

would be the costs associated with such a requirement?

**Question 133:** Should access providers be required to make disclosures to sophisticated institutions?

**Question 134:** What market information should SIP and broker-dealer access providers be required to provide to the users of their services?

**Question 135:** Should direct trading in foreign listed companies be limited to those that satisfy U.S. disclosure standards in order to better protect U.S. investors?

**Question 136:** Is it sufficient to merely disclose to investors that the information available about a foreign security may significantly differ from the information that would be available about U.S. securities? Do public policy concerns dictate that the Commission make distinctions based on whether investors receive adequate information?

**Question 137:** Are there circumstances under which unregistered foreign securities should be permitted to trade on foreign markets through an access provider? For example, should the Commission establish some *de minimis* threshold for a foreign security based on the dollar value of the U.S. float or trading volume in that security, or on the relative percentage of U.S. float or trading volume compared to that of the home or worldwide markets?

**Question 138:** Should the exemption from registration under Exchange Act Rule 12g3-2(b) be available if a significant portion of an issuer's float is traded in the United States?

**Question 139:** Given that broker-dealers currently trade unregistered securities for customers, should the Commission reconsider its approach to securities registration requirements in this context? Are there other viable alternatives that would ensure adequate disclosure to U.S. investors trading on foreign markets?

**Question 140:** Is trading in unregistered foreign securities through an access provider to a foreign market appropriate if access is limited to sophisticated investors? For example, should access providers be permitted to transmit orders for unregistered foreign securities to a foreign market on behalf of qualified institutional buyers as defined in Rule 144A of the Securities Act?

**Question 141:** Are there uniform procedures that the Commission should impose on foreign markets or on access providers to assure that securities are not sold to U.S. investors in circumstances that result in a public distribution of securities in the United

States that are not registered under the Securities Act?

**Question 142:** What are the consequences to SEC reporting companies if unregistered foreign securities listed on foreign markets are available to be purchased or sold through access providers?

**Question 143:** Would any of the approaches described above provide an effective means of addressing the issues raised by foreign market activities in the United States, including providing key protections for U.S. investors? What would be the benefits of each approach? What would be the drawbacks of each approach?

Dated: May 23, 1997.

By the Commission.

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 97-14284 Filed 6-3-97; 8:45 am]

BILLING CODE 8010-01-P

## 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; public comment period and opportunity for public hearing.

**SUMMARY:** OSM is announcing receipt of a proposed amendment to the Kansas program and Abandoned Mine Land Reclamation Plan (hereinafter the "Kansas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to Kansas' regulations for its regulatory program and abandoned mine land reclamation plan pertaining to communications, petitions to initiate rulemaking, notice of citizen suits, preparation and submission of reports by the permittee, definitions, permit applications, administrative hearing procedures, civil penalties, permit review, permit revision, permit renewals, permit transfers, assignments, and sales, permit conditions, permit suspension or revocation, termination of jurisdiction, exemption for coal extraction incident to government-financed highway or other construction,

exemption for coal extraction incidental to the extraction of other minerals, coal exploration, bonding procedures, performance standards, revegetation, interim performance standards, underground mining, small operator assistance program, lands unsuitable for surface mining, training, certification, and responsibilities of blasters and operators, employee financial interest, inspection and enforcement, eligible lands and water, reclamation project evaluation, consent to entry, liens, appraisals, contractor responsibility, exclusion of certain noncoal reclamation sites, and abandoned mine land reclamation plan reports. The amendment is intended to revise the Kansas program to be consistent with the corresponding Federal regulations.

This document sets forth the times and locations that the Kansas program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

**DATES:** Written comments must be received by 4:00 p.m., c.d.t., July 7, 1997. If requested, a public hearing on the proposed amendment will be held on June 30, 1997. Requests to speak at the hearing must be received by 4:00 p.m., c.d.t. on June 19, 1997.

**ADDRESSES:** Written comments and requests to speak at the hearing 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, 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 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, Illinois, 62002, Telephone: (618) 463-6460.

