

regulations to limit the application of the identified mixed straddle transaction rules in § 1.1092(b)-6T to section 1092(b)(2) identified mixed straddles established after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**. This document also amends the examples in the temporary regulations to reflect the change in the applicability date and to clarify the determination of a holding period. The Treasury Department and the IRS anticipate finalizing the regulations no later than the end of the current Priority Guidance Plan year on June 30, 2014, and will as part of that process consider all comments received.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Amendments to the Regulations

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

#### PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding entries in numerical order to read as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

Section 1.1092(b)-6T also issued under 26 U.S.C. 1092(b)(1).

Section 1.1092(b)-6T also issued under 26 U.S.C. 1092(b)(2). \* \* \*

■ **Par. 2.** Section 1.1092(b)-3T is amended by:

■ 1. Revising the heading of paragraph (b)(6).

■ 2. Revising the first sentence of paragraph (b)(6).

The amendments read as follows:

#### § 1.1092(b)-3T Mixed straddles; straddle-by-straddle identification under section 1092(b)(2)(A)(i)(I) (Temporary).

\* \* \* \* \*

(b)(6) *Accrued gain and loss with respect to positions of a section 1092(b)(2) identified mixed straddle established on or before the applicability date of § 1.1092(b)-6T.* The rules of this paragraph (b)(6) apply to all section 1092(b)(2) identified mixed straddles established on or before the applicability date of § 1.1092(b)-6T; see § 1.1092(b)-6T for section 1092(b)(2) identified mixed straddles established after the applicability date of § 1.1092(b)-6T. \* \* \*

\* \* \* \* \*

■ **Par. 3.** Section 1.1092(b)-6T is amended as follows:

■ 1. Revising the heading of § 1.1092(b)-6T.

■ 2. Adding a sentence at the end of the introductory text of paragraph (b) and revising *Example 1* and *Example 2* of paragraph (b).

■ 3. Revising paragraph (c).

The amendments read as follows:

#### § 1.1092(b)-6T Mixed straddles; accrued gain and loss associated with a position that becomes part of a section 1092(b)(2) identified mixed straddle.

\* \* \*

(b) \* \* \* The following examples assume that this section applies to identified mixed straddles established after August 1, Year 2.

*Example 1.* On August 13, Year 2, A enters into a section 1256 contract. As of the close of the day on August 15, Year 2, there is \$500 of unrealized loss on the section 1256 contract. On August 16, Year 2, A enters into an offsetting non-section 1256 position and makes a valid election to treat the straddle as a section 1092(b)(2) identified mixed straddle. A continues to hold both positions of the section 1092(b)(2) identified mixed straddle on January 1, Year 3. Under these circumstances, A will recognize the \$500 loss on the section 1256 contract that existed prior to establishing the section 1092(b)(2) identified mixed straddle on the last business day of Year 2 because the section 1256 contract would be treated as sold on December 31, Year 2, (the last business day of the taxable year) under section 1256(a). The loss recognized in Year 2 will be treated as 60% long-term capital loss and 40% short-term capital loss. All gains and losses occurring after the section 1092(b)(2) identified mixed straddle is established are accounted for under the applicable provisions in § 1.1092(b)-3T.

*Example 2.* On September 3, Year 1, A enters into a non-section 1256 position. As of the close of the day on August 22, Year 2, there is \$400 of unrealized short-term capital gain on the non-section 1256 position. On August 23, Year 2, A enters into an offsetting section 1256 contract and makes a valid election to treat the straddle as a section 1092(b)(2) identified mixed straddle. On September 10, Year 2, A closes out the section 1256 contract at a \$500 loss and disposes of the non-section 1256 position, realizing an \$875 gain. Under these circumstances, A has \$400 of short-term capital gain attributable to the non-section 1256 position prior to the day the section 1092(b)(2) identified mixed straddle was established. The \$400 unrealized gain earned on the non-section 1256 position will be recognized on September 10, Year 2, when the non-section 1256 position is disposed of. The gain will be short-term capital gain. See § 1.1092(b)-2T for rules concerning holding period. On September 10, Year 2, the gain of \$875 on the non-section 1256 position will be reduced to \$475 to take into account the \$400 of unrealized gain when the section 1092(b)(2) identified mixed straddle was established. The \$475 gain on the non-section 1256 position will be offset by the \$500 loss on the section 1256 contract. The net loss of \$25 from the straddle will be treated as 60% long-term capital loss and

40% short-term capital loss because it is attributable to the section 1256 contract.

