

of \$100 million or more in any given year. 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 did not impose an unfunded mandate.

**List of Subjects in 30 CFR Part 902**

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 29, 2005.

**Allen D. Klein,**  
*Director, Western Region.*

■ For the reasons set out in the preamble, 30 CFR part 902 is amended as set forth below:

**PART 902—ALASKA**

■ 1. The authority citation for part 902 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

■ 2. Section 902.15 is amended in the table by adding a new entry in chronological order by “Date of Final Publication” to read as follows:

**§ 902.15 Approval of Alaska regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
May 11, 2004	November 29, 2005	11 AAC 90.043(b); 90.045(a), (b), (c), (d), and (e); 90.057; 90.085(a)(5) and (c); 90.089(a)(1); 90.101(a) and (b); 90.173(a)(2), (b)(2) and (3); 90.179(a)(3), (b)(1) through (4) and (c); 90.185(a)(4) and (5); 90.201(d) and (f); 90.211(a); 90.331(d)(1); deletion of 90.311(g); 90.321(e); 90.323(a) through (c); 90.325(b) and (c); 90.327(b)(2); 90.331(e) and (h); 90.336(a), (b)(1) and (2), and (g); 90.337(a); 90.345(e); 90.349(l); 90.375(f) and (g); 90.391(b), (c), (h)(2), (l), and (n); 90.395(a); 90.397(a); 90.401(a), (d), and (e); 90.407(c) and (f); 90.443(a), (k)(2), (i), and (m); 90.447(c)(1); 90.461(b), (g), (h) and (i); 90.491(f)(1), (3) and (4); 90.601(h) and (i); 90.629(a); 90.631(a); 90.635(a) and (b); 90.637(a) and (b); 90.639(a) through (c); 90.641(a) through (d); 90.650 through 90.658; 90.701(a), (b), (c)(1) and (2), and (d)(1) and (2); 90.901(a)(2); and 90.911.

**§ 902.16 [Amended]**

■ 3. Section 902.16 is amended by removing and reserving paragraphs 902.16(a)(2) through (13); removing paragraphs 902.16(a)(16) and (17); and removing and reserving paragraph (b).

[FR Doc. 05-23400 Filed 11-28-05; 8:45 am]

BILLING CODE 4310-05-P

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 913**

[Docket No. IL-103-FOR]

**Illinois Regulatory Program**

**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 Illinois regulatory program (Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The Illinois Department of Natural Resources, Office of Mines and Minerals (Department or Illinois) is revising its regulations

regarding revegetation success standards, to update statutory citations, to correct regulatory citations, and to clarify language in various provisions. Illinois is revising its program to clarify ambiguities and to improve operational efficiency.

**DATES:** Effective November 29, 2005.

**FOR FURTHER INFORMATION CONTACT:** Andrew R. Gilmore, Chief, Alton Field Division—Indianapolis Area Office. Telephone: (317) 226-6700. E-mail: [IFOMAIL@osmre.gov](mailto:IFOMAIL@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Illinois 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 Illinois 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 (Secretary) conditionally approved the Illinois program on June 1, 1982. You can find background information on the Illinois program, including the Secretary’s findings, the disposition of comments, and the conditions of approval, in the June 1, 1982, **Federal Register** (47 FR 23858). You can also find later actions concerning the Illinois program and program amendments at 30 CFR 913.10, 913.15, 913.16, and 913.17.

**II. Submission of the Amendment**

By letter dated February 1, 2005 (Administrative Record No. IL-5088), Illinois sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Illinois sent the amendment at its own initiative. Illinois proposed to amend its regulations at 62 Illinois Administrative Code (IAC) parts 1816 (Surface Mining Operations), 1817 (Underground Mining Operations), and 1823 (Prime Farmland).

We announced receipt of the proposed amendment in the April 4, 2005, **Federal Register** (70 FR 17014). 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 May 4, 2005. We received comments from one Federal agency.

During our review of the amendment, we identified concerns about some editorial-type errors. We notified Illinois of these concerns by letters dated March 3 and April 6, 2005 (Administrative Record Nos. IL-5092 and IL-5095).

By e-mail dated August 3, 2005 (Administrative Record No. IL-5099), Illinois sent us revisions to its proposed program amendment. Because the revisions merely corrected the editorial-type errors that we identified in Illinois' amendment, we did not reopen the public comment period.

### III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment as described below.

#### A. Minor Revisions to Illinois' Regulations

Illinois proposed minor wording, editorial, punctuation, grammatical, and recodification changes to the following previously-approved regulations:

1. 62 IAC 1816.Appendix A, Agricultural Lands Productivity Formula (ALPF); 62 IAC 1817.42, Hydrologic Balance—Water Quality Standards and Effluent Limitations; 62 IAC 1817.43, Diversions; and 62 IAC 1817.116, Revegetation: Standards for Success

Illinois proposed to correct citation references at 62 IAC 1816.Appendix A, 1817.42, 1817.43, and 1817.116.

