

Par. 5. In § 602.101, paragraph (c) is amended by adding an entry in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

| CFR part or section where identified and described | Current OMB control No. |
|--|-------------------------|
| * * * * * | |
| (c) * * * | |
| 301.7623-1T | 1545-1534 |
| * * * * * | |

Michael P. Dolan,
Acting Commissioner of Internal Revenue.

Approved: August 26, 1997.

Donald C. Lubick,
Acting Assistant Secretary of the Treasury.
[FR Doc. 97-26858 Filed 10-10-97; 8:45 am]
BILLING CODE 4830-01-U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH-241; Amendment Number 74]

Ohio Regulatory Program

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

ACTION: Final rule; approval of amendments and removal of condition of program approval.

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 revisions to section 1501:13-6-03 of the Ohio Administrative Code (OAC) dealing with the Small Operator Assistance Program (SOAP). The amendment is intended to revise the Ohio program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: October 14, 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 October 3, 1996, (Administrative Record No. OH-2170-00) Ohio submitted a proposed amendment to its program regarding its SOAP pursuant to SMCRA. Ohio submitted the proposed amendment at its own initiative. OSM announced receipt of the proposed amendment in the October 18, 1996, **Federal Register** (61 FR 54373) and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on November 18, 1996. At the time of announcement, the proposed amendment was identified as [OH-240; Amendment Number 74]. Please note that the amendment is now identified as [OH-241; Amendment Number 74]. However, certain cross-references contained in the proposed amendments were inadvertently omitted or incorrect in that notice. These were conveyed to Ohio in a document dated April 14, 1997, Administrative Record No. OH-2170-07. Also, Ohio submitted corrections to its proposed amendments in documents dated April 1, 1997 and May 27, 1997 (Administrative Record Nos. OH-2170-06, and OH-2170-08, respectively). On June 24, 1997, Ohio submitted its revisions in response to the April 14, 1997 document (Administrative Record No. OH-2170-09). Therefore, OSM reopened the public comment period on the proposed amendments until August 4, 1997 as published in the July 18, 1997 **Federal Register** (62 FR 38509).

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. The amendment proposes numerous changes regarding both the title of the division and references to gender. Throughout the amendment, due to a name change of the division of reclamation, references to the "division of reclamation" are changed to the "division of mines and reclamation" and references to "he" or "his" are changed to "he or she" or "his or hers", respectively. These changes are non-substantive and are not specifically enumerated below. The changes proposed by Ohio in the revised amendment are discussed briefly below:

OAC 1501:13-6-03 Small Operator Assistance Program

(a) Paragraph (A)(1) is amended by adding items for which qualified operators may request assistance. These include engineering analysis and designs necessary for the determination of probable hydrologic consequences added to subparagraph (A)(1)(a), and amending subparagraph (A)(1)(b) to include geologic drilling and statement of the results of physical and chemical analyses of test borings or core samples.

(b) New subparagraphs (c)(d) (e) and (f) are added under paragraph (A)(1) to identify the development of cross-section maps and plans; the collection of archaeological information and other historical information and the preparation of plans necessitated thereby; pre-blast surveys; and the collection of site specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the chief, respectively, as items for which a qualified operator may request assistance.

There is no direct federal counterpart. However the proposed changes at (A)(1) are consistent with the corresponding Federal Regulations at 30 CFR 795.9(b)(1)-(b)(6), which describes the SOAP services and data requirements.

(c) Paragraph (B) is amended by deleting subparagraphs (1) and (2) dealing with probable hydrologic consequences and results of test borings and core samplings which are added to Paragraph (A) of this amendment, and adding a statement that the services eligible are now under paragraph (A).

The proposed change in paragraph (B) is non-substantive and the deletion of paragraphs (1) and (2) are not inconsistent with SMCRA or its corresponding Federal regulations, and do not render the State program any less effective than the federal regulations.

(d) Paragraph (C)(2) is amended by substituting the Department of Natural

Resources as an additional reference for production figure verification instead of the division of mines and the division of reclamation. The change in names is made due to the transfer of Division of Mines staff and responsibilities to the Department of Natural Resources. The Department of Natural Resources was assigned to the Division of Reclamation which was retitled the Division of Mines and Reclamation. Subparagraphs (C)(2)(a) and (C)(2)(b) are amended by changing the applicant ownership limit from "more than a five percent limit" to "ten percent or more" limit.

The proposed changes at (C)(2), (C)(2)(a), & (C)(2)(b) are not less effective than the federal regulations at 30 CFR 795.6(a)(2) (i) & (ii), which require applicant ownership limits of more than ten percent.

(e) Subparagraph (D)(9) is amended by deleting the specific map scale references required for a topographic map and adding a reference to OAC 1501:13-4-09. New subparagraph (D)(9)(e) is added to require that such topographic maps also include any additional information required by the chief.

The proposed changes in (D)(9) and (D)(9)(e) are no less effective than 30 CFR 795.7(e) because the map scale references and details required that were included in the deleted section are now included in the cross-referenced citation.