(c) *Effective/applicability date.* The rules of this section apply to all section 1092(b)(2) identified mixed straddles established after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

\* \* \* \* \*

**Martin Franks,**

*Branch Chief, Publications & Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure & Administration).*

[FR Doc. 2013-25361 Filed 10-25-13; 8:45 am]

BILLING CODE 4830-01-P

#### DEPARTMENT OF THE INTERIOR

#### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 924

[SATS No. MS-023-FOR; Docket No. OSM-2012-0018; S1D1SSS08011000SX066A000 67F134S180110; S2D2SSS08011000SX 066A00033F13XS01520]

#### Mississippi 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 Mississippi regulatory program (Mississippi Program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Mississippi proposed revisions to its regulations regarding: definitions; identification of interests; lands eligible for remining; permit eligibility determination; review of permit applications; eligibility for provisionally issued permits; criteria for permit approval or denial; initial review and finding requirements for improvidently issued permits; notice requirements for improvidently issued permits; suspension or rescission requirements for improvidently issued permits; unanticipated events or conditions at remining sites; verification of ownership or control application information; who may challenge ownership or control listings and findings; how to challenge an ownership or control listing or finding; burden of proof for ownership or control challenges; written agency decision on challenges to ownership or control listings or findings; post-permit issuance requirements for regulatory authorities and other actions based on

ownership, control, and violation information; post-permit issuance requirements for permittees; backfilling and grading; previously mined areas; and alternative enforcement. Mississippi intends to revise its program to be no less effective than corresponding Federal regulations, to clarify ambiguities, and to improve operational efficiency.

**DATES:** *Effective Date:* October 29, 2013.

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

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Mississippi 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 Mississippi 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 program includes, among other things, “. . . a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act . . . ; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.” See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Mississippi program effective September 4, 1980. You can find background information on the Mississippi program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Mississippi program in the September 4, 1980, **Federal Register** (45 FR 58520). You can also find later actions concerning the Mississippi program and program amendments at 30 CFR 924.10, 924.15, 924.16, and 924.17.

**II. Submission of the Amendment**

By email dated July 26, 2012 (Administrative Record No. MS-0423), the Mississippi Department of Environmental Quality (Mississippi or the Department) sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Mississippi submitted the proposed amendment in response to a September 30, 2009, letter (Administrative Record No. MS-0420-02) that OSM sent to Mississippi in accordance with 30 CFR 732.17(c), concerning multiple changes to

ownership and control requirements. Mississippi also made additional changes to its regulations on its own initiative. The specific sections in the Mississippi program are discussed in Part III OSM's Findings. Mississippi intends to revise its program to be no less effective than the Federal regulations, to clarify ambiguities, and to improve operational efficiency.

We announced receipt of the proposed amendment in the September 19, 2012, **Federal Register** (23 FR 58056). 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 none were requested one. The public comment period ended on October 19, 2012. We did not receive any public comments.

By email dated March 4, 2013 (Administrative Record No. MS-0423-03), Mississippi requested that we suspend processing of their proposed amendment while they made some administrative corrections to their submission. Mississippi submitted their administratively revised proposed rule by email dated June 28, 2013 (Administrative Record No. MS-0423-04). We did not reopen the comment period for the additional changes because they were entirely administrative in nature and did not substantively affect the Mississippi Program.

**III. OSM's Findings**

We are approving the amendment as described below. The 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 also approving the administrative changes made by Mississippi throughout their proposed rule, which primarily consisted of changing the word “chapter” to “rule” and “subpart” to “chapter.” Statutory references were added at the end of each chapter and rule. Any revisions that we do not specifically discuss below concerning non-substantive wording or editorial changes can be found in the full text of the program amendment available at [www.regulations.gov](http://www.regulations.gov).

**A. Mississippi Surface Coal Mining Regulations § 105. Definitions**

Mississippi proposed to add new definitions for “Previously Mined Area” and “Violation”; and revised the definitions for “Applicant Violator System or AVS”; “Knowing or Knowingly”; “Slope”; and “Willfully.” Mississippi's new definitions and

revised definitions are substantively the same as counterpart Federal regulations at 30 CFR 701.5. Mississippi also corrected a reference to a regulatory citation within its definition of “Ownership or Control Link,” which has no Federal counterpart. Revision of this previously approved definition does not make Mississippi's program less effective than the Federal regulation. Therefore, we approve Mississippi's new and revised definitions.

