

Internal Revenue Service in the proceeding was substantially justified. Such taxpayer will generally be entitled to attorneys' fees and other reasonable litigation costs not recoverable under this section. For purposes of this paragraph (h), if the Internal Revenue Service does not respond on the merits to an administrative claim for damages within six months after the claim is filed, the Internal Revenue Service's failure to respond will be considered a denial of the claim on the grounds that the Internal Revenue Service did not willfully violate Bankruptcy Code section 362 or 524.

(2) *Administrative costs*—(i) *In general.* Administrative costs, as defined in § 301.7433–1(b)(2)(ii), including attorneys' fees, not recoverable under this section may be recoverable under section 7430. *See* § 301.7430–8.

(ii) *Limitation regarding recoverable administrative costs.* Administrative costs may be awarded only if incurred on or after the date of filing of the bankruptcy petition that formed the basis for the stay on collection under Bankruptcy Code section 362 or the discharge injunction under Bankruptcy Code section 524, as the case might be.

(i) *Effective date.* This section is applicable to actions taken by the Internal Revenue Service officials after July 22, 1998.

David A. Mader,
Assistant Deputy Commissioner of Internal Revenue.

Approved: March 5, 2003.

Pamela F. Olson,
Assistant Secretary of the Treasury.
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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

[KS–023–FOR]

Kansas Regulatory Program and Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.
ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving an amendment to the Kansas regulatory program and abandoned mine land reclamation

(AMLR) plan (Kansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Kansas proposed to revise its regulatory program by updating its adoption by reference of applicable portions of 30 CFR part 700 to End from the July 1, 1995, version to the July 1, 2001, version. Kansas also revised its regulation concerning permit reviews. Finally, Kansas revised its AMLR plan by adding a new regulation concerning abandoned mine land (AML) agency procedures for reclamation projects receiving less than 50 percent government funding. Kansas revised its program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: March 25, 2003.

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

SUPPLEMENTARY INFORMATION:

- I. Background on the Kansas Program
- II. Submission of the Amendment
- III. OSM's Findings
- IV. Summary and Disposition of Comments
- V. OSM's Decision
- VI. Procedural Determinations

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 State 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 regulatory program on January 21, 1981. You can find background information on the Kansas regulatory program and program amendments, including the Secretary's findings, the disposition of comments, and conditions of approval, in the January 21, 1981, **Federal Register** (46 FR 5892). You can also find later actions concerning the Kansas regulatory program and program amendments at 30 CFR 916.10, 916.12, 916.15, and 916.16.

The AMLR program was established by Title IV of the Act (30 U.S.C. 1201 *et seq.*) in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded by a reclamation fee

collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal mines and for other authorized activities. Section 405 of the Act allows States and Indian Tribes to assume exclusive responsibility for reclamation activity within the State or on Indian lands if they develop and submit to the Secretary of the Interior for approval, a program (often referred to as a plan) for the reclamation of abandoned coal mines. On the basis of these criteria, the Secretary of the Interior approved the Kansas AMLR plan on February 1, 1982. You can find background information on the Kansas AMLR plan, including the Secretary's findings and the disposition of comments in the February 1, 1982, **Federal Register** (47 FR 4513). You can find later actions concerning the Kansas AMLR plan and amendments to the plan at 30 CFR 916.20 and 916.25.

II. Submission of the Amendment

By electronic mail (e-mail) dated July 24, 2002 (Administrative Record No. KS–623), Kansas sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Kansas sent the amendment in response to an August 23, 2000, letter that we sent to Kansas in accordance with 30 CFR 732.17(c), concerning valid existing rights (Administrative Record No. KS–618). Kansas also included changes made at its own initiative. Kansas proposed to revise its regulatory program by updating its adoption by reference of applicable portions of 30 CFR part 700 to End from the July 1, 1995, version to the July 1, 2001, version. Kansas also revised its regulation concerning permit reviews. Kansas revised its AMLR plan by adding a new regulation concerning abandoned mine land (AML) agency procedures for reclamation projects receiving less than 50 percent government funding.

We announced receipt of the amendment in the September 23, 2002, **Federal Register** (67 FR 59484). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on October 23, 2002. We received comments from one Federal agency and one State agency.

During our review of the amendment, we identified concerns about editorial errors. We notified Kansas of these concerns by letter dated October 31, 2002, and by e-mail dated November 6,