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4310-05-P

## **DEPARTMENT OF THE INTERIOR**

### **Office of Surface Mining Reclamation and Enforcement**

#### **30 CFR Part 924**

**[SATS No. MS-024-FOR; Docket No. OSM-2014-0005;**

**S1D1SSS08011000SX066A00067F154S180110;**

**S2D2SSS08011000SX066A00033F15XS501520]**

#### **Mississippi Abandoned Mine Land 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 Mississippi Abandoned Mine Land

Reclamation Plan (hereinafter, the Mississippi Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Mississippi requested concurrence from the Secretary of the Department of the Interior with its certification of completion of all coal-related reclamation objectives. Mississippi intends to request Abandoned Mine Land (AML) Reclamation funds to pursue projects in accordance with section 411 of SMCRA, 30 U.S.C. 1240a.

**DATES:** Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Sherry Wilson, Director, Birmingham Field Office. Telephone: (205) 290-7282. E-mail: [swilson@osmre.gov](mailto:swilson@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Mississippi Plan
- II. Submission of the Amendment
- III. Summary and Disposition of Comments
- IV. OSMRE's Decision
- V. Procedural Determinations

**I. Background on the Mississippi Plan**

Title IV of the Act (30 U.S.C. 1231 et seq.) established the AML program in order to address the extensive environmental damage caused by past coal mining activities. The AML program is funded primarily by a reclamation fee collected on each ton of coal produced. The money collected is placed in the Abandoned Mine Reclamation Fund (the “Fund”) and used to finance the reclamation of abandoned coal mines and for other authorized activities. In addition to moneys from the Fund, Title IV also provides for the use of some general Treasury moneys to fund reclamation projects and other authorized activities.

Section 405 of the Act, 30 U.S.C. 1235, allows States and Indian tribes to assume exclusive responsibility for reclamation activity within the State or on Indian lands if they develop and submit to the Secretary of the Interior for approval, a program (often referred to as a plan) for the reclamation of abandoned coal mines. On September 27, 2007, the Secretary of the Interior approved the Mississippi Plan. You can find background information on the Mississippi Plan, including the Secretary's findings, the disposition of comments, and the approval of the plan in the September 27, 2007, Federal Register (72 FR 54832). No prior amendments have been made to the Mississippi Plan (30 CFR Part 924.20).

## **II. Submission of the Amendment**

By letter dated August 11, 2014 (Administrative Record No. MS-0424), Mississippi

certified to OSMRE that all coal-related impacts on abandoned mine lands within the State have been successfully addressed under SMCRA. Mississippi sent the request for concurrence with its certification at its own initiative. As indicated by our November 12, 2014, Federal Register (79 FR 67115) notice, we also construed this request for certification as an amendment to Mississippi's Plan. In addition to this current amendment, Mississippi will most likely be required to revise its plan again in the future to implement a program under section 411 of SMCRA.

### **III. Summary and Disposition of Comments**

We announced receipt of the proposed certification in the November 12, 2014, Federal Register (79 FR 67115). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the certification's adequacy. We did not receive any requests for a public hearing or meeting and, thus, did not hold one.

#### Public Comments

The public comment period ended on December 12, 2014. We did not receive any public comments.

#### Federal Agency Comments

On September 3, 2014, as required by 30 CFR 884.14(a)(2) and 884.15(a), we requested comments on the proposed Mississippi Plan amendment from various Federal agencies with an actual or potential interest in the Mississippi program (Administrative Record No. MS-0424-01). We did not receive any comments.

#### **IV. OSMRE's Decision**

After a review of all of the relevant information, on December 18, 2014, the Director of OSMRE, in accordance with section 411(a)(1) of SMCRA (30 U.S.C. 1240(a)(1)) and 30 CFR 875.13(b) determined that Mississippi met all of the applicable criteria and concurred with Mississippi's certification (Administrative Record MS-0424-02). The Director's concurrence with Mississippi's certification of completion of coal reclamation means that Mississippi may now use funds provided under Title IV of SMCRA in accordance with section 411 of SMCRA and its current plan. In addition, as part of its certification and in accordance with 30 CFR 875.13(a)(3), Mississippi agrees to acknowledge and give top priority to any coal-related problem(s) that may be found or occur after submission of the certification.

In order to implement Mississippi's certification, we are amending the Federal regulations at 30 CFR Part 924 that codify decisions concerning the Mississippi Plan. Given the technical nature of this rule, we find that delaying the effective date of this rule

would be unnecessary and contrary to the public interest. This rule merely codifies the decision by the Director that became immediately effective on December 18, 2014, when he concurred in Mississippi's certification under section 411(a) of SMCRA. Therefore, we find good cause to waive the 30-day delay in effective date under 5 U.S.C. 553(d)(3).

## **V. Procedural Determinations**

### Executive Order 12630 - Takings

This rule does not have significant takings implications because it is not a governmental action capable of interference with constitutionally protected property rights. A takings implication assessment is not required.

### Executive Orders 12866 and 13563 - Regulatory Planning and Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory

approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. This rule is merely a technical amendment to the Mississippi regulations at 30 CFR Part 924 to denote that Mississippi is certified. As such, it does not implicate any of the considerations embodied in this executive order.

#### Executive Order 12988 - Civil Justice Reform

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

- (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
- (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

#### Executive Order 13132 - Federalism

This rule does not have Federalism implications. It will 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.”

#### 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.

#### 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. This rule is not considered significant 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

We have determined that the revisions in this rule are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969, as provided in 43 CFR 46.205(b). We have determined the rule is covered by the specific categorical exclusion listed in the Department of the Interior regulations at 43 CFR 46.210(i). That categorical exclusion covers regulations such as this one that are of an administrative or technical nature. We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under the National Environmental Policy Act.

### Paperwork Reduction Act

This rule does not contain collections of information that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 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.). As discussed above, the aggregate economic impact of this

rulemaking on small business entities should be minimal.

#### 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) will 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) will 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.

#### Unfunded Mandates Reform Act

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. As previously discussed, this rulemaking will not have a substantial economic impact on any entity.

List of Subjects in 30 CFR Part 924

Intergovernmental relations, Surface mining, Underground mining, Abandoned mine reclamation programs.

Dated: January 20, 2015.

Ervin J. Barchenger, Regional Director

Mid-Continent Region

For the reasons set out in the preamble, 30 CFR Part 924 is amended as set forth below:

PART 924 - MISSISSIPPI

1. The authority citation for Part 924 is revised to read as follows:

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

2. Section 924.25 is added to read as follows:

§924.25 Approval of Mississippi abandoned mine land reclamation plan amendments.

The following is a list of the dates on which the State of Mississippi submitted amendments to OSMRE, the dates when the Director’s decision approving all, or portions of these amendments, were published in the FEDERAL REGISTER, and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

| Original amendment submission date | Date of final publication  | Citation/description   |
|------------------------------------|--|--|
| August 11, 2014                    | <b><u>[Insert date of publication in the Federal Register]</u></b> | Certification that the State has reclaimed all lands adversely impacted by past coal mining. |

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