

but including a structure affixed to the land) that was regularly used in the individual's farming business for a substantial period of time is treated as attributable to a farming business.

Whether property was regularly used for a substantial period of time depends on all of the facts and circumstances.

(B) *Cessation of a farming business.* If gain or loss described in paragraph (e)(1)(ii)(A) of this section is realized after cessation of a farming business, such gain or loss is treated as attributable to a farming business if the property is sold within a reasonable time after cessation of the farming business. A sale or other disposition within one year of cessation of the farming business is presumed to be within a reasonable time. Whether a sale or other disposition that occurs more than one year after cessation of the farming business is within a reasonable time depends on all of the facts and circumstances.

(2) *Determination of amount that may be elected farm income—(i) Electible farm income.* The maximum amount of income that an individual may elect to average (electible farm income) is the sum of any farm income and gain minus any farm deductions or losses (including loss carryovers and carrybacks) that are allowed as a deduction in computing the individual's taxable income. However, electible farm income may not exceed taxable income. In addition, electible farm income from net capital gain attributable to a farming business cannot exceed total net capital gain. An individual who has both ordinary and net capital gain farm income may elect (up to electible farm income) any combination of such ordinary and net capital gain farm income.

(ii) *Examples.* The rules of paragraph (e)(2)(i) of this section are illustrated by the following examples:

*Example 1.* A has farm gross receipts of \$200,000 and farm ordinary deductions of \$50,000. A's taxable income is \$150,000 (\$200,000-\$50,000). A's electible farm income is \$150,000, all of which is ordinary income.

*Example 2.* B has ordinary farm income of \$200,000 and nonfarm losses of \$50,000. B's taxable income is \$150,000 (\$200,000-\$50,000). B's electible farm income is \$150,000, all of which is ordinary income.

*Example 3.* C has a farm capital gain of \$50,000 and a nonfarm capital loss of \$40,000. C also has ordinary farm income of \$60,000. C has taxable income of \$70,000 (\$50,000-\$40,000+\$60,000). C's electible farm income is \$70,000. C can elect up to \$10,000 of farm capital gain and up to \$60,000 of farm ordinary income.

*Example 4.* D has a nonfarm capital gain of \$40,000 and a farm capital loss of \$30,000.

D also has ordinary farm income of \$100,000. D has taxable income of \$110,000 (\$40,000-\$30,000+\$100,000). D's electible farm income is \$100,000 ordinary farm income minus \$30,000 farm capital loss, or \$70,000, all of which is ordinary income.

*Example 5.* E has a nonfarm capital gain of \$20,000 and a farm capital loss of \$30,000. E also has ordinary farm income of \$100,000. E has taxable income of \$97,000 (\$20,000-\$23,000+\$100,000). E has a farm capital loss carryover of \$7,000 (\$30,000-\$23,000 allowed as a deduction). E's electible farm income is \$100,000 ordinary farm income minus \$23,000 farm capital loss, or \$77,000, all of which is ordinary income.

(f) *Miscellaneous rules—(1) Short taxable year—(i) In general.* If a base year or an election year is a short taxable year, the rules of section 443 and the regulations thereunder apply for purposes of calculating the section 1 tax.

(ii) *Base year is a short taxable year.* If a base year is a short taxable year, the increase in section 1 tax attributable to the elected farm income allocated to such year is determined after the taxable income for such year has been annualized.

(iii) *Election year is a short taxable year.* If an election year is a short taxable year, any elected farm income is first annualized before being allocated to the base years. The increase in section 1 tax attributable to the elected farm income allocated to the base years is the same part of the tax computed on an annual basis as the number of months in the short election year is of 12 months.

(2) *Changes in filing status.* An individual is not prohibited from making a farm income averaging election solely because the individual's filing status is not the same in an election year and the base years. For example, an individual who files married filing jointly in the election year, but filed as single in all of the base years, may still elect to average farm income.

