

** * * Effective August 17, 1995*

Winamac, IN, Arens Field, NDB or GPS RWY 9, Amdt 1
 Winamac, IN, Arens Field, VOR/DME or GPS-A, Amdt 5
 Baton Rouge, LA, Baton Rouge Metropolitan/Ryan Field, GPS RWY 31, Orig
 Ruston, LA, Ruston Muni, NDB RWY 34, Amdt 2, CANCELLED
 Sheridan, WY, Sheridan County, VOR OR GPS RWY 13, Amdt 5A, CANCELLED
 Sheridan, WY, Sheridan County, VOR/DME OR GPS RWY 31, Amdt 6, CANCELLED

** * * Effective September 14, 1995*

Crescent City, CA, Jack McNamara Field, VOR RWY 11, Amdt 10
 Crescent City, CA, Jack McNamara Field, VOR/DME OR GPS RWY 11, Amdt 12
 Crescent City, CA, Jack McNamara Field, ILS/DME RWY 11, Amdt 6
 Gunnison, CO, Gunnison County, GPS-B, Orig
 Mount Vernon, IL, Mount Vernon, VOR RWY 5, Amdt 15
 Mount Vernon, IL, Mount Vernon, VOR or GPS RWY 23, Amdt 15
 Mount Vernon, IL, Mount Vernon, ILS RWY 23, Amdt 10
 Columbus, IN, Columbus Muni, NDB or GPS RWY 23, Amdt 10
 Columbus, IN, Columbus Muni, ILS RWY 23, Amdt 7
 Greensburg, IN, Greensburg-Decatur County, VOR or GPS-A, Amdt 2
 Cheboygan, MI, Cheboygan City-County, VOR or GPS RWY 9, Amdt 7
 Pellston, MI, Pellston Regional Airport of Emmet County, VOR/DME or GPS RWY 5, Amdt 11
 Pellston, MI, Pellston Regional Airport of Emmet County, VOR or GPS RWY 23, Amdt 15
 Pellston, MI, Pellston Regional Airport of Emmet County, ILS RWY 32, Amdt 10
 Fremont, NE, Fremont Muni, VOR RWY 13, Orig
 Fremont, NE, Fremont Muni, NDB OR GPS RWY 13, Amdt 2
 Artesia, NM, Artesia Muni, GPS RWY 21, Orig
 Ruidoso, NM, Sierra Blanca Regional, GPS RWY 24, Orig
 Durant, OK, Eaker Field, GPS RWY 30, Orig
 Guymon, OK, Guymon Muni, GPS RWY 36, Orig
 Allendale, SC, Allendale County, VOR or GPS-A, Amdt 5
 Loris, SC, Twin City, NDB Rwy 26, Amdt 2, CANCELLED
 Seymour, TX, Seymour Minicipal, GPS RWY 17, Orig

Effective Upon Publication

Teterboro, NJ, Teterboro, ILS RWY 6, Amdt 28

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BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH-233; Amendment Number 69R]

Ohio Regulatory Program Amendment

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing the approval of a proposed amendment to the Ohio regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment was initiated by Ohio and is intended to make the Ohio program as effective as the corresponding Federal regulations concerning the filing of financial interest statements, acceptance of gifts and gratuities, appeal procedures for remedial actions regarding prohibited financial interests, and the submittal of yield data with requests for phase III bond release on areas reclaimed to pasture or grazing land.

EFFECTIVE DATE: July 17, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly C. Brock, Acting Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, 4480 Refugee Road, Suite 201, Columbus, Ohio 43232; Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION:

- I. Background on the Ohio Program.
- II. Discussion of the Proposed Amendment.
- III. Director's Findings.
- IV. Summary and Disposition of Comments.
- V. Director's Decision.
- VI. Procedural Determinations.

I. Background on the Ohio Program

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1982, **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.15, and 935.16.

II. Discussion of the Proposed Amendment

The Ohio Department of Natural Resources, Division of Reclamation

(Ohio) submitted proposed Program Amendment Number 69 by letter dated September 22, 1994 (Administrative Record No. OH-2059). In this amendment, Ohio proposed to revise two rules at Ohio Administrative Code (OAC) sections 1501:13-1-03 and 13-7-05 to make the Ohio program as effective as the corresponding Federal regulations concerning financial interest statements, appeal procedures for remedial actions regarding prohibited financial interests, and yield data for pasture and grazing land.

OSM announced receipt of PA 69 in the October 21, 1994, **Federal Register** (59 FR 53122), and, in the same document, opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on November 21, 1994.