Kansas Department of Health and Environment, Surface Mining Section, 4033 Parkview Drive, Frontenac, Kansas 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

On January 21, 1981, the Secretary of the Interior conditionally approved the Kansas program. Background information on the Kansas program, 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). Subsequent actions concerning the Kansas program can be found at 30 CFR 916.10, 916.12, 916.15, and 916.16.

### II. Description 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), 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), and at its own initiative. Kansas proposes to amend the Kansas Administrative Regulations (K.A.R.). The full text of the proposed program amendment submitted by Kansas is available for public inspection at the locations listed above under **ADDRESSES**. A brief discussion of the proposed amendment is presented below.

#### A. Kansas Regulatory Program

##### 1. Regulations Proposed for Revocation or Deletion

Kansas proposes to revoke or delete the following sections of the K.A.R.: 47-1-1, title of rules; 47-1-4, sessions; 47-1-10, general notice requirement; 47-2-14, definition of complete and accurate application; 47-4-14, public hearings; 47-4-14a(b)(2), definition of person; and 47-4-14a (d)(4)(G), (d)(5)(B)(i), (d)(17)(C), formal hearings;

##### 2. 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.: 47-1-3, communication; 47-1-8, petitions to initiate rulemaking; 47-1-9, notice of citizen suits, 47-1-11, permittee preparation and submission of reports; 47-2-21, definition of

employee; 47-2-53, definition of regulatory authority or state regulator authority; 47-2-53a, definition of regulatory program; 47-2-58, definition of significant, imminent, environmental harm to land, air or water resources; 47-2-64, definition of state act; 47-2-67, definition of surety bond; 47-2-74, definition of public road; 47-3-1, application for mining permit; 47-3-3a, permit application maps; 47-3-42, application for mining permit; 47-4-14a(a)(2), administrative hearing procedure; 47-4-14a(b), definition of party; 47-4-14a(c), rules of procedure; 47-4-14a(d), formal hearings; 47-4-15, administrative hearings—discovery; 47-4-16, interim orders for temporary relief; 47-4-17, administrative hearings—award of costs; 47-5-5a, civil penalties; 47-5-16, final assessment and payment of civil penalty; 47-6-1, permit review; 47-6-2, permit revision; 47-6-3, permit renewals; 47-6-4, permit transfers, assignments, and sales; 47-6-6, permit conditions; 47-6-7, permit suspension or revocation; 47-6-9, exemption for coal extraction incident to government-financed highway or other construction; 47-6-10, exemption for coal extraction incidental to the extraction of other minerals; 47-7-2, coal exploration; 47-8-9, bonding procedures; 47-8-11, use of forfeited bond funds; 47-9-1, performance standards; 47-9-2, revegetation; 47-9-4, interim performance standards; 47-10-1, underground mining; 47-11-8, small operator assistance program; 47-12-4, lands unsuitable for surface mining; 47-13-4, training, certification, and responsibilities of blasters and operators; 47-13-5, responsibilities of operators and blasters-in-charge; 47-13-6, training; 47-14-7, employee financial interests; 47-15-1a, inspection and enforcement; 47-15-3, lack of information—inability to comply; 47-15-4, injunctive relief; 47-15-7, state inspections; 47-15-8, citizen's requests for state inspections; 47-15-15, service of notices of violations and cessation orders; and 47-15-17, maintenance of permit areas. Substantive revisions included in these regulations are summarized below.

##### 3. K.A.R. 47-2-75, Definitions

a. Kansas proposes to revise its adoption by reference of applicable Federal definitions contained in 30 CFR 700.5, 701.5, 705.5, 773.5, and 846.5 from as they existed on July 1, 1990, to as they existed on July 1, 1995.

b. Kansas proposes to revise its definition of director at K.A.R. 47-2-75(a)(5) [was 47-2-75(a)(6)] by referencing additional sections of the Federal regulations for which the term

"director" means the Director, Office of Surface Mining, Reclamation, and Enforcement. The additional referenced sections are 30 CFR 705.4(a), 705.11(c) and (d), 705.13, 705.15, 705.19(a), and 705.21.

c. At K.A.R. 47-2-75(e)(6), Kansas proposes to revise its adoption by reference of 30 CFR 846.5 by specifying that the reference to "Section 703 of the act" shall be replaced by "K.S.A. 1995 Supp. 75-2973."