2. 62 IAC 1816.Appendix A

Illinois proposed minor wording changes in the corn and soybean sampling technique sections.

3. 62 IAC 1816.Appendix A, 1817.43(b)(3) and (c)(3), and 1823.15(b)(3)

At 62 IAC 1816.Appendix A, 1817.43(b)(3) and (c)(3), and 1823.15(b)(3), Illinois proposed to simplify its use of numbers by eliminating numbers that are in words and retaining the numbers that are in figures. For example, Illinois changed a numerical reference from "ten (10) year, six (6) hour" to "10 year, 6 hour."

Because these changes are minor, we find that they will not make Illinois' regulations less effective than the corresponding Federal regulations at 30

CFR 816.116, 817.42, 817.43, 817.116, and 823.15.

#### B. 62 IAC 1816.116 (Surface Mining) and 1817.116 (Underground Mining) Revegetation: Standards for Success

Illinois proposed to amend its regulations at 62 IAC 1816.116 to (1) Incorporate at new subsection (a)(6), an alternative method for determining success of revegetation for cropland and pasture land and/or hayland or grazing land; (2) update requirements pertaining to adjustment for abnormal, catastrophic, growing conditions when the ALPF or the new alternative method is used for determining success of revegetation; (3) remove references to oats as a crop that may be used to prove success of revegetation; (4) update information in the soil master file, county average yield file, the agricultural lands productivity formula sampling method, and Exhibit A in the ALPF; and (5) delete Tables A through F from the ALPF. Illinois proposed to amend its regulation at 62 IAC 1817.116 to reference the new alternative method for determining success of revegetation for cropland and pasture land and/or hayland or grazing land at 62 IAC 1816.116(a)(6). Illinois proposed to amend 62 IAC 1816.116 and 1817.116 to update references to and requirements in existing regulations concerning the new alternative method.

1. 62 IAC 1816.116(a)(2)(C) and 1817.116(a)(2)(C)

a. At 62 IAC 1816.116(a)(2)(C) and 1817.116(a)(2)(C), Illinois proposed to change its references from the "Illinois Agronomy Handbook (1999-2000)" to the "Illinois Agronomy Handbook, 23rd Edition (University of Illinois at Champaign-Urbana, College of Agriculture, Consumer and Environmental Science, 1917 Wright St., Champaign, IL 61820 (2001-2002; this incorporation includes no later amendment or editions))."

b. At 62 IAC 1816.116(a)(2)(C) and 1817.116(a)(2)(C), Illinois also proposed to change its references from the old Federal conservation plan act, "Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 1421 *et seq.*)," to the new Federal conservation plan act, "Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171; 116 Stat. 134)."

c. Finally, at 62 IAC 1816.116(a)(2)(C), Illinois proposed to remove the following language:

The Illinois Agronomy Handbook is published by the University of Illinois Cooperative Extension Service, Office of Agricultural Communications and Education,

69E Mumford Hall, 1301 West Gregory Drive, Urbana, Illinois 61801.

The removed language was replaced by information in Illinois' new reference to the Illinois Agronomy Handbook.

Illinois proposed these changes as a result of comments received from the Natural Resources Conservation Service (NRCS). Because these editorial and reference changes are minor, we find that they will not make Illinois' regulations less effective than the corresponding Federal regulations at 30 CFR 816.116 and 817.116.

2. 62 IAC 1816.116(a)(3)(C) and (E) and 1817.116(a)(3)(C) and (E)

a. At subsection (a)(3)(C) and (E), Illinois proposed to add a reference to new 62 IAC 1816.116(a)(6). Subsection (a)(3)(C) concerns areas, in the approved reclamation plan, designated as cropland, except those prime farmland cropland areas subject to 62 IAC 1823.15. Subsection (a)(3)(E) concerns areas, in the approved reclamation plan, designated as pasture and/or hayland or grazing land, except for erosion control devices and other structures. As revised, subsection (a)(3)(C) requires that the determination of success of revegetation for cropland areas be made in accordance with 62 IAC 1816.116(a)(4) or (a)(6). Also, revegetation will be considered successful if it is 90 percent of the crop production required in 62 IAC 1816.116(a)(4) or (a)(6) with 90 percent statistical confidence. As revised, subsection (a)(3)(E) requires that the determination of success of revegetation (tons of grasses and/or legumes per acre) for pasture and/or hayland or grazing land be made in accordance with 62 IAC 1816.116(a)(4) or (a)(6). Also, revegetation will be considered successful if it is 90 percent of the crop production required in 62 IAC 1816.116(a)(4) or (a)(6) with 90 percent statistical confidence. Currently approved 62 IAC 1816.116(a)(4) references the ALPF, which includes the standards and sampling techniques to be used to evaluate success of revegetation for cropland and pasture and/or hayland or grazing land. Proposed new 62 IAC 1816.116(a)(6) is an alternative to using the ALPF and includes an optional method for determining the standard to be used to evaluate success of revegetation for cropland and pasture and/or hayland or grazing land. The currently approved method in the ALPF for calculating the standard for determining success of revegetation is based on the current level of yield for a soil type within the county. At proposed 62 IAC 1816.116(a)(6), the alternative method for calculating the standard for

determining success of revegetation, is based on an average of the last five years of yield for a specific crop for a specific soil type in the county.

