

correction is under section 509 of the Internal Revenue Code.

### Need for Correction

As published, the final and temporary regulations (TD 9605) contain errors that may prove to be misleading and are in need of clarification.

### Correction of Publication

Accordingly, the final and temporary regulations (TD 9605), that are the subject of FR Doc. 2012–31050, are corrected as follows:

1. On page 76388, column 1, in the preamble, under the paragraph heading “b. Being the Parent of Each Supported Organization”, line 11, the language “supporting organization if the” is corrected to read “supported organization if the”.

2. On page 76388, column 2, in the preamble, under the same paragraph heading, line 9 of the column, the language “or trustees of the supporting” is corrected to read “or trustees of the supported”.

**LaNita VanDyke,**

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

[FR Doc. 2013–03089 Filed 2–11–13; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 942

[SATS NO. TN–001–FOR; OSM 2011–0010]

### Tennessee Abandoned Mine Land Program

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We are approving an amendment to the Tennessee Abandoned Mine Land (AML) Reclamation Plan (AML Plan). A 2006 amendment to the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), authorized reinstitution of the Tennessee AML program as a minimum funded program state following the suspension of the AML Plan and program after Tennessee’s regulatory program was withdrawn in 1984. Pursuant to the authority granted under the Tennessee Code Annotated (TCA), Section 59–8–324(m), Tennessee’s Department of

Environment and Conservation (TDEC), has revised the AML Plan to reflect statutory, regulatory, policy, procedural, and organizational changes that have occurred since 1984.

**DATES:** *Effective Date:* February 12, 2013.

**FOR FURTHER INFORMATION CONTACT:** Mr. Earl Bandy Jr., Field Office Director, Knoxville Field Office, Telephone: (865) 594–4103, E-Mail: ebandy@osmre.gov.

#### SUPPLEMENTARY INFORMATION:

- I. Background on the Tennessee Program
- II. Description and Submission of the Amendment
- III. OSM’s Findings
- IV. Summary and Disposition of the Comments
- V. OSM’s Decision
- VI. Procedural Determinations

#### I. Background on the Tennessee Program

*Regulatory Program (Title V):* 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 Tennessee program on August 10, 1982. See 47 FR 34753.

*Withdrawal of Tennessee’s Regulatory Program:* As a result of Tennessee’s failure to effectively implement, administer, maintain or enforce its program, on April 8, 1983, the Director of OSM notified the Governor of Tennessee of the problems and sought corrective measures pursuant to 30 CFR part 733. OSM concluded that the State failed to adequately indicate its intent and capability to implement, maintain, and enforce its regulatory program and, on April 18, 1984, OSM substituted direct Federal enforcement of the inspection and enforcement portions of the TN regulatory program pursuant to 30 CFR 733.12. See 49 FR 15496.

On May 16, 1984, the State repealed most of the Tennessee Coal Surface Mining Law of 1980, effective October 1, 1984, and OSM withdrew approval of the Tennessee performance regulatory program in full, effective October 1, 1984. See 49 FR 38874.

*Abandoned Mine Lands Program (Title IV):* Title IV of the Surface Mining

Act establishes an AML program for the purposes of reclaiming and restoring land and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under state or Federal law. Title IV provides that a state with an approved surface mining regulatory program may have an AML program approved which gives it the responsibility and primary authority to implement the plan. On August 10, 1982, Tennessee’s reclamation plan was approved. See 47 FR 34757.

*Suspension of Tennessee’s AML Program:* The withdrawal of Tennessee’s regulatory program also affected Tennessee’s AML program. Section 405 (c) of the Act provides that the Secretary shall not approve, fund, or continue to fund a state AML program unless that state has an approved state regulatory program pursuant to Section 503 of the Act. Regulations implementing this provision were formerly found at 30 CFR 884.11, State Eligibility.

The requirements of 30 CFR 884.16, Suspension of Plan, provide that upon withdrawal of regulatory program approval, the Director may suspend the AML Plan. On October 5, 1984, OSM assumed responsibility and authority for carrying out the provisions of Title IV within the state of Tennessee. See 49 FR 15505.

Since that time, Tennessee no longer receives an annual distribution of Federal funds for the purposes of carrying out an AML program (including administrative costs). Emergency and non-emergency projects in Tennessee were addressed by OSM, with OSM utilizing Federal contracts or cooperative agreements between OSM and Tennessee to procure construction services.

