

*Executive Order 12606, The Family*

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this rule does not have the potential to promote family formation, maintenance, and general well-being and, therefore, is not subject to review under the Order.

*Executive Order 12611, Federalism*

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12611, *Federalism*, has determined that the rule does not have a substantial, direct effect on the States or on the relationship between the Federal government and the States, or on the distribution of power or responsibilities among the various levels of government and, therefore, is not subject to review under the Order.

## List of Subjects in 24 CFR Part 953

Alaska, Community development block grants, Grant programs—housing and community development, Reporting and recordkeeping requirements.

## Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number is 14.223.

In accordance with the reasons set forth in the preamble, 24 CFR part 953 is amended as follows:

**PART 953—COMMUNITY DEVELOPMENT BLOCK GRANTS FOR INDIAN TRIBES AND ALASKAN NATIVE VILLAGES**

1. The authority citation for 24 CFR part 953 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5301 et seq.

2. Section 953.1 is amended to designate the first paragraph as “(a)” and to designate the second paragraph as “(b)” and to revise newly designated paragraph (b) to read as follows:

**§ 953.1 Applicability and scope.**

(a) \* \* \*

(b) The regulations of this part will remain in effect until the date the final rule adopting the regulations of this part with or without changes is published and becomes effective.

Dated: February 22, 1996.

Kevin Emanuel Marchman,

*Acting Assistant Secretary for Public and Indian Housing.*

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## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 935

[OH-229-FOR #66]

## Ohio Regulatory Program

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

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

**SUMMARY:** OSM is approving 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). Ohio proposed revisions to rules and directives pertaining to premining water quality samples for previously mined permit sites. The amendment is intended to make the Ohio program as effective as the corresponding Federal regulations.

**EFFECTIVE DATE:** February 28, 1996.

**FOR FURTHER INFORMATION CONTACT:** George Rieger, Program Manager, OSM, Appalachian Regional Coordinating Center, 10 Parkway Center, Pittsburgh, PA 15220, Telephone: (412) 937-2849.

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Ohio Program.
- II. Submission 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. Background information on the Ohio program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the August 10, 1982, Federal Register (47 FR 34688). Subsequent actions concerning conditions of approval and program amendments can be found at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Submission of the Proposed Amendment

By letter dated July 3, 1995 (Administrative Record No. OH-2143), Ohio submitted a proposed amendment to its program pursuant to SMCRA at its own initiative. Ohio proposed to revise one rule at Ohio Administrative Code (OAC) section 1501:13-4-15 concerning the number and frequency of premining water samples required for previously mined permit areas. Ohio also proposed to revise two of its Policy/Procedures

Directives (PPD)—PPD Permitting 92-3 and PPD Regulatory 93-4, to reflect the rule change.

OSM announced receipt of the proposed amendment in the July 25, 1995, Federal Register (60 FR 37972), 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 August 24, 1995.

During its review of the amendment, OSM identified concerns relating to pollution abatement areas. OSM notified Ohio of these concerns by letter dated September 8, 1995 (Administrative Record No. OH-2156).

By letter dated September 27, 1995 (Administrative Record No. OH-2157), Ohio responded to OSM's concerns by submitting revisions to its proposed program amendment. Ohio proposed two additional revisions to PPD Regulatory 93-4. The first revision deletes the earlier proposed provision which would have allowed the inclusion of “contiguous undisturbed areas” within pollution abatement areas. The second revision requires that the operator make an additional written notification pertaining to the demonstration of untreated pre-existing discharges.

Based on the revisions to the proposed program amendment submitted by Ohio, OSM reopened the public comment period in the October 25, 1995, Federal Register (60 FR 54619) and provided an opportunity for a public hearing on the adequacy of the amendment. The public comment period closed on November 9, 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.

Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

*15 OAC 1501:13-4-15(D)(2)—Authorization to Conduct Coal Mining on Previously Mined Areas.* Ohio is proposing to amend its regulations pertaining to water quality to require that a permit applicant submit data from a minimum of 12 samples taken at regular intervals at each sampling location and collected over a period of at least 12 months or longer, as determined by the regulatory authority. The Federal regulations at 30 CFR 780.21(b) establish baseline hydrologic

information requirements. The regulatory authority may require additional information as warranted. The Director finds that the proposed revision at 15 OAC 1501.13-4-15(d)(2) is not inconsistent with the Federal regulations at 30 CFR 780.21(b).

*Policy/Procedure Directive (PPD) 93-4.* Ohio is proposing to revise the bond release provisions of PPD 93-4 to clarify that as part of the demonstration that the untreated pre-existing discharges from the pollution abatement area have not exceeded the modified effluent limitations for the required 12 months, the operator must notify the Division's district office in writing at the beginning of the 12-month period prior to the Phase II bond release. The name of Ohio's Remining Program's contact person is changed to Bob Baker. The Federal regulations at 30 CFR 800.40(c) authorize the regulatory authority to release all or part of a bond if the regulatory authority is satisfied that certain conditions have been met. The Director finds that the proposed revisions to PPD 93-4 are no less effective than the Federal regulations at 30 CFR 800.40(c).

*Policy/Procedure Directive (PPD) 92-3.* Ohio is proposing to revise the sampling procedures for pre-existing discharge sites. The permit applicant is required to submit a minimum of 12 samples for each pre-existing discharge site to be collected over a period of at least 12 months and the samples must be collected over a period of 12 months or longer. Sites are to be sampled no more frequently than once a month. There is no statutory provision for a variance of the sampling requirements.

The Federal regulations at 30 CFR 780.21(b) establish baseline hydrologic information requirements. The regulatory authority may require additional information as warranted. The Director finds that the proposed revisions to PPD 92-3 are not inconsistent with the Federal regulations at 30 CFR 780.21(b).

#### IV. Summary and Disposition of Comments

##### *Public Comments*

The Director solicited public comments on July 25, 1995, and October 25, 1995, and provided an opportunity for public hearings on the proposed amendment. No public comments were received, and because no one requested an opportunity to speak at a public hearing, no hearings were held.

##### *Federal Agency Comments*

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the

proposed amendment from various Federal agencies with an actual or potential interest in the Ohio program. The U.S. Department of Labor, Mine Safety and Health Administration, concurred without comment.

##### *Environmental Protection Agency (EPA)*

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. OH-2144). It did not respond to OSM's request.

##### V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Ohio on July 3, 1995, and as revised on September 27, 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 bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

##### VI. Procedural Determinations

###### *Executive Order 12866*

This 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: February 16, 1996.

Allen D. Klein,

*Assistant 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 paragraph (aaaa) to read as follows:

##### **§ 935.15 Approval of regulatory program amendments.**

\* \* \* \* \*

(aaaa) The amendments to the following rules and directives, as submitted to OSM on July 3, 1995, and

revised on September 27, 1995, are approved effective February 28, 1996: 15 OAC 1501:13-4-15(D)(2)—

Authorization to Conduct Coal Mining on Previously Mined Areas Policy/Procedure Directive 93-4—  
Remining Enforcement Procedure Policy/Procedure Directive 92-3—  
Remining Process

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD02-96-077]

RIN 2115-AA97

#### Safety Zone; Lower Mississippi River, Mile 528.0 to Mile 532.0

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Lower Mississippi River between mile 528.0 and mile 532.0. This regulation is needed to restrict vessel traffic in the regulated area to prevent a collision with sunken barges, surveying and salvage equipment and to provide a safe work area for survey and salvage personnel. The regulation restricts navigation in the regulated area and may have a significant effect on commercial traffic.

**DATES:** This regulation becomes effective at 10:02 p.m. on February 3, 1996, and terminates at 8 a.m. on August 31, 1996.

**FOR FURTHER INFORMATION CONTACT:** Lt. Byron Black, Chief, Port Operations, Captain of the Port, 200 Jefferson Avenue, Suite 1301, Memphis, TN 38103, (901) 544-3941.

#### SUPPLEMENTARY INFORMATION:

##### Background and Purpose

At approximately 10 p.m. on February 3, 1996, the M/V SCAUP collided with the Greenville, MS bridge sinking rock barges at approximate mile 531.3 on the Lower Mississippi River. The sunken barges' exact location remains unknown and survey operations at Lower Mississippi River mile 531.3 will commence shortly. The navigable channel will be blocked during survey and salvage operations. A safety zone has been established on the Lower Mississippi River from mile 528.0 to mile 532.0 in order to facilitate safe vessel passage. Entry of vessels or

persons into this zone is prohibited unless specifically authorized by the Captain of the Port.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary. Specifically, immediate action is necessary to facilitate the survey for the sunken barges' exact location. Harm to the public or environment may result if vessel traffic is not controlled during the operations. As a result, the Coast Guard deems it to be in the public's best interest to issue a regulation immediately.

#### Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

#### Collection of Information

This rule contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B (as revised by 59 FR 38654; July 29, 1994), this rule is categorically excluded from further environmental documentation.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping

requirements, Security measures, Vessels, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. A new temporary § 165.T02-077 is added to read as follows:

#### § 165.T02-077 Safety Zone; Lower Mississippi River.

(a) *Location.* The following area is a Safety Zone: Lower Mississippi River mile 528.0 to mile 532.0.

(b) *Effective dates.* This section is effective at 10:02 p.m. on February 3, 1996, and terminates at 8 a.m. on August 31, 1996.

(c) *Regulations.* In accordance with the general regulations in § 165.23, entry into this zone is prohibited except as authorized by the Captain of the Port. The Captain of the Port, Memphis, Tennessee, will notify the maritime community of conditions affecting the area covered by this safety zone by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

Dated: February 3, 1996.

P.L. Mountcastle,

Lieutenant Commander, USCG, Acting Captain of the Port.

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#### 33 CFR Part 165

[CGD02-96-076]

RIN 2115-AA97

#### Safety Zone; Lower Mississippi River, Mile 538.0 to Mile 542.0

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Lower Mississippi River between mile 538.0 and mile 542.0. This regulation is needed to restrict vessel traffic in the regulated area to prevent a collision with a sunken deck barge, surveying and salvage equipment and to provide a safe work area for survey and salvage personnel. The regulation restricts navigation in the regulated area and may have a significant effect on commercial traffic.