The Federal regulations at 30 CFR 816.116(a)(1) and 817.116(a)(1) require that standards for success of revegetation and statistically valid sampling criteria for measuring success must be selected by the regulatory authority and included in an approved regulatory program. The Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) require that standards for success of revegetation must include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover, production, or stocking. We find that Illinois' proposed alternative method at 62 IAC 1816.116(a)(6) for calculating the standard for determining success of revegetation is no less effective than the requirements of the Federal regulations at 30 CFR 816.116(a) and 817.116(a). Therefore, we are approving the addition of a reference to 62 IAC 1816.116(a)(6) at 62 IAC 1816.116(a)(3)(C) and (E) and 817.116(a)(3)(C) and (E).

b. Illinois also proposed to add the following requirement at the end of subsections (a)(3)(C) and (a)(3)(E): "Once chosen by the permittee, the productivity alternative in 62 IAC 1816.116(a)(6) may not be modified without approval from the Department."

In accordance with the Federal regulation at 30 CFR 774.13(c), no permit revision can be approved unless the application demonstrates and the regulatory authority finds that reclamation as required by the Act and regulatory program can be accomplished. Because, Illinois requires that the productivity alternative under 62 IAC 1816.116(a)(6), once chosen by the permittee, may not be modified without approval of the Department, we find that the proposed requirement is no less effective than the requirement of the Federal regulation at 30 CFR 774.13(c), and we are approving it.

### 3. 62 IAC 1816.116(a)(4) and 62 IAC 1817.116(a)(4)

At 62 IAC 1816.116(a)(4) and 1817.116(a)(4), Illinois proposed to reference the new alternative method at 62 IAC 1816.116(a)(6) for determining success of revegetation. At 62 IAC 1816.116(a)(4), Illinois also proposed to update requirements pertaining to adjustment for abnormal, catastrophic, growing conditions when the ALPF or the new alternative method is used for determining success of revegetation and

to remove a reference to oat crops from several provisions.

a. At 62 IAC 1816.116(a)(4) and 1817.116(a)(4), Illinois proposed to reference the new alternative method at 62 IAC 1816.116(a)(6). As revised, subsections (a)(4) provide that in order to use the ALPF, 62 IAC 1816.116(a)(6) to determine success of revegetation, the requirements of 62 IAC 1816.116(a)(4) apply.

At 62 IAC 1816.116(a)(4)(A), the permittee is required to submit annually a scale drawing or aerial photograph delineating field boundaries, a field numbering scheme, the total acreage for each field, and the crop that will be grown on each field to demonstrate proof of productivity for the coming crop year. Once approved by the Department, the information required by 62 IAC 1816.116(a)(4)(A) cannot be changed without restarting the responsibility period, unless the submittal is amended in accordance with Illinois' permit revision regulation at 62 IAC 1774.13(b)(2). Illinois' regulation at 62 IAC 1816.116(a)(4)(B) requires the permittee to use the sampling methods of the ALPF for measuring success of revegetation. At 62 IAC 1816.116(a)(4)(C), the permittee may make adjustments to crop yields due to abnormal growing conditions by meeting specified requirements. Illinois' regulation at 62 IAC 1816.116(a)(4)(D) specifies the kind of crops that must be grown to determine success of revegetation.

The Federal regulations at 30 CFR 816.116(a)(1) and 817.116(a) require that standards for success of revegetation and statistically valid sampling criteria for measuring success must be selected by the regulatory authority and included in an approved regulatory program. The Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) require that standards for success of revegetation must include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover, production, or stocking. We find that Illinois' proposed alternative method at 62 IAC 1816.116(a)(6) for calculating the standard for determining success of revegetation is no less effective than the requirements of the Federal regulations at 30 CFR 816.116(a) and 817.116(a). Therefore, we are approving the addition of a reference to new 62 IAC 1816.116(a)(6) at 62 IAC 1816.116(a)(4) and 1817.116(a)(4). Also, the Federal regulations at 30 CFR 780.18(b)(5)(vi) and 784.13(b)(5)(vi) require the reclamation plan to contain a plan for

revegetation as required in 30 CFR 816.111 through 816.116 and 817.111 through 817.116 including, but not limited to, measures proposed to be used to determine the success of revegetation as required by 30 CFR 816.116 and 817.116. We find that Illinois' requirement that the permittee must meet the requirements of 62 IAC 1816.116(a)(4)(A) through (D) in order to use the ALPF or the alternative method in 62 IAC 1816.116(a)(6) to determine success of revegetation, is no less effective than the requirements of 30 CFR 780.18(b)(5) and 784.13(b)(5).

