

legal description incorrectly listed MO instead of NE as listed in the city and state in the header. This action corrects that error and does not affect the boundaries or operating requirements of the airspace.

Class E airspace designations are published in paragraph 6004 of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

#### Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the ADDRESSES section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

#### The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by correcting the state (formerly MO) listed in the header of the airspace legal description for the Class E airspace designated as an extension to the Class E surface area at Columbus Municipal Airport, Columbus, NE.

This is an administrative change that does not affect the airspace boundaries or operating requirements, and, therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

#### Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, “Environmental Impacts: Policies and Procedures,” paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

#### Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

- 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### § 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

*Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.*

\* \* \* \* \*

#### ACE NE E4 Columbus, NE [New]

Columbus Municipal Airport, NE  
(Lat. 41°26′55″ N, long. 97°20′27″ W)  
Columbus VOR/DME  
(Lat. 41°27′00″ N, long. 97°20′27″ W)

That airspace extending upward from the surface within 2.4 miles each side of the Columbus VOR/DME 150° radial extending from the 4.2-mile radius of Columbus Municipal Airport to 7.0 miles southeast of the airport, and within 2.4 miles each side of the Columbus VOR/DME 309° radial extending from the 4.2-mile radius of Columbus Municipal Airport to 7.7 miles northwest of the airport.

Issued in Fort Worth, Texas, on May 1, 2019.

**John A. Witucki,**

*Acting Manager, Operations Support Group,  
ATO Central Service Center.*

[FR Doc. 2019–09466 Filed 5–8–19; 8:45 am]

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#### DEPARTMENT OF THE INTERIOR

#### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 916

[SATS No. KS–029–FOR; Docket ID: OSM–2016–0003; S1D1S SS08011000 SX064A000 189S180110; S2D2S SS08011000 SX064A000 18XS501520]

#### Kansas 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 (OSMRE), are approving an amendment to the Kansas Abandoned Mine Land Reclamation (AMLR) Plan (hereinafter, the Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Kansas proposed revisions to modernize its Plan, which remains largely unchanged since its approval on February 1, 1982, and encompasses the November 14, 2008, changes to the Federal regulations.

**DATES:** The effective date is June 10, 2019.

#### FOR FURTHER INFORMATION CONTACT:

William L. Joseph, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101st East Avenue, Suite 145, Tulsa, OK 74128–4629. Telephone: (918) 581–6430. Email: [bjoseph@osmre.gov](mailto:bjoseph@osmre.gov).

#### SUPPLEMENTARY INFORMATION:

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

#### I. Background on the Kansas Plan

The Abandoned Mine Land Reclamation 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 Tribes to assume exclusive responsibility for reclamation activity within the State or on Tribal 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 February 1, 1982, the Secretary of the Interior conditionally approved the Kansas Plan and fully approved it on April 14, 1982. Effective June 3, 1983, the Secretary of the Interior removed all conditions prohibiting the funding of State abandoned mine land construction grants. You can find background information on the Kansas Plan, including the Secretary's findings, the disposition of comments, and the approval of the 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. Submission of the Amendment

By letter dated February 23, 2016 (Administrative Record No. KS-628), and in accordance with 30 CFR 884.15(a), Kansas sent OSMRE an amendment to its Plan at its own initiative.

We announced receipt of the proposed amendment in the July 14, 2016, **Federal Register** (81 FR 45426). 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 to the Plan. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on August 15, 2016. We did not receive any public comments.

## III. OSMRE's Findings

We are approving the amendment as described below. The following are the findings we made concerning Kansas's amendment under SMCRA and the Federal regulations at 30 CFR 884.14 and 884.15. Any Plan revisions that we do not specifically discuss below concern non-substantive wording or editorial changes and can be found in the full text of the Plan amendment available at [www.regulations.gov](http://www.regulations.gov).

### *Abandoned Mine Land Reclamation Plan for the State of Kansas*

#### 1. Letter of Designation From the Governor [30 CFR 884.13(a)(1)]

Kansas, in Part I of the Plan, included an updated letter from the Governor designating the Kansas Department of Health and the Environment (KDHE) as the agency responsible for the Abandoned Mine Reclamation Program in the state of Kansas. The content of this letter is consistent with the Federal requirements of 30 CFR 884.13(a)(1), that requires the Governor of Kansas to

designate the governing authority to administer the State's reclamation program and to receive and administer grants under Part 886. Therefore, we are approving its inclusion.

#### 2. Legal Opinion [30 CFR 884.13(a)(2)]

Kansas, in Part II of the Plan, included an updated legal opinion from the chief legal officer of the KDHE authorizing the KDHE, under the Kansas Mined-Land Conservation and Reclamation Act, to conduct its reclamation program. The legal opinion references three areas where Kansas law previously differed from the Federal requirements, all of which have since been modified through legislative actions to comply with the Federal requirements. These changes include: Authorizing the KDHE to receive grants and funds appropriated under any Federal act; authorizing KDHE to place a lien for its own benefit after reclamation of privately owned land; and authorizing KDHE to acquire abandoned mine land through purchase, donation, or eminent domain. The content of this legal opinion is consistent with the Federal requirements of 30 CFR 884.13(a)(2), requiring the Kansas Attorney General or chief legal officer to render an opinion that the agency designated by the Governor has the authority under Kansas law to conduct the program in accordance with Title IV of SMCRA. Therefore, we are approving its inclusion.

#### 3. Policies and Procedures [30 CFR 884.13(a)(3)]

Kansas, in Part IV of the Plan, included a description of the policies and procedures to be followed by the KDHE in conducting its reclamation program. These policies and procedures include:

##### A. Purposes of the State Reclamation Program [30 CFR 884.13(a)(3)(i)]

Kansas, in Part IV.A of the Plan, described three reclamation program objectives. The objective given highest priority is the protection of public health, safety, and property, from extreme danger resulting from the adverse effects of coal mining practices [Part IV.A(1) of the Plan]. This includes sites that have been degraded by coal mining practices and the areas adjacent to those sites. The objective given the second highest priority is the protection of public health and safety from the adverse effects of coal mining practices [Part IV.A(2) of the Plan]. This includes sites that have been degraded by coal mining practices and the areas adjacent to those sites. The third stated objective is the restoration of land and water

resources and the environment that has been degraded by the adverse effects of coal mining practices [Part IV.A(3) of the Plan]. These restoration measures include the conservation and development of soil, water, woodland, fish and wildlife, recreational resources, and agricultural productivity. These program purposes, goals, and objectives are consistent with the Federal requirements of 30 CFR 884.13(a)(3)(i) and section 403 of the Act. Therefore, we are approving their inclusion.

##### B. Criteria for Identification of Eligible Lands and Water [30 CFR 884.13(a)(3)(ii)]

Kansas, in Part IV.B of the Plan, described the specific criteria for identifying lands and waters eligible for reclamation. Eligible lands and waters include those affected prior to August 3, 1977; those not under the reclamation responsibility of the operator, permittee, or agent of the permittee under government statutes or a result of bond forfeiture; and those that were affected by mining for minerals and materials other than coal. Ineligible lands and waters include those where the amount of bond forfeiture is sufficient to pay the total cost of reclamation, and those designated for remedial action pursuant to either the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 *et seq.*), or the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601-9675). These descriptions are consistent with the Federal requirements of 30 CFR 884.13(a)(3)(ii). Therefore, we are approving their inclusion.

##### C. Ranking and Selection Procedures [30 CFR 884.13(a)(3)(iii)]

Kansas, in Part IV.C of the Plan, described the procedures for the ranking and selection of reclamation projects. These descriptions include reclamation priorities, emergency projects, utilization of other State agencies, solicitation of public input, and the use of Federal funds. The three priority categories described are consistent with Section 403(a) of SMCRA. These descriptions are consistent with the Federal requirements of 30 CFR 884.13(a)(3)(iii). Therefore, we are approving their inclusion.

##### D. Coordination of Reclamation Work [30 CFR 884.13(a)(3)(iii)]

Kansas, in Part IV.D of the Plan, described KDHE's coordination with other agencies, which is limited to coordinating on the assessment of resource values and permits. Resource value coordination is done on a project

specific basis and may include cultural and historic resources, water quality, vegetation, fish and wildlife, soils, air quality, and recreational resources. Coordination with other agencies may also be required to obtain any necessary permits or authorizations. Additional coordination with the Rural Abandoned Mine Program or local Tribes is not necessary, because the KDHE is the only entity in the State of Kansas with a reclamation plan. This description of agency coordination is consistent with the Federal requirements of 30 CFR 884.13(a)(3)(iii). Therefore, we are approving its inclusion.

**E. Acquisition, Management, and Disposition of Land and Water [30 CFR 884.13(a)(3)(iv)]**

Kansas, in Part IV.E of the Plan, described its policies and procedures regarding land acquisition, management, and disposal. Under its Plan, all lands that have been adversely affected by coal mining activity are eligible for acquisition, following a fair market value appraisal from an independent appraiser. If OSMRE grant funds are to be used for the acquisition, prior approval will be obtained from OSMRE. Lands may also be accepted by the Secretary of the Department on behalf of the State as a donation or gift. Any lands acquired by the State will be managed in accordance with Kansas state law. Disposition of such lands will be conducted in accordance with Federal law. These acquisition, management, and disposition policies and procedures are consistent with the Federal requirements of 30 CFR 884.13(a)(3)(iv). Therefore, we are approving their inclusion.

**F. Policies and Procedures for Reclamation on Private Land [30 CFR 884.13(a)(3)(v)]**

Kansas, in Part IV.F of the Plan, described its policies and procedures for reclamation on private land. Under its Plan, the KDHE has the authority to place a lien against lands where reclamation work results in a significant increase in fair market value. Any such lien may be satisfied in accordance with Kansas state law. Land appraisals must be conducted by an independent appraiser, unless KDHE has previously determined that no lien will be placed against the property. During OSMRE's review, it was noted that this section of the Plan referred to a Kansas state law (K.S.A. 49-428e), which fails to address the full requirements of 30 CFR 882.13(b) regarding notifying the landowner of the proposed lien and allowing the landowner a reasonable time to pay that amount in lieu of filing

the lien. However, these lien requirements are satisfied in a different Kansas state law (K.A.R. 47-16-6). On January 17, 2017, OSMRE requested that Kansas add a reference to K.A.R. 47-16-6 in this section of their proposed Plan. Because this requested change was minor and non-substantive, Kansas was given the option to either incorporate this change or withdraw the amendment and resubmit at a later date. Kansas returned a revised Plan, which incorporated the additional reference on January 19, 2017, and the amendment process was allowed to continue uninterrupted. These revised policies and procedures are consistent with the Federal requirements of 30 CFR 882.13 and 884.13(a)(3)(v). Therefore, we are approving their inclusion.

**G. Rights of Entry [30 CFR 884.13(a)(3)(vi)]**

Kansas, in Part IV.G of the Plan, stated that its policies and procedures regarding rights of entry to lands or property for the purposes of determining the existence of adverse effects of past coal mining practices, and performing reclamation and emergency reclamation work will comply with Kansas state law. These policies and procedures are consistent with the Federal requirements of 30 CFR 884.13(a)(3)(vi). Therefore, we are approving their inclusion.

**H. Public Participation Policies [30 CFR 884.13(a)(3)(vii)]**

Kansas, in Part IV.H of the Plan, described its public participation policies in the development and operation of its Plan. The KDHE may offer public meetings to provide information on proposed activities. News releases, including information on all public and adjudicatory hearings, may also be released to either state-wide or regional news outlets based on applicability. Public notices will include background information, a description of the requested action, an outline of the procedures, and other necessary information. All information maintained by KDHE will be accessible to the public in accordance with Kansas state law. Additional public involvement will occur through the grant and program amendment process, which will be provided to the public for review and comment prior to or concurrent with submittal to OSMRE. These policies and procedures are consistent with the Federal requirements of 30 CFR 884.13(a)(3)(vii). Therefore, we are approving their inclusion.

**I. Post-Reclamation Inspection Procedures**

Kansas, in Part IV.I of the Plan, described its post-reclamation inspection procedures. Inspections of completed AML projects will document successes and identify any issues requiring additional maintenance. These routine inspections will continue for at least two years, or until permit monitoring requirements expire and the project site is deemed stable. These procedures have no counterpart Federal regulation, but their inclusion does not make the Plan inconsistent with the Federal requirements of 30 CFR 884.13. Therefore, we are approving their inclusion because OSMRE finds that this requirement of the Plan furthers the objective of section 405(j) that requires OSMRE, through its designated agents, to monitor the progress and quality of the Plan. Moreover, this provision is included because we determined that inspections of completed AML projects is no less stringent than section 405 of the Act and no less effective than the implementing regulations at part 884.

**4. Administrative and Management Structure [30 CFR 884.13(a)(4)]**

Kansas, in Part V of the Plan, included a description of the administrative and management structure to be used by the KDHE in conducting its reclamation program. The structure includes:

**A. Organizational Structure [30 CFR 884.13(a)(4)(i)]**

Kansas, in Part V.A of the Plan, described the organization of the KDHE and its relationship to other State organizations that may become involved in its reclamation program. KDHE is organized into two main branches, including the Division of the Environment and the Division of Health. The Surface Mining Section, part of the Bureau of Environmental Remediation, has the primary oversight responsibility for the State's reclamation program. Other agencies that may become involved include the Kansas Department of Agriculture, the KDHE Bureau of Water, the KDHE Bureau of Air, Kansas Forestry Service, Kansas Geological Survey, and the Kansas State Historical Society. This description of agency organization is consistent with the Federal requirements of 30 CFR 884.13(a)(4)(i). Therefore, we are approving its inclusion.

**B. Personnel and Staffing Policies [30 CFR 884.13(a)(4)(ii)]**

Kansas, in Part V.B of the Plan, described its personnel and staffing policies that will govern the assignment

of personnel to its reclamation program. The KDHE will be responsible for complying with all pertinent Federal and State laws. This description of agency personnel policies is consistent with the Federal requirements of 30 CFR 884.13(a)(4)(ii). Therefore, we are approving its inclusion.

**C. Purchasing and Procurement Systems [30 CFR 884.13(a)(4)(iii)]**

Kansas, in Part V.C of the Plan, stated that the purchasing and procurement systems used by the KDHE will be in accordance with Kansas Purchasing and Contracts regulations per the Kansas Department of Administration. These regulations meet the requirements of Office of Management and Budget (OMB) Circular A-102. This statement is consistent with the Federal requirements of 30 CFR 884.13(a)(4)(iii). Therefore, we are approving its inclusion.

**D. Management Accounting [30 CFR 884.13(a)(4)(iv)]**

Kansas, in Part V.D of the Plan, stated that the financial management system used by the KDHE will meet the requirements of OMB Circular A-102, and 43 CFR part 12, subpart C. The accounting system used by the KDHE for the State Abandoned Mine Reclamation Fund will separate the accounting for each funding source, as identified in 30 CFR 872.12. This system description is consistent with the Federal requirements of 30 CFR 884.13(a)(4)(iv). Therefore, we are approving its inclusion.

**5. General Description of AML Problems [30 CFR 884.13(a)(5)]**

Kansas, in Parts VI and VIII of the Plan, included a description of the reclamation activities to be conducted under its reclamation plan. This general description includes:

**A. AML Problem Description [30 CFR 884.13(a)(5)(ii)]**

Kansas, in Part VI.A of the Plan, described the problems occurring on known or suspected lands and waters which require reclamation. Examples of such problems include: Clogged streams and stream lands, dangerous piles or embankments; highwalls; impoundments; slides; hazardous and explosive gases; hazardous equipment or facilities; hazardous water bodies; industrial and residential waste; polluted water; subsidence; surface burning; underground mine fires; and vertical openings. This description is consistent with the Federal requirements of 30 CFR 884.13(a)(5)(ii).

Therefore, we are approving its inclusion.

**B. AML Corrective Measures [30 CFR 884.13(a)(5)(iii)]**

Kansas, in Part VI.B of the Plan, stated that the KDHE will use the best available technology and employ the corrective measures outlined in the OSMRE Guidelines to address the problems described. This statement is consistent with the Federal requirements of 30 CFR 884.13(a)(5)(iii). Therefore, we are approving its inclusion.

**C. Extent of Reclamation**

Kansas, in Part VI.C of the Plan, described the factors to be considered in determining the minimum amount of reclamation needed to make a site safe and environmentally suitable. These factors include: The affected land and water area; uniformity of problem(s) over the entire site; proposed post-reclamation land use; available funds; off- and on-site benefits; required later additional reclamation work; landowner participation; cost effectiveness; multiple land use benefits; remaining possibilities; and, any Federal or State violations on interim program sites. These reclamation factors have no counterpart Federal regulation, but their inclusion does not make the Plan inconsistent with the Federal requirements of 30 CFR 884.13. Therefore, we are approving their inclusion because we determined that the inclusion thereof is no less stringent than section 405 of the Act and no less effective than the implementing regulations at part 884.

**D. Adverse Impacts of Reclamation**

Kansas, in Part VI.D of the Plan, described potential adverse impacts of reclamation. Kansas stated that best available methodologies will be used to minimize short-term adverse impacts of reclamation activities. Potential impacts include: The release of fugitive dust and noxious gasses; sedimentation and erosion; temporary degradation of stream water quality and aquatic and riparian habitat; increase in noise and traffic levels; and temporary aesthetic degradation of the area. This description has no counterpart Federal regulation, but its inclusion does not make the Plan inconsistent with the Federal requirements of 30 CFR 884.13. Therefore, we are approving its inclusion.

**E. Map [30 CFR 884.13(a)(5)(i)]**

Kansas, in Part VIII of the Plan, included a map showing the general location of known or suspected eligible

lands and waters within the State which require reclamation. This map is consistent with the Federal requirements of 30 CFR 884.13(a)(5)(i). Therefore, we are approving its inclusion.

**6. General Description of Conditions Prevailing in the Different Geographical Areas of the State Where Reclamation Is Planned [30 CFR 884.13(a)(6)]**

Kansas, in Part VII of the Plan, included a description of the conditions prevailing in the different geographic areas of the State where reclamation is planned. This description includes:

**A. The Economic Base [30 CFR 884.13(a)(6)(i)]**

Kansas, in Part VII.A of the Plan, described the economic base for the State's five primary coal producing counties, including population density, average per capita income, employment, and land use data. This description is consistent with the Federal requirements of 30 CFR 884.13(a)(6)(i), requiring a general description of the conditions, including economic base, prevailing in the different geographic areas of Kansas where reclamation is planned. Therefore, we are approving its inclusion.

**B. Significant Esthetic, Historic, or Cultural, and Recreational Values [30 CFR 884.13(a)(6)(ii)]**

Kansas, in Part VII.B of the Plan, stated that, to ensure that all potential impacts of the reclamation process are mitigated, the KDHE will consult with the Kansas State Historical Society regarding any significant esthetic, historic, or cultural sites, and will consult with the Kansas Department of Wildlife, Parks and Tourism (KDWPT) regarding any sites of significant recreational value. This statement is consistent with the Federal requirements of 30 CFR 884.13(a)(6)(ii). Therefore, we are approving its inclusion.

**C. Endangered and Threatened Plant, Fish, and Wildlife and Their Habitat [30 CFR 884.13(a)(6)(iii)]**

Kansas, in Part VII.C of the Plan, stated that, in determining whether species mitigation or avoidance is required during reclamation project planning, KDHE will consult with the U.S. Fish and Wildlife Service and the KDWPT to ensure that the most current list of threatened or endangered plant, fish, or wildlife species and their habitats is used. This statement is consistent with the Federal requirements of 30 CFR 884.13(a)(6)(iii), requiring a general description, derived

from available data, of the endangered and threatened plant, fish, and wildlife and associated habitat. Therefore, we are approving its inclusion.

#### IV. Summary and Disposition of Comments

##### *Public Comments*

OSMRE solicited public comment and provided an opportunity for a public hearing on the amendment of the Kansas Plan. No public comments were received and because no one requested an opportunity to speak at a public hearing, no hearing was held.

##### *Federal Agency Comments*

On May 3, 2016, as required by 30 CFR 884.14(a)(2), we requested comment on the amendment from various Federal agencies with an actual or potential interest in the Kansas Plan (Administrative Record No. KS-628.02). We did not receive any comments.

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

Under 30 CFR 884.14(a)(2), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On May 3, 2016, we requested comments on Kansas's Plan amendment (Administrative Record No. KS-628), but neither the SHPO nor ACHP responded to our request.

#### V. OSMRE's Decision

Based on the above findings, we approve the amendment to the Plan Kansas sent us on February 23, 2016 (Administrative Record No. KS-628). To implement this decision, we are amending the Federal regulations at 30 CFR part 916 that codify decisions concerning the Kansas Plan. In accordance with the Administrative Procedure Act (5 U.S.C. 500 *et seq.*), this rule will take effect 30 days after the date of publication. Section 405 of SMCRA requires that each State with an abandoned mine reclamation program must have an approved State regulatory program pursuant to Section 503 of the Act. Section 503(a) of the Act 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. SMCRA requires consistency of State and Federal standards.

#### VI. Procedural Determinations

##### *Executive Order 12630—Takings*

This rulemaking does not have takings implications. This determination is based on the analysis

performed for the counterpart Federal regulation.

##### *Executive Order 12866—Regulatory Planning and Review*

Pursuant to OMB guidance, dated October 12, 1993, the approval of state program amendments is exempted from OMB review under Executive Order 12866.

##### *Executive Order 12988—Civil Justice Reform*

The Department of the Interior has reviewed this rule as required by Section 3(a) of Executive Order 12988. The Department has determined that this **Federal Register** document meets the criteria of Section 3 of Executive Order 12988, which is intended to ensure that the agency reviews its legislation and proposed regulations to eliminate drafting errors and ambiguity, that the agency write its legislation and regulations to minimize litigation, and that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because Section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive Order to the quality of this **Federal Register** document and to changes to the Federal regulations. The review under this Executive Order did not extend to the language of the State AML program or to the Plan amendment that the State of Kansas drafted.

##### *Executive Order 13132—Federalism*

This rule is not a “[p]olicy that [has] Federalism implications” as defined by Section 1(a) of Executive Order 13132 because it does not have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” Instead, this rule approves an amendment to the Kansas Plan submitted and drafted by that State. OSMRE reviewed the submission with fundamental federalism principles in mind as set forth in Sections 2 and 3 of the Executive Order and with the principles of cooperative federalism as set forth in SMCRA. *See, e.g.*, 30 U.S.C. 1201(f). As such, pursuant to section 503(a)(1) and (7) (30 U.S.C. 1253(a)(1) and (7)), OSMRE reviewed the Plan amendment to ensure that it is “in accordance with” the requirements of SMCRA and “consistent with” the 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 rulemaking on federally recognized Tribes and have determined that the rulemaking does not have substantial direct effects on one or more Tribes, on the relationship between the Federal Government and Tribes, or on the distribution of power and responsibilities between the Federal Government and Tribes. The basis for this determination is that our decision is on the Kansas AML program and does not involve Federal regulations involving Indian lands.

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

Executive Order 13211, dated May 18, 2001, requires agencies to prepare a Statement of Energy Effects for a rulemaking 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 rulemaking 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 rulemaking does not require an environmental impact statement because it is deemed a categorical exclusion within the meaning of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). It is documented in the DOI Departmental Manual, 516 DM 13.5(B)(29), that agency decisions on approval of state reclamation plans for abandoned mine lands do not constitute major Federal Actions.

##### *Paperwork Reduction Act*

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

Unfunded Mandates

This rulemaking 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 rulemaking, 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 916

Intergovernmental relations, Surface mining.

Dated: August 14, 2018. Alfred L. Clayborne, Regional Director, Mid-Continent Region.

Editorial note: This document was received for publication by the Office of the Federal Register on May 6, 2019.

For the reasons set out in the preamble, 30 CFR part 916 is amended as set forth below:

PART 916—KANSAS

1. The authority citation for part 916 continues to read as follows:

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

2. Section 916.25 is amended in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

§ 916.25 Approval of Kansas abandoned mine land reclamation plan amendments.

\* \* \* \* \*

Table with 3 columns: Original amendment submission date, Date of final publication, Citation/description. Row: February 23, 2016, May 9, 2019, Abandoned Mine Land Reclamation Plan for the State of Kansas.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

[SATS No. ND-054-FOR; Docket ID: OSM-2016-0009; S1D1S SS08011000 SX064A000 178S180110; S2D2S SS08011000 SX064A000 17XS501520]

North Dakota 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 (OSMRE), are approving an amendment to the North Dakota regulatory program (North Dakota program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). This amendment, proposed by North Dakota, makes numerous rule changes to the North Dakota Administrative Code for surface coal mining and reclamation operations based on statutory changes that were

made during North Dakota's 2015 Legislative Session. The statutory changes added a definition of "commercial leonardite" (oxidized lignite) and excluded commercial leonardite from the statutory definition of "coal." The statutory changes also added the phrase "and commercial leonardite" and "or commercial leonardite" to many other sections of North Dakota's reclamation statute. The statutory changes necessitated a number of similarly related changes to North Dakota's administrative rules. Finally, some of North Dakota's proposed rule revisions include minor non-substantive grammatical, codification, and statutory citation cross-reference changes. North Dakota's revisions are intended to improve operational efficiency. OSMRE does not have any corresponding statutes or regulations about leonardite, and the changes are consistent with OSMRE policy about leonardite. As such, North Dakota's proposed statutory and regulatory changes add specificity about the regulation of leonardite beyond that contained in SMCRA and the Federal regulations, and we are approving them. OSMRE's approval of North Dakota's proposed statutory and regulatory changes are solely for purposes of complying with SMCRA and may not be viewed as waiving any

property interests that the United States may have in leonardite deposits that are part of the federal coal estate in certain lands in North Dakota.

DATES: The effective date is June 10, 2019.

FOR FURTHER INFORMATION CONTACT: Jeffrey Fleischman, Chief, Denver Field Division, Telephone: 307-261-6550, Email address: jfleischman@OSMRE.gov.

SUPPLEMENTARY INFORMATION:

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

I. Background on the North Dakota 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, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. On the basis of these criteria, the Secretary of