**B. Mississippi Surface Coal Mining Regulations § 2305. Identification of Interests**

Mississippi proposed to add additional language clarifying the requirements for information to be included in a permit application concerning the identification of interests for the applicant and operator and for the entry of the applicant's information into the Applicant Violator System (AVS). We find that Mississippi's new language is substantively the same as counterpart Federal regulations at 30 CFR 778.8, 778.9, and 778.11. Therefore, we approve Mississippi's revisions.

**C. Mississippi Surface Coal Mining Regulations § 2902. Lands Eligible for Remining**

Mississippi proposed to add new § 2902 regarding lands eligible for remining. The regulation requires that any person who submits a permit application to conduct a surface coal mining operation on lands eligible for remining must comply with all the requirements of the regulations; including the permitting requirements of § 3130, which concerns unanticipated events or conditions at remining sites. We find that Mississippi's new regulation is substantively the same as the counterpart Federal regulation at 30 CFR 785.25. Therefore, we approve Mississippi's new regulation.

**D. Mississippi Surface Coal Mining Regulations § 3102. Permit Eligibility Determination; § 3112. Review of Permit Applications; § 3113. Eligibility for Provisionally Issued Permits; and § 3115. Criteria for Permit Approval or Denial**

Mississippi proposed to add new § 3102 which explains the roles and responsibilities of the Department and the Permit Board on whether the applicant is eligible to receive a permit. We find that Mississippi's new regulation is substantively the same as the counterpart Federal regulation at 30 CFR 773.12. Therefore, we are approving Mississippi's new regulation.

Mississippi proposed renumbering § 3113 Review of Permit Applications, to § 3112 Review of Permit Applications. This change allows Mississippi's regulations to remain in compliance with other portions of its regulations. We find that these revisions make Mississippi's regulations no less effective than the Federal regulations. Therefore, we approve Mississippi's revision.

Mississippi proposed to add new § 3113 regarding the applicant's eligibility for a provisionally issued permit. This applies to any applicant that applies for a permit or who owns or controls a surface coal mining and reclamation operation with outstanding permit violations. We find that Mississippi's new regulation is substantively the same as the counterpart Federal regulation at 30 CFR 773.14. Therefore, we approve Mississippi's new regulation.

Mississippi proposed to revise its citations in § 3115(m) to require compliance with new § 3102(d) regarding update of compliance information prior to permit issuance. Mississippi added new paragraphs (n) and (o) to clarify the requirements regarding permit approval criteria for proposed re-mining operations. We find that Mississippi's revised citations and new paragraphs (n) and (o) are substantively the same as counterpart Federal regulations at 30 CFR 773.15(k)(1) and (m)(i), (ii), and (iii). Therefore, we approve Mississippi's revisions.

*E. Mississippi Surface Coal Mining Regulations. § 3127. Initial Review and Finding Requirements for Improvidently Issued Permits; § 3128. Notice Requirements for Improvidently Issued Permits; and § 3129. Suspension or Rescission Requirements for Improvidently Issued Permits*

Mississippi proposed to delete old language in § 3127 regarding general procedures for improvidently issued permits. Mississippi replaced its old language with new language regarding what the Permit Board must do when it has reason to believe that a permit has been improvidently issued. The revision describes the written permit findings the Permit Board must make regarding improvidently issued permits and how a permittee can challenge those findings. We find that Mississippi's newly added language is substantively the same as the counterpart Federal regulation at 30 CFR 773.21. Therefore, we approve Mississippi's revisions.

Mississippi proposed to add new § 3128 regarding the responsibilities of the Department in serving the notice of

suspension or rescission of improvidently issued permits. We find that Mississippi's new regulation is substantively the same as the counterpart Federal regulation at 30 CFR 773.22. Therefore, we approve Mississippi's new regulation.

Mississippi proposed to delete old language in § 3129 regarding revocation or suspension procedures for improvidently issued permits. Mississippi replaced this old language with new language regarding the Permit Board's responsibilities for: (1) Suspension or rescission of improvidently issued permits; (2) evaluation of permittee evidence; (3) administrative review of the findings; and (4) terms of the notice of cessation of operations. We find that Mississippi's revisions are substantively the same as counterpart Federal regulations at 30 CFR 773.21 and 773.23. Therefore, we approve Mississippi's revisions.

