

pay a fee or any expenses, or any part thereof, directly or indirectly, to the representative or someone else; and

(ii) The representative submits to us a form we prescribe waiving the right to charge and collect a fee and any expenses from you and the auxiliary beneficiaries, if any, directly or indirectly, in whole or in part; or

(2) A court authorizes a fee for your representative who, in your case, is your legal guardian or a court-appointed representative.

## **PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED**

### **Subpart O—[Amended]**

4. The authority citation for subpart O of part 416 continues to read as follows:

**Authority:** Secs. 702(a)(5), 1127 and 1631(d) of the Social Security Act (42 U.S.C. 902(a)(5), 1320a-6 and 1383(d)); sec. 303, Pub. L. 108-203, 118 Stat. 493.

5. Amend § 416.1503 by adding a definition for “legal guardian or court-appointed representative” in alphabetical order to read as follows:

#### **§ 416.1503 Definitions.**

\* \* \* \* \*

*Legal guardian or court-appointed representative* means a court-appointed person, committee, or conservator who is lawfully invested with the power and charged with the duty of taking care of and managing the property and rights of an individual who is considered incapable of managing his or her own affairs.

\* \* \* \* \*

6. Amend § 416.1520 by revising paragraph (b) heading and (b)(3) and by adding paragraph (e) to read as follows:

#### **§ 416.1520 Fee for a representative's services.**

\* \* \* \* \*

(b) *Charging and receiving a fee under the fee petition process.* \* \* \*

(3) Subject to paragraph (e) of this section, a representative must not charge or receive any fee unless we have approved it, and a representative must not charge or receive any fee that is more than the amount we approve.

\* \* \* \* \*

(e) *When we need not authorize a fee.* We do not need to authorize a fee when:

(1) A non-profit organization, a Federal, State, county, or city government agency, or a third party that is a business entity independent of your representative pays from its funds the representative fees and expenses and both of the following conditions apply:

(i) You are free of any liability to pay a fee or any expenses, or any part

thereof, directly or indirectly, to the representative or someone else; and

(ii) The representative submits to us a form we prescribe waiving the right to charge and collect a fee and any expenses from you if any, directly or indirectly, in whole or in part; or

(2) A court authorizes a fee for your representative who, in your case, is your legal guardian or a court-appointed representative.

[FR Doc. E8-19674 Filed 8-25-08; 8:45 am]

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## **DEPARTMENT OF THE INTERIOR**

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

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

**[SATS No. MS-018-FOR; Docket No. OSM-2008-0017]**

#### **Mississippi Regulatory Program**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule; reopening and extension of public comment period on proposed amendment.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of revisions to a previously proposed amendment to the Mississippi regulatory program (Mississippi program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Mississippi proposes a revision to its regulations regarding valid existing rights as it pertains to designation of lands as unsuitable for surface coal mining operations. Mississippi intends to revise its program to be consistent with SMCRA.

This document gives the times and locations that the Mississippi program and proposed amendment to that program are available for your inspection and the comment period during which you may submit written comments on the revisions to the amendment.

**DATES:** We will accept written comments on this amendment until 4 p.m., c.t., September 10, 2008.

**ADDRESSES:** You may submit comments by either of the following two methods:

• *Federal eRulemaking Portal:* <http://www.regulations.gov>. The proposed rule is listed under the agency name “OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT” and has been assigned Docket ID: OSM-2008-0017. If you would like to submit comments through

the Federal eRulemaking Portal, go to <http://www.regulations.gov> and do the following. Click on the “Advanced Docket Search” button on the right side of the screen. Type in the Docket ID OSM-2008-0017 and click the submit button at the bottom of the page. The next screen will display the Docket Search Results for the rulemaking. If you click on the OSM-2008-0017, you can view the proposed rule and submit a comment. You can also view supporting material and any comments submitted by others.

• *Mail/Hand Delivery/Courier:* Sherry Wilson, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 135 Gemini Circle, Suite 215, Homewood, Alabama 35209. Please include the Docket ID (OSM-2008-0017) with your comments.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than the two listed above will be included in the docket for this rulemaking and considered.

For additional information on the rulemaking process and the public availability of comments, see “III. Public Comment Procedures” in the **SUPPLEMENTARY INFORMATION** section of this document.

You may receive one free copy of the amendment by contacting OSM’s Birmingham Field Office. See below **FOR FURTHER INFORMATION CONTACT**.

You may review a copy of the amendment during regular business hours at the following locations:

Sherry Wilson, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 135 Gemini Circle, Suite 215, Homewood, Alabama 35209, Telephone: (205) 290-7282, [swilson@osmre.gov](mailto:swilson@osmre.gov).

Michael B. E. Bograd, Director, Mississippi Department of Environmental Quality, 2380 Highway 80 West, P.O. Box 20307, Jackson, Mississippi 39289-1307, Telephone: (601) 961-5500.