*Tennessee as a Minimum Program State:* As a result of the AML Reauthorization Bill of 2006 (2006 SMCRA Amendment), Congress authorized Tennessee to have an AML program and considered it a minimum funded program state, without a permanent regulatory program. The Bill provided that beginning in fiscal year 2008, Tennessee would be able to expend funds for reclamation of inventoried projects in accordance with the priorities of Section 403(a)(1) and (2). Since Tennessee is now authorized as a “minimum program state,” it is also

eligible to receive funding to assume primary responsibility for administering the emergency program within the state.

*Updated Federal regulations:* As stated above, at the time of Tennessee's regulatory program withdrawal, the Federal regulations at 30 CFR 884.16 precluded a regulatory authority from receiving Federal funding for an AML program if its regulatory program was withdrawn. However, the 2006 SMCRA Amendment granted exceptions from that rule. The Federal regulations at 30 CFR 884.11 were amended on November 14, 2008, to accommodate this change. In addition, the revised regulations at 30 CFR 886.23 now provide the states of Tennessee and Missouri are exempt from the requirement for an approved state regulatory program by Section 402(g)(8)(B) of SMCRA and are eligible to have an AML reclamation plan and funding. See 73 FR 67642.

## II. Description and Submission of the Proposed Amendment

By letter dated April 6, 2011, (Administrative Record Number TN-1671), Tennessee requested OSM approve the Tennessee Reclamation Plan amendment. Currently, 30 CFR 942.20, Approval of Tennessee reclamation plan for lands and waters affected by past coal mining, refers to the Tennessee Reclamation Plan as submitted on March 24, 1982, as being the currently approved plan of record. This amendment seeks to address Federal and State changes that occurred since 1984, when the State's regulatory program was withdrawn.

This amendment request formalizes discussions that took place between OSM and the State since the 2006 SMCRA Amendment. In a letter dated August 6, 2007 (Administrative Record No. TN-1670), OSM noted that an AML plan revision was necessary to update the reclamation plan of record to include any Federal and State changes that had occurred since 1984 as further described below:

*Federal Statutory Changes:* Since Tennessee forfeited primacy in 1984 there have been three statutory changes and one Presidential order, with impact on the effectiveness of the current AML plan of record. These include (1) The Abandoned Mine Reclamation Act of 1990: This bill revised the AML program to address interim program sites, insolvent sureties, acid mine drainage (AMD) and mined land set-aside funds, fund objectives and priorities, and other issues; (2) the Energy Policy Act of 1992: This bill revised the AML program in areas of coal re-mining, abandoned coal refuse

sites, as well as cooperative agreements for coal formation fire control projects; and (3) the AML Reauthorization Bill of 2006: This bill extended the AML fee collection authority from 2007 to 2021, and revised the AML program in the areas of appropriation of funds, allocation formulas, fund objectives and priorities, AMD set aside accounts, water supply projects, State share payments, re-mining incentives, and minimum program funding to include the State of Tennessee.

*Federal Regulatory Changes:* Changes made to the Federal regulatory provisions as a result of the aforementioned statutory changes, affecting Tennessee's current Reclamation Plan of record, are as follows: 30 CFR part 872, Moneys Available to Eligible States and Indian tribes; Part 874, General Reclamation Requirements; Part 876, Acid Mine Drainage Treatment and Abatement Program; Part 879, Management and Disposition of Lands and Water; Part 882, Reclamation on Private Land; Part 884, State Reclamation Plans; and Part 886, Reclamation Grants for Uncertified States and Indian Tribes. These regulation changes involved changes to the definitions of eligible lands and water, interim program eligibility requirements, reclamation objectives and priority designations, reclamation contractor responsibilities, state reclamation grant reporting, grant requirements, water supply projects, AMD set-aside accounts, and government-financed construction projects. See 73 FR at 67638.

*Presidential Order—Grants management:* Other Federal changes affecting Tennessee's current Reclamation Plan of record include changes to grant laws, policies, and procedures that have occurred since 1984. Currently, Federal grant funds (including AML grant funds) are governed by the guidelines issued by the President's Office of Management and Budget (OMB). On March 12, 1987, the President directed all affected agencies to issue a common grants management rule to adopt Government-wide terms and conditions for financial assistance to state and local governments (referred to as the Grants Management Common Rule). OMB Circular A-102 was revised in 1988, to provide additional guidance to Federal agencies. The Department of the Interior issued its common rule on March 11, 1988, at 43 CFR part 12.

