register** (46 FR 4902). You can also find later actions concerning Oklahoma’s program and program amendments at 30 CFR 936.10, 936.15 and 936.16.

II. Submission of the Amendment

By letter dated July 15, 2005 (Administrative Record No. OK–946.02), Oklahoma sent us an amendment to its approved regulatory program under SMCRA (30 U.S.C. 1201 *et seq.*). Oklahoma proposed revisions to rules concerning cross sections, maps, and plans; subsidence control; impoundments; revegetation success standards; roads; and review of decision not to inspect or enforce. Oklahoma intends to revise its program to provide additional safeguards, clarify ambiguities, and improve operational efficiency.

We announced receipt of the amendment in the October 18, 2005, **Federal Register** (70 FR 60481). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on November 17, 2005. We did not receive any comments.

During our review of the amendment, we identified concerns about subsidence control and subsidence control plan, impoundments, revegetation: standards for success, and review of decision not to inspect or enforce. We notified Oklahoma of these concerns by letters dated September 15, 2005, and October 28, 2005 (Administrative Record Nos. OK–946.04 and OK–946.07, respectively).

Oklahoma responded in letters dated October 14, 2005, and November 17, 2005 (Administrative Record Nos. OK–946.05 and OK–946.08, respectively), by sending us revisions to its amendment

and additional explanatory information. Also, in its letter dated November 17, 2005, Oklahoma stated that its staff is continuing to review Oklahoma Administrative Code (OAC) 460:20–57–6, pertaining to review of decision not to inspect or enforce, and will submit a second amendment separately on this issue. Therefore, Oklahoma has withdrawn its previously proposed revisions to OAC 460:20–57–6.

Based upon Oklahoma’s additional explanatory information for and revisions to its amendment, we reopened the public comment period in the December 30, 2005, **Federal Register** (70 FR 77348). The comment period closed on January 17, 2006. We did not receive any comments.

III. OSM’s Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment as described below.

A. Minor Revisions to Oklahoma’s Rules

Oklahoma proposed minor wording, editorial, punctuation, and grammatical changes to the following previously-approved rules: Impoundments, OAC 460:20–43–14(a)(1), (a)(3), (a)(9)(A), (a)(9)(B)(iii), and (a)(11)(A); Roads: general, OAC 460:20–43–52 (e)(1); Revegetation: standards for success, OAC 460:20–45–46(c)(2); and Subsidence control, OAC 460:20–45–47(c)(2).

Because these changes are minor, we find that they will not make Oklahoma’s regulations less effective than the Federal regulations.

B. OAC 460:20–25–11. Cross Sections, Maps, and Plans (Federal Counterpart 30 CFR 779.25) and OAC 460:20–29–11. Cross Sections, Maps, and Plans (Federal Counterpart 30 CFR 783.25)

The following findings pertain to surface and underground coal mining.

Oklahoma proposed to delete paragraphs (a)(11) that require permit applications to include cross sections, maps, and plans that show sufficient slope measurements to adequately represent the existing land surface configuration of the proposed permit area. There are no direct counterpart Federal regulations for the above paragraphs that Oklahoma proposed to delete. We are approving the deletions because they will not render the Oklahoma regulations less effective than the Federal regulations at 30 CFR 779.25 and 783.25.

C. OAC 460:20–31–13. Subsidence Control Plan (Federal Counterpart 30 CFR 784.20)

Oklahoma proposed to revise paragraph (a)(3) regarding conducting surveys of the condition of all Energy Policy Act (EPA) protected structures and water supplies. The EPA protected structures are non-commercial buildings or occupied residential dwellings and structures related thereto. The EPA protected water supplies are all drinking, domestic, and residential water supplies within the permit area and adjacent area that could be contaminated, diminished, or interrupted by subsidence. Oklahoma proposed to add language that would exempt permit applicants from conducting surveys of EPA protected structures if the applicants do not propose to use mining technology that results in planned subsidence. The surveys are still required if applicants propose to use mining technology that would result in planned subsidence. The counterpart Federal regulation to OAC 460:20–31–13(a)(3) is found at 30 CFR 784.20(a)(3). When you first read this regulation, it appears to require applicants to conduct pre-mining surveys of EPA protected structures and EPA protected water supplies. However, when you continue to read this regulation, it only requires applicants to conduct pre-mining surveys of EPA protected water supplies. The reason for this is that, on April 27, 1999, the U.S. Court of Appeals for the District of Columbia vacated the Federal regulatory provision requiring applicants to conduct surveys of EPA protected structures. On December 22, 1999 (64 FR 71653), in response to the Court’s action, we suspended that portion of 30 CFR 784.20(a)(3) which required a survey of the EPA protected structures. The remainder of paragraph (a)(3) continues in force, thereby, requiring applicants to conduct pre-mining surveys of all EPA protected water supplies.

