

13. Newly designated § 209.13(b) is proposed to be revised to read as follows:

§ 209.13 Employers' gross earnings reports.

* * * * *

(b) Employers shall submit reports annually for employees in the gross earnings sample. Such reports shall include the employee's gross annual earnings, both taxable and non-taxable compensation, for the year. Employers with 5,000 or more employees shall provide a monthly or quarterly breakdown of the year's earnings. Employers with fewer than 5,000 employees may submit an annual amount only, although a monthly or quarterly breakdown is preferable. Gross earnings are to be counted for the same time period as used in determining the employer's annual report of creditable compensation. The reports are to be prepared in accordance with prescribed instructions and filed in accordance with § 209.4 of this part.

(Approved by the Office of Management and Budget under control number 3220-0132)

14. Newly designated § 209.14 is proposed to be amended by removing paragraph (a), by removing paragraph designation "(b)" before the second paragraph, and by removing the terms "Director of Research and Employment Accounts" and "Director" wherever those terms appear, and by adding in their place "Board".

15. Newly designated § 209.15 is proposed to be revised to read as follows:

§ 209.15 Report of separation allowances subject to tier II taxation.

For any employee who is paid a separation payment, the employer must file a report of the amount of the payment. This report shall be submitted to the Board on or before the last day of the month following the end of the calendar quarter in which payment is made. The report must be accompanied by a report indication/specification sheet prescribed by the Board as described in § 200.3(a)(2)(ii) of this chapter.

(Approved by the Office of Management and Budget under control number 3220-0173)

16. Newly designated § 209.16 is amended by revising the reference "§ 209.7" to read "209.9"; "209.13" to read "209.14" and "209.14" to read "209.15" wherever they appear; and by removing "Director of Research and Employment Accounts" wherever it appears and adding in its place "Board".

Dated: January 8, 1998.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 98-1245 Filed 1-16-98; 8:45 am]

BILLING CODE 7905-01-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

[SPATS No. IL-098-FOR]

Illinois Regulatory Program

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

ACTION: Proposed rule; withdrawal of proposed amendment.

SUMMARY: OSM is announcing the withdrawal of a proposed amendment to the Illinois regulatory program (hereinafter the "Illinois program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment concerned a revision to the Illinois regulations pertaining to administrative review. Illinois is withdrawing the amendment at its own initiative.

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Director, Indianapolis Field Office, Telephone: (317) 226-6700.

SUPPLEMENTARY INFORMATION: By letter dated November 3, 1997 (Administrative Record No. IL-5000), Illinois submitted a proposed amendment to its program pursuant to SMCRA. Illinois submitted the proposed amendment at its own initiative. In its submission letter, Illinois stated the amendment was necessitated by a permit review case wherein the hearing officer found that the Department's burden of proof standard was improper. The hearing officer ruled that a preponderance of the evidence standard was the appropriate standard to apply in a permit review proceeding. On a subsequent appeal of the administrative case, the circuit court agreed that the clearly erroneous standard was invalid and that the preponderance of the evidence standard was the correct standard to apply (Citizens Organizing Project v. IDNR, 96-MR-126, Sangamon County Circuit Court). The provision of Title 62, Illinois Administrative Code (IAC) that Illinois proposed to amend is at 62 IAC 1847.3(g), permit hearings. Specifically, Illinois proposed to delete the existing language at 62 IAC 1847.3(g) and replace it with the following language:

The standard of proof in a hearing conducted under this Section shall be the preponderance of the evidence.

OSM announced receipt of the proposed amendment in the November 26, 1997, **Federal Register** (62 FR 63045) and invited public comment on its adequacy. The public comment period ended December 26, 1997.

On December 17, 1997 (Administrative Record No. IL-5005), Illinois requested that the proposed amendment be withdrawn, and stated the proposal is being revised and will be resubmitted when it is finalized.

Therefore, the proposed amendment announced in the November 26, 1997, **Federal Register** is withdrawn.

