Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

[SPATS No. KS–022–FOR]

Kansas Regulatory Program

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

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

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of a proposed amendment to the Kansas regulatory program (Kansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The Kansas Department of Health and Environment, Surface Mining Section (Kansas) is proposing to consolidate and revise its approved revegetation success guidelines. The amendment is intended to revise the Kansas program to be consistent with the corresponding Federal regulations and to improve operational efficiency.

This document gives the times and locations that the Kansas program and the proposed amendment to that program are available for public inspection, the comment period during which you may submit written comments on the proposed amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments until 4:00 p.m., c.s.t., December 31, 2001. If requested, we will hold a public hearing on the amendment on December 26, 2001. We will accept requests to speak at the hearing until 4:00 p.m., c.s.t. on December 17, 2001.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to John W. Coleman, Mid-Continent Regional Coordinating Center, at the address listed below.

You may review copies of the Kansas program, the amendment, a listing of any scheduled public hearings, 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.

Kansas Department of Health and Environment, Surface Mining Section, 4033 Parkview Drive, Frontenac, Kansas 66763, Telephone: (620) 231–8540.

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

SUPPLEMENTARY INFORMATION:

I. Background on the Kansas Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Kansas program on January 21, 1981. You can find background information on the Kansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the January 21, 1981, **Federal Register** (46 FR 5892). You can find later actions concerning the Kansas program at 30 CFR 916.10, 916.12, 916.15, and 916.16.

II. Description of the Proposed Amendment

By letter dated October 9, 2001 (Administrative Record No. KS–622), Kansas sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Kansas sent the amendment in response to deficiencies that we identified in Kansas' revegetation success guidelines in a previous final rule on August 19, 1992 (57 FR 37430). The amendment also includes changes made at Kansas' own initiative. Kansas proposes to amend the Kansas revegetation success guidelines entitled ''Revegetation Standards for Success and Statistically Valid Sampling Techniques for Measuring Revegetation Success.'' A brief summary of the changes are discussed below. The full text of the program amendment is available for your inspection at the locations listed above under **ADDRESSES.**

A. Preface

Kansas revised the preface to reflect the current revisions to its revegetation success guidelines. Kansas also removed language from the preface that was not approved by us in the August 19, 1992, final rule decision. The removed language appeared to exempt specific permits from certain requirements of Kansas' revegetation success guidelines.

B. Definitions

Kansas defined the following terms that are used throughout the Kansas revegetation success guidelines: Animal Unit Month (A.U.M.); Cropland; Desirable; Diverse; Effective; Forage; Global Positioning System (GPS); Historically Cropped; Kansas Department of Wildlife and Parks (KDWP); Kansas State University (KSU); Natural Resources Conservation Service (NRCS); Permanent; Previously Mined; Prime Farmland; Surface Mining Section (SMS); and Total Cover.

C. Tables

Kansas added three new tables. Table 1 contains productivity and ground cover vegetation requirements for Phase II and Phase III bond release of pasture land and grazing land; wildlife habitat, recreation, shelter belts, and forest products; and industrial, commercial, or residential land uses. Table 2 lists productivity and ground cover vegetation requirements for Phase II and

Phase III bond release of prime farmland. Table 3 contains productivity and ground cover vegetation requirements for Phase II and Phase III bond release of cropland.

D. Chapter I. Ground Cover Success

Kansas consolidated the substantive provisions of its approved ground cover success standards for all land uses in this chapter.

Section A covers the standard for ground cover on prime farmland, cropland, and pasture/grazing land. Section B discusses the standard for ground cover on previously mined areas. Section C provides the standard for ground cover on wildlife habitat, recreation, shelter belt, and forest product land use areas that have topsoil. Section D contains standards for ground cover on industrial, commercial, or residential land use areas that have topsoil. Sections E and F provide general information on pre-mining ground cover sampling criteria and techniques. Section G contains specific pre-mining ground cover sampling techniques. Section H provides specific post-mining ground cover sampling criteria. Finally, Section I covers specific post-mining ground cover sampling techniques.

E. Chapter II. Forage Production Success Standard

Kansas revised and consolidated the substantive provisions of its approved forage production success standards for all applicable land uses in this chapter. Kansas also added whole field harvest to the methods of data collection for forage.