The Grants Management Common Rule allows States to use their own procedures to manage their financial management, equipment, and procurement systems. OMB Circular A-

102 was revised on October 14, 1994, to include updated direction on: (1) Implementation of the metric system; (2) review of infrastructure investment; (3) implementation of the Resource Conservation and Recovery Act; and (4) public announcement of the amount of Federal funds used in certain contract awards. As a result of the Presidential Order, the grants management guidelines were codified at 43 CFR part 12 and extensive revisions were made to OSM's Federal Assistance Manual (FAM). In addition to the changes resulting from the Common Rule, OSM simplified the AML grant process in 1993, and these changes were also incorporated into the FAM.

*State Statutes and Regulations:* The current Tennessee AML Reclamation Plan references Tennessee statute (Tennessee Coal Surface Mining Law of 1980) and regulations (Chapter 0400-1-24 of the Rules of the Tennessee Department of Conservation, Division of Surface Mining). TCA Section 59-8-324(m) is approved as it complies with 30 CFR part 884.

*State Policies, Procedures, and Administration and Organization:* Federal regulations at 30 CFR 884.13 outline the content of the AML reclamation plans. This includes State agency designations and legal opinions; description of the policies and procedures to be followed by the designated agency in conducting the reclamation program; and a description of the administrative and management structure to be used in conducting the reclamation program. These designations, opinions, policies, procedures (including coordination procedures), and organizational entities are current and will continue to be updated as necessary.

## Review of the Proposed Amendment

OSM announced receipt of the proposed amendment in the Monday, February 6, 2012, **Federal Register**, 77 FR 5740. In the same document, the public comment period was opened and an opportunity for public hearing or meeting was given. OSM did not hold a public hearing or meeting because none was requested.

## III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 884.14 and 884.15. We are approving the amendment. Any revisions that we do not specifically discuss below concern non-substantive wording or editorial changes.

*Content of the Revised Tennessee Reclamation Plan:* Tennessee has

submitted an updated reclamation plan in an effort to address the concerns noted above. This updated plan, when approved, will entirely supersede the 1982 Tennessee AML Plan. The revised plan includes the following sections: Governor's Letter of Designation; Legal Opinions; Portions of the Tennessee Code Annotated; Purpose of the State Reclamation Program; Ranking and Selection; Coordination with Other Programs; Land Acquisition, Management and Disposal; Reclamation on Private Land; Rights of Entry; Public Participation Policies; Organization; Staffing Policies; Purchasing and Procurement; Accounting System; Location of Known or Suspected Eligible Land and Water; Description of Problems Occurring on Lands and Waters; Reclamation Proposals; Economic Base; Aesthetic, Historical or Cultural, and Recreation Values; and Endangered and Threatened Plant, Fish, Wildlife and Habitat. The revised plan replaces the old plan and is revised in parts; re-designated in parts; removed in parts and added in parts. Due to the extensive overhaul of the plan, a section by section description of changes was not included. However, we reviewed all substantive changes, each of which is set forth in this section.

Below are the substantive changes made on behalf of Tennessee to address a revised letter of designation that was received by the Governor specifically designating the TDEC as the agency authorized to receive, administer and disburse federal grants pursuant to Title IV of SMCRA. Furthermore, citation to the Tennessee Code Annotated, at Section 59-8-324, codifying TDEC's authority to conduct a reclamation program was added.

The "Purpose of the State Reclamation Program" was altered to directly reflect 30 CFR 884.13(c)(1) verbiage. Specific problem sources identified by OSM in the former draft were replaced with all-inclusive language as detailed in 30 CFR part 884; specifically, "reclaiming those areas adversely impacting" and "areas contributing to environmental degradation consistent with Section 401 through 415 of SMCRA" was added. The "Ranking and Selection" section was modified by adding the new title and eliminating superfluous verbiage. However, on page 10 of the revised Plan, the citation to "30 CFR 403(a)(1)(ii)" is incorrect. The correct citation is "30 CFR 874.13(a)(1)(ii)." Therefore, we recommend that Tennessee make this change. Submission of the citation change to OSM for approval is not necessary.

To maintain consistency with 30 CFR 884.13, reference to mandatory written approval by OSM prior to commencement of AML project construction was added.

At the recommendation of OSM, Tennessee revised its proposed amendment to read, "Land Acquisition, Management and Disposal." Additionally, changes were made to this section to ensure it complies with 30 CFR part 879, Acquisition, Management, and Disposition of Lands and Water. This section is also in conformity with the Tennessee Code Annotated Section 59-8-324, granting authority for Tennessee's acquisition, management and disposal of land disturbed by past mining. Standards for professional Tennessee approved appraisers have been implemented when assessing the fair market value of land.