OSM and Ohio staff met on February 6, 1995, to discuss OSM's questions and concerns about PA 69 (Administrative Record No. OH-2098). In response to OSM's February 6, 1995, questions and comments, Ohio provided Revised Program Amendment Number 69 (PA 69R) by letter dated March 8, 1995 (Administrative Record No. OH-2099). In PA 69R, Ohio proposed further revisions to one rule at OAC section 1501:13-1-03 to include hearing officers of the Ohio Reclamation Board of Review under that rule's definition of "employee," to delete separate references to those hearing officers, and to prohibit the solicitation or acceptance of gifts and gratuities by members of the Ohio Reclamation Board of Review.

OSM announced receipt of PA 69R in the March 17, 1995, **Federal Register** (60 FR 14401), and, in the same document, opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on April 3, 1995.

On April 19, 1995 (Administrative Record No. OH-2114), OSM notified Ohio that OSM had made an error in its February 6, 1995, questions and comments on PA 69 and had omitted one necessary change to OAC 1501:13-1-03 paragraph (L)(1). By letter dated May 3, 1995 (Administrative Record No. OH-2115), Ohio submitted a final revised version of PA 69R.

OSM announced receipt of revised PA 69R in the May 12, 1995, **Federal Register** (60 FR 25660), and, in the same document, opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public

comment period closed on May 30, 1995.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment to the Ohio program. Only substantive changes to Ohio's rules are discussed below. Rule revisions which are not discussed below concern editorial changes intended to improve the clarity and readability of the rules.

A. Financial Interest Statements (OAC Section 1501:13-1-03)

1. Definition of "Employee"

Ohio is revising paragraph (D)(2) to provide that members of the Ohio Board on Unreclaimed Strip Mined Lands are included under the definition of "employee." Ohio is also revising this paragraph to provide that, for the purposes of OAC section 1501:13-1-03, hearing officers for the Ohio Reclamation Board of Review shall also be included within the definition of "employee". Ohio is also revising paragraphs (L) (1) and (2) to delete separate references to the Reclamation Board of Review's hearing officers because those hearing officers are to be included under the definition of "employee" in this rule.

The corresponding Federal rule at 30 CFR 705.5 defines "employee" to mean any person employed by the State Regulatory Authority who performs any function or duty under SMCRA and members of advisory boards who perform any function or duty under SMCRA if they perform decision-making functions for the State Regulatory Authority under State law or regulations. The Ohio Board on Unreclaimed Strip Mined Lands is a decision-making advisory board of this type and the hearing officers for the Ohio Reclamation Board of Review are employed by and perform functions for the State Regulatory Authority. Therefore, the Director finds that Ohio's inclusion of these persons under the State definition of "employee" is appropriate and no less effective than the corresponding Federal definition.

2. Use of Financial Interest Statement Form by Members of the Ohio Reclamation Board of Review

Ohio is revising paragraph (I)(1) to require that employees and members of the Ohio Reclamation Board of Review report all required information concerning employment and financial interests on Form OSM-23.

The corresponding Federal rule at 30 CFR 705.11 requires that employees of

the State Regulatory Authority and members of advisory boards established in accordance with State law to represent multiple interests who perform a function or duty under SMCRA must file a statement of employment and financial interest. The Ohio Reclamation Board of Review is an advisory board of this type. The Federal regulation at 30 CFR 705.10 requires that the required employment and financial interest information be collected on OSM Form 23. The Director therefore finds that Ohio's requirement that its employees and members of the Ohio Reclamation Board of Review file employment and financial interest statements using OSM Form 23 is no less effective than the corresponding Federal regulations at 30 CFR 705.10 and 705.11.

3. Acceptance of Gifts and Gratuities by Members of the Ohio Reclamation Board of Review

Ohio is revising paragraph (J)(1) to prohibit, with certain exceptions, the solicitation or acceptance of gifts and gratuities by members of the Ohio Reclamation Board of Review from coal companies which are conducting or seeking to conduct regulated activities or which have an interest that may be substantially affected by the performance of the Board members' official duty.

30 CFR 705.18 prohibits employees from soliciting or accepting gifts and gratuities from coal companies with interests that may be substantially affected by the employee's performance of the employee's official duty. Although there is no corresponding Federal regulation prohibiting acceptance of gifts and gratuities by members of advisory boards established in accordance with State law to represent multiple interests who perform a function or duty under SMCRA, the Director finds that the State requirement regarding members of the Ohio Reclamation Board of Review is not inconsistent with the Federal regulations at 30 CFR 705.18 or with the revisions which Ohio is making elsewhere in this rule.

4. Appeal of Remedial Actions

Ohio is revising paragraph (L)(1) to specify that nothing in OAC section 1501:13-1-03 modifies any right of appeal that any employee may have under State law of a decision by the Chief of the Division of Reclamation, Ohio Department of Natural Resources, on an employee's appeal of remedial action for prohibited financial interests.