b. Illinois proposed to revise the requirements of 62 IAC 1816.116(a)(4)(C) concerning adjustments for abnormal growing conditions to read as follows: "Adjustments for abnormal growing conditions shall be accepted by the Department if such adjustments are certified by a qualified professional (American Society of Agronomy certified) or National Association of State Departments of Agriculture crop enumerators used under this Section, whose ability to perform such adjustments has been previously approved by the Department." Currently approved 62 IAC 1816.116(a)(4)(C) requires adjustments for abnormal growing conditions to be certified by a crop adjuster certified to perform adjustments by the Federal Crop Insurance Corporation (FCIC). Because FCIC crop adjusters in Illinois are no longer available to certify adjustments for abnormal growing conditions, Illinois proposed to allow such adjustments to be certified by a qualified professional (American Society of Agronomy certified) or National Association of State Departments of Agriculture crop enumerators. Illinois provided a letter dated December 17, 2004, from the NRCS State Conservationist, which stated that the NRCS concurred with the proposed change (Administrative Record No. IL-5088).

Based on the discussion above, we find that the proposed change to this previously approved provision will not alter our original approval of Illinois' regulation at 62 IAC 1816.116(a)(4)(C) to allow adjustments for abnormal growing conditions, and we are approving the change.

c. Illinois proposed to make the following changes to 62 IAC 1816.116(a)(4)(D):

(1) Illinois proposed to remove a reference to "oats" as a type of crop commonly grown on surrounding unmined cropland and as a crop that may be used for one year to demonstrate productivity on prime farmland and

other cropland areas. Oats is being removed because it is not grown enough in Illinois to have agricultural statistics upon which to establish a standard of yield. With the removal of oats, the types of crops commonly grown on surrounding unmined cropland in Illinois include corn, soybeans, hay, sorghum, and wheat. The Federal regulation at 30 CFR 823.15(a)(6) requires that the reference crop on which restoration of soil productivity is proven shall be selected from the crops most commonly produced on the surrounding prime farmland. The Federal regulation at 30 CFR 816.116(a)(2) requires standards for success to include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover, production, or stocking. We find that the deletion of oats as a reference crop meets the requirements of 30 CFR 823.15(a)(6) and 816.116(a)(2), and we are approving it.

(2) Illinois proposed to add the following requirement concerning deep tillage of prime farmland and other cropland areas:

If deep tillage has been completed to a minimum depth of 36 inches prior to bond release, the applicant may use more than one successful year of hay or wheat as a crop to be used for the productivity demonstration. The requirement for one successful year of corn remains unchanged under this provision.

Currently, if the Department approves a hay crop use, subsection (a)(4)(D) requires operators to grow a minimum of one successful year of corn and allows operators to grow one year of hay and one year of wheat to demonstrate revegetation success on prime farmland and other cropland areas. Illinois' proposed change would allow operators to grow two years of hay or two years of wheat if deep tillage has been completed to a minimum depth of 36 inches, while retaining the requirement for one successful year of corn. The Federal regulation at 30 CFR 816.116(a)(1) requires that standards for success of revegetation and statistically valid sampling criteria for measuring success must be selected by the regulatory authority and included in an approved regulatory program. We find that Illinois' proposal is no less effective than the requirements of the Federal regulation at 30 CFR 816.116(a)(1), and we are approving this change.

#### 4. 62 IAC 1816.116(a)(6)

Illinois proposed a new productivity alternative at new subsection (a)(6). It reads as follows:

(6) In order to use the alternative to the Agricultural Lands Productivity Formula, Appendix A, to determine success of revegetation, the following shall apply: use of this alternative is contingent that the permittee can demonstrate for the entire field that the soil strength of the entire soil profile will average  $\leq 200$  psi or has been deep tilled to a minimum depth of 36 inches prior to bond release, and soil fertility will average Optimum Management for pH, P and K values as defined under the current Illinois Agronomy Handbook, and intensive land leveling is implemented, as needed, for the entire field. Areas to be tested are allowed under the provisions of subsections (a)(3)(C) or (E).

(A) The following substitution of Column F—Appendix A—County Average Yield File shall read:

Column F is a derived optimum management production (Figure) obtained by multiplying the figures in Column D times the figures in Column E. This production figure will normally exceed actual production because the optimum level management yield is used. The purpose of using the optimum management production is to derive a weighted average optimum management yield which is the total optimum management production (Column F) divided by the total grain acres in the county (Column D). The weighted optimum management yield figure will be used to derive a "factor" as described below:

Factor = Average of Official County Crop Yield for the Five Previous Years + Average of Weighted Optimum Management Yield for the Five Years

(B) When the above "factor" and hand sampling is used, the harvest loss will be calculated by averaging the harvest loss of the five previous years for the crop being tested.