Donations of land may be accepted if terms and conditions, as approved by TDEC, are not inconsistent with the Tennessee program and the deed states the transfer is a gift pursuant to SMCRA. Condemnation proceedings may ensue, but this is rare and contrary to Tennessee policy preferences. All reference to Federal approval of condemnations is removed. However, on page 20 of the revised Plan, first paragraph, after "Section 324", a citation to "30 CFR 879.11 and 879.12" should be added. Therefore, we recommend that Tennessee make these changes. Submission of the changes to OSM for approval is not necessary.

The former section, "Rights of Entry," was altered to add a procedure for entry when written consents could not be obtained. Moreover, this section was moved and a new section "Reclamation on Private Land," was inserted detailing some of the former components of the previous "Rights of Entry Section." The new section was altered to mandate that appraisals, including calculations relevant to fair market value, be performed prior to the commencement of reclamation. Additionally, factors allowing the State to waive liens must be established prior to the commencement of reclamation.

"Public Participation Policies" removed references to the 1982 AML Plan and now mirror OSM's public participation process mandates; specifically, public notices will be placed in local newspapers, and public participation policies are provided during the construction of the annual work plan. OSM approves this provision upon the understanding that the preparation of a finding of no significant impact, as specifically referenced in the AML Plan, is not the exclusive environmental document that may be

prepared upon review of a potential project. In the alternative an environmental impact statement or a categorical exclusion would be prepared if necessary.

The plan was revised to indicate that the Division of Water Pollution Control, Land Reclamation Section is now responsible for ensuring AML reclamation, managing major functions, collecting data entered into the AML inventory system pursuant to OSM directives, developing policies and procedures, and requesting legal assistance from General Counsel who determines eligibility. A revised organizational chart was also included. With regard to AML problem eligibility, Tennessee has added that AML problems include landslide hazards, highwalls, flooding, erosion, sedimentation, acid drainage, coal seam/refuse fires, subsidence, water loss, dangerous impoundments, abandoned structures/equipment, open mine portals, and open mine shafts and refuse areas. Tennessee further revised priority designations.

References to OMB Circular A-102 were removed and a statement was added that purchasing and procurement systems used for all contracts conform to the requirements of the Grants Management Common Rule. In addition, statements are also included regarding the procurement approval process, competition, small business utilization, advertising, bidder eligibility, and independent audits.

No further revisions, with the exception of minor wording, editorial, punctuation or grammatical changes, were made after the **Federal Register** notice. Because the substantive changes to the AML Plan meet the requirements of the Federal regulations at 30 CFR 884.13, 884.14, and 884.15, OSM hereby approves this amendment.

#### IV. Summary and Disposition of Comments

##### *Public Comments*

OSM asked for public comments on the amendment [Administrative Record Number TN-1671], but did not receive any.

##### *State Agency Comments*

To fully comply with 30 CFR 884.14, OSM requested comments on the amendment from various State agencies with an actual or potential interest in the Tennessee program [Administrative Record Number TN-1671]. Comments were received from the Tennessee Historic Commission (THC) on May 15, 2012 [Administrative Record Number TN-1675]. Specifically, THC requested

that the AML Plan be altered to read, “[t]he Executive Director of the Tennessee Historical Commission serves as the State Historic Preservation Officer.” Therefore, we recommend that Tennessee remove the term “Commissioner,” and replace it with “Executive Director.” Submission of the terminology change to OSM prior to approval is not necessary. THC also requests that Tennessee submit project requests to THC for review prior to submission to OSM. Additionally, THC requests Tennessee submit all proposed remediation or reclamation projects to THC prior to submissions to OSM. Following consultation with Tennessee, OSM has confirmed that this occurs as a matter of course; therefore, no revision to the proposed amendment is required.

#### *Federal Agency Comments*

Under 30 CFR 884.14 and section 414 of SMCRA, OSM requested comments on the amendment from various Federal agencies with an actual or potential interest in the Tennessee program [Administrative Record Number TN–1671]. On June 1, 2012, a comment was received from the United States Fish and Wildlife Service (USFWS). [Administrative Record Number TN–1676]. The USFWS expressed concern regarding reclamation projects receiving less than 50% government funding. The USFWS interpreted the AML Plan to exclude the USFWS from assessment of environmental impacts in situations where coal extraction occurs. However, this interpretation is incorrect. Requisite in an analysis of any AML construction is the responsibility of OSM to comply with the National Environmental Policy Act (NEPA) 42 U.S.C. 4321 *et seq.* As detailed in the AML Plan, TDEC must ensure each reclamation project is “conducted in accordance with the provisions of 30 CFR Subchapter R.” This section provides that any expenditure requiring compliance with the NEPA may not be used by the State until all actions necessary to ensure compliance with NEPA are taken. 30 CFR 886.16(d). As detailed in the FAM, used to assess NEPA applicability, compliance with NEPA includes consultation with agencies having jurisdiction over potentially affected resources. The USFWS is identified as one of the agencies with which consultation is necessary. Additionally, any coal extracted beyond the limits of the incidental coal is subject to the requirements of Title V of SMCRA permitting procedures under which the USFWS is consulted. Additionally, the AML Plan directly states, “[t]he Tennessee AML program follows an approved consultation process

