significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). As previously stated, the change of address will not have an adverse economic impact. Further, the rule produces no adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete with foreign-based enterprises in domestic or export markets.

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 or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions

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 for the reasons stated above.

Unfunded Mandates

This rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, Tribal, or local governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1534) is not required.

Executive Order 12630—Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required.

Executive Order 12612—Federalism

In accordance with Executive Order 12612, the rule does not have significant Federalism implications to warrant the preparation of a Federalism Assessment for the reasons discussed above.

Executive Order 12988—Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This rule does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act to the Office of Management and Budget is not required.

National Environmental Policy Act

OSM has reviewed this rule and determined that it is categorically excluded from the National Environmental Policy Act process in accordance with the Departmental Manual 516 DM 2, Appendix 1.10. (Categorical Exclusion for policies, directives, regulations and guidelines of an administrative, financial, legal, technical or procedural nature).

List of Subjects

30 CFR Part 724

Administrative practice and procedure, Penalties, Surface mining, underground mining.

30 CFR Part 846

Administrative practice and procedure, Penalties, Surface mining, Underground mining.

Dated: January 23, 2002.

J. Steven Griles,

Acting Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, 30 CFR parts 724 and 846 are amended as set forth below:

PART 724—INDIVIDUAL CIVIL PENALTIES

1. The authority citation for part 724 continues to read as follows:

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

§ 724.17 [Amended]

2. In § 724.17(b)(l), remove ''4015 Wilson Boulevard'' and add ''801 North Quincy Street.''

PART 846—INDIVIDUAL CIVIL PENALTIES

3. The authority citation for part 846 continues to read as follows:

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

§ 846.17 [Amended]

4. In § 846.17(b)(1), remove ''4015 Wilson Boulevard'' and add ''801 North Quincy Street.''

[FR Doc. 02–2746 Filed 2–4–02; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

[AL–071–FOR]

Alabama 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 Alabama regulatory program (Alabama program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Alabama proposed revisions to and additions of rules concerning valid existing rights. Alabama revised its program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: February 5, 2002.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Director, Birmingham Field Office, Office of Surface Mining, 135 Gemini Circle, Suite 215, Homewood, Alabama 35209. Telephone: (205) 290–7282. Internet: *aabbs@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Alabama 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 Alabama Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act . . .; and rules and regulations consistent with regulations issued by the Secretary pursuant to the 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 Alabama program on May 20, 1982. You can find background information on the Alabama program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the May 20, 1982, **Federal Register** (47 FR 22062). You can find later actions on the

Alabama program at 30 CFR 901.15 and 901.16.

II. Submission of the Amendment

By letter dated August 28, 2001 (Administrative Record No. AL–0647), Alabama sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Alabama sent the amendment in response to our letter dated August 23, 2000 (Administrative Record No. AL–0644), that we sent to Alabama under 30 CFR 732.17(c).

We announced receipt of the proposed amendment in the October 18, 2001, **Federal Register** (66 FR 52879). 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. The public comment period closed on November 19, 2001. Because no one requested a public hearing or meeting, we did not hold one. We did not receive any comments.

During our review of the amendment, we identified concerns about a number of editorial inconsistencies, cross-reference errors, and wording ambiguities. We notified Alabama of these concerns by letter dated December 4, 2001 (Administrative Record No. AL–0652). However, because none of these concerns were substantive in nature, we are proceeding with this final rule.

III. OSM's Findings

Following, under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are our findings concerning the amendment to the Alabama program.

Any revisions that we do not discuss below concern minor wording changes or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

A. Revisions to Alabama's Rules That Have the Same Meaning as the Corresponding Provisions of the Federal Regulations

The State rules listed in the table below contain language that is the same as or similar to the corresponding sections of the Federal regulations. Differences between the State rules and the Federal regulations are minor.

Topic	State rule	Federal counterpart regulation
Definition of significant recreational, timber, economic, or other values incompatible with surface coal mining operations.	880–X–2A–.06	30 CFR 761.5
Definition of valid existing rights	880–X–2A–.06	30 CFR 761.5
Areas where surface coal mining operations are prohibited or limited.	880–X–7B–.06(a) through (g)	30 CFR 761.11(a) through (g)
Exception for existing operations	880–X–7B–.07	30 CFR 761.12
Procedures for relocating or closing a public road or waiving the prohibition on surface coal mining operations within the buffer zone of a public road.	880–X–7B–.09	30 CFR 761.14
Procedures for waiving the prohibition of surface coal mining operations within the buffer zone of an occupied dwelling.	880–X–7B–.10	30 CFR 761.15
Submission and processing of requests for valid existing rights	880–X–7B–.11	30 CFR 761.16
Regulatory authority obligations at time of permit application review.	880–X–7B–.12	30 CFR 761.17
General requirements for coal exploration on lands designated unsuitable for surface mining operations.	880–X–8C–.05(1)(g)	30 CFR 772.12(b)(14)
Approval or Disapproval of exploration applications	880–X–8C–.06(2)(e)	30 CFR 772.12(d)(2)(iv)
Relationship to areas designated unsuitable for mining	880–X–8D–.08(3)	30 CFR 778.16(c)
Protection of public parks and historic places	880–X–8F–.14(1)(2)	30 CFR 780.31(a)(2)

Because the above State rules have the same meaning as the corresponding Federal regulations, we find that they are no less effective than the Federal regulations.

