

will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

### **PART 39—AIRWORTHINESS DIRECTIVES**

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

#### **§ 39.13 [Amended]**

2. Section 39.13 is amended by removing amendment 39-9255 (60 FR 28715, June 2, 1995), and by adding a new airworthiness directive (AD), amendment 39-9951, to read as follows:

97-05-07 Lockheed: Amendment 39-9951. Docket 96-NM-35-AD. Supersedes AD 95-12-05, Amendment 39-9255.

*Applicability:* Model 382, 382E, and 382G series airplanes; equipped with a servo-type valve housing assembly having part number 714325-3 or -7 installed on any outboard engine; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To ensure that the airplane maintains adequate thrust decay characteristics in the event of critical engine failure during takeoff, accomplish the following:

(a) Within 60 days after August 10, 1994 (the effective date of AD 94-14-09, amendment 39-8961), revise the Limitations and Performance Data Sections of the FAA-

approved Airplane Flight Manual (AFM) to include information specified in Lockheed Airplane Flight Manual Supplement 382-16, dated August 11, 1993, and operate the airplane accordingly thereafter. The requirements of this paragraph may be accomplished by inserting AFM Supplement 382-16 into the AFM.

(b) Within 12 months after the effective date of this AD, replace the servo-type valve housing assemblies having part number 714325-3 or -7 with a governor assembly control number 577888 on the propeller governors installed on the outboard engines, in accordance with Lockheed Document SMP-515C, Card No. CO-135. Replacement of these assemblies with governor assembly control numbers 577888, constitutes terminating action for the requirements of paragraph (a) of this AD; once the replacement is accomplished, the AFM revision may be removed.

Note 2: Propeller governors with servo-type valve housing assemblies having part number 714325-3 or -7 may be retained or replaced with a governor assembly control number 577888 for use on the inboard engine positions.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The AFM revision shall be done in accordance with Lockheed Airplane Flight Manual Supplement 382-16, dated August 11, 1993. This incorporation by reference was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of August 10, 1994 (59 FR 35236, July 11, 1994). Copies may be obtained from Lockheed Aeronautical Systems Support Company (LASSC), Field Support Department, Dept. 693, Zone 0755, 2251 Lake Park Drive, Smyrna, Georgia 30080. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, Small Airplane Directorate, Campus Building, 1701 Columbia Avenue, Suite 2-160, College Park, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on April 4, 1997.

Issued in Renton, Washington, on February 21, 1997.

James V. Devany,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 97-4946 Filed 2-27-97; 8:45 am]

BILLING CODE 4910-13-U

## **DEPARTMENT OF THE INTERIOR**

### **Office of Surface Mining Reclamation and Enforcement**

#### **30 CFR Part 935**

[OH-239; Amendment Number 73]

#### **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). The proposed amendment consists of regulatory changes to implement the remaining standards of the Federal Energy Policy Act of 1992. The amendment is intended to revise the Ohio program to be consistent with the corresponding Federal regulations as amended on November 27, 1995. (60 FR 58480).

**EFFECTIVE DATE:** February 28, 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 July 23, 1996, (Administrative Record No. OH-2168-00) Ohio submitted a proposed amendment to its program pursuant to SMCRA. Ohio submitted the proposed amendment at its own initiative. The Ohio amendment proposes to implement the re-mining standards of the Federal Energy Policy Act of 1992 and the corresponding Federal regulations as amended on November 27, 1995. (60 FR 58480). OSM announced receipt of the proposed amendment in the August 26, 1996, Federal Register (61 FR 43696) 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 September 25, 1996. However, a complete description of certain amendments concerning permit application requirements and revegetation time frames was inadvertently omitted from that notice. Also, Ohio submitted corrections to its proposed amendments by letter dated October 4, 1996, (Administrative Record No. OH-2168-07). Therefore, OSM announced these items in the October 18, 1996, Federal Register (61 FR 54375) and reopened the public comment period until November 4, 1996. On January 23, 1997, Ohio submitted additional changes (Administrative Record No. OH-2168-12) as a result of discussions with OSM.

## 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.

### *A. Revisions to Ohio Regulations That Are Substantively Identical to the Corresponding Federal Regulations*

#### 1. OAC 1501:13-1-02 Definitions.

(a) New paragraph (OOO) "Lands eligible for re-mining" has been added to mean those lands that would otherwise be eligible for expenditures under section 1513.37 of the Revised Code.