Section A discusses the use of the United States Department of Agriculture, Natural Resources Conservation Service (USDA–NRCS) soil survey database for determining productivity of cool season grass seed mixtures. This database lists crop yields by the soil mapping units contained in the published county soil surveys for Kansas. Section A also discusses the USDA–NRCS database in Technical Guide Notice KS–145. This database is used for determining productivity of native grass seed mixtures. Section B contains information on methods of calculation using the Animal Unit Month (A.U.M.) values listed in the USDA–NRCS soil surveys for Kansas. Section C provides productivity standards for prime farmland forage crops. Section D covers the productivity standards for cropland forage crops. Section E covers the productivity standard for previously mined lands reconstructed to pasture and grazing land. Section F contains information on the productivity standards for pasture and grazing land. Section G discusses the methods of data collection, including use of representative areas with test plots or whole field harvesting. Section H contains specific forage crop production sampling criteria. Finally, Section I covers specific forage crop production sampling techniques.

F. Chapter III. Productivity Standard Databases for Row Crops

Kansas revised and consolidated the substantive provisions of its approved row crop production success standards for prime and non-prime farmland in this chapter. Kansas also added corn as an acceptable row crop under specified conditions.

Section A discusses the acceptable row crops for revegetation productivity. Section B contains information on the method of row crop production success standard calculations. Section C provides row crop sampling criteria. Section D contains the following sampling methods for data collection involving representative areas: test plots, whole field sampling, and whole field harvesting. Section E provides productivity sampling criteria for prime farmland row crops. Section F discusses productivity sampling criteria for non-prime farmland row crops. Finally, Section G contains row crop sampling techniques involving test plots and whole field sampling for grain sorghum (milo), wheat, soybeans, and corn.

In response to deficiencies that we identified in the August 19, 1992, final decision on Kansas' current revegetation success guidelines, Kansas revised its row crop sampling techniques for grain sorghum and wheat. To address the deficiencies, Kansas added provisions that require operators to make determinations of statistical sample adequacy based on sample weights corrected to a standard moisture content.

G. Chapter IV. Stem Density

Kansas consolidated its productivity success standards for trees and shrubs in this chapter. Section A discusses the general success standards for fish and wildlife habitat, recreation, shelter belt, and forest product land uses. Section B contains the Phase II and Phase III productivity success standards for these land uses. Section C provides information on productivity sampling criteria. Section D contains stem density sampling techniques. Section E discusses previously mined areas that are reclaimed to fish and wildlife habitat, recreation, shelter belt, or forest product land uses.

H. Appendix A, Plant Species List

Appendix A lists the plant species that are unacceptable for all land uses with specified exceptions. It lists the acceptable tree species for fish and wildlife habitat, recreation, shelter belt, and forest product land uses. It also lists the acceptable shrub and vine species for fish and wildlife habitat, recreation, and shelter belt land uses. In addition, it lists the acceptable legume species based on land use for revegetation productivity and ground cover. Finally, it lists the acceptable grass species based on land use for revegetation productivity and ground cover.

I. Appendix B, Animal Unit Month-Methods of Production Success Standard Calculations

Kansas is proposing a new Animal Unit Month (A.U.M.) value for use in calculating forage production. Kansas defines the A.U.M. as the monthly average pounds of forage needed to support each 1,000 pounds of cattle. Kansas submitted calculations and documentation to support an A.U.M. equal to 760 pounds of forage. Appendix B contains tables showing two methods of calculating the success standard for grain sorghum, soybeans, wheat, and corn by soil type. The documentation also included two methods of calculating forage production based on A.U.M. per soil type for cool season grass seed mixtures and warm season grass seed mixtures.

J. Appendix C, Production Data

Appendix C contains the USDA-NRCS Technical Guide Notice KS–145. This technical guide provides crop yields for wheat, grain sorghum, and soybeans by soil mapping units for specific counties in Kansas.

Appendix C also contains the USDA-NRCS Technical Guide Notice 210 for Kansas. This technical guide provides land capability and yields per acre of cropland for wheat, grain sorghum, and soybeans by soil mapping units for specific counties in Kansas.

K. Appendix D, Planting Reports

Appendix D contains the following planting reports: Forage/Pastureland Seeding Report; Cropland Seeding Report; Wildlife Seeding Report; and Woodland/Wildlife Seeding Report.