B. Revisions to Alabama's Rules That Are Not the Same as the Corresponding Provisions of the Federal Regulations

Alabama proposes to add a new Rule 880–X–7B–.08 to describe the procedures applicants for surface coal mining permits and the regulatory authority must follow when an applicant intends to claim the exception provided in Rule 880–X–7B–.06(b) to conduct surface coal mining operations on Federal lands within a national forest. Specifically, paragraph (a) provides that an applicant must request the Alabama Surface Mining Commission (ASMC) to obtain the Secretarial findings required by Rule 880–X–7B–.06. Paragraph (b) allows an applicant to submit this request to the ASMC before preparing and submitting an application for a permit or permit revision, and describes what the request must contain. Finally, paragraph (c) provides that when a proposed surface coal mining operation or proposed permit revision includes Federal lands within a national forest, the regulatory authority may not issue a permit or approve a permit revision until after the Secretary of the Interior makes the findings required in Rule 880–X–7B–.6(b).

We find that the provisions of this section are substantively identical to those in the counterpart Federal regulation at 30 CFR 761.13, with one exception. The Federal regulation at 30 CFR 761.13 requires applicants to submit their requests for the Secretarial findings required by 30 CFR 761.11(b) directly to OSM. Under Alabama's rule, applicants must submit their request to the ASMC. We interpret Alabama's provision to mean that the ASMC will forward such requests to OSM so that the necessary Secretarial findings can be obtained. Thus, Alabama's provision merely adds an additional responsibility for the regulatory authority. It does not affect the essential provisions of the rule. Therefore, we find that 880–X–7B–.08 is no less effective than the Federal regulation at 30 CFR 761.13, and we are approving it.

IV. Summary and Disposition of Comments

Public Comments

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

Federal Agency Comments

On September 18, 2001, under section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the Federal regulations, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Alabama program (Administrative Record No. AL–0648). The Fish and Wildlife Service (FWS) responded on October 15, 2001

(Administrative Record No. AL–0650), and stated that it had no objection to the proposed revisions and additions. The Mine Safety and Health Administration (MSHA) also responded on October 18, 2001 (Administrative Record No. AL–0651), and stated that it did not have any comments.

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence of the EPA for those provisions of the program amendment 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 Alabama proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask the EPA for its concurrence.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record No. AL–0648). 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 September 18, 2001, we requested comments on Alabama's amendment (Administrative Record No. AL–0648), but neither responded to our request.

V. Director's Decision

Based on the above findings, we approve the amendment Alabama sent to us on August 28, 2001.

To implement this decision, we are amending the Federal regulations at 30 CFR part 901, which codify decisions concerning the Alabama 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 a State's program demonstrates 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

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 taking 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 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 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 901

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 22, 2002.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR Part 901 is amended as set forth below:

PART 901—ALABAMA

1. The authority citation for Part 901 continues to read as follows:

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

2. Section 901.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 901.15 Approval of Alabama regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* *	* *	* * *
August 28, 2001	February 5, 2002	ASMC Rules 880–X–2A–.06; 7B-.06(a) through (g), .07 through .12; 8C–.05(1)(g), .06(2)(e); 8D–.08(3); and 8F–.14(1)(2).

[FR Doc. 02–2747 Filed 2–4–02; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–220–FOR]

Kentucky 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 a proposed amendment to the Kentucky regulatory program (the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Kentucky proposed to revise its program at 405 KAR 7:097 pertaining to reclamation in lieu of cash payment of civil penalties. Kentucky intended to revise its program as required by Federal regulations.

EFFECTIVE DATE: February 5, 2002.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, 2675 Regency Road, Lexington, Kentucky 40503. Telephone: (859) 260–8402.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program
II. Submission of the Proposed Amendment
III. OSM's Findings
IV. Summary and Disposition of Comments
V. OSM's Decision
VI. Procedural Determinations

I. Background on the Kentucky Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act* * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the 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 Kentucky program on May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of the approval in the May 18, 1982, **Federal Register** (47 FR 21404). You can also find later actions concerning Kentucky's program and program amendments at 30 CFR 917.12, 917.13, 917.15, 917.16 and 917.17.

II. Submission of the Amendment

By letter dated December 22, 1998 (Administrative Record No. KY–1449), the Kentucky Department of Surface Mining Reclamation Enforcement (Kentucky) sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Kentucky sent the amendment in response to a required program amendment at 30 CFR 732.17(b) and to include the changes made at its own initiative. The amendment, at 405 KAR 7:097, authorizes the Natural Resources and Environmental Protection Cabinet (Cabinet) to allow a permittee, person, or operator (hereinafter collectively called the in-kind permittee) to perform in-kind reclamation, environmental rehabilitation, or similar action to correct environmental pollution—instead of making cash payment of a civil penalty assessed under KRS 350.990(11).

We announced receipt of the proposed amendment in the January 25, 1999, **Federal Register** (64 FR 3670). The public comment period ended on February 24, 1999. Kentucky made changes to the original submission. On April 9, 1999, a Statement of Consideration and amended regulations were filed with the Kentucky Legislative Research Committee (Administrative Record No. KY–1458). By letter dated June 10, 1999 (Administrative Record No. KY–1461), Kentucky submitted the final version of the proposed amendment to OSM. A new comment period was opened in the July 16, 1999, **Federal Register** (64 FR 38391) and closed on August 2, 1999. In both **Federal Register** notices, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy. We did not hold a public hearing or meeting because no one requested one. We received comments from an environmental group and a mining company.

During our review of this amendment, we identified several issues requiring