##### 4. K.A.R. 47-3-2(b), Application for Mining Permit

At K.A.R. 47-3-2(b), Kansas proposes to revise its adoption by reference of applicable Federal regulations concerning permit applications at 30 CFR 777.11, 777.13, 777.14, and 777.15 from as they existed on July 1, 1990, to as they existed on July 1, 1995.

##### 5. K.A.R. 47-3-42, Application for Mining Permit

a. At K.A.R. 47-3-42(a), Kansas proposes to revise its adoption by reference of applicable Federal regulations concerning permit applications at 30 CFR Parts 773, 778, 779, 780, and 785 from as they existed on July 1, 1990, to as they existed on July 1, 1995.

b. At K.A.R. 47-3-42(a)(2), in its adoption by reference of 30 CFR 778.14, Kansas proposes to specify that the term "act" shall mean "the surface mining control and reclamation act of 1977 (Pub. L. 95-87)" and amendments thereto.

c. At K.A.R. 47-3-42(a)(15), Kansas proposes to remove its adoption by reference of 30 CFR 779.22, land-use information.

d. At K.A.R. 47-3-42(a)(17), Kansas proposes to adopt by reference 30 CFR 780.4.

e. At K.A.R. 47-3-42(a)(43), Kansas proposes to add a clarifying statement to its adoption by reference of 30 CFR 773.15. The statement reads as follows:

Only in paragraph 30 CFR 773.15(b) shall the term "act" mean "surface mining control and reclamation act of 1977 (Pub. L. 95-87)" and amendments thereto. All other references to the term "act" in 30 CFR 773.15 shall be replaced with "state act."

f. AT K.A.R. 47-3-42(a)(45), Kansas proposes to add a clarifying statement to its adoption by reference of 30 CFR 773.20. The statement reads as follows:

except in subsection (c)(2) "43 CFR 4.1370 through 4.1377, where OSM is the regulatory authority, or under the State program equivalent, where a state is the regulatory authority" shall be replaced by "K.A.R. 47-4-14a"

g. At K.A.R. 47-3-42(a)(47), Kansas proposes to adopt 30 CFR 773.22 by reference.

h. At K.A.R. 47-3-42(a)(48), Kansas proposes to adopt 30 CFR 773.23 by reference.

i. At K.A.R. 47-3-42(a)(49), Kansas proposes to adopt 30 CFR 773.24 by reference with exceptions that replace certain Federal Terms and citations with the appropriate State terms and citations and by providing the State address where an individual may submit information on a challenge of the status of a State violation.

j. At K.A.R. 47-3-42(a)(50), Kansas proposes to adopt 30 CFR 773.25 by reference with exceptions that replace certain Federal terms and citations with the appropriate State terms and citations. Kansas is also proposing to replace 30 CFR 773.25(b) with K.A.R. 47-3-42(a)(50)(B) which authorizes the secretary of the Kansas Department of Health and Environment or his designee to make decisions concerning ownership or control relationships within Kansas' coal mining applications, issued permits, and state violations.

#### 6. K.A.R. 47-4-14a, Administrative Hearing Procedures

a. At K.A.R. 47-4-14a(c)(2), Kansas proposes to change the information on where to file administrative hearing documents. All documents are to be filed with the administrative appeals section of the Kansas Department of Health and Environment, suite 400D, 109 SW 9th, Topeka, Kansas 66612-1215.

b. At K.A.R. 47-4-14a(d)(2)(D), concerning disqualification of a presiding officer, Kansas proposes to add a new provision that reads as follows:

In the event that the presiding officer fails to grant a petition for disqualification, the petitioning party may file an affidavit of personal bias or disqualification with substantiating facts, and the matter of disqualification shall be determined by the secretary.

c. At K.A.R. 47-4-14a(d)(6)(E)(iv), Kansas proposes to add a provision that requires notice of a formal hearing to be posted at the surface mining section office and, where practicable, be published in a newspaper of general circulation in the area of the mine at least seven days prior to the hearing.

d. At K.A.R. 47-4-14a(d)(15), Kansas proposes to allow the presiding officer or secretary or secretary's designee to take action on a petition for stay either before or after the effective date of an initial or final order.