The Federal regulation at 30 CFR 816.116(a)(1) requires that standards for success and statistically valid sampling criteria for measuring success be selected by the regulatory authority and included in an approved regulatory program. The Federal regulation at 30 CFR 816.116(a)(2) requires that standards for success include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover, production, or stocking. The previously approved regulation at 62 IAC 1816.116(a)(4) that references the Agricultural Lands Productivity Formula at Appendix A includes both the standards and sampling techniques to be used to evaluate revegetation success for cropland. The proposed regulation to allow the use of 62 IAC 1816.116(a)(6) would allow the operator the option of an alternative method for determining the cropland standard when the field has been determined to have a maximum soil strength and a minimum fertility. The current approved program calculates the

standard on the current level of yield for a soil type within the county. The alternative method would allow the use of a standard based on an average of the last five years of yield for a specific crop for a specific soil type in the county. We find that the optional method at 62 IAC 1816.116(a)(6) reduces the annual variability of the productivity standard while maintaining the representative character of the standard. Therefore, the revised regulation is no less effective than the Federal regulation at 30 CFR 816.116(a), and we are approving it.

#### 5. 62 IAC 1816.Appendix A—ALPF

Illinois proposed to update information in the soil master file, county cropped acreage file, county average yield file, the agricultural lands productivity formula sampling method, and Exhibit A in the ALPF. Illinois also proposed to delete Tables A through F from the ALPF.

a. Illinois proposed to remove its reference to "oats" as a grain crop used for evaluation of success of revegetation from the Soil Master File; the County Average Yield File; the Agricultural Lands Productivity Formula Sampling Method; and Exhibit A, County Crop Yields by Soil Mapping Unit. Illinois also proposed to remove the sections "Oats Sampling Technique (Rows >8)" and "Oats Sampling Technique (Discernible Rows)" from the Agricultural Lands Productivity Formula Sampling Method.

For the reasons discussed in finding III.B.3.c.(1), we find that the proposed revisions to remove a reference to a grain crop that is no longer commonly grown in Illinois is no less effective than the Federal regulations at 30 CFR 823.15(a)(6) and 816.116(a)(2), and we are approving them. We also find that the proposed revision to remove the sampling techniques for a crop that is no longer commonly grown in Illinois is no less effective than the Federal regulations, and we are approving it.

b. *Soil Master File*. Illinois proposed to revise the introductory paragraph by changing the word "high" to the word "optimum" in its reference to the "high level of management yields" and to add a reference to Bulletin 811, "Optimum Crop Productivity Ratings for Illinois Soil," University of Illinois, College of Agricultural, Consumer and Environmental Sciences, Office of Research, August 2000. Bulletin 811 is the reference document for information contained in the soil master file. Illinois also proposed to remove the information regarding additional components of the soil master file.

The level of management applied for the productivity standard needs to be

representative of the unmined lands in the area. Bulletin 811 applies a recognized standard of crop productivity as determined by the University of Illinois, College of Agriculture. Because of the change to new Bulletin 811, the deleted additional components of the soil master file are no longer necessary. The Federal regulation at 30 CFR 816.116(a)(2) requires that the standards for success must include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover, production, or stocking. We find that Illinois' proposal to eliminate outdated information and to use a contemporary University agricultural publication to support its standard is consistent with the Federal regulation at 30 CFR 816.116(a)(2), and we are approving it.

c. *County Average Yield File.* Illinois proposed to change the word "high" to the word "optimum" in the phrase "high management yield." Illinois also proposed to add the following new provision:

If official county crop yields are unavailable for a specific crop in a given year, the Department, in consultation with the permittee, and with the concurrence of the Illinois Department of Agriculture, will substitute a county crop yield from an adjacent county with similar soils, if it can be determined that similar weather conditions occurred in that year.

For the reasons discussed above in finding III.B.5.b, we find that Illinois' proposal to change the word "high" to "optimum" is consistent with the Federal regulations at 30 CFR 823.15(a)(6) and 816.116(a)(2), and we are approving the word change. Illinois provided a letter dated December 17, 2004, from the NRCS State Conservationist that concurs with the new provision proposed by Illinois regarding the substitution of a county crop yield from an adjacent county if official county crop yields are unavailable for a specific crop in a given year under specified conditions (Administrative Record No. IL-5088). Illinois has determined that hay and wheat are grown so little in some counties that data from adjacent counties must be used as the standard.