Although there are no corresponding Federal regulations to this new

provision proposed in paragraph (L)(1), the Director finds that this provision is not inconsistent with the Federal rule at 30 CFR 705.21(a) which allows employees to file an appeal through established procedures within their State.

Ohio is also revising paragraphs (L)(2) to provide that only the Chief of the Division of Reclamation may appeal a remedial action to the Director of OSM. The corresponding Federal rule at 30 CFR 705.21(b) allows that the Head of the State Regulatory Authority may file an appeal of remedial action concerning a prohibited financial interest with the Director of OSM who will refer the appeal to the Conflict of Interest Appeals Board within the U.S. Department of the Interior. The Director finds that Ohio's proposed paragraph (L)(2) is not less effective than 30 CFR 705.21(b).

Ohio is also adding paragraph (L)(3) to provide that members of the Ohio Reclamation Board of Review may request advisory opinions from the Director of the Office of Surface Mining Reclamation and Enforcement on issues pertaining to an apparent prohibited financial interest. However, resolution of conflicts is governed by section 1513.05 and 1513.29 of the Ohio Revised Code.

Although there is no corresponding Federal regulation concerning appeals by members of advisory boards, the Director finds that the appeal provision proposed in paragraph (L)(3) is not inconsistent with the Federal regulations at 30 CFR 705.21 or with the revisions which Ohio is making elsewhere in this rule.

B. Yield Data for Pasture or Grazing Land (OAC Section 1501:13-7-05)

1. Ohio is adding the requirement in paragraph (A)(2)(c)(ii) that requests for approval of phase III reclamation on acreage reclaimed as pasture or grazing land (as well as acreage reclaimed to cropland or prime farmland) must include yield data.

The Federal regulations at 30 CFR 816/817.116(b)(1) require that, for areas developed for use as grazing land or pasture land, ground cover and production of living plants on the revegetated area shall be at least equal to success standards approved by the regulatory authority. Ohio's revegetation standards for pasture and grazing land at OAC 1501:13-9-15 paragraph (G)(3)(a) require that the planted species equal or exceed the county average yield for hay for any two years of the period of extended responsibility except the first year. In order to satisfy this requirement, requests for approval of

phase III reclamation must therefore include the required yield data. The Director therefore finds that the proposed requirement in paragraph (A)(2)(c)(ii) is necessary for consistency within Ohio's regulations and is not consistent with the Federal regulations at 30 CFR 816/817.116(b)(1).

IV. Summary and Disposition of Comments

Public Comments

On October 21, 1994; March 17, 1995; and May 12, 1995, the Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. OSM received the following three comments on the amendment dated April 1, 1995, from the Ohio Mining and Reclamation Association (OMRA).

(1) Ohio Has Not Held a Hearing on the Proposed Rule Changes

The Director believes that this comment is not immediately relevant to his decision on this amendment. The public hearing mentioned in the comment is part of Ohio's internal rule-filing process. If further rule changes become necessary as a result of comments received during Ohio's rule filing, Ohio will resubmit those proposed changes to OSM for review under the program amendment process.

(2) The Requirement at OAC 1501:13-1-03 for Members of the Ohio Board of Unreclaimed Strip Mined Land To File Financial Interest Statements Duplicates Requirements Already in Effect for Those Members of the Board Who Are Also Members of the Ohio Legislature

The Director agrees with the comment that there may be some duplication in these filings. However, OSM and the Division of Reclamation, Ohio Department of Natural Resources, have no control over the nature of the financial information required by other Ohio laws from members of the State legislature. That required information may or may not satisfy the reporting requirements of OAC 1501:13-1-03(I) and the corresponding Federal regulations at 30 CFR 705.17. OSM and Ohio must therefore maintain separate reporting requirements specific to the provisions of SMCRA, the accompanying Federal regulations, and the approved State regulatory program.

(3) The Division of Reclamation, Ohio Department of Natural Resources, May Not Have the Authority To Request the Indicated Financial Information From Members of the Ohio Board on Unreclaimed Strip Mined Land

The Director does not agree with this comment. As discussed above, OSM concurs with the appropriateness of including those board members under the State's definition of "employee." Ohio Revised Code section 1513.04(D) prohibits State employees from having a direct or indirect financial interest in any coal mining or reclamation operation. Ohio's proposed reporting regulations at OAC 1501:13-1-03 are therefore a reasonable extension of its legislated authority to prohibit financial conflicts of interest by its employees.

No other public comments were received. No public hearings were held as no one requested the opportunity to provide testimony.

Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from the Regional Director of the U.S. Environmental Protection Agency (EPA) and from the heads of four other Federal agencies and one State agency with an actual or potential interest in the Ohio program. Nonsubstantive comments were received from the EPA, the Soil Conservation Service, the Mine Safety and Health Administration, and the Ohio Historic Preservation Office. No other agency comments were received.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Ohio on September 22, 1994, and revised on March 8, and May 3, 1995.