(b) New paragraph (JJJJJ) "Unanticipated event or conditions" has been added to mean (as used in 1501:13-5-01 of the Administrative Code) an event or condition related to prior mining activity which arises from

a surface coal mining and reclamation operation on lands eligible for re-mining and was not contemplated in the applicable permit.

The proposed changes are found to be substantively identical to the corresponding Federal Regulations at 30 CFR 701.5.

2. OAC 1501:13-5-01 Review, public participation, and approval or disapproval of permit applications and permit terms and conditions.

(a) New paragraph (D)(7) has been added to provide that subsequent to the effective date of this rule, the prohibitions of paragraph (D)(3) of this section regarding the issuance of a new permit, shall not apply to any violation that occurs after that date; is unabated; and results from an unanticipated event or condition that arises from a surface coal mining and reclamation operation on lands that are eligible for re-mining under a permit issued pursuant to OAC 1501:13-4-12(L) and held by the person making application for the new permit.

(b) New paragraph (D)(7)(D) provides that for permits issued under OAC 1501:13-4-12(L), an event or condition shall be presumed to be unanticipated for the purposes of this paragraph if it: arose after permit issuance; was related to prior mining; and was not identified in the permit.

(c) New paragraph (E)(19) and subparagraphs (A), (B), and (C), are added to require that, for operations which will include re-mining areas under 1501:13-4-12(L) of the Administrative Code, the application includes (A) Lands eligible for re-mining; (B) an identification of the potential environmental and safety problems related to prior mining activity which could reasonably be anticipated to occur at the site; and (C) mitigation plans to sufficiently address these potential environmental and safety problems so that reclamation as required by the applicable requirements of Chapter 1513 of the Revised Code can be accomplished. Additionally, a semicolon and the word "and" are added at the end of paragraph (E)(18).

The proposed changes are found to be substantively identical to the corresponding Federal regulations at 30 CFR 773.15(b) and (c)(13).

#### 3. OAC 1501:13-9-15 Revegetation.

Paragraph (F)(2) is revised, and subparagraph (F)(2)(A) is added, to provide that the required period of extended responsibility on lands eligible for re-mining shall be not less than two full years for permits issued pursuant to the requirements of OAC 1501:13-4-12 and renewals thereof.

The Director finds that these revisions are substantively identical to portions of

the corresponding Federal regulations at 30 CFR 816 and 817.116(c)(2)(i) and (ii).

### *B. Revisions to Ohio Regulations That Are Not Substantively Identical to the Corresponding Federal Regulations*

#### 1. OAC 1501:13-4-12 Requirements for permits for special categories of mining.

(a) New paragraph (L) has been added to include the requirements for any person who submits a permit application to conduct a surface coal mining operation on lands eligible for re-mining. The requirements of paragraph (L) shall apply until September 30, 2004, or any later date authorized by federal law. The permit application must include: (1) A description of the proposed lands eligible for re-mining and a demonstration, to the satisfaction of the Chief, how such lands meet the eligibility requirements specified by Revised Code Section 1513.37; (2) Identification, to the extent not otherwise addressed in the permit application, of any potential environmental and safety problems related to the prior mining activity at the site which could be reasonably expected to occur. This identification shall be based on a due diligence investigation which shall include visual observations at the site, a record review of past mining at the site, and environmental sampling tailored to current site conditions; and (3) A description, with regard to potential environmental and safety problems identified in paragraph (2), of the mitigative measures that will be taken to ensure that the applicable reclamation requirements of Revised Code Chapter 1513 and these rules can be met.

The federal regulation at 30 CFR 785.25(b) requires that the re-mining application permit be made in accordance with the requirements of subchapter G, which are the permitting requirements. The Ohio rule at OAC 1501:13-4-12(L) does not include this requirement, however, OAC 1501:13-4-12(A) does require all special categories of mining to comply with the general permitting requirements of OAC 1501:13-4, therefore the Director finds that the proposed change at paragraph (L) is no less effective than the corresponding Federal regulations at 30 CFR 785.25 (b) and (c) when read in conjunction with OAC 1501:13-4-12(A).

(b) The Director also finds that paragraphs (L)(1) and (L)(3) are substantively identical to 30 CFR 785.25(a) and (b)(2), respectively. Paragraph (L)(2) is nearly identical to 30 CFR 785.25(b)(1) except that Ohio did

not include the word "review" in OAC 1501:13-4-12(L)(2) when describing the evaluation of past mining at the site that is required during the permitting process. 30 CFR 785.25(b)(1) requires a record review of past mining at the site. Ohio has addressed this item by including the word "review" in the version of OAC 1501:13-4-12(L)(2) that was officially filed through the Ohio rule promulgation process with the Ohio Legislative Service Commission on January 16, 1997. Ohio provided a copy of this letter to OSM on January 23, 1997. Therefore the amendment is found to be as effective as 30 CFR 785.25(b)(1) based on this revision.