For prime farmland, the Federal regulation at 30 CFR 823.15(b)(7)(i) requires that reference crop yields for a given crop season are to be determined from the current yield records of representative local farms in the surrounding area, with the concurrence by the NRCS. For other cropland, the Federal regulation at 30 CFR 816.116(a)(2) requires that the standards for success shall include criteria

representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover, production, or stocking. We find that Illinois has provided the necessary concurrence of the NRCS for prime farmland and the proposed revision is no less effective than the Federal regulation at 30 CFR 823.15(b)(7)(i). We also find that because the soils and weather conditions must be similar in the adjacent county and the concurrence of the Illinois Department of Agriculture is required, the proposed revision for other cropland is no less effective than the Federal regulations at 30 CFR 816.116(a)(2). Therefore, we are approving the new provision.

d. *Agricultural Lands Productivity Formula Sampling Method.*

*Corn Sampling Technique.* Illinois proposed to delete the current row factor information under step 10 of its corn sampling technique and replace it with "average row width in feet  $\times$  15 feet of row  $\div$  43560 square feet/acre and  $.845 =$  the standard moisture content conversion factor of corn per bushel  $(1.0 - (15.5\%/100)).$ " The existing table provides a row factor for four row spacing widths of 30, 36, 38, and 40 inches. The table is being replaced by a formula for calculating a row factor for any row width. The Federal regulation at 30 CFR 816.116(a)(1) requires that standards for success and statistically valid sampling criteria for measuring success shall be selected by the regulatory authority and included in an approved regulatory program. We find that Illinois' revision meets the requirements of the Federal regulation, and we are approving it.

e. *Exhibit A County Crop Yields by Soil Mapping Unit.* Illinois proposed to change the word "high" to the word "optimum" in columns E and F.

The Federal regulation at 30 CFR 816.116(a)(2) requires that the standards for success shall include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover, production, or stocking. The Illinois proposal is the result of replacing the obsolete soil master file with Bulletin 811 that references optimum rather than high levels of production for the State of Illinois. Bulletin 811 applies a recognized standard of crop productivity as determined by the University of Illinois, College of Agriculture and is consistent with the Federal regulations. We find that the proposal to eliminate outdated information and use a contemporary University agricultural publication to support its standard is consistent with

the Federal regulations, and we are approving it.

f. Illinois proposed to delete Tables A through F from the ALPF. The information in Tables A, B, and D is redundant of other information found in the ALPF and the information in Tables C, E, and F are no longer needed.

The Federal regulation at 30 CFR 816.116(a)(1) requires that standards for success and statistically valid sampling criteria for measuring success shall be selected by the regulatory authority and included in an approved regulatory program. Because these tables are redundant or no longer needed, we find that the proposed deletions are not inconsistent with the Federal regulations.

C. 62 IAC 1817.121 *Subsidence Control*

At subsection (c) entitled "Repair of damage," Illinois proposed to remove the last sentence from paragraph (2) and to make it the new introductory paragraph to subsection (c). Illinois also proposed to add a new exception clause to the end of the relocated sentence. The new introductory paragraph reads as follows:

The requirements of this subsection apply only to subsidence-related damage caused by underground coal extraction conducted after February 1, 1983, except as noted in Section 1817.41(j).

Illinois removed the last sentence from paragraph (2) and made it the introductory paragraph to subsection (c) in order to clarify that all parts of subsection (c) are subject to the February 1, 1983, date. Illinois added the exception clause because the replacement of water supplies was effective January 19, 1996, the date that 62 IAC 1817.41(j) was promulgated, rather than the February 1, 1983, date. We find that Illinois' proposed revisions are appropriate and will not make the Illinois regulation at 62 IAC 1817.121(c) less effective than the counterpart Federal regulation at 30 CFR 817.121(c), and we are approving the revisions.

D. 62 IAC 1823.15 *Prime Farmland: Revegetation*

1. At subsections (b)(2) and (b)(3), Illinois proposed to add a reference to new 62 IAC 1816.116(a)(6). As revised, subsection (b)(2) requires that success of revegetation be measured in accordance with 62 IAC 1816.116(a)(4) or (a)(6). As revised, subsection (b)(3) now requires that revegetation be considered a success when crop production is equivalent to or exceeds the production standards of 62 IAC 1816.116(a)(4) or (a)(6) with 90 percent statistical confidence. Currently approved 62 IAC

1816.116(a)(4) references the ALPF, which includes the yield standards and sampling techniques to be used to evaluate success of revegetation for cropland, including prime farmland, and pasture and/or hayland or grazing land. As revised, 62 IAC 1816.116(a)(4) will also reference the alternative method at 62 IAC 1816.116(a)(6). Proposed new 62 IAC 1816.116(a)(6) is an alternative to using the ALPF and includes an optional method for determining the standard to be used to evaluate success of revegetation for cropland and pasture and/or hayland or grazing land. The currently approved method in the ALPF for calculating the standard for determining success of revegetation is based on the current level of yield for a soil type within the county. The alternative method at proposed 62 IAC 1816.116(a)(6) for calculating the standard for determining success of revegetation is based on an average of the last five years of yield for a specific crop for a specific soil type in the county.