The Federal regulations at 30 CFR Part 935 codifying decisions concerning the Ohio program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to conform their programs with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alternation of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to a State program are not

enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved programs. In the oversight of the Ohio program, the Director will recognize only the approved program, together with any consistent implementing policies, directives, and other materials, and will require the enforcement by Ohio of such provisions.

VI. Procedural Determinations

Executive Order 12866

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

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, 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 since each such 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 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.

National Environmental Policy Act

No environmental impact statement is required for this rule since 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 has determined 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 corresponding 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. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. 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 corresponding Federal regulations.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 7, 1995.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 935—OHIO

1. The authority citation for Part 935 continues to read as follows:

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

2. Section 935.15 is amended by adding new paragraph (xxx) to read as follows:

§ 935.15 Approval of regulatory program amendments.

* * * * *

(xxx) The following amendment (Program Amendment 69R) pertaining to the Ohio regulatory program, as submitted to OSM on September 22, 1994, and revised on March 8 and May 3, 1995, is approved, effective July 17, 1995: OAC 1501:13-1-03(D)(2), (I)(1), (J)(1), and (L)(1)-(3) (Financial interest statements) and OAC 1501:13-7-05(A)(2)(b)(ii), (A)(2)(c)(ii) and (B)(2)(c) (Yield data for phase III bond release).

[FR Doc. 95-17379 Filed 7-14-95; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD13-95-024]

Special Local Regulations for Marine Events; Annual Kennewick, Washington, Columbia Unlimited Hydroplane Races

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation of 33 CFR 100.1303.

SUMMARY: This notice implements 33 CFR 100.1303 for the annual Kennewick, Washington, Columbia Unlimited Hydroplane Races, to be held July 28, 1995, through July 30, 1995, on the Columbia River in Kennewick, Washington. These special local regulations are needed to provide for the safety of participants and spectators on the navigable waters during this event. The effect of these regulations will be to restrict general navigation in the regulated area for the safety of race participants, spectators, and other vessel traffic transiting the area.

EFFECTIVE DATE: The regulations in 33 CFR 100.1303 will be in effect from 8:30 a.m. (PDT) to 7:30 p.m. (PDT) on Friday, July 28, 1995, and on Saturday, July 29, 1995. On Sunday, July 30, 1995, the regulations will be in effect from 8:30 a.m. (PDT) to 9 p.m. (PDT).

FOR FURTHER INFORMATION CONTACT: LTJG C. A. Roskam, c/o Captain of the Port Portland, 6767 N. Basin Ave, Portland, Oregon 97217-3992, (503) 240-9338.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are LTJG C. A. Roskam, Project Manager for the Captain of the Port, and LCDR J.C. Odell, Project Counsel, Thirteenth Coast Guard District Legal Office.

Discussion of Regulations

The race sponsor, Tri-City Water Follies, submitted an application to hold this year's race on July 28, 29, and 30, 1995. The event is the 30th Annual Kennewick, Washington, Columbia Unlimited Hydroplane Race. Fifty formula one unlimited hydroplanes will participate in the races which will consist of several five-boat heats traveling around an oval course. The location of the race is midstream on the Columbia River, between the western end of Hydro Island, river mile 332, and the western end of Clover Island, river mile 329. Because this is the type of

event contemplated by the regulations, and the safety of the participants, spectators, and vessels transiting the area would be enhanced by the implementation of the special local regulations for this regulated area, the regulations in 33 CFR 100.1303 are being implemented.

Dated: June 23, 1995.

C.E. Bills,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 95-17490 Filed 7-14-95; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 100

[CGD07-95-008]

RIN 2115-AE46

Special Local Regulations: City of Miami Beach, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Special local regulations are being adopted for the Miami Super Boat National Championship. The event will be held on September 10, 1995, from 12 p.m. EDT (Eastern Daylight Time) until 3:30 p.m. EDT. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations are effective on September 10, 1995 at 11:30 a.m. EDT and terminate at 4:30 p.m. EDT that day. In the event of inclement weather, an alternate rain date of September 11, 1995 is established with these same times.

ADDRESSES: Documents referred to in this preamble are available for inspection or copying from at the offices of Coast Guard Group Miami, FL, 100 Macarthur Causeway, Miami Beach, FL 33139 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG B.E. Dailey, Coast Guard Group Miami, Florida at (305) 535-4492.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. § 553, a notice of proposed rulemaking has not been published for these regulations. Following normal rulemaking procedures would have been impracticable, as there was not sufficient time remaining to publish proposed rules in advance of the event.

Drafting Information

The drafters of these regulations are LTJG Bryan E. Dailey, Project Officer, USCG Group Miami, and LT Jacqueline Losego, Project Attorney, Seventh Coast Guard District Legal Office.