*F. Mississippi Surface Coal Mining Regulations § 3130. Unanticipated Events or Conditions at Remining Sites*

Mississippi proposed to add new § 3130 regarding an applicant's eligibility for a permit if he has on record an unabated violation resulting from unanticipated events or conditions at an existing or past permit on lands eligible for re-mining. We find that Mississippi's new regulation is substantively the same as the counterpart Federal regulation at 30 CFR 773.13. Therefore, we approve Mississippi's new regulation.

*G. Mississippi Surface Coal Mining Regulations § 3131. Verification of Ownership or Control Application Information*

Mississippi proposed revisions to § 3131 regarding what Mississippi must do when it receives an application and it appears that neither the applicant nor the operator has any mining experience. Specifically, it requires the Department to investigate to determine whether there may be additional owners or controllers. If additional owners or controllers are identified, Mississippi requires such persons to disclose their identity and make certifications, and requires their identification information be entered into AVS. We find that these revisions allow Mississippi to fully meet the Federal requirements of 30 CFR 773.10 and 773.11 regarding review of permit history and review of compliance history, thereby making Mississippi's regulation no less effective than the Federal regulations. Therefore, we approve Mississippi's revisions.

*H. Mississippi Surface Coal Mining Regulations § 3133. Who May Challenge Ownership or Control Listings and Findings; § 3135. How To Challenge an Ownership or Control Listing or Finding; § 3136. Burden of Proof for Ownership or Control Challenges; and § 3137. Written Agency Decision on Challenges to Ownership or Control Listings or Findings*

Mississippi proposed to delete old language in § 3133 regarding the review of ownership or control and violation information and add new language regarding who may challenge an ownership or control listing or finding. We find that the new language is substantively the same as the counterpart Federal regulation at 30 CFR 773.25. Therefore, we approve Mississippi's revisions.

Mississippi proposed to delete old language in § 3135 regarding procedures for challenging ownership or control listings or findings, and replaced it with new language regarding how to challenge an ownership or control listing or finding. It explains that to challenge an ownership or control listing or finding, the person making the challenge must submit a written explanation of the basis for the challenge, along with evidence or explanatory material that a person wishes to provide. We find that this new language is substantively the same as the counterpart Federal regulation at 30 CFR 773.26. Therefore, we approve Mississippi's revisions.

Mississippi proposed to delete old language in § 3136 regarding written agency decisions on challenges to ownership or control listings or findings and replaced it with new language regarding the burden of proof for ownership or control challenges. This applies to anyone who challenges a listing of ownership or control, or a finding of ownership or control made under § 3138(g). It requires anyone who challenges an ownership or control listing or finding to prove by a preponderance of evidence that they either do not or did not own or control the relevant portion of a surface coal mining operation. We find that Mississippi's new language is substantively the same as the counterpart Federal regulation at 30 CFR 773.27. Therefore, we approve Mississippi's revisions.

Mississippi proposed to delete old language in § 3137 regarding standards for challenging ownership or control links and the status of violations, and replaced it with new language regarding written agency decisions on challenges to ownership or control listings or

findings. Mississippi explains that the Permit Board will promptly provide the person making the challenge with a copy of its decision by any means consistent with the rules governing services of summons and complaints under Rule 4 of the Mississippi Rule of Civil Procedures. We find that this new language is substantively the same as the counterpart Federal regulation at 30 CFR 773.28. Therefore, we approve Mississippi's revisions.

*I. Mississippi Surface Coal Mining Regulations § 3138. Post-Permit Issuance Requirements for Regulatory Authorities and Other Actions Based on Ownership, Control, and Violation Information*

Mississippi proposed to add new § 3138 regarding the Department's responsibilities after permit issuance related to ownership, control, and violation information. It also allows the permittee to request a preliminary hearing related to such actions. We find that Mississippi's new section is substantively the same as the counterpart Federal regulation at 30 CFR 774.11. Therefore, we approve Mississippi's new regulation.

*J. Mississippi Surface Coal Mining Regulations § 3139. Post-Permit Issuance Requirements for Permittees*

Mississippi proposed to add new § 3139 regarding the responsibilities of permittees for providing information following a cessation order after a permit has been issued. We find that Mississippi's new section is substantively the same as the counterpart Federal regulation at 30 CFR 774.12. Therefore, we are approving Mississippi's new regulation.