We are approving Oklahoma’s revision because it requires pre-mining surveys of all EPA protected water supplies as does the Federal regulation at 30 CFR 784.20(a)(3). We are also approving it because it is not inconsistent with and will not render the Oklahoma regulations less effective than the above Federal regulations by requiring pre-mining surveys of EPA protected structures if applicants propose to use mining technology that results in planned subsidence.

D. OAC 460:20-43-14. Impoundments (Federal Counterpart 30 CFR 816.49)

Oklahoma proposed to add new paragraph (a)(14) that prohibits embankment slopes of impoundments from being closer than 100 feet, measured horizontally, from any public road right-of-way unless otherwise approved under procedures established in 460:20-7-4(4) and 460:20-7-5(d). It also requires the area between the road right-of-way and the embankment slopes of an impoundment, which is the clear zone slopes, to not be steeper than a 1V:6H grade.

There is no direct counterpart Federal regulation regarding the distance between an embankment slope of an impoundment and a public road right-of-way. However, the Federal regulation at 30 CFR 761.11(d) ordinarily prohibits or limits surface coal mining operations within 100 feet, measured horizontally, of the outside right-of-way line of any public road. Because impoundments can be part of a surface coal mining operation and Oklahoma proposed to prohibit a part of the surface coal mining operation (impoundments) from being closer than 100 feet, measured horizontally, of the outside right-of-way line of any public road, we are approving this revision as it is consistent with the Federal regulation at 30 CFR 761.11(d).

Also, there is no counterpart Federal regulation regarding clear zone slopes. We find that Oklahoma's proposed revision to require that the clear zone slopes not be steeper than a 1V:6H grade is not inconsistent with the Federal regulations at 30 CFR 816.150, Roads: general, and we are approving it.

E. OAC 460:20-43-46. Revegetation: Standards for Success (Federal Counterpart 30 CFR 816.116) and OAC 460:20-45-46. Revegetation: Standards for Success (Federal Counterpart 30 CFR 817.116)

The following findings pertain to surface and underground mining.

Oklahoma proposed to revise paragraphs (b)(3) regarding areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products. Currently, these paragraphs require the Oklahoma Department of Mines (ODM), on a permit-specific basis, to specify the minimum stocking and planting arrangements after consulting with and obtaining the approval of the State agencies responsible for the administration of forestry and wildlife programs. Oklahoma proposed to revise these paragraphs in order to incorporate in its regulations, on a program-wide basis,

minimum stocking and planting arrangements for areas to be developed for fish and wildlife habitat. Oklahoma proposed to retain the currently approved provisions that require the ODM to specify, on a permit-specific basis, the minimum stocking and planting arrangements for areas to be developed for recreation, shelter belts, or forest products after consulting with and obtaining the approval of the State agencies responsible for the administration of forestry and wildlife programs. When Oklahoma submitted the above proposed revisions, it provided us letters from the Oklahoma Department of Wildlife Conservation and the Oklahoma Department of Agriculture, Food, and Forestry (the State agencies responsible for the administration of forestry and wildlife programs). These letters indicated that the State agencies had no negative comments about the proposed revisions regarding Oklahoma's fish and wildlife habitat plans. The Oklahoma Department of Agriculture, Food, and Forestry recommended that, to be consistent, the ODM should develop additional guidance, to be incorporated into its regulations, for areas to be developed for recreation, shelter belts, or forest products. Specifically, Oklahoma proposed the following:

1. Oklahoma originally proposed to revise paragraphs (b)(3)(A) regarding minimum stocking and planting arrangements for areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products. These paragraphs require the ODM, on a permit-specific basis, to specify the minimum stocking and planting arrangements after consulting with and obtaining the approval of the State agencies responsible for the administration of forestry and wildlife programs. In revising these paragraphs, Oklahoma proposed to make the provisions pertain only to fish and wildlife habitat on a program-wide basis instead of on a permit-specific basis, thereby, eliminating the need for the ODM to obtain approval from the above State agencies for minimum stocking and planting arrangements for every permit. The provision for the ODM to consult with the State agencies is still required. Also, Oklahoma proposed to add new paragraphs (i) to specify a minimum tree and shrub stocking rate and to provide guidance on the types and species to plant if trees or shrubs are to be planted. In addition, Oklahoma proposed to add new paragraphs (ii) to specify a minimum seeding rate and to provide guidance on the species to plant if native grasses and forbs are to be

planted. Finally, Oklahoma proposed to add new paragraphs (iii) to allow an applicant to submit an alternative wildlife habitat plan to the ODM if he or she chooses not to follow the provisions set forth in proposed new paragraphs (i) and (ii). This alternative plan must include written approval from the State agencies responsible for the management of fish and wildlife.

The Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i) provide that the regulatory authority specify the minimum stocking and planting arrangement for areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products after consulting with and obtaining the approval of State agencies responsible for the administration of forestry and wildlife programs. The consultation and approval may occur on either a program-wide or a permit-specific basis.

Oklahoma's above proposed revisions regarding proposed new paragraphs (i) and (ii) meet the requirements of the Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i) because the State has chosen to specify the minimum stocking and planting arrangements for fish and wildlife habitat on a program-wide basis if trees and shrubs and/or native grasses and forbs are to be planted and has consulted with and obtained approval from the appropriate State agencies. The provisions for proposed new paragraphs (iii) are not inconsistent with the Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i) because the alternative plan must be accompanied by a written approval of the alternative planting rates and species from the State agencies responsible for the management of fish and wildlife and must be reviewed by the ODM. We are, therefore, approving Oklahoma's revisions.

2. Oklahoma proposed to add new paragraphs (b)(3)(B) for areas to be developed for recreation, shelter belts, or forest products and to redesignate existing paragraphs (B) through (D) as new paragraphs (C) through (E). New paragraphs (b)(3)(B) require the ODM, on a permit-specific basis, to specify the minimum stocking and planting arrangements on the basis of local and regional conditions after consulting with and obtaining the approval of the State agencies responsible for the administration of forestry and wildlife programs. The minimum stocking and planting arrangements would then be incorporated into an approved reclamation plan.

The Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i)

provide that the regulatory authority specify the minimum stocking and planting arrangement for areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products after consulting with and obtaining the approval of State agencies responsible for the administration of forestry and wildlife programs. The consultation and approval may occur on either a program-wide or a permit-specific basis.

We are approving Oklahoma's proposed revisions because they are consistent with the provisions of the Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i). We are also approving the re-designation of the above applicable paragraphs because the re-designations are only editorial changes and do not render the State regulations less effective than the Federal regulations.

3. Oklahoma proposed to revise newly re-designated paragraphs (b)(3)(D) (formerly paragraphs (b)(3)(C)), regarding the technical standard for vegetative ground cover, by adding new language requiring the cover to be sufficient to control erosion.

The Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(iii) require the vegetative ground cover to be no less than that required to achieve the approved post-mining land use. The Federal regulation at 30 CFR 816.111(a)(4) requires a vegetative cover that is capable of stabilizing the soil surface from erosion.

The addition of the new language proposed by Oklahoma is no less effective than the Federal regulations. Therefore, we are approving the addition of the new language.

4. For areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products, Oklahoma proposed to add new paragraphs (b)(3)(E) (formerly paragraphs (b)(3)(D)). These new paragraphs require comments on tree and shrub stocking and vegetative ground cover from State agencies responsible for the management of fish and wildlife.

The Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i) require the regulatory authority to consult with the State agencies responsible for the administration of forestry and wildlife programs regarding minimum stocking and planting arrangements. Therefore, we are approving Oklahoma's proposed new paragraphs because they are no less effective than the Federal regulations.