#### 7. K.A.R. 47-4-15, Administrative Hearings—Discovery

At K.A.R. 47-4-15, Kansas proposes to add an introductory statement regarding discovery in administrative hearings: "Discovery shall be permitted to the extent allowed by the presiding officer or as agreed to by the parties."

#### 8. K.A.R. 47-5-5a, Civil Penalties

a. At K.A.R. 47-5-5a(a), Kansas proposes to revise its adoption by reference of applicable Federal regulations concerning civil penalties at 30 CFR 845.11, 845.12, 845.13, 845.14, 845.15, 845.16, 845.17, 845.18, 845.19, and Part 846 from as they existed on July 1, 1990, to as they existed on July 1, 1995.

b. At K.A.R. 47-5-5a(a)(10), Kansas proposes exceptions to its adoption of 30 CFR Part 846 by replacing certain Federal terms and citations with the appropriate State terms and citations. Kansas also proposes to adopt by reference 30 CFR 870.15(e)(1)-(5), (f), and (g) as they relate to 30 CFR 846.18(d) with the exception of the sentence in paragraph (f) that specifies that "[t]his penalty is in addition to the interest described in paragraph (c) of this section."

c. At K.A.R. 47-5-5a(b)(13) through (20), Kansas proposes to add more State terms that will replace specified Federal terms wherever they appear in the text of the Federal regulations, concerning civil penalties, adopted by reference under K.A.R. 47-5-5a(a).

d. Kansas proposes to revise K.A.R. 47-5-5a(c)(5), concerning the burden of proof in civil penalty proceedings, by requiring that the department have the burden of going forward to establish a prima facie case as to the fact of the violation, the amount of the civil penalty, and the ultimate burden of persuasion as to the amount of the civil penalty and that the person who petitioned for review have the ultimate burden of persuasion as to the fact of the violation.

e. Kansas proposes to revise K.A.R. 47-5-5a(c)(97)(C), concerning the initial order of the presiding officer, by requiring the presiding officer to order the department to remit the appropriate amount to the person who made the payment within 30 days of receipt of the order finding no violation or reducing the penalty paid.

f. Kansas proposes to revise K.A.R. 47-5-5a(c)(7)(D) by requiring that if the presiding officer increases the amount of the civil penalty above that of the proposed assessment, the presiding officer is to order payment of the appropriate amount within 15 days after

an order increasing the civil penalty if mailed.

#### 9. K.A.R. 47-6-3, Permit Renewals

At K.A.R. 47-6-3(a), Kansas proposes to revise its adoption by reference of 30 CFR 774.15, concerning permit renewals, from as they existed on July 1, 1990, to as they existed on July 1, 1995.

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

At K.A.R. 47-6-4(b), Kansas proposes to revise its adoption by reference of 30 CFR 774.17, concerning transfer, assignments, or sale of permit rights, from as they existed on July 1, 1990, to as they existed on July 1, 1995.

#### 11. K.A.R. 47-6-6, Permit Conditions

At K.A.R. 47-6-6(a), Kansas proposes to revise its adoption by reference of 30 CFR 773.17, concerning permit conditions, from as they existed on July 1, 1990, to as they existed on July 1, 1995.

#### 12. K.A.R. 47-6-7, Permit Suspension or Revocation

Kansas proposes to revise K.A.R. 47-6-7(h)(1) by requiring a party to file a notice of appeal of an initial order in a suspension or revocation proceeding with the secretary within 15 days after receipt of the order.