L. Appendix E, Reference Area Criteria

Kansas moved its previously approved provisions for reference areas to Appendix E. Kansas made minor wording changes throughout the provisions. Kansas also added the following new criterion to its list of

essential criteria for comparing revegetated and reference areas:

6. Seeding of the reference area will be at the same time as seeding of the revegetated area.

M. Appendix F, Representative Sample Field Area Definition and Test Plot Criteria

Appendix F discusses the use of data from representative sample field areas to prove row crop production success. This data is obtained from individual row crop test plots.

N. Appendix G, Measuring Grain Moisture

Appendix G contains a technical guidance document on using moisture meters for measuring the moisture content of grain. The document ''Measuring Grain Moisture Content On-Farm'' was published by the Kansas State University, Cooperative Extension Service.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Kansas program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS NO. KS–022–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.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at OSM's Mid-Continent Regional Coordinating Center (see **ADDRESSES**). 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.

Public Hearing: If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.s.t. on December 17, 2001. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

If you are disabled and need a special accommodation to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

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. If you wish to meet with us to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will also make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempt from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

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

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, 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 because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

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

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

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

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget 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.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

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: November 15, 2001.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 01–29759 Filed 11–29–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE TREASURY

31 CFR Part 1

Internal Revenue Service: Privacy Act; Proposed Implementation

AGENCY: Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, 5 U.S.C. 552a, as amended, the Department of the Treasury, Internal Revenue Service (IRS) gives notice of a proposed rule to exempt a new system of records entitled ''Treasury/IRS 60.000—Employee Protection System Records'' from certain provisions of the Privacy Act. The exemptions are intended to comply with the legal prohibitions against the disclosure of certain kinds of information and to protect certain information, about individuals, maintained in this system of records.

DATES: Comments must be received no later than December 31, 2001.

ADDRESSES: Please submit comments to Office of Governmental Liaison and Disclosure, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224, CL:GLD:D. Persons wishing to review the comments should call (202) 622–5164 to make an appointment. This is not a toll free number.

FOR FURTHER INFORMATION CONTACT: Chief, Office of Employee Protection, Internal Revenue Service, 477 Michigan Avenue, Detroit, Michigan 48226, telephone (313) 628–3742. This is not a toll free number.

SUPPLEMENTARY INFORMATION: Under 5 U.S.C. 552a(k)(2), the head of an agency may promulgate rules to exempt a system of records from certain provisions of 5 U.S.C. 552a, if the system is investigatory material compiled for law enforcement purposes. The IRS compiles records in this system for law enforcement purposes. Treasury/IRS 60.000-Employee Protection System Records, contains records that enable the IRS to investigate incidents in which individuals assault, harass, or otherwise threaten IRS employees engaged in the assessment and collection of taxes. The IRS will use the information to ensure the protection of IRS employees and to notify IRS employees of the need to approach a taxpayer with caution.

The IRS is hereby giving notice of a proposed rule to exempt Treasury/IRS 60.000-Employee Protection System Records, from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). The proposed exemption is from provisions 552a(c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H), (I), and (f) because the system contains investigatory material compiled for law enforcement purposes. The following are the reasons why this system of records maintained by the IRS is exempt pursuant to 5 U.S.C. 552a(k)(2) of the Privacy Act of 1974.

(1) 5 U.S.C. 552a(c)(3). This provision of the Privacy Act provides for the release of the disclosure accounting required by 5 U.S.C. 552a(c)(1) and (2) to the individual named in the record at his/her request. The reasons for exempting this system of records from the foregoing provision are:

(i) The release of disclosure accounting would put the subject of an investigation on notice that an investigation exists and that such person is the subject of that investigation.

(ii) Such release would provide the subject of an investigation with an accurate accounting of the date, nature, and purpose of each disclosure and the name and address of the person or agency to whom the disclosure was made. The release of such information to the subject of an investigation would provide the subject with significant information concerning the nature of the investigation and could result in the altering or destruction of documentary evidence, the improper influencing of witnesses, and other activities that could impede or compromise the investigation.

(iii) Release to the individual of the disclosure accounting would alert the individual as to which agencies were investigating the subject and the scope of the investigation and could aid the individual in impeding or