#### 2. OAC 1501:13-9-15 Revegetation.

(a) Ohio's revegetation performance standards for lands eligible for remining generally cross-reference the performance standards for previously undisturbed lands, thus, to avoid confusion, Ohio deleted the references to "five years" for the period of responsibility. While the period of responsibility will remain five years for most mining operations, the deletions are consistent with the change in 30 CFR 816/817.116(c)(2)(i) which allows remining operations to have a shorter period of responsibility. Affected paragraphs and subparagraphs are: (F)(3), (F)(3)(a), (G)(3)(a), (I)(6), (J)(1)(b), (F)(4)(d), (H)(2), (L)(2), and (M)(4).

(b) Subparagraph (H)(2) is further amended by adding the words "and hay crops also meet, at a minimum, the ground cover standards of paragraph (G)(3)(B) during the last year of the period of extended responsibility." The current rule could have been interpreted to allow cropland with hay as the approved crop to only meet productivity requirements without a ground cover. Ohio is adding a ground cover requirement on cropland when hay is the required crop. While the federal rules at 30 CFR 816.116(b)(2) only require a success standard approved by the regulatory authority for cropland, the Director finds the success standard to be consistent with the revegetation requirements of 30 CFR 816/817.111.

(c) Paragraph (L) is amended by deleting the words "undeveloped land" from the revegetation success standards for forest land, fish and wildlife habitat and other postmining land uses that have woody vegetation. Specific revegetation success standards for undeveloped land are provided under in OAC 1501:13-9-15(M). OSM previously approved Ohio's program amendment #67 to change OAC 1501:13-9-17(B)(2) to allow undeveloped land as a post mining land use only if the pre-mining land use was undeveloped. That amendment also eliminated OAC

1501:13-9-17(D)(8) which provided that proposals for a post mining land use of undeveloped land would be treated as if the post mining land use were forest land/fish and wildlife habitat.

Therefore, including undeveloped land with the forest land/fish and wildlife land use revegetation standards in OAC 1501:13-9-15(L) is no longer necessary. The deletion of "undeveloped land" in paragraph (L) is consistent with the earlier deletion that was approved by OSM on July 27, 1994 (59 FR 38123, 38124). Thus, the Director finds that this deletion is not inconsistent with 30 CFR 816./817.116(b).

(d) New paragraph (O) is added to include revegetation standards for areas eligible for remining in each land use category. New subparagraph (1)(A) includes standards for revegetation of pasture and grazing lands and requires that for Phase II bond release, revegetation standards for remined lands are the same as those for previously unmined lands as required by paragraph (G)(2) of this rule. For Phase III bond release, however, new subparagraph (1)(B) requires that remined lands in this category must have ground cover equal to or exceeding seventy percent cover and be adequate to control erosion with no single area with less than thirty percent cover exceeding the lesser of three thousand square feet or .3 percent of the land affected.

New subparagraph (2)(A) includes standards for revegetation of agricultural cropland, other than prime farmland, and requires that for Phase II bond release, revegetation standards for remined lands are the same as those for previously unmined lands as required by paragraph (G)(2) of this rule. New subparagraph (2)(B) includes for Phase III bond release, crop yield data must at a minimum equal the average county yield for any year of the responsibility period except the first year and, hay crops also must have ground cover equal to or exceeding seventy percent cover and be adequate to control erosion with no single area with less than thirty percent cover exceeding the lesser of three thousand square feet or .3 percent of the land affected.

New subparagraph (3)(A) includes standards for revegetation of industrial, residential, or commercial land use, other than commercial forest land, and requires that for Phase II bond release, revegetation standards for remined lands are the same as those for previously unmined lands as required by paragraph (G)(2) of this rule. For Phase III bond release, however, new subparagraph (3)(B) requires that remined lands in this category must

have ground cover equal to or exceeding seventy percent cover and be adequate to control erosion with no single area with less than thirty percent cover exceeding the lesser of three thousand square feet or .3 percent of the land affected.

New subparagraph (4)(A) includes standards for revegetation of forest land, fish and wildlife habitat, or other land which requires the establishment of woody vegetation, and requires that for Phase II bond release, revegetation standards for remined lands are the same as those for previously unmined lands as required by paragraph (L)(1) of this rule. For Phase III bond release, however, new subparagraph (4)(B) requires that remined lands in this category must meet the requirements of paragraph (L)(2) of this rule except that, of the minimum countable trees per acre, eighty (80) percent have been in place for at least two (2) years, on each acre on which trees or shrubs are to be planted.

New subparagraph (5)(A) includes standards for revegetation of undeveloped land and requires that for determining success of revegetation and for Phase II bond release, revegetation standards for remined lands are the same as those for previously unmined lands as required by paragraph (M)(1), (2) and (3) of this rule. For Phase III bond release, however, new subparagraph (5)(B) requires that remined lands in this category must meet the requirements of paragraph (M)(3) of this rule except that the herbaceous ground cover on areas not planted with trees or shrubs must have ground cover equal to or exceeding seventy percent cover and be adequate to control erosion with no single area with less than thirty percent cover exceeding the lesser of three thousand square feet or .3 percent of the land affected.

New subparagraph (6)(A) includes standards for revegetation of recreational areas where herbaceous vegetation comprises the ground cover, and requires that for Phase II bond release, revegetation standards for remined lands are the same as those for previously unmined lands as required by paragraph (G)(2) of this rule. For Phase III bond release, however, new subparagraph (6)(B) requires that remined lands in this category must have ground cover equal to or exceeding seventy percent cover and be adequate to control erosion with no single area with less than thirty percent cover exceeding the lesser of three thousand square feet or .3 percent of the land.

New subparagraph (6)(C) includes standards for revegetation of recreation

areas which require the planting of woody vegetation, and requires that for Phase II bond release, revegetation standards for remined lands are the same as those for previously unmined lands as required by paragraph (L)(1) of this rule. For Phase III bond release, new subparagraph (6)(D) requires that remined lands must meet the same requirements of paragraph (L)(2) of this rule which pertain to previously unmined lands in this category.

The proposed rules discussed above pertaining to Phase II bond release for each appropriate land use category for remined areas are the same rules that Ohio applies for Phase II bond release for previously unmined areas. The proposed rules in (O)(1)(B), (O)(2)(B), (O)(3)(B), (O)(5)(B) and (O)(6)(B) pertaining to Phase III bond release for each appropriate land use category require ground cover to equal or exceed 70 percent and adequately control erosion in the last year of the extended responsibility period on remining sites. The corresponding Federal rule at 816.116(b)(5) requires the vegetative ground cover shall be not less than the ground cover existing before redisturbance and shall be adequate to control erosion. The Federal rule does not specify required percentages of ground cover. The question is whether or not 70 percent cover is adequate, especially if the ground cover was greater than 70 percent before remining. To evaluate the adequacy of the proposed rule it is necessary to look at the entire Ohio rule as it pertains to revegetation success standards. Ohio's general requirements in OAC 1501:13-9-15(B)(3) and (4) require vegetation to be at least equal in extent of cover to the natural vegetation of the area; and control surface erosion. When OAC 1501:13-9-15(O) is considered in conjunction with these provisions of the Ohio rule, the proposed success standards for remining meet the requirements of the Federal rule at 30 CFR 816.116(b)(5). Therefore, in the rare case of an area being eligible for remining having greater than 70 percent ground cover before remining, the mining operator would be held to the general requirements of OAC 1501:13-9-15(B)(3) & (4) that vegetation be at least equal to the natural vegetation of the area and capable of controlling surface erosion. Additionally, the requirements that ground cover meet or exceed 70 percent in the last year of the period of extended responsibility is consistent with the Federal rule at 30 CFR 816.116/817.116(c)(2)(ii).

The Director finds that Ohio's proposed rules listed above are no less effective than the corresponding Federal

Regulations at 30 CFR 816.116 and 30 CFR 817.116.

The following non-substantive changes are also proposed by Ohio:

(d) Paragraph (M) is further amended by separating the first sentence into two items with the second item being labeled as (1) and re-numbering the subsequent items accordingly. No word changes were made to these items.

(e) Definitions of "abatement plan", "base line pollution load", "best available technology economically achievable", "pollution abatement area", "pre-existing discharge", and "remining NPDES permit" are relocated from OAC 1501:13-4-15 to OAC 1501:13-1-02, without revision, and remaining paragraphs in both sections are re-lettered accordingly.

#### *C. Revisions to Ohio's Regulations With No Corresponding Federal Regulations*

1. OAC 1501:13-4-08 Hydrologic map and cross-sections.

New paragraph (A)(15) has been added to include in the hydrologic map any land determined to be eligible for remining.

2. OAC 1501:13-4-10 Uniform color code and map symbols.

New paragraph (A)(6) has been added to include any area determined to be eligible for remining shall have its perimeter designated with a dashed black line and the areas therein clearly labeled "Remine".

3. OAC 1501:13-4-15.

(a) The title of this section is changed from "Authorization to conduct coal mining on previously mined areas" to "Authorization to conduct coal mining on pollution abatement areas".

While there are no direct Federal counterparts to these revisions, the Director finds that they are not inconsistent with SMCRA or its corresponding Federal regulations, and do not render the State program any less effective than the federal regulations.

#### *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 in a letter dated September 13. The commenter stated that ongoing coordination with the Ohio Historical Preservation Office is necessary to address preservation concerns. The Director notes that OAC 1501:13-4-01(B) requires coordination of review and issuance of permits with other federal or state laws which

includes the National Historic Preservation Act of 1966 and that OAC 1501:13-5-01(A)(3) requires that a written notification of a permit application, renewal or revision be sent to all federal, state and local governmental agencies that have an interest in the area of the proposed operations. There are no remining operations that are not included in the permit application process. The program amendment does not propose to change any coordination that currently exists between OHPO and DMR concerning review of cultural and historical resources. Additionally, the commenter was concerned that remining permit applications will not be reviewed by Ohio to determine if the proposed permit area is included within an area designated as unsuitable for mining. The Director disagrees with the commenter. Pursuant to OAC 1501:13-5-01(E)(4), all mining applications, including remining sites, cannot be approved if the proposed permit area is included within an area designated unsuitable for coal mining operations.

#### *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. Army Corps of Engineers responded that the changes were satisfactory. No other comments were received.

#### *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.*). None of the revisions that Ohio proposed to make in this amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

#### *V. Director's Decision*

Based on the above finding(s), the Director approves the proposed amendment as submitted by Ohio on July 23, 1996, and revised on October 4, 1996 and January 23, 1997. The Director is approving the proposed regulations with the understanding that they be promulgated in a form identical to that submitted to OSM. Any differences between these regulations and the State's final regulations will be

processed as a separate amendment subject to public review at a later date.

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 by section 3 of Executive Order 12988 (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 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 7, 1997.

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 (eeee) to read as follows:

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

\* \* \* \* \*

(eeee) The following rules, as submitted to OSM on August 26, 1996, and revised on October 4, 1996, and January 23, 1997, are approved effective February 28, 1997:

OAC 1501:13-1-02 (000) and (JJJJJ) .....	Definitions.
OAC 1501:13-4-08 (A)(15) .....	Hydrologic map and cross sections.
OAC 1501:13-4-10 (A)(6) .....	Uniform color code and map symbols.
OAC 1501:13-4-12 (L) .....	Requirements for permits for special categories of mining.
OAC 1501:13-4-15 (deletion of (B)) .....	Authorization to conduct coal mining on pollution abatement areas.
OAC 1501:13-5-01 (D)(7), (D)(7)(D), (E)(19) and (E)(19) (A), (B) and (C).	Review, public participation, and approval or disapproval of permit applications and permit terms and conditions.
OAC 1501:13-9-15 (F)(2), (F)(2)(A), (F)(3), (F)(3)(a), (F)(4)(d), (G)(3)(a), (H)(2), (I)(6), (J)(1)(b), (L), (L)(2), (M)(4), (O), and (O) (1) through (6).	Revegetation.

[FR Doc. 97-5038 Filed 2-27-97; 8:45 am]  
BILLING CODE 4310-05-M

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[FRL-5693-8]

**Clean Air Act (Act) Approval and Promulgation of State Implementation Plans; Prevention of Significant Deterioration (PSD); Louisiana**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; Correction.

**SUMMARY:** This document contains a correction to the direct final rule concerning the State of Louisiana PSD increments for PM-10 (particulate matter 10 micrometers or less in diameter) published Tuesday, October 15, 1996 (61 FR 53639). In the October 15, 1996, Federal Register document, Section I.8.a of Regulation Louisiana Administrative Code 33:III. Chapter 5, Section 509, effective February 20, 1995, was erroneously cited as Section E.8.a.

**EFFECTIVE DATE:** February 28, 1997.