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 9, 1998.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 98-1214 Filed 1-16-98; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

[SPATS No. KS-017-FOR]

Kansas Regulatory Program and Abandoned Mine Land Reclamation Plan

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 pertaining to a previously proposed amendment to the Kansas regulatory program (hereinafter referred to as the "Kansas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions for Kansas's proposed rules pertain to definitions; application for mining permit; civil penalties; permit transfers, assignments, and sales; termination of jurisdiction; exemption for coal and extraction incident to government-financed highway or other construction; exemption for coal extraction incident to the extraction of other minerals; coal exploration; bonding procedures; performance standards; eligible lands and water; liens; contractor responsibility;

exclusion of certain noncoal reclamation sites; and reports. The amendment is intended to revise the Kansas program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4:00 p.m., c.s.t. February 4, 1998.

ADDRESSES: Written comments should be mailed or hand delivered to Russell W. Frum, Mid-Continent Regional Coordinating Center at the address listed below.

Copies of the Kansas program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contracting OSM's Mid-Continent Regional Coordinating Center.

Russell W. Frum, Mid-Continent Regional Coordinating Center, Office of Surface Mining Reclamation and Enforcement, Alton Federal Building, 501 Belle Street, Alton, IL 62002, Telephone: (618) 463-6460.

Kansas Department of Health and Environment, Surface Mining Section, 4033 Parkview Drive, Frontenac, KS 66763, Telephone (316) 231-8540.

FOR FURTHER INFORMATION CONTACT: Russell W. Frum, Mid-Continent Regional Coordinating Center, Telephone: (618) 463-6460.

SUPPLEMENTARY INFORMATION:

I. Background on the Kansas Program

The Secretary of the Interior conditionally approved the Kansas regulatory program on January 21, 1981, and the Kansas abandoned mine land reclamation plan on February 1, 1982. General background information on the Kansas regulatory program and the Kansas abandoned mine land reclamation plan, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the January 21, 1981, **Federal Register** (46 FR 5892) and the February 1, 1982, **Federal Register** (47 FR 4513), respectively. Subsequent actions concerning Kansas' program and program amendments can be found at 30 CFR 916.10, 916.12, 916.15, 916.16, 916.20, and 916.25.

II. Discussion of the Proposed Amendment

By letter dated May 7, 1997 (Administrative Record No. KS-615), Kansas submitted a proposed amendment to its program pursuant to SMCRA. Kansas submitted the proposed

amendment in response to letters dated May 20, 1996, and January 6, 1997 (Administrative Record Nos. KS-608 and KS-612, respectively) that OSM sent to Kansas in accordance with 30 CFR 732.17(c) and in response to a letter dated September 26, 1994

(Administrative Record No. AML-KS-169), that OSM sent to Kansas in accordance with 30 CFR 884.25(b). Kansas also proposed changes to its regulations at its own initiative. The provisions of the Kansas Administrative Regulations (K.A.R.) that Kansas proposes to amend are: K.A.R. 47-1-1, title of rules; K.A.R. 47-1-3, communication; K.A.R. 47-1-4, sessions; K.A.R. 47-1-8, petitions to initiate rulemaking; K.A.R. 47-1-9, notice of citizen suits; K.A.R. 47-1-10, general notice requirement; K.A.R. 47-1-11, permittee—preparation and submission of reports; K.A.R. 47-2-14, definition of complete and accurate application; K.A.R. 47-2-21, definition of employee; K.A.R. 47-2-53, definition of regulatory authority; K.A.R. 47-2-53a, definition of regulatory program; K.A.R. 47-2-58, definition of significant, imminent, environmental harm to land, air or water resources; K.A.R. 47-2-64, definition of state act; K.A.R. 47-2-67, definition of surety bond; K.A.R. 47-2-74, definition of public road; K.A.R. 47-2-75, definitions—adoption by reference; K.A.R. 47-3-1, application for mining permit; K.A.R. 47-3-3a, permit application—maps; K.A.R. 47-3-42(a), application for mining permit—adoption by reference; K.A.R. 47-4-14, public hearings; K.A.R. 47-4-14a, administrative hearing procedure; K.A.R. 47-4-15, administrative hearings—discovery; K.A.R. 47-4-16, interim orders for temporary relief; K.A.R. 47-4-17, administrative hearings—award of costs and expenses; K.A.R. 47-5-5a, civil penalties; K.A.R. 47-5-16, final assessment and payment of civil penalty; K.A.R. 47-6-1, permit review; K.A.R. 47-6-2, permit revision; K.A.R. 47-6-3, permit renewals; K.A.R. 47-6-4, permit transfers, assignments, and sales; K.A.R. 47-6-6, permit conditions; K.A.R. 47-6-7, permit suspension or revocation; K.A.R. 47-6-8, termination of jurisdiction; K.A.R. 47-6-9, exemption for coal extraction incident to government-financed highway or other construction; K.A.R. 47-6-10, exemption for coal extraction incident to the extraction of other minerals; K.A.R. 47-7-2, coal exploration; K.A.R. 47-8-9, bonding procedures; K.A.R. 47-8-11, use of forfeited bond funds; K.A.R. 47-9-1, performance standards; K.A.R. 47-9-2,