(3) *Employment tax.* A farm income averaging election has no effect in determining the amount of wages for purposes of the Federal Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA), and the Collection of Income Tax at Source on Wages (Federal income tax withholding), or the amount of net earnings from self-employment for purposes of the Self-Employment Contributions Act (SECA).

(4) *Alternative minimum tax.* A farm income averaging election does not apply for purposes of determining the section 55 alternative minimum tax in the election year or any base year. However, an election will apply for

purposes of determining the regular tax under sections 53(c) and 55(c).

(5) *Unearned income of minor child.* In an election year, if a minor child's investment income is taxable under section 1(g) and a parent makes a farm income averaging election, the tax rate used for purposes of applying section 1(g) is the rate determined after application of the election. With respect to a base year, however, the tax on a minor child's investment income is not affected by a farm income averaging election.

(g) *Effective date.* The rules of this section apply to taxable years ending on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

**John M. Dalrymple,**

*Acting Deputy Commissioner of Internal Revenue.*

[FR Doc. 99-26226 Filed 10-7-99; 8:45 am]

BILLING CODE 4830-01-U

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 915

[SPATS No. IA-005-FOR]

#### Iowa 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 a previously proposed amendment to the Iowa regulatory program (Iowa program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Iowa proposes revisions to its revegetation success guidelines concerning the definition for "prime farmland," plant species for recreational and wildlife areas, reference areas, normal husbandry practices, minimum planting arrangements for recreational, wildlife, and forested lands, and control area adjustments of prime farmland.

Iowa intends to revise its program to be consistent with the corresponding Federal regulations and to improve operational efficiency.

**DATES:** We will accept written comments until 4:00 p.m., c.d.t., October 25, 1999.

**ADDRESSES:** You should mail or hand deliver written comments to John W.

Coleman, Mid-Continent Regional Coordinating Center, at the address listed below.

You may review copies of the Iowa program, the 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 amendment by contacting OSM's Mid-Continent Regional Coordinating Center.

John W. Coleman, Mid-Continent Regional Coordinating Center, Office of Surface Mining, Alton Federal Building, 501 Belle Street, Alton, Illinois, 62002, Telephone: (618) 463-6460.

Iowa Department of Agriculture and Land Stewardship, Division of Soil Conservation, Henry A. Wallace Building, Des Moines, Iowa 50319, Telephone: (515) 281-6147.

**FOR FURTHER INFORMATION CONTACT:** John W. Coleman, Mid-Continent Regional Coordinating Center. Telephone: (618) 463-6460. Internet: jcoleman@mcrgw.osmre.gov.

**SUPPLEMENTARY INFORMATION:**

**I. Background on the Iowa Program**

On January 21, 1981, the Secretary of Interior conditionally approved the Iowa program, effective April 10, 1981. You can find background information on the Iowa program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the January 21, 1981, **Federal Register** (46 FR 5885). You can find later actions on the Iowa program at 30 CFR 915.10, 915.15, and 915.16.

**II. Discussion of the Proposed Amendment**

By letter dated September 28, 1998 (Administrative Record No. IA-441), Iowa sent us an amendment to its program under SMCRA. Iowa sent the amendment in response to our letter dated August 1, 1986 (Administrative Record No. IA-280), that we sent to Iowa under 30 CFR 732.17(c).

We announced receipt of the amendment in the October 14, 1998, **Federal Register** (63 FR 55025) and invited public comment on its adequacy. The public comment period closed November 13, 1998.

During our review of the amendment, we identified concerns relating to Iowa's revegetation success guidelines concerning the definition for "prime farmland," plant species for recreational and wildlife areas, reference areas, normal husbandry practices, minimum planting arrangements for recreational,

wildlife, and forested lands, and control area adjustments of prime farmland. We notified Iowa of these concerns by electronic mail on November 19, 1998 (Administrative Record No. IA-441.6). On August 3, 1999, Iowa sent us a revised amendment (Administrative Record No. IA-441.7).