#### 13. K.A.R. 47-6-9, Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction

At K.A.R. 47-6-9(a), Kansas proposes to revise its adoption by reference of the Federal regulations at 30 CFR 707.4, 707.5, 707.11, and 707.12 from as they existed on July 1, 1990, to as they existed on July 1, 1995.

#### 14. K.A.R. 47-6-10, Exemption for Coal Extraction Incidental to the Extraction of Other Minerals

At K.A.R. 47-6-10(a), Kansas proposes to revise its adoption by reference of the Federal regulations at 30 CFR 702.1, 702.5, 702.10, 702.11, 702.12, 702.13, 702.14, 702.15, 702.16, 702.17, and 702.18 from as they existed on July 1, 1990, to as they existed on July 1, 1995.

#### 15. K.A.R. 47-7-2, Coal Exploration

At K.A.R. 47-7-2(a), Kansas proposes to revise its adoption by reference of the Federal regulations 30 CFR 772.11, 772.12, 772.13, 772.14, and 772.15 from as they existed on July 1, 1990, to as they existed on July 1, 1995.

## 16. K.A.R. 47-8-9, Bonding Procedures

At K.A.R. 47-8-9(a), Kansas proposes to revise its adoption by reference of the Federal regulations 30 CFR 800.4, 800.5, 800.11, 800.12, 800.13, 800.14, 800.15, 800.16, 800.17, 800.20, 800.21, 800.30, 800.40, 800.50, and 800.60 from as they existed on July 1, 1990, to as they existed on July 1, 1995.

## 17. K.A.R. 47-9-1, Performance Standards

a. At K.A.R. 47-9-1(a), Kansas proposes to revise its adoption by reference of applicable Federal regulations 30 CFR 810 from as they existed on July 1, 1990, to as they existed on July 1, 1995. At K.A.R. 47-9-1(a)(3), Kansas proposes to add an exception to the adoption of 30 CFR 810.11: the reference to "parts 815 through 828" shall be replaced by their counterpart in K.A.R. 47-9-1. Kansas also proposes to add exceptions at new subsection (a)(5): the phrases "every state program" and "the applicable regulatory program" shall be replaced by "the regulatory program."

b. At K.A.R. 47-9-1(b), Kansas proposes to revise its adoption by reference of applicable Federal regulations 30 CFR Part 815 from as they existed on July 1, 1990, to as they existed on July 1, 1995.

c. K.A.R. 47-9-1(c), Surface Coal Mining Performance Standards. (1) At K.A.R. 47-9-1(c), Kansas proposes to revise its adoption by reference of applicable Federal regulations 30 CFR 816 from as they existed on July 1, 1990, to as they existed on July 1, 1995.

(2) Kansas proposes an exception to its adoption of 30 CFR 816.61 at subsection (c)(17): the term "subchapter" shall not be replaced by K.A.R. 47-9-1(c), and everything but the statement "all blasting operations shall be conducted under the direction of a certified blaster" shall be deleted from 30 CFR 816.61(c)(1).

(3) Kansas proposes to delete the existing language in subsection (c)(35) and to add new subsection (c)(35) to adopt 30 CFR 816.101, backfilling and grading time and distance requirements, by reference. The rest of the paragraphs in subsection (c) were renumbered to reflect this addition.

(4) Kansas proposes to add its adoption by reference of 30 CFR 816.102 to new subsection (c)(36) with an exception: subsections (k)(3)(i) and (ii) of 30 CFR 816.102 are deleted.

(5) At redesignated subsection (c)(43), Kansas proposes to remove previously approved exceptions to its adoption by reference of 30 CFR 816.116. These exceptions are deletion of editorial note

"3" and specific language in 30 CFR 816.116(c)(2).

(6) Kansas also proposes to add additional requirements at subsection (c)(43) in its adoption by reference of 30 CFR 816.116(a) and (c)(4).

