

3. Section 228.21 is amended by adding a sentence at the end of paragraph (a) and revising paragraph (c)(4) as follows:

§ 228.21 Ocean transportation.

(a) * * * USAID's policy on implementation of the Cargo Preference Act is in USAID's Automated Directives System, Chapter 315.

* * * * *

(c) * * *

(4) USAID will finance costs incurred on vessels under flag registry of any Geographic Code 935 country if the costs are part of the total cost on a through bill of lading that is paid to a carrier for initial carriage on a vessel which is eligible in accordance with paragraphs (c)(1), (2) or (3) of this section; *provided that* for shipments originating on a U.S. flag vessel with transshipment to a non-US. flag vessel, the supplier must obtain a determination that direct service on a U.S. flag vessel is not available from USAID's Office of Procurement, Transportation Division, 1300 Pennsylvania Avenue NW., Washington, DC 20523-7900.

4. Section 228.51, paragraph (a) is amended by revising the introductory paragraph and paragraph (a)(1) as follows:

§ 228.51 Commodities.

(a) *Waiver criteria.* Any waiver must be based upon one of the criteria listed in this section. Waivers to Geographic Code 899 or Code 935 which are justified under paragraph (a) (2) or (3) of this section may only be authorized on a case-by-case basis. A waiver may be authorized when:

(1) A commodity required for assistance is of a type that is not produced in or available for purchase in the United States; in addition, for waivers to any country or Geographic code beyond Code 941 and the cooperating country, the commodity is of a type that is not produced in or available for purchase in any country in Code 941 or the cooperating country.

* * * * *

5. Section 228.53 is amended by revising the introductory paragraph and paragraph (a) as follows:

§ 228.53 Suppliers of services—privately owned commercial suppliers and non-profit organizations.

Waiver criteria. Any waiver must be based upon one of the criteria listed in this section. Waivers to Geographic Code 899 or Code 935 which are justified under paragraph (b) or (c) of this section may only be authorized on

a case-by-case basis. A waiver may be authorized when:

(a) Services required for assistance are of a type that are not available for purchase in the United States; in addition, for waivers to any country or Geographic Code beyond Code 941 and the cooperating country, the services are of a type that are not available for purchase in any country in Code 941 or the cooperating country.

* * * * *

Dated: January 5, 1998.

Marcus L. Stevenson,
Procurement Executive.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH-243-FOR]

Ohio Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Ohio regulatory program (hereinafter the "Ohio program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of changes to provisions of the Ohio rules pertaining to permitting requirements, bond release, and performance standards. The amendment is intended to revise the Ohio program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4:00 p.m., [E.D.T.], February 23, 1998. If requested, a public hearing on the proposed amendment will be held on February 17, 1998. Requests to speak at the hearing must be received by 4:00 p.m., [E.D.T.], on February 9, 1998.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to George Rieger, Field Branch Chief, at the address listed below.

Copies of the Ohio program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours,

Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Appalachian Regional Coordinating Center.

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.
Ohio Division of Mines and Reclamation, 1855 Fountain Square Court, Columbus, Ohio 43224, Telephone: (614) 265-1076.

FOR FURTHER INFORMATION CONTACT:

George Rieger, Field Branch Chief, Appalachian Regional Coordinating Center, Telephone: (412) 937-2153.

SUPPLEMENTARY INFORMATION:

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** (42 FR 34688). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Description of the Proposed Amendment

By letter dated December 30, 1997 (Administrative Record No. OH-2174-05), Ohio submitted a proposed amendment to its program pursuant to SMCRA and in accordance with 30 CFR 732.17(c). The provisions of the Ohio Administrative Code (OAC) that Ohio proposed to amend are: OAC 1501:13-4-05—Permit Application Requirements, OAC 1501:13-4-12—Special Categories of Mining, OAC 1501:13-4-14—Underground Permit Application Requirements, OAC 1501:13-7-05—Release of Performance Bond, and OAC 1501:13-9-04—Performance Standards.

Specifically, Ohio is proposing the following changes. At OAC 1501:13-4-05 and 13-4-14, Ohio is proposing to replace the term "sedimentation pond" with "siltation structure" and to reference the dam classification criteria found in the Natural Resources Conservation Service (NRCS) Technical Release No. 60. At OAC 1501:13-4-12(E), Ohio is proposing to restrict approximate original contour restoration variances to only steep-slope mining and reclamation operations. At 13-4-12(F)(4)(E), Ohio is proposing to require

that the aggregate total prime farmland acreage not be decreased from that which existed prior to mining. Any water bodies to be constructed during mining and reclamation operations are to be located within the post-reclamation non-prime farmland portions of the permit area. At OAC 1501:13-7-05(A)(2)(a)(iv), Ohio is proposing to require that a notarized statement by the permittee affirming completion of all applicable reclamation requirements be included in a request of approval of reclamation. At OAC 1501:13-9-4, Ohio is proposing to reference the dam and/or emergency spillway hydrologic criteria found in the NRCS Technical Release No. 60. Ohio is also proposing to delete the spillway requirements for impoundments at section (G)(3)(b) as they already appear at section (H)(1)(h).

Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Ohio program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Appalachian Regional Coordinating Center will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., [E.D.T.] on February 9, 1998. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish

to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

IV. 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. 3509 *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 counterpart 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 counterpart 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: January 15, 1998.

Ronald C. Rector,

Acting Regional Director, Appalachian Regional Coordinating Center.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

[SPATS No. TX-039-FOR]

Texas Abandoned Mine Land Reclamation Plan

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

ACTION: Proposed rule; correction.