The Federal regulation at 30 CFR 823.15(b)(2) requires that soil productivity be measured on a representative sample or on all of the mined and reclaimed prime farmland area using the reference crop determined under 30 CFR 823.15(b)(6). A statistically valid sampling technique at a 90 percent or greater statistical confidence that has been approved by the regulatory authority in consultation with the NRCS must be used. The Federal regulation at 30 CFR 823.15(b)(6) requires that the reference crop that will be used to prove soil productivity must be selected from the crops most commonly produced on the surrounding prime farmland. Illinois provided documentation of the NRCS consultation process. In a letter dated December 17, 2004, the NRCS stated that it concurs with the proposed rule changes and the revised reference crop yield determinations and procedures will make for a better rule (Administrative Record No. IL-5088). Therefore, we find that Illinois' revised regulations at 62 IAC 1823.15(b)(2) and (b)(3) are no less effective than the Federal regulations at 30 CFR 823.15(b)(2) and (b)(3), and we are approving them.

2. Illinois also proposed to add the following requirement at the end of subsection (b)(3): "Once chosen by the permittee, the productivity alternative in 62 IAC 1816.116(a)(6) may not be modified without approval from the Department."

In accordance with the Federal regulation at 30 CFR 774.13(c), no permit revision can be approved unless

the application demonstrates and the regulatory authority finds that reclamation as required by the Act and regulatory program can be accomplished. Because, Illinois requires that the productivity alternative under 62 IAC 1816.116(a)(6), once chosen by the permittee, may not be modified without approval of the Department, we find that the proposed requirement is no less effective than the requirement of the Federal regulation at 30 CFR 774.13(c), and we are approving it.

#### IV. Summary and Disposition of Comments

##### Public Comments

We asked for public comments on the amendment, but did not receive any.

##### Federal Agency Comments

On February 8, 2005, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Illinois program (Administrative Record No. IL-5090). We received comments from the NRCS. The NRCS responded on February 28, 2005 (Administrative Record No. IL-5091), that it recommended that Illinois' reference to the "1999-2000 Illinois Agronomy Handbook" be changed to "current Illinois Agronomy Handbook" and questioned whether the reference to "the Food, Agriculture, Conservation, and Trade Act of 1990" needs to be updated to the "Farm Security and Rural Investment Act of 2002."

These references that the NRCS wanted to change are found in Illinois' regulations at 62 IAC 1816.116(a)(2)(C) and 1817.116(a)(2)(C). As discussed in findings III.B.1, Illinois revised these regulations in accordance with the NRCS comments.

##### Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Illinois proposed to make in this amendment pertain to those air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

On February 8, 2005, under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from EPA (Administrative Record No. IL-5090). EPA did not respond to our request.

*State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On February 8, 2005, we requested comments on Illinois' amendment (Administrative Record No. IL-5090), but neither responded to our request.

#### V. OSM's Decision

Based on the above findings, we approve the amendment Illinois sent us on February 1, 2005, and as revised on August 3, 2005.

To implement this decision, we are amending the Federal regulations at 30 CFR part 913, which codify decisions concerning the Illinois program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule effective immediately will expedite that process.

#### VI. Procedural Determinations

##### 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 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

##### 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 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 the Federal regulations at 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 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 pursuant to SMCRA.

*Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. This determination is based on the fact that the Illinois program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Illinois program has no effect on Federally-recognized Indian tribes.

*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*

This rule does not require an environmental impact statement because 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 certifies 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. 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; and (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 an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. 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 regulations did not impose an unfunded mandate.

**List of Subjects in 30 CFR Part 913**

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 21, 2005.

**Charles E. Sandberg,**  
*Regional Director, Mid-Continent Region.*

■ For the reasons set out in the preamble, 30 CFR part 913 is amended as set forth below:

**PART 913—ILLINOIS**

■ 1. The authority citation for part 913 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

■ 2. Section 913.15 is amended in the table by adding a new entry in chronological order by “Date of final publication” to read as follows:

**§ 913.15 Approval of Illinois regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
February 1, 2005	November 29, 2005	62 IAC 1816.116(a)(2)(C), (a)(3)(C) and (a)(3)(E), (a)(4), (a)(4)(C) and (D), (a)(6); 1816. Appendix A; 1817.42; 1817.43(a)(2)(D), (b)(3), (c)(3); 1817.116(a)(2)(C), (a)(3)(C) and (a)(3)(E), (a)(4), (b)(2); 1817.121(c), (c)(2); 1823.15(b)(2) and (b)(3).

[FR Doc. 05-23401 Filed 11-28-05; 8:45 am]  
BILLING CODE 4310-05-P

## DEPARTMENT OF THE TREASURY

### Fiscal Service

#### 31 CFR Part 356

#### Sale and Issue of Marketable Book-Entry Bills, Notes, and Bonds; Correction

**AGENCY:** Bureau of the Public Debt, Fiscal Service, Treasury.

**ACTION:** Final rule; correction.

**SUMMARY:** The Bureau of the Public Debt published a final rule in the September 30, 2005, **Federal Register**, amending the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds to permit Treasury bills, notes, and bonds to be held in the TreasuryDirect system. Several paragraphs were inadvertently omitted. This correction document corrects that omission.