**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 Program  
II. Description of the Proposed Amendment  
III. Public Comment Procedures  
IV. 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 approved the Mississippi program on September 4, 1980. You can find background information on the Mississippi program, including the Secretary’s findings and the disposition of comments 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. Description of the Proposed Amendment

By letter dated April 5, 2006 (Administrative Record No. MS-0402), Mississippi sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Mississippi sent the amendment at its own initiative.

We announced receipt of the proposed amendment in the May 24, 2006, **Federal Register** (71 FR 29867) and invited public comment on its adequacy. The public comment period ended June 23, 2006.

During our review of the amendment, we identified concerns relating to Mississippi’s definition for “valid rights” in its statute and associated regulations in sections 105, 1101, and 1105 of the Mississippi Surface Coal Mining Regulations. We notified Mississippi of these concerns by letter dated August 17, 2006 (Administrative Record No. MS-0414). By letter dated May 30, 2008, Mississippi sent us additional explanatory information (Administrative Record No. MS-0416-02). By e-mail dated July 23, 2008, Mississippi also sent us revisions to its amendment (Administrative Record No. MS-0416-03). Below are the revisions Mississippi proposes.

### A. Mississippi Surface Coal Mining Regulations (MSCMR) 105. Definitions

Mississippi proposes to add a definition for “valid rights” to read as follows:

*Valid Rights*—as used in § 53–9–71(4) of the Act means Valid Existing Rights.

### B. MSCMR 1101. Authority

Mississippi proposes to revise this section to read as follows:

The Commission is authorized by § 53–9–71(4) of the Act to prohibit or limit surface coal mining operations on or near certain private, federal and other public lands, subject to valid rights.

### C. MSCMR 1105. Areas Where Mining is Prohibited or Limited

Mississippi proposes to revise the introductory paragraph of this section to read as follows:

Subject to valid existing rights as defined in § 105, no surface coal mining operations shall be conducted on the following lands unless you have valid existing rights as determined under § 1106 or qualify for the exception for existing operations under paragraph (h) of this section:

## III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

### Written Comments

Send your comments to us by one of the two methods specified above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than the two listed above (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

### Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

## IV. Procedural Determinations

### Executive Order 12630—Takings

In this rule, the State is adopting valid existing rights standards that are similar to the standards in the Federal definition at 30 CFR 761.5. Therefore, this rule has the same takings implications as the Federal valid existing rights rule. The takings implications assessment for the Federal valid existing rights rule appears in part XXIX.E. of the preamble to that rule. See

64 FR 70766, 70822–27, December 17, 1999.

### Executive Order 12866—Regulatory Planning and Review

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

### Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

### Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to “establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.” Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be “in accordance with” the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations “consistent with” regulations issued by the Secretary pursuant to SMCRA.

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

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and

Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. This determination is based on the fact that the 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 30, 2008.

**Sherry Wilson,**

*Acting Regional Director, Mid-Continent Region.*

[FR Doc. E8-19713 Filed 8-25-08; 8:45 am]

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**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 926**

**[SATS No. MT-028-FOR; Docket ID OSM-2008-0018]**

**Montana Regulatory Program**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

**SUMMARY:** We are announcing receipt of a proposed amendment to the Montana regulatory program (hereinafter, the “Montana program”) under the Surface Mining Control and Reclamation Act of 1977 (“SMCRA” or “the Act”). Montana proposes to clarify ambiguities.

This document gives the times and locations that the Montana program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

**DATES:** We will accept written comments on this amendment until 4 p.m., m.d.t. September 25, 2008. If requested, we will hold a public hearing on the amendment on September 22, 2008. We will accept requests to speak until 4 p.m., m.d.t. on September 10, 2008.

**ADDRESSES:** You may submit comments by either of the following methods:

- **Federal eRulemaking Portal:** [www.regulations.gov](http://www.regulations.gov). This proposed rule has been assigned Docket ID: OSM-2008-0018. If you would like to submit comments through the Federal eRulemaking Portal, go to [www.regulations.gov](http://www.regulations.gov) and do the following. Click on the “Advanced Docket Search” button on the right side of the screen. Type in the Docket ID “OSM-2008-0018” and click the “Submit” button at the bottom of the page. The next screen will display the Docket Search Results for the rulemaking. If you click on OSM-2008-0018, you can view the proposed rule and submit a comment. You can also view supporting material and any comments submitted by others.

- **E-mail:** [JFleischman@osmre.gov](mailto:JFleischman@osmre.gov).

Include the docket number in the subject line of the message.

- **Mail/Hand Delivery/Courier:** Jeffrey Fleischman, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 150 East B Street, Rm 1018, Casper, Wyoming 82601-1018.

- **Fax:** 307/261-6552.

**Instructions:** All submissions received must include the agency name and OSM Docket ID OSM-2008-0018.

For detailed instructions on submitting comments and additional information on the rulemaking process, see the “III. Public Comment Procedures” in the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** In addition to viewing the docket and obtaining copies of documents at [www.regulations.gov](http://www.regulations.gov), you may review copies of the Montana