F. OAC 460:20-43-52. Roads: General (Federal Counterpart 30 CFR 816.150)

Oklahoma proposed to add new paragraph (d)(3) to require that the relocation of a public road must comply with newly proposed OAC 460:20-43-14(a)(14). This newly proposed regulation prohibits embankment slopes of impoundments from being closer than 100 feet, measured horizontally, from any public road right-of-way unless otherwise approved under procedures established in 460:20-7-4(4) and 460:20-7-5(d). It also requires the area between the road right-of-way and the impoundment slopes, which is the clear zone slopes, to not be steeper than a 1V:6H grade.

The counterpart Federal regulations to Oklahoma's regulations is found at 30 CFR 816.150 (Roads: general). There is no direct counterpart Federal regulation regarding the distance between the right-of-way of a relocated public road and an embankment slope of an impoundment. Also, there is no counterpart Federal regulation regarding clear zone slopes. However, there is a Federal regulation at 30 CFR 761.11(d) which ordinarily prohibits or limits surface coal mining operations within 100 feet, measured horizontally, of the outside right-of-way line of any public road.

Oklahoma proposed that relocated public roads comply with the requirements of newly proposed OAC 460:20-43-14(a)(14) and this newly proposed regulation ordinarily prohibits embankment slopes of impoundments from being closer than 100 feet, measured horizontally, of the outside right-of-way line of a relocated public road. Therefore, we are approving this revision because it is not inconsistent with the Federal regulations at 30 CFR 761.11(d) and 30 CFR 816.150. We are also approving Oklahoma's proposed revision to require that the clear zone slopes not be steeper than a 1V:6H grade because it is not inconsistent with the Federal regulations at 30 CFR 816.150.

G. OAC 460:20-45-47. Subsidence Control (Federal Counterpart 30 CFR 817.121)

Oklahoma proposed to delete paragraphs (c)(4)(A) through (E) regarding rebuttable presumption of causation by subsidence and to incorporate the language in existing paragraph (c)(4)(E) into paragraph (c)(4) so that paragraph (c)(4) reads as follows:

(4) Be governed by a rebuttable presumption of causation by subsidence. The information to be considered in determination of causation is whether damage to protected structures was caused by

subsidence from underground mining. All relevant and reasonably available information will be considered by the Department.

The counterpart Federal regulation is found at 30 CFR 817.121(c)(4)(v). This Federal regulation provides for the regulatory authority to consider all relevant and reasonably available information when determining the cause of damage to EPA protected structures by underground mining. Because Oklahoma's proposed revision at paragraph (c)(4) has the same provision as the counterpart Federal regulation at 30 CFR 817.121(c)(4)(v), we are approving it.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment, but did not receive any.

Federal Agency Comments

On August 31, 2005, and December 15, 2005, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Oklahoma program (Administrative Record Nos. OK-946.03 and OK-946.09). We did not receive any comments.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued 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 Oklahoma proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

On August 31, 2005, and December 15, 2005, under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from EPA (Administrative Record Nos. OK-946.03 and OK-946.09). EPA did not respond to our request.

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

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On August 31, 2005, and December 15, 2005, we requested comments on Oklahoma's amendment

(Administrative Record Nos. OK-946.03 and OK-946.09), but neither responded to our request.

V. OSM's Decision

Based on the above findings, we approve the amendment Oklahoma sent us on July 15, 2005, and as revised on October 14, 2005, and November 17, 2005.

We approve the regulations proposed by Oklahoma with the provision that they be fully promulgated in identical form to the regulations submitted to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR part 936, which codify decisions concerning the Oklahoma program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

The provisions in the rule based on counterpart Federal regulations do not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations. The revisions made at the initiative of the State that do not have Federal counterparts have also been reviewed and a determination made that they do not have takings implications. This determination is based on the fact that the provisions have no substantive effect on the regulated industry.