*K. Mississippi Surface Coal Mining Regulations § 5396. Backfilling and Grading: Previously Mined Areas*

Mississippi proposed to add new § 5396 regarding backfilling and grading requirements on previously mined areas with preexisting highwalls. The regulation states that the requirements of § 5391(a)(1) and (2) requiring elimination of highwalls will not apply to remaining operations where the volume of all reasonably available spoil is insufficient to completely backfill the highwall. Instead, the highwall is to be backfilled to the maximum extent practical in accordance with a set of criteria articulated in the regulation. We find that Mississippi's new section is substantively the same as the counterpart Federal regulation at 30 CFR 816.106. Therefore, we approve Mississippi's new regulation.

*L. Mississippi Surface Coal Mining Regulations Chapter 73. Alternative Enforcement*

Mississippi proposed to add a new chapter to its regulations regarding alternative enforcement that provides for criminal penalties and civil actions to compel compliance with provisions of the Act by adding § 7301 Scope, § 7303 General Provisions, § 7305 Criminal Penalties, and § 7307 Civil Actions for Relief. We find that Mississippi's new Chapter 73 Alternative Enforcement is substantively the same as counterpart Federal regulations at 30 CFR Part 847. Therefore, we approve Mississippi's new Chapter 73.

**IV. Summary and Disposition of Comments**

*Public Comments*

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

*Federal Agency Comments*

On August 1, 2012, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendments from various Federal agencies with an actual or potential interest in the Mississippi program (Administrative Record No. MS-0423-01). We did not receive any 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 the EPA for those provisions of the program amendments 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 Mississippi proposed to make in these amendments pertained to air or water quality standards. Therefore, we did not ask EPA to concur on the amendments. However, on August 1, 2012, under 30 CFR 732.17(h)(11)(i), we requested comments on the amendments from the EPA (Administrative Record No. MS-0423-01). The 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 August 1, 2012, we requested comments on Mississippi's amendments (Administrative Record

No. MS-0423-01), but neither the SHPO nor ACHP responded to our request.

**V. OSM's Decision**

Based on the above findings, we approve the amendments Mississippi sent us on July 26, 2012, as revised June 28, 2013.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 924 that codify decisions concerning the Mississippi 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. SMCRA requires consistency of State and Federal standards.

**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 regulation.

*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 sections (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 Mississippi program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Mississippi 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 regulation did not impose an unfunded mandate.

**List of Subjects in 30 CFR Part 924**

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 3, 2013.

**William L. Joseph,**

*Acting 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 continues to read as follows:

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

■ 2. Section 924.15 is amended in the table by adding a new entry in chronological order by “Date of final publication” to read as follows:

**§ 924.15 Approval of Mississippi regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
July 26, 2012 .....	October 29, 2013 .....	MSCMR Sections: 105; 1106; 2305; 2902; 3102; 3112; 3113; 3115(m), (n) and (o); 3127; 3128; 3129; 3130; 3131; 3133; 3135; 3136; 3137; 3138; 3139; 5396; 7301; 7303; 7305; and 7307.

[FR Doc. 2013-25575 Filed 10-28-13; 8:45 am]

BILLING CODE 4310-05-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52****[EPA-R09-OAR-2013-0384; FRL-9901-77-Region 9]****Approval and Promulgation of Implementation Plans; California; South Coast; Contingency Measures for 1997 PM<sub>2.5</sub> Standards****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State implementation plan (SIP) revision submitted by California to address Clean Air Act (CAA) contingency measure requirements for the 1997 annual and 24-hour national ambient air quality standard (NAAQS) for fine particulate matter (PM<sub>2.5</sub>) in the Los Angeles-South Coast Air Basin (South Coast). Approval of this SIP revision terminates the sanctions clocks and a federal implementation plan (FIP) clock that were triggered by EPA's partial disapproval of a related SIP submission on November 5, 2011.

**DATES:** This rule is effective on November 29, 2013.

**ADDRESSES:** You may inspect the supporting information for this action, identified by docket number EPA-R09-OAR-2013-0384, by one of the following methods:

1. Federal eRulemaking portal, <http://www.regulations.gov>, please follow the online instructions; or,
2. Visit our regional office at, U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

**Docket:** The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., voluminous records, large maps, copyrighted material), and some may not be publicly available in either location (e.g., Confidential Business Information). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

**FOR FURTHER INFORMATION CONTACT:** Doris Lo, EPA Region IX, (415) 972-3959, [lo.doris@epa.gov](mailto:lo.doris@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, "we," "us" and "our" refer to EPA.

**Table of Contents**

- I. Summary of Proposed Action
- II. Public Comment and EPA Response
- III. EPA's Final Action
- IV. Statutory and Executive Order Reviews

**I. Summary of Proposed Action**

On June 24, 2013 (78 FR 37741), EPA proposed to approve the "South Coast Air Quality Management District Proposed Contingency Measures for the 2007 PM<sub>2.5</sub> SIP" (dated October 2011), which the California Air Resources Board (CARB) submitted on November 14, 2011 and supplemented on April 24, 2013 (collectively the "Contingency Measures SIP"). EPA proposed to approve the Contingency Measures SIP as satisfying the attainment contingency measure requirement in CAA section 172(c)(9) for the 1997 PM<sub>2.5</sub> NAAQS and to conclude that the reasonable further progress (RFP) contingency measure requirement in CAA section 172(c)(9) for the 2012 milestone year is moot because the South Coast area has achieved the emission reduction benchmarks for the 2012 RFP year. Our June 24, 2013 proposed rule provides the rationale for this action.

**II. Public Comment and EPA Response**

EPA provided a 30-day public comment period on our proposed action. The comment period ended on July 24, 2013. We received one public comment and respond to that comment below.

**Comment:** A private citizen asserted that there has been no attempt to address methane outgassing and the many oil fields in the South Coast area. The commenter also stated that train maintenance, promotion of bicycles and rail, automobile and truck lane reductions, digital signage, outdoor wood burning and landfills are not being adequately addressed, that health risk assessments should be required, that there are cancer clusters in the area, and that "the political handling of [the] air quality problem does not change the quality of life and health of" South Coast area residents.

**Response:** The commenter's submission contained only general observations and conclusions that are outside the scope of EPA's rulemaking action. While expressing a broad range of environmental concerns, the commenter failed to identify any specific issue relevant to EPA's proposed action on the Contingency Measures SIP, and did not address the basis for EPA's approval of the South

Coast's contingency measures. To the extent the commenter intended to encourage additional review and evaluation of air pollution sources in the South Coast area, and additional potential transportation and control measures that may reduce air pollution, EPA encourages the commenter to participate in the regulatory processes carried out by the South Coast Air Quality Management District (SCAQMD), CARB, and other State/local agencies involved in the development of air quality management plans for the South Coast area. EPA finds no basis in the comment to change its views on the approvability of the specific contingency measures at issue in this rulemaking.

**III. EPA's Final Action**

We are finalizing our proposal to conclude that the Contingency Measures SIP submitted by CARB on November 14, 2011, as supplemented on April 24, 2013, satisfies the attainment contingency measure requirement in CAA section 172(c)(9) for the 1997 PM<sub>2.5</sub> NAAQS in the South Coast nonattainment area. We therefore fully approve this submission into the California SIP. This final action is based in part on EPA's final rule approving SCAQMD Rule 444 and Rule 445, which was signed by Jared Blumenfeld, Regional Administrator, Region IX, on August 22, 2013. See "Revisions to Implementation Plan, South Coast Air Quality Management District" Final Rule, signed August 22, 2013 (pre-publication copy).<sup>1</sup>

We are also finalizing our proposal to conclude that the RFP contingency measure requirement in CAA section 172(c)(9) for the 2012 milestone year is moot as applied to the South Coast because the area achieved its SIP-approved emission reduction benchmarks for the 2012 RFP year.

Today's final approval corrects deficiencies that were the basis for EPA's partial disapproval of the South Coast PM<sub>2.5</sub> SIP on November 9, 2011 (76 FR 69928) and therefore terminates the CAA section 179(b) sanctions clocks triggered by that action and the obligation on EPA to promulgate a FIP within two years of that action.

<sup>1</sup> EPA's proposal to approve the Contingency Measures SIP relied in part on a simultaneous proposal to approve Rule 444 and Rule 445, which we stated would provide SIP-creditable PM<sub>2.5</sub> emission reductions upon final EPA approval of these rules into the SIP. See 78 FR at 37745-37746 and 37751, Table 4.