DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

[SPATS No. KS–015–FOR]

Kansas Abandoned Mine Lane 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 abandoned mine land reclamation plan (hereinafter referred to as the ''Kansas plan'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions and additions to the Kansas plan pertaining to project ranking and selection procedures and purchasing and procurement systems. The amendment is intended to revise the Kansas plan to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4:00 p.m., c.d.t., May 6, 1998. If requested, a pubic hearing on the proposed amendment will be held on May 1, 1998. Requests to speak at the hearing must be received by 4:00 p.m., c.d.t. on April 21, 1998.

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 plan, 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 Plan

Title IV of SMCRA established an Abandoned Mine Land Reclamation (AMLR) program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. As enacted in 1977, lands and waters eligible for reclamation were those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there was no continuing reclamation responsibility under State or Federal law. The AML Reclamation Act of 1990 (Pub. L. 101–508, Title VI, Subtitle A, Nov. 5, 1990, effective Oct. 1, 1991) amended SMCRA, 30 U.S.C. 1231 *et.seq.*, to provide changes in the eligibility of project sites for AML expenditures. Title IV of SMCRA now provides for reclamation of certain mine sites where the mining occurred after August 3, 1977. These include interim program sites where bond forfeiture proceeds were insufficient for adequate reclamation and sites affected any time between August 4, 1977, and November 5, 1990, for which there were insufficient funds for adequate reclamation due to the insolvency of the bond surety. Title IV provides that a State with an approved AMLR Plan has the responsibility and primary authority to implement the program.

On February 1, 1982, the Secretary of the Interior conditionally approved the Kansas plan. Background information on the Kansas plan, including the Secretary's findings, the disposition of comments, and the approval of the plan can be found in the February 1, 1982, **Federal Register** (47 FR 4513). Deficiencies that resulted in the conditional approval were corrected by the State, and on June 3, 1983, all conditions of approval were removed by the Secretary, **Federal Register** (48 FR 24874). Subsequent actions concerning the conditions of approval and amendments to the plan can be found at 30 CFR 916.20 and 916.25.

The Secretary adopted regulations at 30 CFR Part 884 that specify the content requirements of a State reclamation plan and the criteria for plan approval. The regulations provide that a State may submit to the Director proposed amendments or revisions to the approved reclamation plan. If the amendments or revisions change the scope of major policies followed by the State in the conduct of its reclamation program, the Director must follow the procedures set out in 30 CFR 884.14 in approving or disapproving an amendment or revision.

II. Description of the Proposed Amendment

By letter dated March 17, 1998 (Administrative Record No. AML–KS–171), Kansas submitted a proposed amendment to its plan pursuant to SMCRA. Kansas submitted the proposed amendment in response to a September 24, 1994, letter (Administrative Record No. AML–KS–169) that OSM sent to Kansas in accordance with 30 CFR 884.15(d). The provisions of the Kansas plan proposed for revision are:

A. Section 884.13(c)(2), Project Ranking and Selection Procedures. 1. Kansas proposes to replace the reference to the Kansas Mined Land Conservation and Reclamation Board (MLCRB) with the Kansas Department of Health and Environment, Surface Mining Section (SMS).

2. Kansas proposes to replace the reference to ''30 CFR 874.14'' with the ''Office of Surface Mining, Abandoned Mine Land Reclamation Program Guidelines.''

3. Kansas proposes to revise the process for selecting sites for reclamation from four steps to three steps.

a. In the first step, Identification and Establishment of Reclamation Priority Problem Areas, Kansas proposes the following:

i. To change the number of priority categories from ten to five as listed in the Office of Surface Mining, Abandoned Mine Land Inventory Manual,

ii. To use site conditions to identify problem areas that will fit into these categories. The results of the evaluation of all site hazards and conditions on a problem area will be used to complete a Problem Area Ranking Matrix.

b. In step two, Eligibility Determination, Kansas proposes to remove item 3, and to change its reference to ''Soil Conservation Service'' to ''Natural Resources Conservation Service.''

c. In step three, Project Selection, Kansas proposes:

i. To delete item 3. (vii), and the last sentence in item 2.,

ii. To delete the language in item 4. and replace it with the following: ''Reclamation can be carried out in a manner that minimizes maintenance to achieve a self-sustaining reclamation solution.,''

iii. To delete the language in item 6. and replace it with the following: ''The probability that remining or developing the site will abate the adverse effects of past mining on the site. If offsite adverse impacts from the affected area so severe as to cause significant danger to public health and safety or to the environment if not abated before the remining takes place.,''

iv. To add new item 9. to read, ''Reclamation activities can be planned in a manner that is cost effective and compatible with the proposed post reclamation land use as intended by the landowner(s).,''

v. To delete the unnumbered paragraph immediately following item 8 that reads:

The results of the evaluation of each factor of a proposed reclamation site will be utilized to complete a PROJECT EVALUATION MATRIX shown in Figure 2. Each parameter will be numerically scored according to its degree of impact and the score will then be adjusted by a standard weighing factor which reflects the parameters significance relative to the total problem. The resultant total score for each site will be used to rank proposed projects within each priority category; a master list will be maintained by the AML Program staff for use by the MLCRB in selecting projects for funding.

vi. To remove the heading, ''Step 4—Selection of Projects,''

v. to revise the paragraph that followed the heading ''Step 4—Selection of Projects'' to read as follows:

Final selection of projects for funding reclamation planning, design and construction during each fiscal year will be based on the SMS's consideration of: (a) sites with the highest numerical scores from Step 1; (b) cost effectiveness of reclaiming lower priority and ranked problems contiguous or in close proximity to higher priority and ranked areas; (c) approximate project costs relative to anticipated available funds to Kansas from the national Abandoned Mine Land Fund; and (d) optimum geographical dispersal of funded projects among eligible sites having the same priority and ranking.

vi. to add a new section to Step 3 to read as follows:

Accomplishments Reporting

Upon completion of any AML project, the SMS will submit Form OSM–76 or other appropriate form(s) to report the accomplishments achieved through the project.

4. Kansas also proposes minor wording changes in this section

B. *Section 884.13(D)(3), Purchasing and Procurement Systems.* Kansas proposes to add the following language under the subsection, ''Other Contract Provisions,'' to read as follows:

All successful Bidders for AML contracts must be eligible per regulation at the time of contract award to receive a permit or conditional permit to conduct surface coal mining operations. Eligibility will be confirmed by consulting the Office of Surface Mining's automated system for identifying and tracking ownership and control links involving permit applicants, permittees, and persons cited in violation notices. This provision will also apply to successful bidders on any non-coal sites eligible for reclamation.

No monies from the AML fund will be expended for reclamation on any non-coal sites designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, the Comprehensive Environmental Response Compensation and Liability Act of 1980, or other such regulations deemed excludable from funding by the Office of Surface Mining.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 884.15(a), OSM is seeking comments on whether the proposed amendments satisfies the applicable program approval criteria of 30 CFR 884.14. 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 April 21, 1998. The location and time of the hearing will be arranged with those persons requesting the hearing. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

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. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

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 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 and Tribal abandoned mine land reclamation plans and revisions thereof since each such plan is drafted and promulgated by a specific State or Tribe, not by OSM. Decisions on proposed abandoned mine land reclamation plans and revisions thereof submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and 30 CFR Parts 884 and 888.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State or Tribal abandoned mine land reclamation plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

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 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. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding 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

Intergovernmetnal relations, Surface mining, Underground mining.

Dated: March 27, 1998

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 98–8891 Filed 4–3–98; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

[MD–041–FOR]

Maryland Regulatory Program

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

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: OSM is reopening the public comment period on a proposed amendment to the Maryland regulatory program (hereinafter the ''Maryland program'' under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of changes to provisions of the Maryland regulations pertaining to bonding. The amendment is intended to revise the Maryland program to be consistent with the corresponding Federal regulations and SMCRA.

DATES: Written comments must be received by 4:00 p.m. E.S.T. April 21, 1998.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to George Rieger, Program Manager, 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 contracting OSM's Appalachian Regional Coordinating Center.

George Rieger, Program Manager, OSM, Appalachian Regional Coordinating Center, 3 Parkway Center, Pittsburgh, PA 15220, Telephone: (412) 937–2153

Maryland Bureau of Mines, 160 South Water Street, Frostburg, Maryland 21532, Telephone: (301) 689–4136

FOR FURTHER INFORMATION CONTACT: George Rieger, Program Manager, Appalachian Regional Coordinating Center, at (412) 937–2153.

SUPPLEMENTARY INFORMATION:

I. Background on the Maryland Program

On December 1, 1980, the Secretary of the Interior conditionally 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 December 1, 1980, **Federal Register** (45 FR 79449). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 920.12, 920.15, and 920.16.

II. Description of the Proposed Amendment

By letter dated March 6, 1997 (Administrative Record No. MD–552.18), Maryland submitted a proposed amendment to its program pursuant to SMCRA in response to required amendments at 30 CFR 920.16 (h), (i), (j), and (n). Maryland is revising the Code of Maryland Regulations (COMAR) at section 26.20.14.01B—Performance Bonds and is formally submitting an actuarial study which reviews the adequacy of its alternative bonding system. Specifically, Maryland proposes to require that a performance bond be conditioned upon the permittee faithfully performing every requirement of Subtitle 5 of the Annotated Code of Maryland, the Regulatory Program, the permit, and the reclamation plan. The proposed amendment was announced in the March 25, 1997, **Federal Register** (62 FR 14079). The notice did not clarify that Maryland's alternative bonding system was originally submitted with the understanding that it would cover acid mine drainage. Maryland has since adopted a policy that will limit the liability of the alternative bonding system by increasing the permittee's individual bond amount where unanticipated acid mine drainage develops on a site.

Further, Maryland has now submitted proposed changes to its program found at the Code of Maryland Regulations (COMAR) 26.20.14.05.03 and 26.20.14.05.04. In 1991, OSM approved changes to former COMAR 08.13.09.15C and 08.13.09.15D (56 FR 63649, December 5, 1991). (Since 1991, Maryland has restructured its regulations and former COMAR 08.13.09.15C is now COMAR 26.20.14.05.03 and former COMAR 08.13.09.15D is now COMAR 26.20.14.05.04). However, Maryland subsequently chose not to promulgate these approved changes. Instead, it now proposes to readopt the language now found at COMAR 26.20.14.05.03 and COMAR 26.20.14.05.04. Section .03 provides that the amount of performance bond be based upon the estimated cost to perform the reclamation required to achieve compliance with the regulatory program and the requirements of the permit in the event of a forfeiture. In addition, the proposed rule establishes a separate bond for revegetation in the amount of $600 per acre of affected land and a general bond in the amount of $1500 per acre for the approved open acre limit.

COMAR 26.20.14.05.04 requires that the amount of the performance bond be adjusted as acreage in the permit are revised, methods of mining operation change, standards of reclamation change, or when the cost of reclamation or restoration work changes.

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