Iowa proposes the following revisions to its revegetation success guidelines:

**A. Part II.D. Definition of Prime Farmland**

Iowa is revising the first sentence of its definition of Prime Farmland to clarify the source of the U.S. Department of Agriculture's definition for prime farmland, which was referenced in the definition. The revised sentence reads as follows: "Prime Farmland is defined by the U.S. Department of Agriculture at 7 CFR Part 657. As defined, prime farmland is the land best suited for food, feed, forage, fiber, and oil seed crops." Iowa also is deleting the last sentence of the first paragraph, "Farming of this land results in the least damage to the environment."

**B. Part III.C.5 Recreational and Wildlife**

1. Iowa proposes to revise the second sentence of Part III.C.5.a.i. to read as follows: "In the case of wildlife areas, all plant species found that are not included in the seed mixture approved in the permit shall be those listed in Appendix 8—Recommended Wildlife & Recreational Planting Species for Iowa of this document."

2. Iowa also proposes to revise Part III.C.5.b.ii. to read as follows: "Tree and shrub species planted shall be approved in the permit and as listed in Appendix 5—Recommended Tree Planting Species in Iowa of this document as acceptable species."

**C. Part IV.E. Recreational, Wildlife, and Forested Lands**

1. Iowa is changing the heading for Part IV.E.1. from "Forested Lands" to "Tree and Shrub Vegetation" and is removing the phrase "In the case of a forested land use" from the first sentence of IV.E.1.

2. Iowa also revised the first paragraph of Part IV.E.2 to read as follows:

The tree and/or shrub success standards shall be met only when all of the following have been established. (a) All of the previous criteria under IV.E. Recreational, Wildlife, and Forested Lands have been met. (b) When eighty percent (80%) of the trees and/or shrubs used in proving this success standard have been in place for sixty percent (60%) of the responsibility period (or three years). (c)

The Permittee provides documentation that eighty percent (80%) of the planted trees and/or shrubs have survived and been in place a minimum of three (3) consecutive years. (d) The Permittee provides documentation that there are at least four hundred (400) live trees and/or shrubs per acre. (e) The Permittee provides documentation that each tree and/or shrub counted toward this revegetation success standard has been in place at least two (2) years and have at least one-third (1/3) of its height in live crown.

3. Iowa proposes to revise the third sentence of the second paragraph of Part IV.E.2. to read as follows: "In addition there shall be a minimum of four hundred (400) live trees or shrubs per acre of land under a forested land use, including recreational or wildlife land use areas where woody plants are used, for purposes of achieving revegetation success."

4. Iowa is also revising the fourth sentence of the second paragraph of Part IV.E.2 to read as follows: "At the time of counting trees or shrubs to determine if their survival meets the revegetation success standard, eighty percent (80%) of the original number of trees and/or shrubs planted per acre shall be alive [and] shall have been in place for three years."

**D. Part IV.G. Control Area Adjustments of Prime Farmland Revegetation Success Standards**

1. Iowa is revising the climatic correction factor (CF) Examples #1 by changing the CF for Example #1 to 1.05, the "Climatically Adjusted Corn Productivity Revegetation Success Standard" calculation to "1.05 × 161 bu. corn/acre = 169.05," and the success standard statement to "Corn Productivity Revegetation Success Standard = 169 bu. corn/acre."

2. Iowa is revising the CF for Example #2 to 0.832, the "Climatically Adjusted Soybean Productivity Revegetation Success Standard" calculation to "0.832 × 54.52 bu. soybeans/acre = 45.3 bu. soybeans/acre," and the success standard statement to "Soybean Productivity Revegetation Success Standard = 45.3 bu. soybeans/acre."

**E. Part V.A.2. Grain Sampling Technique for Test Plot Harvesting**

1. Iowa is revising Part V.A.2.h. to require the permittee to repeat the steps outlined in Part V.A.2.c. through 2.g. for the fifteen (15) test plots or samples for each ten (10) acres of field size. Iowa then provides a formula for determining field sample adequacy.

2. Iowa is deleting the language originally located at Part V.A.2.i. and replacing it with instructions on how to interpret the results of the formula for

determining field sample adequacy provided in Part V.A.2.h. Iowa also added Field Adequacy Test Examples.