Subsection (a)(3) is added specifying that the data being used for bond release shall be submitted to the department annually. The data is to include information for the last augmented seeding, which shall start the extended liability period. The planting reports, including soil tests, are to be submitted by March 31, of the year following the year in which the soil tests were performed. The production and ground cover data are to be submitted within 30 days of the date that the production and ground cover were sampled. Ground cover shall include species identification. Raw field data may be submitted to fulfill this requirement. The tabulated results shall then be submitted by March 31 of the following year. All data shall be clearly identified as to the bond release management area that it represents.

Subsection (c)(4)(i) is revised to add language concerning normal husbandry practices: The normal husbandry practices used to repair gullies shall be approved in advance by the United States Department of the Interior, Office of Surface Mining Reclamation and Enforcement.

(7) In its adoption of 30 CFR 816.133, postmining land use, at K.A.R. 47-9-1(c)(46), Kansas proposes to delete subsection (d).

(8) At K.A.R. 47-1-9(d)(3), Kansas proposes to delete 30 CFR 816.107, steep slope backfilling and grading, from its adoption by reference of 30 CFR 816.116.

e. K.A.R. 47-1-9(e), Underground Mining Performance Standards. (1) At K.A.R. 47-9-1(e), Kansas proposes to revise its adoption by reference of applicable Federal regulations at 30 CFR Part 817 from as they existed on July 1, 1990, to as they existed on July 1, 1995.

(2) Kansas proposes an exception to its adoption of 30 CFR 817.61 at K.A.R. 47-1-9(e)(17): the term "subchapter" shall not be replaced by K.A.R. 47-9-1(d), and everything but the statement "all blasting operations shall be conducted under the direction of a certified blaster" shall be deleted from 30 CFR 817.61(c)(1).

(3) Kansas also proposes to add additional requirements at K.A.R. 47-9-1(e)(39) in its adoption by reference of 30 CFR 817.116(a). Subsection (a)(3) is added specifying that the data being used for bond release shall be submitted to the department annually. The data is to include information for the last

augmented seeding, which shall start the extended liability period. The planting reports, including soil tests, are to be submitted by March 31, of the year following the year in which the soil tests were performed. The production and ground water cover data are to be submitted within 30 days of the date that the production and ground cover were sampled. Ground cover shall include species identification. Raw field data may be submitted to fulfill this requirement. The tabulated results shall then be submitted by March 31 of the following year. All data shall be clearly identified as to the bond release management area that it represents.

(4) In its adoption of 30 CFR 817.133, postmining land use, at K.A.R. 47-9-1(e)(44), Kansas proposes to delete subsection (d).

f. K.A.R. 47-9-1(f), Auger Mining Performance Standards. At K.A.R. 47-9-1(f), Kansas proposes to revise its adoption by reference of applicable Federal regulations at 30 CFR Part 819 from as they existed on July 1, 1990, to as they existed on July 1, 1995.

g. K.A.R. 47-9-1(g), Prime Farmland Special Performance Standards. At K.A.R. 47-9-1(g), Kansas proposes to revise its adoption by reference of applicable Federal regulations at 30 CFR Part 823 from as they existed on July 1, 1990, to as they existed on July 1, 1995.

h. K.A.R. 47-9-1(h), Coal Preparation Plants not Located within the Permit Area of a Mine Performance Standards. At K.A.R. 47-9-1(h), Kansas proposes to revise its adoption by reference of applicable Federal regulations at 30 CFR Part 827 from as they existed on July 1, 1990, to as they existed on July 1, 1995.

i. K.A.R. 47-9-1(i), In Situ Processing Special Performance Standards. At K.A.R. 47-9-1(i), Kansas proposes to revise its adoption by reference of applicable Federal regulations at 30 CFR Part 828 from as they existed on July 1, 1990, to as they existed on July 1, 1995.

j. At K.A.R. 47-9-1(j), Kansas revised its list of terms that replaces terms in the Federal regulations adopted by reference under K.A.R. 47-9-1. At subsection (j)(8), any reference to "Part 816" is replaced by "K.A.R. 47-9-1(c)." At subsection (j)(9), any reference to "Part 817" is replaced by "K.A.R. 47-9-1(d)."