(f) Paragraph (F)(2) is amended by deleting the heading "specific provisions" and adding the following: "The data, analyses, and statements provided to the chief shall be sufficient to satisfy the requirements for:". Subparagraphs (F)(2) (a) and (b) are amended to include engineering analyses and designs necessary for the probable hydrologic consequences determination, and the drilling and statement by a qualified laboratory of the result of test borings or core samplings, respectively. Subparagraph (F)(2)(b) is further amended by adding provisions for obtaining a waiver from the requirement. Previously existing subparagraph (F)(2)(c) pertaining to this waiver is deleted.

Existing subparagraph (F)(2)(d) is renumbered as (F)(3), and existing subparagraphs (F)(2) (e) and (f) are deleted.

New subparagraphs (F)(2) (c), (d), (e) and (f) are added to identify the specific requirements that must be met for the development of cross-section maps and plans; the collection of archeological information and other historical information; pre-blast surveys; and the collection of site-specific resource information and production of

protection and enhancement plans for fish and wildlife habitats and other environmental values, respectively.

The proposed rules in (F) are found to be substantively identical to the corresponding Federal regulations at 30 CFR 795.9 (b)(1)-(b)(6). The deletion of subparagraphs (F)(2) (e) and (f) are found to be acceptable because the requirements for the submission of a hydrology map and a geologic cross-section required by these subparagraphs are now included in the newly added sections and/or cross-references now included in (F)(2)(c). The revision to paragraph (F)(2)(a) of OAC 1501:13-6-03 also satisfies a required program amendment found at 30 CFR 935.16(a)(3). In the January 13, 1997, **Federal Register** (62 FR 1668), the Director required that Ohio amend ORC 1513.07(B)(4)(a)(i) or otherwise clarify that under the Small Operator's Assistance Program (SOAP), probably hydrologic consequences determinations include the engineering analyses and designs necessary for those determinations. The revision to paragraph (F)(2)(a) specifically adds this required language. Therefore, the Director is removing the required amendment at 30 CFR 935.16(a)(3).

IV. Summary and Disposition of Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. One comment was received from the Ohio Historic Preservation Office in a letter dated February 24, 1997. The commenter stated that several times the new language refers to the collection of archaeological information, but does not refer to the National Historic Preservation Act review process which includes more than just archaeological sites. The Ohio Historical Preservation Office suggests that the rule language parallel the Section 106 review process at 36 CFR part 800. One of the changes made by Ohio to the proposed rules in one of its subsequent submissions is to add the words "and historical" after the word archaeological in sections OAC 1501:13-6-03(A)(1)(D) and OAC 1501:13-6-03(F)(2)(d). Additionally, 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 SOAP 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. No one requested an opportunity to speak at a public hearing, therefore no hearing was 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. Army Corps of Engineers responded that the changes were satisfactory. The U.S. Department of Labor's Mine Safety and Health Administration acknowledged receipt of the proposed amendment and responded that no further action was anticipated. 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.*). Comments were requested from EPA, however they did not reply.

V. Director's Decision

Based on the above finding(s), the Director approves the proposed amendment as submitted by Ohio on October 3, 1996 and modified in documents dated April 1, 1997, May 27, 1997, and June 24, 1997. (Administrative Record Nos. OH-2170-06, OH-2170-08, and OH-2170-09, respectively). The Director is also removing the condition of program approval at 30 CFR 935.16(a)(3) because this amendment now includes those requirements at paragraph (F)(2)(a) of OAC 1501:13-6-03. The requirement amendment was initially included in OH-204 published as a final rule in the January 13, 1997, **Federal Register** (62 FR 1668). The condition required an amendment that probable hydrologic consequences determinations include engineering analyses and designs necessary for those determinations.

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 2 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 Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 9, 1997.

Tim L. Dieringer,

Acting 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 in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

§ 935.15 Approval of Ohio regulatory program amendments.

* * * * *

| Original amendment submission date | Date of final publication | Citation/description |
|------------------------------------|---------------------------|---|
| * | * | * |
| October 3, 1996 | October 14, 1997. | OAC 1501:13-6-03, (A)(1) (a) through (f), (B), (1), (2), (F)(2), (a) through (f), (C)(2), (a), (b), (D)(9), (10), (11). |

§ 935.16 Required regulatory program amendments.

Section 935.16 is amended by deleting paragraph (a)(3).

[FR Doc. 97-27065 Filed 10-10-97; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA-5026a; FRL-5904-5]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Approval of VOC RACT Determinations for Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving six State Implementation Plan (SIP) revisions submitted by the Commonwealth of Virginia. These revisions establish and require volatile organic compound

(VOC) reasonably available control technology (RACT) on six major sources of VOCs located in Virginia. The intended effect of this action is to approve, as SIP revisions, source-specific plan approvals and Consent Agreements that establish RACT in accordance with the Clean Air Act (the Act).

DATES: This action is effective November 28, 1997 unless notice is received on or before October 29, 1997 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to David L. Arnold, Air, Radiation, and Toxics Division, Mailcode 3AT21, U.S.