3. Iowa is adding new Part V.A.2.j. to require a permittee to use corrected standard moisture percentage weights of the grain or beans to determine sample adequacy for the test plots. Iowa then provides a formula for determining standard moisture weight sample adequacy.

4. Iowa is also adding new Part V.A.2.k. describing how to interpret the results of the formula for determining standard moisture weight sample adequacy provided in Part V.A.2.j. Iowa also added Standard Moisture Weight Sample Adequacy Examples.

5. Original Parts V.A.2.j., k., and m. are redesignated as new Parts V.A.2.l., m., and o., respectively. Iowa then added Sample Unit Production Examples under new Part V.A.2.m. and Average Production Examples under new Part V.A.2.n.

6. Iowa is revising new Part V.A.2.o. to read as follows:

The average crop production value for the field area, for the growing season sampled, will have met the appropriate grain or bean production success standard only when the all of the following criteria have been met. (i) All of the test plot yield data and moisture content data for the grain or bean field area has been submitted to the Division. (ii) The corn, soybeans, oats or wheat production is greater than or equal to the appropriate reference area production or calculated production success standard. (iii) The statistical sample adequacy has been achieved. (iv) All of the sampling and analysis criteria have been met.

#### *F. Part V.A.3. The Use of Whole Field Harvest*

1. Iowa is revising Part V.A.3.d. to read as follows:

Immediately after the grain or beans are harvested and collected, they must be weighted to three significant digits and then have moisture contents measured. The grain or bean production shall be weighed on a scale licenced for trade. A weight and moisture sample for field, or reference area must be taken. Each moisture and foreign material sample must not represent more than five hundred (500) bushels. Tickets shall be submitted to the Division.

2. Iowa also proposes to add a provision to Part V.A.3.e. to require the moisture content of a harvest to be determined using a standard agricultural moisture tester, operated by a licensed grain elevator.

3. Iowa is adding new Parts V.A.3.i. and j. New Part V.A.3.i. describes how a permittee should calculate a bushel/acre production yield. New Part V.A.3.j. describes when the average grain or bean production value for the whole

field harvest yield will have met the appropriate production success standard.

#### *G. Part V.B.1. Productivity Sampling Technique*

1. Iowa is adding new Part V.B.1.b. to require a permittee to determine representative sample points for each reclaimed area of forage crops which have been grown to prove achievement of a cropland or pastureland revegetation success standard. The permittee must use a minimum of fifteen random sample points per each ten acres to determine productivity for each field.

2. Existing Parts V.B.1.c. through n. are redesignated as Parts V.B.1.d. through o., respectively. Iowa then proposes to add additional language to new Part V.B.1.i. to read as follows: "Areas requiring more than thirty (30) sample points for every ten (10) acres in size may not be eligible for bond release. This high variability indicates that the sample area may not meet the approved standard." After providing a formula for testing forage field sample adequacy, Iowa repeats the above statement, adding that if sample adequacy cannot be met after additional sampling, these areas should be abandoned until the next growing season. Iowa then provides a Forage Field Sample Adequacy Example.

3. Under new Part V.B.1.l., Iowa is adding an example of the Fifteen Percent Moisture Weight Sample Adequacy test. Under new Part V.B.1.m., Iowa is adding an example of the Corrected Forage Weight test. Under new Part V.B.1.n., Iowa is adding an example of the Total Forage Production test.

4. Iowa is adding a new provision at Part V.B.1.p. to read as follows: "Forage production yields less than the ninety percent (90%) of the appropriate pastureland or forage crop revegetation success standard shall not be accepted for the purposes of bond release." Old Part V.B.1.o. is redesignated as new Part V.B.1.q.

#### *H. Part V.B.2. Whole Field Harvest for Forage Production*

1. Iowa is revising the first sentence of the introductory paragraph at Part V.B.2. to read as follows: "The use of whole field harvested shall be limited to the reclaimed areas and any reference areas, and shall not include any adjacent areas outside these limits."