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.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that 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 because each 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 the Federal regulations at 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.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. This determination is based on the fact that the Oklahoma program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Oklahoma program has no effect on Federally-recognized Indian tribes.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse

effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because 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 certifies that a portion of the provisions in 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.*) because they are based upon counterpart 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. In making the determination as to whether this part of the rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations. The Department of the Interior also certifies that the provisions in this rule that are not based upon counterpart Federal regulations 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.*). This determination is based upon the fact that the provisions are not expected to have a substantive effect on the regulated industry.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment,

productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that a portion of the State provisions are based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule. For the portion of the State provisions that is not based upon counterpart Federal regulations, this determination is based upon the fact that the State provisions are not expected to have a substantive effect on the regulated industry.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector

of \$100 million or more in any given year. This determination is based upon the fact that a portion of the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulations did not impose an unfunded mandate. For the portion of the State provisions that is not based upon counterpart Federal regulations, this determination is based upon the fact that the State provisions are not expected to have a substantive effect on the regulated industry.

List of Subjects in 30 CFR Part 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 3, 2006.

Charles E. Sandberg,

Regional Director, Mid-Continent Region.

■ For the reasons set out in the preamble, 30 CFR part 936 is amended as set forth below:

PART 936—OKLAHOMA

■ 1. The authority citation for part 936 continues to read as follows:

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

■ 2. Section 936.15 is amended in the table by adding a new entry in chronological order by “Date of final publication” to read as follows:

§ 936.15 Approval of Oklahoma regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
July 15, 2005	March 27, 2006	Oklahoma Administrative Code (OAC) 460:20-25-11(a)(11); 460:20-29-11(a)(11); 460:20-31-13(a)(3); 460:20-43-14(a)(1), (a)(3), (a)(9)(A), (a)(9)(B)(iii), (a)(11)(A), and (a)(14); 460:20-43-46(b)(3)(A), (b)(3)(A)(i)-(iii), (b)(3)(B)-(E); 460:20-43-52(d)(3) and (e)(1); OAC 460:20-45-46(b)(3)(A), (b)(3)(A)(i)-(iii), (b)(3)(B)-(E) and (c)(2); and OAC 460:20-45-47(c)(2), (c)(4) and (c)(4)(A)-(E).

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD 07-06-020]

RIN 1625-AA08

Special Local Regulations: St. Petersburg Grand Prix Air Show; St. Petersburg, FL

AGENCY: Coast Guard, DHS.
ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for the St. Petersburg Grand Prix Air Show, St. Petersburg, Florida (Air Show). The Air Show’s aeronautic displays will be held daily from 9 a.m. until 4 p.m. on March 31, 2006 through April 3, 2006. This regulation is needed to restrict persons and vessels from entering, anchoring, mooring, or transiting the regulated area. This regulation is necessary to ensure the safety of Air Show participants, spectators, and mariners in the area.

DATES: This rule is effective from March 31, 2006 through April 3, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [CGD 07-06-020] and are available for inspection or copying at Coast Guard Sector St. Petersburg, 155 Columbia Drive, Tampa, Florida 33606-3598, between 7:30 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: BM1 Charles Voss at Coast Guard Sector St. Petersburg (813) 228-2191 Ext 8307.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The necessary information to determine whether the Air Show poses a threat to persons and vessels was not provided with sufficient time to publish an NPRM. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to minimize potential danger to the public during the Air Show. The Coast Guard will issue a broadcast notice to mariners to advise mariners of the restriction and on scene Coast Guard and local law enforcement

assets will also provide notice to mariners.

For the same reasons, Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard will issue a broadcast notice to mariners to advise them of the restriction.

Background and Purpose

The City of St. Petersburg and Honda Motor Company are sponsoring the St. Petersburg Grand Prix, an auto race in the downtown area of St. Petersburg, Florida on March 31, 2006 through April 3, 2006. An Air Show is also included in the race festivities and consists of aerial demonstrations over the near shore waters of St. Petersburg, Florida. The demonstrations will total approximately seventy-one (71) minutes of flight time per day. Aerial demonstrations will include military aircraft, parachute jumpers, and smaller aircraft flying in formation at approximately fifty (50) feet above the water.

Discussion of Rule

The Federal Aviation Administration (FAA) will create a sterile “no-fly” zone (air box) above the restricted waters encompassed by this regulation. Following creation of the air box, the