involving a number of Federal and State agencies having either direct or indirect interests in proposed reclamation projects. Consistent with the [FAM] requirements to assure compliance with the [NEPA], TDEC consults with Federal and State agencies to prepare environmental documents on all proposed reclamation projects.” Thus, the concerns of the USFWS are adequately addressed.

#### **V. OSM’s Decision**

Based on the above findings, we approve the Tennessee amendment received on April 6, 2011. To implement this decision, OSM is amending the Federal regulations at 30 CFR part 942, which codify decisions concerning the Tennessee program. We are approving this amendment because it complies with the requirements of 30 CFR 884.13, 884.14 and 884.15, providing for content of State reclamation plans, State reclamation plan approval, and State reclamation plan amendments. OSM finds good cause exists pursuant to 5 U.S.C. 533(d) (the Administrative Procedure Act) to make this final rule effective immediately. SMCRA requires that the State’s program demonstrate the state has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately by reinstating the AML Plan will expedite this process. The Federal statute and regulatory changes referenced herein fully support the implementation of this regulation. Moreover, SMCRA requires consistency of State and Federal standards and this objective is achieved.

#### **VI. Procedural Determinations**

##### *Executive Order 12630—Takings*

This rule does not have Federal takings implications. The State of Tennessee expresses a policy preference of performing reclamation on abandoned mine lands through securing voluntary rights of entry, or in situations where owner approval to enter property is not given, to utilize friendly police power. As detailed in the amendment, when necessary, land or interests in land may be acquired by condemnation; however, this is rare and no condemnation proceeding shall be commenced until all reasonable efforts have been made to purchase the land or interests in land from a willing seller.

##### *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 Interior has conducted the reviews required by Section 3 of Executive Order 12988 and has determined that, to the extent allowable by law, this rule meets the applicable standards of Subsections (a) and (b). However, these standards are not applicable to the actual language of State AML plans and plan amendments because each plan 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 884.15, decisions on proposed State AML plans and plan 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 part 884 have been met. This amendment addresses the State reclamation plan re-institution, as detailed herein.

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

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments regarding 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. As discussed herein, revisions made pursuant to the 2006 SMCRA Amendment now allow funding for State Reclamation Plans, absent a regulatory program in the State. However, as outlined in CFR part 884 the requirements of SMCRA must be met.

##### *Executive Order 13175—Consultation and Coordination With Indian Tribal Government*

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. The basis for this determination is that our decision is relative to the implementation of a State Reclamation Plan and does not involve a Federal program involving Indian lands.

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

On May 18, 2001, the President issued Executive Order 13211 requiring agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866 (Regulatory Planning and Review), and (2) likely to have 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 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 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 effect 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 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 significant economic impact, the Department relied upon data and assumptions for the 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, geographic regions, or Federal, State, or local government agencies; 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 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 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 942**

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 2, 2012.

**Michael K. Robinson,**

*Acting Regional Director, Appalachian Region.*

**Editorial Note:** This document was received at the Office of the Federal Register on February 6, 2013.

For the reasons set out in the preamble, 30 CFR part 942 is amended as set forth below:

**PART 942—TENNESSEE**

■ 1. The authority citation for part 942 continues to read as follows:

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

■ 2. Section 942.25 is added to read as follows:

**§ 942.25 Approval of Tennessee abandoned mine land reclamation plan amendments.**

The following is a list of the dates amendments were submitted to OSM, 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 publication of final rule	Citation/Description of approved provisions
April 6, 2011 .....	February 12, 2013 .....	Revised AML Plan. TCA Section 59–8–324(m).

[FR Doc. 2013–03053 Filed 2–11–13; 8:45 am]

BILLING CODE 4310–05–P

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 944**

[SATS No. UT–047–FOR; Docket ID No. OSM–2010–0012]

**Utah Regulatory Program**

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We are approving an amendment to the Utah regulatory program (the “Utah program”) under the Surface Mining Control and Reclamation Act of 1977 (“SMCRA” or “the Act”). Utah proposed revisions to and additions of rules pertaining to Valid Existing Rights (VER). Utah revised its program to be consistent with the corresponding Federal regulations.