2. Iowa is adding a new Part V.B.2.e. to describe when the moisture adjusted yield of a whole field harvest will have met the appropriate forage production success standard.

#### *I. Part V.C. Ground Cover*

1. Iowa is revising the introductory language at Part V.C. by adding the provision that plant species other than those included in the Permit as part of the land use will be counted as ground cover only after the permittee obtains written permission from the Division. Under no circumstances will the Division allow noxious weeds, rocks, or bare ground to be counted as ground cover.

2. Iowa is revising the third sentence of Part V.C.1.e. to read as follows: "The only acceptable ground cover is dead vegetative litter and plant species included in the seed mixture approved in the Permit, and other acceptable and approved plant species for the land use being sampled. Iowa is also adding new Part V.C.1.e.i. and ii. to describe what is acceptable ground cover and non-acceptable ground cover.

3. Iowa is adding an example of the Ground Cover Transect Adequacy test at Part V.C.1.g. and an example of the Average Percent Ground Cover test at Part V.C.1.h.

4. Iowa is revising Part V.C.1.i. to describe when the average percent ground cover for the sample area will have met the appropriate land use ground cover success standard.

#### *J. Part V.D. Trees and Shrubs*

1. Iowa is adding additional language to Part V.D.1. to require the permittee to divide the total tree and/or shrub count by the number of acres within a forestland area, and to describe when a permittee will have met the tree and/or shrub revegetation success standard.

2. Iowa is also adding additional language to Part V.D.2.c. to describe the criteria for eligible live and healthy trees or shrubs.

3. Iowa is adding new Parts V.D.2.e. through h. Part V.D.2.e. requires the permittee to determine if tree or shrub planting areas meet the minimum density of four hundred live and healthy trees or shrub per acre, as well as describes the minimum number of trees and/or shrubs needed in each acre and sampling circle. Part V.D.2.f. provides a formula for determining sampling circle adequacy. Part V.D.2.g. describes how the permittee should interpret the results of the Sampling Circle Adequacy test, as well as provides an example of the Sampling Circle Adequacy test. Finally, Part V.D.2.h. describes when the tree and/or shrub revegetation success standard will have been met.

#### *K. Part VI Statistical Analysis of Sampling Data*

Iowa is adding new Part VI.A. to explain the calculation of means,

variances, and standard deviations. This new section also includes examples of each of these statistical applications.

#### L. Appendices

Iowa is adding two new appendices: Appendix 8—Recommended Wildlife & Recreational Planting Species in Iowa; and Appendix 9—Critical Values of t. Both these Appendices are referenced in Iowa's Revegetation Success Standards and Statistically Valid Sampling Techniques document.

#### M. Editorial-type Errors

Finally, Iowa is making minor wording changes and revising various cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

### III. Public Comment Procedures

We are reopening the comment period on the proposed amendment to provide you an opportunity to reconsider the adequacy of the 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 we approve the amendment, it will become part of the Iowa program.

#### Written Comments

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

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. In the final rulemaking, we will not necessarily consider or include in the Administrative Record any comments received after the time indicated under **DATES** or at locations other than the

Mid-Continent Regional Coordinating Center.

Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS No. IA-005-FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Mid-Continent Regional Coordinating Center at (618) 463-6460.

### 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 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 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 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 published by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

#### Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on local, state, or tribal governments or private entities.

#### List of Subjects in 30 CFR Part 915

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 30, 1999.

#### Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 99-26357 Filed 10-7-99; 8:45 am]

BILLING CODE 4310-05-P

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 946

[VA-115-FOR]

#### Virginia Abandoned Mine Land Reclamation Program

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

**ACTION:** Proposed rule.

**SUMMARY:** OSM is announcing the receipt of a proposed amendment to the Virginia Abandoned Mine Land Reclamation (AMLR) Program (hereinafter referred to as the Virginia Program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.*, as amended. The proposed amendment makes changes to the Ranking and Selection section by adding a subsection concerning reclamation projects receiving less than 50 percent government funding. The proposed amendment is intended to incorporate