

abandoned mine land (AML) agency procedures for reclamation projects receiving less than 50 percent government funding. Kansas intends to revise its program to be consistent with the corresponding Federal regulations.

**DATES:** We will accept written comments on this amendment until 4 p.m., c.s.t., January 31, 2003.

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

You may review copies of the Kansas program, the amendment, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Mid-Continent Regional Coordinating Center.

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Kansas Department of Health and Environment, Surface Mining Section, 4033 Parkview Drive, Frontenac, Kansas 66763. Telephone: (316) 231-8540.

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

#### **SUPPLEMENTARY INFORMATION:**

- I. Background on the Kansas Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. 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 abandoned mine land reclamation plan (Kansas plan) on February 1, 1982. You can find background information on the Kansas plan, including the Secretary's findings, the disposition of comments, and the approval of the Kansas plan in the February 1, 1982, **Federal Register** (47 FR 4513). You can find later actions concerning the Kansas plan and amendments to the plan at 30 CFR 916.20 and 916.25.

#### **II. Description of the Proposed Amendment**

By 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 a letter dated August 23, 2000 (Administrative Record No. KS-618), that we sent to Kansas, in accordance with 30 CFR 732.17(c), concerning valid existing rights. At its own initiative, Kansas also proposed to revise other provisions in its regulations by adopting by reference portions of the Federal regulations at 30 CFR Part 700 to End that were revised as of July 1, 2001.

We announced receipt of the amendment in the September 23, 2002, **Federal Register** (67 FR 59484) and invited public comment on its adequacy. The public comment period closed October 23, 2002.

During our review of the amendment, we realized that we did not announce receipt of Kansas' proposed regulation at Kansas Administrative Regulations (K.A.R.) 47-16-12 in the proposed rule published on September 23, 2002.

Therefore, we are reopening the comment period in this proposed rule. Kansas proposed to add the following new regulation concerning AML agency procedures for reclamation projects receiving less than 50 percent government funding.

K.A.R. 47-16-12. AML agency procedures for reclamation projects receiving less than 50 percent government funding. This section only applies if the level of funding for the construction will be less than 50 percent of the total cost because of planned coal extraction.

(a) Consultation with the active coal mining portion of the regulatory authority. In consultation with the active mining portion of the regulatory authority, the surface mining section must make the following determinations:

(1) They must determine the likelihood of the coal being mined under an active coal mining permit. This determination must take into account available information such as:

- (i) Coal reserves from existing mine maps or other sources;
- (ii) Existing environmental conditions;
- (iii) All prior mining activity on or adjacent to the site;
- (iv) Current and historic coal production in the area; and
- (v) Any known or anticipated interest in mining the site.

(2) They must determine the likelihood that nearby or adjacent mining activities might create new environmental problems or adversely affect existing environmental problems at the site.

(3) They must determine the likelihood that reclamation activities at the site might adversely affect nearby or adjacent mining activities.

(b) Concurrence with the active mining portion of the regulatory authority. If, after consulting with the active mining portion of the regulatory authority, it has been decided to proceed with the reclamation project, then the abandoned mine land and active mining portions of the regulatory authority must concur in the following determinations:

(1) They must concur in a determination of the limits on any coal refuse, coal waste, or other coal deposits which can be extracted under K.A.R. 47-6-9.

(2) They must concur in the delineation of the boundaries of the AML project.

(c) Documentation. You must include in the AML case file:

- (1) The determinations made under paragraphs (a) and (b) of this section;
- (2) The information taken into account in making the determinations; and
- (3) The names of the parties making the determinations.

(d) Special requirements. For each project, the surface mining section must:

(1) Characterize the site in terms of mine drainage, active slides and slide-prone areas, erosion and sedimentation, vegetation, toxic materials, hydrologic balance, and other aml hazards associated with the project;