revegetation; K.A.R. 47-9-4, interim performance standards K.A.R. 47-10-1, underground mining; K.A.R. 47-11-8, small operator assistance program K.A.R. 47-12-4, lands unsuitable for mining; K.A.R. 47-13-4, training and certification of blasters; K.A.R. 47-13-5, responsibilities of operators and blasters-in-charge; K.A.R. 47-13-6, training; K.A.R. 47-14-7, employee financial interest; K.A.R. 47-15-1a, inspection and enforcement; K.A.R. 47-15-3, lack of information—ability to comply; K.A.R. 47-15-4, injunctive relief K.A.R. 47-15-7, state inspections; K.A.R. 47-15-8, citizen's requests for state inspections; K.A.R. 47-15-15, service of notices of violations and cessation orders; K.A.R. 47-15-17, maintenance of permit areas; K.A.R. 47-16-1, eligible lands and water; K.A.R. 47-16-2, reclamation project evaluation; K.A.R. 47-16-3, consent to entry; K.A.R. 47-16-4, entry for study or exploration; K.A.R. 47-16-5, entry and consent to reclaim; K.A.R. 47-16-6, liens; K.A.R. 47-16-7, appraisals; K.A.R. 47-16-8, satisfaction of liens; K.A.R. 47-16-9, contractor responsibility; K.A.R. 47-16-10, exclusion of certain noncoal reclamation sites; and K.A.R. 47-16-11, reports.

OSM announced receipt of the proposed amendment in the June 4, 1997, **Federal Register** (62 FR 30535) and invited public comment on its adequacy. The public comment period ended July 7, 1997.

During its review of the amendment, OSM identified concerns relating to K.A.R. 47-2-53, definition for regulatory authority; K.A.R. 47-2-75(6)(A), definition for director; K.A.R. 47-3-42 (a)(49)(B) and (a)(49)(E), procedures for challenging ownership and control links shown in AVS; K.A.R. 47-3-42 (a)(50)(E), standards for challenging ownership and control links and the status of violations; K.A.R. 47-5-5a(c)(4)(D), review of waiver determination; K.A.R. 47-5-5a(c)(6)(C)(i) and (c)(6)(E), summary disposition; K.A.R. 47-6-4(c), permit transfers, assignments and sales; K.A.R. 47-6-8(b), termination of jurisdiction; K.A.R. 47-6-9(b)(3), exemption for coal extraction incident to government-financed highway or other construction; K.A.R. 47-6-10(b)(4), exemption for coal extraction incident to the extraction of other minerals; K.A.R. 47-7-2 (b)(6) and (b)(8), coal exploration; K.A.R. 47-8-9 (a)(1) and (b)(8), bonding procedures; K.A.R. 47-9-1(c), performance standards; K.A.R. 47-9-1 (c)(17) and (e)(17), use of explosives; general requirements; K.A.R. 47-9-1(c)(35), backfilling and grading; time

and distance requirements; K.A.R. 47-9-1(j)(9), substitution of Kansas terms for Federal terms in 30 CFR Parts 816 and 817; K.A.R. 47-16-1, eligible lands and water; K.A.R. 47-16-6(d), liens; K.A.R. 47-16-9(a), contractor responsibility; K.A.R. 47-16-10(b)(1), exclusion of certain noncoal reclamation sites; and K.A.R. 47-16-11(a)(2)(A) and (b)(2)(A), reports. OSM notified Kansas of the concerns by letter dated October 8, 1997 (Administrative Record No. KS-615.5). Kansas responded in a letter dated November 14, 1997 (Administrative Record No. KS-615.6), by submitting a revised amendment.

Via the facsimile machine on December 31, 1997 (Administrative Record No. KS-615.7), OSM notified Kansas of additional concerns regarding its November 14, 1997, response. These concerns involved typographical errors at K.A.R. 47-9-1(c)(35)(a), backfilling and grading: time and distance requirements, and K.A.R. 47-16-11(a), reports. Kansas responded to the concerns by correcting the typographical errors in a letter dated on December 31, 1997 (Administrative Record No. KS-615.8). The proposed revisions are discussed below.

A. Kansas Regulatory Program

1. Regulations With Editorial Changes

Kansas proposes minor wording changes, paragraph notation changes, citation corrections, and other editorial changes in the following sections of the K.A.R.: 47-2-53, definition of regulatory authority; 47-2-75(6)(A), definition of director; 47-3-42 (a)(2), violation information; 47-3-42 (a)(49)(B), (a)(49)(E), and (a)(49)(G), procedures for challenging ownership or control links shown in AVS; 47-3-42 (a)(50)(E), standards for challenging ownership or control links and the status of violations; 47-5-5a(c)(4)(D), review of waiver determination; 47-5-5a(c)(6)(C)(i) and (c)(6)(E), summary disposition; 47-6-8(b), termination of jurisdiction; 47-6-9(b)(3), exemption for coal extraction incident to government-financed highway or other construction; 47-6-10(b)(4), exemption for coal extraction incident to the extraction of other minerals; 47-7-2 (b)(6) and (b)(8), coal exploration; 47-8-9(b)(8), bonding procedures; 47-9-1(c), performance standards; 47-9-1 (c)(17) and (e)(17), use of explosives: general requirements; and 47-9-1(j)(9), substitution of Kansas terms for Federal terms in 30 CFR Parts 816 and 817.

2. K.A.R. 47-3-42 (a)(49), Procedures for Challenging Ownership or Control Links Shown in AVS

Kansas proposes not to adopt by reference 30 CFR 773.24(a)(1).

3. K.A.R. 47-6-4, Permit Transfers, Assignments, and Sales

Kansas proposes to add paragraph (c)(4) to read as follows:

“Act” shall be replaced by “state act.”

4. K.A.R. 47-8-9(a)(1), Regulatory Authority Responsibilities

Kansas proposes to add the phrase, “deleting subsection (d),” at the end of this paragraph because the Kansas program does not have provisions for self-bonding.

5. K.A.R. 47-9-1(c)(35), Backfilling and Grading: Time and Distance Requirements

Kansas proposes to incorporate into its regulations language that is substantively identical to the Federal regulations at 30 CFR 816.101.

B. Kansas Abandoned Mine Land Reclamation Plan

1. Regulations With Editorial Changes

Kansas proposes minor wording changes, paragraph notation changes, citation corrections, and other editorial changes in the following sections of the K.A.R.: 47-16-1, eligible lands and water; 47-16-6(d), liens; 47-16-9(a), contractor responsibility; and 47-16-10(b)(1), exclusion of certain noncoal reclamation sites.

2. K.A.R. 47-16-11, Reports

Kansas proposes to delete sections (a)(1)(A) through (c) and to revise section (a) to read as follows:

(a) For each grant, cooperative agreement or both, the department shall semiannually or annually (whichever the case may be) submit to the office of surface mining reclamation and enforcement any reporting as required by OSM.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Kansas program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kansas program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under DATES or at locations other than the Mid-Continent Regional Coordinating Center will not necessarily be considered in the final rulemaking or included 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 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, 730.15, 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 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. 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 counterpart 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 901

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 9, 1998.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 98-1216 Filed 1-16-98; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

[MD-033-FOR]

Maryland Regulatory Program

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

ACTION: Proposed rule; reopening of comment period.

SUMMARY: OSM is reopening the public comment period on a proposed amendment to the Maryland permanent regulatory program (hereinafter referred to as the "Maryland program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendments consist of revisions to the Maryland regulations

pertaining to excess spoil disposal, conditions of surety and collateral bonds, and procedures for release of general bonds. The amendments are intended to revise the Maryland program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4:00 p.m., E.S.T., February 4, 1998.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to George Rieger, Field Branch Chief, at the address listed below.

Copies of the Maryland program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Appalachian Regional Coordinating Center.

George Rieger, Field Branch Chief,
Appalachian Regional Coordinating
Center, Office of Surface Mining
Reclamation and Enforcement, 3
Parkway Center, Pittsburgh, PA
15220, Telephone: (412) 937-2153
Maryland Bureau of Mines, 160 South
Water Street, Frostburg, MD 21532,
Telephone: (301) 689-4136

FOR FURTHER INFORMATION CONTACT:
George Rieger, Field Branch Chief,
Appalachian Regional Coordinating
Center, Telephone: (412) 937-2153.

SUPPLEMENTARY INFORMATION:

I. Background on the Maryland Program

On February 18, 1982, the Secretary of the Interior approved the Maryland program. Background information on the Maryland program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the February 18, 1982, **Federal Register** (47 FR 7214). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 920.15 and 920.16.

II. Description of the Proposed Amendment

Maryland provided an informal amendment to OSM regarding excess spoils on March 11, 1994. OSM completed its reviews of the informal amendment and requested a formal proposal from Maryland in a letter dated August 6, 1996. By letter dated January 7, 1997 (Administrative Record No.

MD-576-00), Maryland submitted a proposed amendment to its program pursuant to SMCRA at OSM's request. Additionally, by letter dated January 14, 1997 (Administrative Record No. MD-552-13), Maryland submitted proposed amendments to its program pursuant to SMCRA. These amendments pertain to conditions of surety and collateral bonds, and procedures for release of general bonds and are intended to comply with required program amendments identified in 30 CFR 920.16 (k) and (m). The proposed amendments were announced in the January 30, 1997, **Federal Register** (62 FR 4502). (At the time of announcement, the proposed amendment was identified as [MD-041]. Please note that the amendment is now identified as [MD-033]). However, OSM's review determined that several items contained in the proposed amendments required clarification. As a result, a letter requesting clarification on four items was sent to Maryland dated June 13, 1997 (Administrative Record No. MD-576-05). Maryland responded in its letter dated June 27, 1997 (Administrative Record No. MD-576-06), by requesting a meeting with OSM and stating that additional information would not be available until after that meeting. A meeting was held on August 14, 1997, and a response was received from Maryland in its letter dated December 8, 1997 (Administrative Record No. MD-576-07). Therefore, OSM is reopening the public comment period regarding the following clarifications to Maryland's proposed amendments:

1. COMAR 25.20.26, Excess Spoil Disposal

a. Maryland was asked to clarify how it would fund projects in cases where the operator defaults on the contract or otherwise fails to perform the necessary reclamation. This funding source would be in addition to the "contractor incentive provisions proposed at COMAR 25.20.26.05(D)(2). Maryland responded that the proposed amendment at COMAR 25.20.26.05(A)(1) provides that the abandoned mine land must be eligible for funding under Environment Article, Title 15, Subtitle 11, Annotated Code of Maryland. Any default by the operator on a contract or failure to perform reclamation could be funded by specially ear-marking a portion of Maryland's AML grant funds to complete the reclamation. This would be in addition to the sanctions provided in the proposed amendment.

b. Maryland was asked to clarify which requirements in the approved