## 18. K.A.R. 47-9-4, Interim Performance Standards

At K.A.R. 47-9-4(a), Kansas proposes to revise its adoption by reference of applicable Federal regulations at 30 CFR Parts 710, 715, and 716 from as they existed on July 1, 1990, to as they existed on July 1, 1995.

#### 19. K.A.R. 47-10-1, Underground Mining

At K.A.R. 47-10-1(a), Kansas proposes to revise its adoption by reference of applicable Federal regulations at 30 CFR Parts 783 and 784 from as they existed on July 1, 1990, to as they existed on July 1, 1995. Kansas further proposes to last the actual Federal regulation sections adopted rather than listing the sections not included in its adoption by reference of 30 CFR Parts 783 and 784.

#### 20. K.A.R. 47-11-8, Small Operator Assistance Program

At K.A.R. 47-11-8(a), Kansas proposes to revise its adoption by reference of applicable Federal regulations at 30 CFR Part 795 from as they existed on July 1, 1990, to as they existed on July 1, 1995.

#### 21. K.A.R. 47-12-4, Lands Unsuitable for Surface Mining

a. At K.A.R. 47-12-4(a), Kansas proposes to revise its adoption by reference of applicable Federal regulations at 30 CFR Parts 761, 762, and 764 from as they existed on July 1, 1990, to as they existed on July 1, 1995.

b. Kansas proposes to revise K.A.R. 47-12-4(a)(6), which adopts 30 CFR 762.12 by reference, by specifying that the term "secretary" shall mean the "secretary of the United States Department of Interior."

#### 22. K.A.R. 47-13-4, Training, Certification, and Responsibilities of Blasters and Operators

a. At K.A.R. 47-13-4(a), Kansas proposes to revise its adoption by reference of applicable Federal regulations at 30 CFR Part 850 from as they existed on July 1, 1990, to as they existed on July 1, 1995.

b. Kansas proposes to remove existing K.A.R. 47-13-4(b)(2) and (3) and to renumber paragraphs (b)(4) through (6) as (b)(2) through (3).

#### 23. K.A.R. 47-14-7, Employee Financial Interests

At K.A.R. 47-14-7(a), Kansas proposes to revise its adoption by reference of applicable Federal regulations at 30 CFR Part 705 from as they existed on July 1, 1990, to as they existed on July 1, 1995.

#### 24. K.A.R. 47-15-1a, Inspection and Enforcement

a. At K.A.R. 47-15-1a(a), Kansas proposes to revise its adoption by reference of applicable Federal regulations at 30 CFR Parts 840, 842, and 843 from as they existed on July 1, 1990, to as they existed on July 1, 1995.

b. K.A.R. 47-15-1a(b), Kansas revised its list of terms that replaces terms in the Federal regulations adopted by reference under K.A.R. 47-15-1a by adding paragraphs (b)(20) and (b)(21). Paragraph (b)(20) specifies that the term "Director" shall be replaced by "secretary," and paragraph (b)(21) specifies that the reference to "30 CFR 843.15(e)" shall be replaced by "An informal public hearing shall be conducted in accordance with K.A.R. 47-4-14a."

#### B. Kansas Abandoned Mine Land Reclamation Plan

##### 1. Regulations with Editorial Changes

Kansas proposes minor working 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; 47-16-2, reclamation project evaluation; 47-16-3, consent to entry; 47-16-4, entry for study or exploration; 47-16-5, entry and consent to reclaim; 47-16-6, liens; 47-16-7, appraisals; and 47-16-8, satisfaction of liens. Substantive revisions included in these regulations are summarized below.

##### 2. K.A.R. 47-16-5, Entry and Consent to Reclaim

Kansas proposes to revise K.A.R. 47-16-5(b)(1) to read as follows:

(1) Before entry a written finding shall be made by the Secretary with reasons supporting the following conclusions: (A) an emergency exists constituting a danger to the public health, safety, or general welfare; and (B) no other person or agency will act expeditiously to restore, reclaim, abate, control, or prevent the adverse effects of coal mining practices.

##### 3. K.A.R. 47-16-9, Contractor Responsibility

Kansas proposes to add a new section that requires each successful bidder for an abandoned mine land reclamation project contract to be eligible under 30 CFR 772.15(b)(1), as adopted by reference in K.A.R. 47-3-42(a)(44), at the time of contract award to receive permit or conditional permit to conduct surface coal mining operations

##### 4. K.A.R. 47-16-10, Exclusion of Certain Noncoal Reclamation Sites

Kansas proposes to add a new section which excludes certain noncoal sites from being reclaimed with money from the abandoned mine land funds and which specifies contractor eligibility requirements for reclamation of noncoal sites.

K.A.R. 47-16-10(a)(1) excludes the reclamation of sites and areas designated for remedial action pursuant

to the Uranium Mill Tailings Radiation Control Act of 1978, K.A.R. 47-16-10(a)(2) excludes sites listed for remedial action pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980.

K.A.R. 47-16-10(b)(1) requires that each successful bidder for an abandoned mine land reclamation project contract for noncoal reclamation to be eligible under 30 CFR 773.15(b)(1), as adopted by reference in K.A.R. 47-3-42(a)(44), at the time of contract award to receive a permit or conditional permit to conduct surface coal mining operations.

K.A.R. 47-16-10(b)(2) requires that bidder eligibility for each contract be confirmed by the Office of Surfaced Mining's automated applicant violator system.

##### 5. K.A.R. 47-16-11, Reports

Kansas proposes a new section which specifies the reports that must be submitted to the Office of Surface Mining Reclamation and Enforcement on a semiannual and annual basis and upon project completion.

K.A.R. 47-16-11(a) requires Kansas to submit semiannually a financial status report, form SF-269, for the department's administrative grant and/or cooperative agreement; a performance report, form OSM-51, covering the performance aspect of the grant and/or cooperative agreement; an outlay report and request for reimbursement for construction programs, form SF-271, and a performance report, form OSM-51, for each activity or project on which some work as occurred.

K.A.R. 47-16-(b) requires Kansas to submit annually a financial status report, form SF-269, for the department's administrative grant and/or cooperative agreement; a final performance report, form OSM-51, covering the performance aspects of the grant and/or cooperative agreement; an annual outlay report and request for reimbursement for construction program, form SF-271; and a cumulative annual performance report, form OSM-51.

K.A.R. 47-16-11(c) requires Kansas to submit form OSM-76 upon project completion to report the accomplishments achieved through the project.

### III. Public Comment Procedures

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.

#### *Public Hearing*

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t. on June 19, 1997. The location and time of the hearing will be arranged with those persons requesting the hearing. Any disabled individuals who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

#### *Public Meeting*

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

## **IV. Procedural Determinations**

### *Executive Order 12866*

This 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, 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.

### *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*

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

### **List of Subjects in 30 CFR Part 916**

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 23, 1997.

**Brent Wahlquist,**

*Regional Director, Mid-Continent Regional Coordinating Center.*

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## **DEPARTMENT OF THE INTERIOR**

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

#### **30 CFR Part 917**

[KY-1387]

### **Surface Coal Mining and Reclamation Operations on Federal Lands Under the Permanent Program; State-Federal Cooperative Agreements; Kentucky**

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

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

**SUMMARY:** OSM is proposing to adopt a cooperative agreement between the Department of the Interior and the State of Kentucky for the regulation of surface coal mining and reclamation operations on Federal Lands in Kentucky under the permanent regulatory program. Such a cooperative agreement is provided for in the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This notice of proposed rulemaking provides information on the proposed terms of the cooperative agreement.

**DATES:** Written comments must be received by 4:00 p.m., E.D.T., July 7, 1997. If requested, a public hearing on the proposed amendment will be held on June 30, 1997. Requests to speak at the hearing must be received by 4:00 p.m., E.D.T., on June 19, 1997.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to William