**DATES:** Effective November 29, 2005.

**ADDRESSES:** You can download this correction at the following Internet address: <http://www.publicdebt.treas.gov>.

**FOR FURTHER INFORMATION CONTACT:** Chuck Andreatta, Associate Director, Government Securities Regulations Staff, Bureau of the Public Debt, at (202) 504-3632 or [govsecreg@bpd.treas.gov](mailto:govsecreg@bpd.treas.gov).

Susan Klimas, Attorney-Adviser, Dean Adams, Assistant Chief Counsel, or Edward Gronseth, Deputy Chief Counsel, Office of the Chief Counsel, Bureau of the Public Debt, at (304) 480-8692 or [susan.klimas@bpd.treas.gov](mailto:susan.klimas@bpd.treas.gov).

**SUPPLEMENTARY INFORMATION:** The Bureau of the Public Debt published in the September 30, 2005, **Federal Register** (70 FR 57437), a final rule that amended 31 CFR part 356, the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds, to permit investors to hold Treasury bills, notes, and bonds in the TreasuryDirect system. In section 356.17, several already-existing paragraphs were inadvertently deleted. This document corrects the deletion.

#### List of Subjects in 31 CFR Part 356

Bonds, Federal Reserve System, Government securities, Securities.

■ Accordingly, 31 CFR part 356 is corrected by making the following correcting amendments:

#### PART 356—SALE AND ISSUE OF MARKETABLE BOOK-ENTRY TREASURY BILLS, NOTES, AND BONDS (DEPARTMENT OF THE TREASURY CIRCULAR, PUBLIC DEBT SERIES NO. 1-93)

■ 1. The authority citation for part 356 continues to read as follows:

**Authority:** 5 U.S.C. 301; 31 U.S.C. 3102 *et seq.*; 12 U.S.C. 391.

■ 2. In § 356.17, add paragraphs (d)(1) and (d)(2), to read as follows:

#### § 356.17 How and when do I pay for securities awarded in an auction?

\* \* \* \* \*

(d) \* \* \*

(1) A submitter that does not have a funds account at a Federal Reserve Bank or that chooses not to pay by charge to its own funds account must have an approved autocharge agreement on file with us before submitting any bids. Any depository institution whose funds account will be charged under an autocharge agreement will receive advance notice from us of the total par amount of, and price to be charged for, securities awarded as a result of the submitter's bids.

(2) A submitter that is a member of a clearing corporation may instruct that delivery and payment be made through the clearing corporation for securities awarded to the submitter for its own account. To do this, the following requirements must be met prior to submitting any bids:

(i) We must have acknowledged and have on file an autocharge agreement between the clearing corporation and a depository institution. By entering into such an agreement, the clearing corporation authorizes us to provide aggregate par and price information to the depository institution whose funds account will be charged under the agreement. The clearing corporation is responsible for remitting payment for auction awards of the clearing corporation member.

(ii) We must have acknowledged and have on file a delivery and payment agreement between the submitter and the clearing corporation. By entering into such an agreement, the submitter authorizes us to provide award and payment information to the clearing corporation.

Dated: November 21, 2005.

**Van Zeck,**

*Commissioner of the Public Debt.*

[FR Doc. 05-23333 Filed 11-28-05; 8:45 am]  
BILLING CODE 4810-39-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 721

[OPPT-2004-0111; FRL-7740-7]

RIN 2070-AJ12

#### 2-ethoxyethanol, 2-ethoxyethanol acetate, 2-methoxyethanol, and 2-methoxyethanol acetate; Significant New Use Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is issuing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) which requires persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of 2-ethoxyethanol (CAS No. 110-80-5) (2-EE), 2-ethoxyethanol acetate (CAS No. 111-15-9) (2-EEA), 2-methoxyethanol (CAS No. 109-86-4) (2-ME), or 2-methoxyethanol acetate (CAS No. 110-49-6) (2-MEA) for domestic use in a consumer product or the manufacture or import of 2-MEA at levels greater than 10,000 pounds per year. This action finalizes the SNUR proposed in the **Federal Register** of March 1, 2005 (70 FR 9902) (FRL-7692-8). EPA believes this action is necessary because these chemicals may be hazardous to human health and their use in a consumer product may result in human exposure. The required notice will provide EPA with the opportunity to evaluate intended new uses and associated activities, and if necessary, prohibit or limit those uses and activities before they occur.

**DATES:** This final rule is effective on December 29, 2005.

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number OPPT-2004-0111. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will not be placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the OPPT Docket, EPA Docket Center, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal