

(purchases only); premiums paid on purchases of primary insurance; losses recovered on purchases of primary insurance; construction, engineering, architectural, and mining services (purchases only); merchanting services (sales only); financial services (purchases only, by companies or parts of companies that are not financial services providers); advertising services; computer and data processing services; data base and other information services; telecommunications services; operational leasing services; and "other" private services. "Other" private services covers transactions in the following types of services: Satellite photography services, security services, actuarial services, salvage services, oil spill and toxic waste cleanup services, language translation services, and account collection services.

[FR Doc. 97-743 Filed 1-10-97; 8:45 am]

BILLING CODE 3510-EA-M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Rules of Agency Organization

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: The National Labor Relations Board (NLRB) issues a final rule which deletes all references in its rules and regulations to the "deputy" chief judge in San Francisco, California, and substitutes therefor, where appropriate, references to the "associate" chief judge in San Francisco, California, the correct title of the position.

EFFECTIVE DATE: January 13, 1997.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street, NW, Room 11600, Washington, DC 20570. Phone: (202) 273-1940.

SUPPLEMENTARY INFORMATION:

Regulatory Requirements

This rule merely conforms current regulations to properly reflect the Agency's current organizational structure, relates solely to agency organization, procedure and practice, and will not have a significant impact on a substantial number of small businesses or impose any information collection requirements. Accordingly, the Agency finds that prior notice and comment is not required for these rules and that good cause exists for waiving the general requirement of delaying the

effective date under the Administrative Procedure Act (5 U.S.C. 553), and that the rules are not subject to the Regulatory Flexibility Act (5 U.S.C. 601), Small Business Regulatory Enforcement Act (5 U.S.C. 801), Paperwork Reduction Act (44 U.S.C. 3501), or Executive Order 12866.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Labor management relations.

29 CFR part 102 is amended as follows:

PART 102—RULES AND REGULATIONS

1. The authority citation for 29 CFR part 102 continues to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117(c) also issued under Section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)). Sections 102.143 through 102.155 also issued under Section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

§ 102.24 [Amended]

2. Section 102.24, paragraph (a) is amended by substituting "associate" for "deputy" in the third and fifth sentences.

§ 102.25 [Amended]

3. Sec. 102.25 is amended by substituting "associate" for "deputy" in the first sentence.

§ 102.30 [Amended]

4. Sec. 102.30, paragraph (c) is amended by substituting "associate" for "deputy" in the last sentence.

§ 102.34 [Amended]

5. Sec. 102.34 is amended by substituting "associate" for "deputy" in the first sentence.

6. Sec. 102.35, paragraph (b) is amended by:

A. revising the first sentence of the introductory text to read as set forth below:

B. deleting "deputy chief" in the second sentence of the introductory text, and "deputy," in (b) (1), (3) and (5).

§ 102.35 Duties and powers of administrative law judges; assignment and powers of settlement judges.

* * * * *

(b) Upon the request of any party or the judge assigned to hear a case, or on his or her own motion, the chief administrative law judge in Washington, D.C., the associate chief judge in San Francisco, California, the associate chief judge in Atlanta, Georgia, or the associate chief judge in New York, New

York may assign a judge who shall be other than the trial judge to conduct settlement negotiations. * * *

§ 102.36 [Amended]

7. Sec. 102.36 is amended by substituting "associate" for "deputy".

§ 102.42 [Amended]

8. Sec. 102.42 is amended by substituting "associate" for "deputy" in the third sentence.

9. Section 102.149, paragraph (b) is amended by revising the first sentence to read as follows:

§ 102.149 Filing of documents; service of documents; motions for extension of time.

* * * * *

(b) Motions for extensions of time to file motions, documents, or pleadings permitted by section 102.150 or by section 102.152 shall be filed with the chief administrative law judge in Washington, D.C., the associate chief judge in San Francisco, California, the associate chief judge in New York, New York, or the associate chief judge in Atlanta, Georgia, as the case may be, not later than 3 days before the due date of the document. * * *

Dated, Washington, D.C., January 7, 1997.
By direction of the Board.

John J. Toner,

Executive Secretary.

[FR Doc. 97-768 Filed 1-10-97; 8:45 am]

BILLING CODE 7545-01-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH-204; Amendment Number 54]

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 pertaining to twenty-two sections of the Ohio Revised Code (ORC) to clarify those sections of State law, to conform those sections to current State practices, and to make those sections equivalent to corresponding Federal laws. The revisions concern confidential information on incidental coal

extraction, the Reclamation Supplemental Forfeiture Fund, use of the Reclamation Supplemental Forfeiture Fund and for non-coal reclamation, the Coal Mining Performance Bond Fund, limitations on the awards of costs and expenses, reclamation contracts with surface mine operators, reclamation of interim forfeiture and insolvent surety sites, use of police powers, AML reclamation liens, the Acid Mine Drainage Abatement and Treatment Fund, lands eligible for remining, average wage rates, deletion of obsolete language on interim continuance of underground coal mining operations, activities eligible for Small Operator Assistance, required staff training, and informal review of issues as a form of alternative dispute resolution.

EFFECTIVE DATE: January 13, 1997.

FOR FURTHER INFORMATION CONTACT: George Rieger, Field Branch Chief, Appalachian Regional Coordinating Center, Office of Surface Mining Reclamation and Enforcement, 3 Parkway Center, Pittsburgh, PA 15220, Telephone: (412) 937-2153.

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, 935.15, and 935.16.

II. Submission of the Proposed Amendment

By letter dated February 7, 1992 (Administrative Record No. OH-1645), as modified by letter dated February 27, 1992 (Administrative Record No. OH-1657), Ohio submitted proposed Program Amendment Number 54 (PA54). In PA 54, Ohio proposed to revise 13 sections of the ORC concerning a number of regulatory and AML issues. OSM announced receipt of PA 54 in the April 13, 1992, Federal Register (57 FR 12779), and in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the

proposed amendment. The public comment period ended on May 13, 1992.

By letter dated June 15, 1992 (Administrative Record No. OH-1714), OSM provided Ohio with its questions and comments about the February 7, 1992, submission of PA 54. On July 20, 1992, OSM and Ohio staff met to discuss and resolve OSM's questions and comments (Administrative Record No. OH-1746). On July 28, 1992, OSM and Ohio staff further resolved some of those issues in a telephone conversation (Administrative Record No. OH-1754).

In response to OSM's June 15, 1992, letter, Ohio submitted Revised Program Amendment Number 54 (PA 54R) by letter dated September 2, 1992 (Administrative Record No. OH-1769). PA 54R contained further revisions to seven sections of the ORC. OSM announced receipt of PA 54R in the October 28, 1992, Federal Register (57 FR 48765), and in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on November 27, 1992.

On December 16, 1992 (Administrative Record No. OH-1800), OSM and Ohio staff conducted a telephone discussion of the September 2, 1992, resubmission of PA 54R. On April 30, 1993, OSM and Ohio staff met informally to discuss the status of the amendment with respect to the State's legislative process.

In the June 11, 1993, Federal Register (58 FR 32611), the Director of OSM announced his decision to defer Ohio PA 54R with the exception of the Director's approval of one proposed change at ORC section 1513.02(F)(3) which the Ohio General Assembly was likely to pass in its current form. The Director made this decision because the Ohio Legislative Service Commission had not yet drafted the final statutory language on which PA 54R would ultimately be based and because that language would not be available for review by OSM within the foreseeable future.

By letter dated March 31, 1995 (Administrative Record No. OH-2107), Ohio submitted the final version of PA 54 (PA542R2). This final version contains the statutory changes approved by the Ohio General Assembly in Senate Bill 180 and in House Bill 414. The two bills were signed by the Ohio Governor on December 23, 1992, and December 27, 1994, respectively. The revised statutes went into effect on March 24, 1993, and March 27, 1995, respectively.

Ohio's March 31, 1995, final submission of PA 54R reiterated many

of the statute changes previously proposed in PA 54 and PA 54R, and withdrew its proposal to amend ORC Sections 1513.10 and 1513.07 pertaining to Refunds of Permit Fees as well as Interfund Transfers. Portions of other sections were likewise withdrawn as discussed in their respective sections below. The March 31, 1995 submission also proposed new changes to ten sections of the ORC. OSM discussed all proposed changes in the April 13, 1992, October 28, 1992, and April 17, 1995 Federal Register documents concerning the submissions of PA 54, PA 54R and PA 54R2, respectively. An issue letter was sent to Ohio on August 2, 1995 and a conference call was held on August 29, 1995. Further discussions were held during 1996. Statute changes which solely concern Ohio's non-coal regulatory program are outside the jurisdiction of OSM and are not discussed below. Also, changes to paragraph notations and nonsubstantive wording changes are not discussed.

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 amendments.

1. Confidential Information Regarding Exemption Requests for Incidental Coal Extraction

ORC 1513.07 paragraph (D)(2): Ohio is revising this paragraph to specify that, for exemption requests for incidental coal extraction, confidential information includes and is limited to information concerning trade secrets or privileged commercial or financial information relating to the competitive rights of the persons intending to conduct the extraction of minerals. The corresponding Federal rule at 30 CFR 702.13 requires that the person request, in writing, that the information be kept confidential. While Ohio's proposed statute change does not include this requirement, Ohio's Administrative Code Section 1501:13-4-16(J)(2) corresponds with the Federal rule at 30 CFR 702.13(b). Therefore, the proposed change to the statute in conjunction with Ohio's existing Administrative Code Section is no less effective than the corresponding Federal Regulations at 30 CFR 702.13(b).

2. Reclamation Supplemental Forfeiture Fund

Ohio is revising ORC 1513.08 paragraph (A) and proposing a new paragraph ORC 1513.18(D) to move the current language creating the Reclamation Supplemental Forfeiture

Fund from that portion of the Ohio law dealing with performance bonds to that portion of the law dealing with reclamation by the Division. Ohio also proposed adding a new provision which would allow the Division to use funds from the Reclamation Supplemental Forfeiture Fund to reclaim areas which were affected by non-coal mining under surface mining permits issued under ORC Chapter 1514, but which the operator did not adequately reclaim. In its March 31, 1995, final version of PA 54R, Ohio is withdrawing the portion of the proposed language referring to ORC Chapter 1514 from new paragraph (D). Ohio is also removing the fund name from the heading of the section.

ORC 1514.06 paragraph (G): Ohio is proposing to revise this paragraph in lieu of the previously proposed revision discussed above which Ohio is withdrawing from ORC section 1513.18 paragraph (D). The revision to ORC section 1514.06 paragraph (G) would provide that Ohio may expend money from the Reclamation Supplemental Forfeiture Fund or from the Surface Mining Administration Fund to complete reclamation on land affected by non-coal surface mining operations on which an operator has defaulted.

Ohio is also revising ORC Section 1513.18(E) to be consistent with the move of the aforementioned language to ORC Section 1513.18(D).

ORC section 1513.18 paragraph (D): Ohio is adding a statement in this paragraph concerning the State's priority for management of the Reclamation Supplemental Forfeiture Fund, including the selection of projects and the transfer of moneys. That priority shall be to ensure that sufficient moneys are available for reclamation of areas that an operator has affected under a coal mining and reclamation permit issued after September 1, 1981, and which the operator has failed to reclaim. This statement was added in response to the director's concerns that Reclamation Supplemental Forfeiture Fund expenditures on non-coal mining sites could compromise the Fund's solvency as an alternative bonding system to be used for the reclamation of surface coal mining sites. The Director is now satisfied that Ohio will continue to use Fund moneys to reclaim all existing coal mining sites for which bonds have been forfeited, prior to using any such moneys to reclaim non-coal mining sites.

The proposed changes are found to be consistent with the corresponding Federal Regulations at 30 CFR 800.11(e), pertaining to alternative bonding systems.

3. Coal Mining Performance Bond Fund

ORC 1513.081: Ohio is repealing this existing section which created the Coal Mining Performance Bond Fund. Language in this section also authorized the issuance of reclamation performance bonds by the Chief using money from the fund, determined premiums and fees for participation in the fund, and provided for the release and forfeiture of reclamation performance bonds supported by the fund.

Ohio proposed to add ORC section 1513.081 to the Ohio program as part of the November 16, 1987 submission of proposed Ohio Program Amendment Number 32 (Ohio Administrative Record No. OH-0994). This part of Ohio Program Amendment Number 32 was not approved by OSM.

ORC 1513.08 paragraph (B): Ohio is revising this paragraph to delete a reference to performance bonds issued under ORC Section 1513.081 which is to be repealed.

Because the proposed changes were never approved by the Director and therefore never became part of Ohio's approved program, their deletion from the ORC does not render the Ohio program inconsistent with the requirements of SMCRA or the Federal Regulations.

4. Alternative Dispute Resolution

ORC 1513.13 paragraph (A)(3): Ohio is adding this new paragraph to provide an alternative mechanism for resolving disputes over notices, orders, or other decisions issued by the Chief. Any person who, under ORC 1513.13, may appeal such a notice, order, or decision to the Ohio Reclamation Board of Review (RBR) may elect to request an informal review by the Chief of that notice, order, or decision to the RBR. The time spent on such an informal review would not count against the time available to the person to appeal the notice, order, or decision to the RBR. Further, such a review would not stay the order, notice, or decision. Finally, such a review would itself be appealable to the RBR.

Since Ohio already has an informal review process in its regulations for Civil Penalty Assessments, citizen complaints, and bond releases, the proposed change is not inconsistent with the requirements of SMCRA and the Federal regulations insofar as it does not interfere with or duplicate the informal review process already contained in the Ohio program. Therefore, the Director is approving ORC 1513.13(A)(3) to the extent that it does not apply to create additional opportunities for informal review of

Civil Penalty assessments, citizen complaints, and bond releases, beyond those already contained in the Ohio program.

5. Limitations on Awards of Costs and Expenses

ORC 1513.13 paragraph (E)(1): Ohio is revising this paragraph to provide that, at the request of a prevailing party in the appeal of an enforcement order or permit decision, the Ohio RBR and/or the Chief may award necessary and reasonably incurred costs and expenses, including attorney fees, for that party's participation in the enforcement proceedings before the Ohio RBR. Ohio later revised this section so that it also applies to awards of costs and expenses incurred in connection with proceedings before the RBR, before the court under ORC section 1513.15 (pertaining to citizen suits), or before the Chief under ORC section 1513.39 (pertaining to employee discrimination). Ohio is also adding that fees awarded under this section may not exceed the prevailing market rates at the time the services were rendered. Costs and expenses may also be awarded for the preparation, defense and appeal of a petition for costs and expenses, provided those costs and expenses are proportionate to those otherwise allowed under ORC 1513.13(E).

ORC 1513.13 paragraph (E)(1)(a): Ohio is revising this paragraph to specify that an award may be made to a party other than the permittee or the Ohio Division of Reclamation (DOR) when the Chief determines that a party both prevailed in whole or in part and made a substantial contribution to the determination of issues. This contribution must be separate and distinct from the contribution made by any other party.

ORC 1513.13 paragraph (E)(1)(b): Ohio is revising this paragraph to clarify that permittees may file petitions for award of costs and expenses with the chief against parties who initiated or participated in an appeal under this section in bad faith for the purpose of harassing or embarrassing the permittee. The Chief may assess those costs and expenses against the party who initiated the appeal.

ORC 1513.13 paragraph (E)(1)(c): Ohio is revising this paragraph to clarify that the DOR may file a request with the RBR for an award of costs and expenses incurred by the DOR in connection with an appeal initiated under this section. The RBR may assess those costs and expenses against those parties who initiated the appeal in bad faith and for the purpose of harassing or embarrassing the DOR.

ORC 1513.13 paragraph (E)(2): Ohio is revising this paragraph to authorize the court to award necessary and reasonably incurred costs and expenses for parties participating in the judicial review of any order issued under this section or as a result of any administrative proceeding under this chapter.

ORC 1513.15 paragraph (F): Ohio is revising this paragraph to authorize the Chief to award necessary and reasonably incurred costs of litigation, including attorney and expert witness fees, in connection with civil actions against the Division. Ohio is also revising this paragraph to delete previously proposed revision and is reinstating the court's authority to award, to any party, costs and fees that the court determines to have been necessary and reasonably incurred, in any proceeding under ORC 1513.15 (B) (citizen suits) in accordance with ORC section 1513.13.

ORC 1513.39 paragraph (C): Ohio is revising this paragraph to incorporate by reference the proposed limit on necessary and reasonably incurred costs and expenses specified in revised ORC section 1513.13 paragraph (E)(1) and (E)(2) as also applying to cases of alleged discrimination against employees.

Except as noted below, the proposed changes are found to be consistent with the requirements of Section 525(e) of SMCRA, 30 CFR 840.15, and 43 CFR 4.1290 and 4.1294.

a. Ohio is required to amend ORC 1513.13 (E)(1)(a) to make it clear that such awards may be made in connection with any administrative review proceedings concerning an enforcement action, permit issuance decision or employee discrimination complaint, not just those concerning enforcement actions.

b. Ohio is required to amend ORC 1513.13(E)(1)(b) and (c) to make it clear that such costs may also be assessed against persons who participate in bad faith appeals, not just those persons who initiate such bad faith appeals.

6. Reclamation Contracts With Surface Mine Operators

ORC 1513.18 paragraph (C): Under the current version of this paragraph, the Chief is authorized to enter into contracts with mine operators mining under a current, valid permit to complete reclamation on defaulted areas. Ohio is revising this paragraph to extend the Chief's authorization to include contracts with surface mine operators mining under permits issued under ORC Chapter 1514, pertaining to minerals other than coal.

While there is no Federal counterpart, the Director finds the proposed change

is not inconsistent with SMCRA or the Federal regulations.

7. Reclamation of Forfeited Areas Affected Under Mining Permits Issued After April 10, 1972 But Before September 1, 1981

ORC 1513.18 paragraph (I): Ohio is adding this new paragraph to authorize the Chief to use any unspent funds in the defaulted areas fund to complete reclamation of other interim forfeited areas affected under coal mining and reclamation permits issued after April 10, 1972 but before September 1, 1981.

While there are no Federal counterparts, the Director finds that this propose revision is not inconsistent with SMCRA or the Federal regulations, and is consistent with SMCRA's general intent that all lands disturbed by surface coal mining operations be reclaimed.

8. Chief's Use of Police Powers on State-Funded AML Sites

ORC 1513.27 third paragraph: Ohio is adding this new paragraph to authorize the Chief to enter onto property where the owners are not known, are not readily available, or are not willing to give permission in order for the Division to use State funds to abate adverse effects of past coal mining practices on abandoned mined land (AML). Such entry onto properties shall be construed as an exercise of police power for the protection of the public health and safety and shall not be construed as an act of condemnation nor trespass.

The proposed change is found to be substantively identical to the requirements of section 407 of SMCRA, except that ORC 1513.27 does not grant a right of entry to "any other property" in order to have access to the property affected by past coal mining practices. However, because Ohio's program does provide for right of entry upon "any other property" for Federally-funded AML projects at ORC 1513.37 (F)(1), the proposed change at ORC 1513.27 does not render the state's program less stringent than section 407 of SMCRA. Therefore, the revision at ORC 1513.27 is approved.

9. AML Liens on Property of Community Improvement Corporations or Nonprofit Organizations

ORC 1513.33 third paragraph: Ohio is revising this paragraph to provide that AML liens filed by the Division against property owned by community improvement corporations or nonprofit organizations shall have priority as a lien second only to the lien of real property taxes imposed upon the land.

This proposed change is substantively identical to language contained in SMCRA at section 408(c).

ORC 1513.33 fourth paragraph: Ohio is revising this paragraph to clarify the procedure to be used by county recorders in recording and indexing AML liens.

ORC 1513.33 fifth paragraph: Ohio is revising this paragraph to provide that AML liens shall continue in force so long as any portion of the lien remains unpaid.

ORC 1513.33 sixth paragraph: Ohio is revising this paragraph to delete the provision that AML liens shall be foreclosed in the same manner as State tax liens foreclosed under ORC Chapter 5721.

While there are no direct Federal counterparts to these proposed changes, they are found not to be inconsistent with the requirements of SMCRA at section 408.

10. Expansion of Sites Eligible for Federally Funded AML Projects

ORC 1513.37 paragraph (C)(1): Ohio is revising this paragraph to expand the eligibility requirements for the sites of Federally funded AML reclamation projects. Ohio is adding new paragraph (C)(1)(b) to make eligible mining operations which occurred during the period beginning August 4, 1977 and ending on or before August 16, 1982 and for which sufficient reclamation funds are not available. Ohio is adding new paragraph (C)(1)(c) to make eligible mining operations which occurred during the period beginning August 4, 1977 and ending on or before November 5, 1990, for which sureties became insolvent, and for which sufficient reclamation funds are not available.

ORC 1513.37 paragraph (C)(2): Ohio is adding this new paragraph to provide that the Chief shall follow the priorities set forth at ORC 1513.37(B)(1) and (B)(2) in determining which sites to reclaim using the new authority granted under ORC 1513.37(C)(1)(b) and (c). The Chief shall ensure that priority is given to those sites which are in the immediate vicinity of a residential area or which have an adverse economic impact upon the local community.

The proposed changes are found to be substantively identical to the requirements of SMCRA at section 402(g)(4)(B) and (C).

11. Creation of the State Acid Mine Drainage Abatement and Treatment Fund

ORC 1513.37 paragraph (E): Ohio is adding this new paragraph to create in the State treasury the Acid Mine Drainage Abatement and Treatment

Fund. The fund shall be administered by the Chief and shall consist of grants from OSM to be used in consultation with the U.S. Department of Agriculture, Natural Resources Conservation Service to abate and treat acid mine drainage. Proposed ORC 1513.37 paragraphs (E)(1) through (7) would specify activities eligible for financial support from the fund, including the identification of affected hydrologic units, the sources of acid mine drainage, and the effects of the drainage; the identification of corrective measures to ablate or treat the drainage; calculation of costs; and analysis of benefits.

The proposed changes are found to be substantively identical to section 402(g)(7) of SMCRA.

12. AML Liens on Certain Properties Involved in Federally Funded AML Reclamation Projects

ORC 1513.37 paragraph (G): Ohio is revising this paragraph to provide that the Chief may file in the office of the county recorder a statement of reclamation costs spent on certain properties affected by Federally funded AML reclamation projects. Such statements would constitute a lien upon the land as of the date of the State's reclamation expenditures and would have a priority as a lien second only to the lien of real property taxes imposed upon the land. This revision is substantively identical to language contained in section 408(c) of SMCRA.

ORC 1513.37 paragraph (G)(3): Ohio is revising this paragraph to clarify the procedure to be used by county recorders in recording and indexing AML liens relating to Federally funded reclamation.

ORC 1513.37 paragraph (G)(4): Ohio is adding this new paragraph to provide that AML liens relating to Federally funded reclamation shall continue in force so long as any portion of the lien remains unpaid. Conveyance of the land subject to an AML lien may be set aside if the lien remains unpaid at the time of conveyance.

ORC 1513.37 paragraph (G)(5): Ohio is adding this new paragraph to provide that AML liens relating to Federally funded reclamation shall be foreclosed upon the substantial failure of a landowner to pay any portion of the amount of the lien. Before proceeding with foreclosure, the Chief shall make a written demand upon the landowner for payment and shall give the landowner sixty days to pay the amount.

Although there are no direct Federal counterparts to the proposed changes, the Director finds that they are not

inconsistent with the requirements of SMCRA at section 408(c).

13. Lands Eligible for Remining

ORC section 1513.01 paragraph (F): Ohio is adding this paragraph to define the term "lands eligible for remining" to mean those lands that otherwise would be eligible for expenditure of AML reclamation funds under paragraph (C)(1) of ORC section 1513.37.

ORC section 1513.07 paragraph (E)(3)(b): Ohio is adding this new paragraph to provide that, until October 1, 2004, any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining shall not prevent issuance of a coal mining permit to the person holding the remining permit. An unanticipated event or condition is one that was not contemplated by the applicable permit.

ORC section 1513.16 paragraph (A)(19)(b): Ohio is adding this new paragraph to provide that coal mining permits on lands eligible for remining shall require the operator to assume the responsibility for successful revegetation of the remined area for two full years after the last augmented seeding, fertilizing, or irrigation.

ORC section 1513.37 paragraph (C)(3): Ohio is adding this new paragraph to provide that surface coal mining operations on lands eligible for remining shall not affect the eligibility of those lands for AML reclamation funding under this section of the ORC after the release of the mining operation's performance bond. If the performance bond for the remining operation is forfeited and is not sufficient for adequate reclamation of the site, Ohio may use AML reclamation funding under this section to augment the bond.

The proposed changes are found to be substantively identical to SMCRA at sections 701(33) and (34), 515(b)(20)(B), and 404 to the extent that 1513.07(E)(3)(b) applies up to, but not including 10/1/2004.

14. Average Wage Rates

ORC section 1513.02 paragraph (J): Ohio is revising this paragraph to provide that the State will use information from non-coal as well as coal mining and reclamation operations in calculating average wage rates. The newly calculated average wage rates shall apply to reclamation performed for Ohio on both coal and non-coal mining sites. While there are no Federal counterparts to this revision, the Director finds that is not inconsistent with SMCRA or its corresponding Federal regulations.

15. Deletion of Obsolete Language

ORC section 1513.07 paragraph (A)(1): Ohio is deleting obsolete language from this paragraph concerning payment of permit fees for areas covered by a permit in effect on August 16, 1982, as well as language concerning interim continuance of underground coal mine operations which were in effect prior to September 1, 1981.

The director finds that deletion of this obsolete language does not render the Ohio program less stringent than SMCRA or less effective than the corresponding federal regulations.

16. Activities Eligible for the Small Operator's Assistance Program (SOAP)

ORC section 1513.07 paragraph (B)(4) (a) and (b): Ohio is revising these paragraphs to expand the types of activities related to permit applications which qualified laboratories can perform for permit applicants under contracts funded by Ohio's SOAP. Qualifying activities include determination of probable hydrologic consequences, development of cross-section maps and plans, geologic drilling and reporting, collection and reporting of archaeological information, performing pre-blast surveys, and collection of information on protection of fish and wildlife habitats. The coal mine operator shall reimburse the State for the costs of SOAP-assisted services if the operator's actual and attributed coal production for all locations exceeds 300,000 tons during the 12 months immediately following the date of issuance of the mining permit.

The proposed changes are found to be substantively identical to, and therefore no less stringent than, sections 507(C)(1) and (h) of SMCRA, except Ohio is required to amend ORC 1513.07(B)(4)(a)(i) or otherwise clarify that probable hydrologic consequences determinations include the engineering analyses and designs necessary for those determinations.

17. Required Staff Training

ORC section 1513.34: Ohio is revising this section to delete the requirements for minimum hourly amounts of initial and annual follow-up training for certain staff positions. In lieu of a minimum of 80 hours of training, Ohio shall provide adequate training and education, during their probationary periods, for all persons appointed as inspection officers. In lieu of a minimum of 40 hours of annual training, Ohio shall provide, on a regular basis as funding allows, continuing education and training as necessary for all inspection officers,

district supervisors, and enforcement personnel. While there are no direct Federal counterparts to these Ohio training requirements, the proposed changes are found to be not inconsistent with the requirements of SMCRA at 503(a)(3), which requires that state regulatory authorities employ sufficient administrative and technical personnel to enable the State to regulate surface coal mining and reclamation operations in accordance with SMCRA.

IV. Summary and Disposition of Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. Because no one requested an opportunity to speak at a public hearing, no hearing was held. Comments were received from the Ohio Historic Preservation Office on March 19, 1992 (Administrative Record No. OH-1671) pertaining to the expansion of sites eligible for Federally funded AML projects. The comment stated that ongoing coordination with the Ohio Historical Society is necessary to address preservation concerns, and requested notification of projects prior to initiation. The Director notes that all abandoned mine lands projects are reviewed by the State Historic Protection Officer (SHPO). Further, a statement of concurrence that no significant cultural or historic properties will be adversely affected, signed by the SHPO, is included with the National Environmental Policy Act documents submitted prior to construction.

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. MSHA responded that it had no comments in its letter dated April 20, 1995. (Administrative Record No. 2113)

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated 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.*). EPA concurred with the amendment in its letter to OSM dated June 2, 1995. (Administrative Record No. OH-2129)

V. Director's Decision

Based on the above finding(s), the Director approves, with certain

additional requirements, the proposed amendment as submitted by Ohio on February 7, 1992, as modified on February 27, 1992, September 2, 1992, and March 31, 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 12988

The Department of the Interior has conducted the reviews required by section 3 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.

Unfunded Mandates

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 13, 1996.

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 paragraph (dddd) to read as follows:

§ 935.15 Approval of regulatory program amendments.

* * * * *

(dddd) With the exceptions noted below, the amendments submitted to OSM on February 7, 1992, and revised on February 27, 1992, April 18, 1992 and March 31, 1995, are approved effective January 13, 1997.

ORC 1513.07(D)(2)	Confidential Information.
ORC 1513.08 & ORC 1513.18 (D) & (E), and ORC 1514.06(G)	Reclamation Supplemental Forfeiture Fund.
ORC 1513.13 (E)(1), (E)(2), (C)	Limitation on Awards.
ORC 1513.15(F), ORC 1513.39(C)	
ORC 1513.13(A)(3)	Alternative Dispute Resolution to the extent that it does not duplicate the current informal review process.
ORC 1513.18(C)	Reclamation Contracts.
ORC 1513.18(I)	Reclamation of Forfeited Areas.
ORC 1513.27	Police Powers.
ORC 1513.33	AML Liens.
ORC 1513.37 (C), (C)(1), (C)(1)(b), (C)(1)(c) & (C)(2)	Sites Eligible for AML.
ORC 1513.37(E)	Acid Mine Fund.
ORC 1513.37(G)	Liens on Federally-Funded AML Projects.
ORC 1513.07 (B), (B)(4), (B)(4)(a)(b)	SOAP.
ORC 1513.34	Staff Training.
ORC 1513.01(F), 1513.07(E)(3)(b), 1513.16(A)(19)(b), & 1513.37(C)(3)	Remining to the extent that 1513.07(E)(3)(b) applies up to, but does not include 10/1/2004.
ORC 1513.01(H)(2)	Public Roadways.
ORC 1513.02(J)	Average Wage Rates.
ORC 1513.07(A)(1)	Delete interim continuance of mining in effect prior to 9-1-91.
ORC 1513.081 (Repealed and ORC 1513.08(B)	Coal Mining Performance Bond Fund.

3. Section 935.16 is revised to read as follows:

§ 935.16 Required regulatory program amendments.

(a) By June 27, 1997, Ohio shall submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to address the following:

(1) Amend the Ohio program at ORC 1513.13(E)(1)(a) to make it clear that such awards may be made in connection with any administrative review proceedings concerning an enforcement action, permit issuance decision or employee discrimination complaint, not just those concerning enforcement actions.

(2) Amend ORC 1513.13(E)(1) (b) and (c) to make it clear that such costs may also be assessed against persons who participate in bad faith appeals, not just those persons who initiate such bad faith appeals.

(3) Amend ORC 1513.07(B)(4)(a)(i) or otherwise clarify that probable hydrologic consequences determinations include the engineering analyses and designs necessary for those determinations.

(b) [Reserved]

[FR Doc. 97-709 Filed 1-10-97; 8:45 am]

BILLING CODE 4310-05-M

POSTAL SERVICE

39 CFR Part 20

Interim Rule for Global Package Link (GPL) to Canada

AGENCY: Postal Service.

ACTION: Interim rule with request for comments.

SUMMARY: The Postal Service is amending the rule on Global Package

Link to Canada. New pricing is being announced, effective January 13, 1997. The new pricing is a reduction in the rates previously established. The Postal Service is also announcing a new Ground Gateway Global Package Link service to Canada. In order to support this new GPL service, Buffalo has been added as a GPL processing center for ground service only. The Buffalo GPL center will open for service on January 21, 1997. The new ground service will be available to any customer within a 500 mile radius of the two Ground Gateway centers, Seattle, Washington and Buffalo, New York and any other customer that can utilize a direct, existing Postal Service surface transportation to one of the two Ground Gateways. In addition, a merchandise return service is being announced, along with prices, for any customer utilizing the GPL to Canada service.

DATES: The interim regulations take effect as of 12:01 a.m. on January 13, 1997, except for the new Ground Gateway service from Buffalo which will take effect at 12:01 a.m. on January 21, 1997. Comments must be received on or before February 12, 1997.

ADDRESSES: Written comments should be mailed or delivered to International Business Unit, U.S. Postal Service, 475 L'Enfant Plaza SW, 370-IBU, Washington, DC 20260-6500. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Mike Opiela, (202) 314-7134.

SUPPLEMENTARY INFORMATION:

I. Introduction

Global Package Link is a service that assists mail order companies and other customers that send merchandise to

Japan, Canada, and the U.K. Presently, the Postal Service has Global Package Link processing facilities in New York City, Dallas, Miami, Chicago, San Francisco, and Seattle.

II. GPL to Canada

Description

GPL to Canada currently offers an Air Courier and a Ground Courier service. These services are offered through one of the six aforementioned processing facilities. In most cases these facilities airlift the GPL packages to Canada. A new Ground Gateway service will become effective immediately via Seattle and on January 21, 1997 via Buffalo. This service will provide surface transportation from the mailer's fulfillment center to one of the two Ground Gateways; Seattle or Buffalo. Those mailers within 500 miles of Buffalo will have their packages processed for ground entry into Canada via the Buffalo center, while those mailers within 500 miles of Seattle will have their packages processed for surface entry into Canada via Seattle, which is also an air exchange office for all other GPL destination countries. Buffalo will only be a GPL ground gateway.

Packages will be transported from the Ground Gateways via Postal Service ground transportation to Toronto (from Buffalo) and to Vancouver (from Seattle). From this point the GPL delivery agent will provide expeditious courier handling to the destination address.

The Ground Gateway Service to Canada will include all of the value-added services currently available with the Ground Courier service, including the recently added \$100 (Canadian) insurance indemnity per shipment (Air Courier continues to be covered by \$500