

VI. Procedural Determinations

Executive Order 12866

The Office of Management and Budget (OMB) exempts this rule from review 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 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 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 State regulatory programs and program amendments 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

This rule does not require an environmental impact statement since section 702(d) of SMCRA (30 U.S.C.

1292(d)) provides that agency decisions on 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. Therefore, this rule will ensure that existing requirements previously published 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

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 4, 1999.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR Part 914 is amended as set forth below:

PART 914—INDIANA

1. The authority citation for Part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 914.15 is amended in the table by removing the entire entry having the date "May 3, 1995" in the "Original amendment submission date" column, and by adding a new entry in chronological order by "Date of final publication" to read as follows:

§ 914.15 Approval of Indiana regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * * * *	* * * * *	* * * * *
August 2, 1999	November 22, 1999 ..	310 IAC 12-5-64.1(c) and 128.1(c).

[FR Doc. 99-30358 Filed 11-19-99; 8:45 am]
BILLING CODE 4310-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

[MD-044-FOR]

Maryland Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving proposed amendments to the Maryland regulatory program (Maryland program) under the

Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendments consist of revisions to the Maryland regulations regarding the design, construction and maintenance of haul roads. The amendments are intended to revise the Maryland program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: November 22, 1999.

FOR FURTHER INFORMATION CONTACT: George Rieger, Program Manager, OSM, Appalachian Regional Coordinating Center, 3 Parkway Center, Pittsburgh PA 15220. Telephone: (412) 937-2153.

SUPPLEMENTARY INFORMATION:

- I. Background on the Maryland 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 Maryland Program

On February 18, 1982, the Secretary of the Interior approved the Maryland program. You can find background information on the Maryland program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the February 18, 1982, **Federal Register** (47 FR 7214). You can find subsequent actions concerning the conditions of approval and program amendments at 30 CFR 920.12, 920.15 and 920.16.

II. Submission of the Proposed Amendment

Maryland provided an informal amendment to OSM regarding the design, construction and maintenance of haul roads in a letter dated August 4, 1998. OSM completed its review of the

informal amendment and submitted comments to Maryland in a letter dated May 19, 1999. By letter dated May 27, 1999 (Administrative Record No. MD-581-00), Maryland submitted its response to OSM's comments in the form of a proposed amendment to its program pursuant to SMCRA.

OSM announced receipt of the proposed amendment in the July 16, 1999 **Federal Register** (64 FR 38392), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on August 16, 1999.

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 paragraph notations to reflect organizational changes resulting from this amendment.

1. COMAR 26.20.01.02B Definitions

The existing definition at (82), "road" is modified by adding the words "surface coal" before "mining and reclamation operations"; adding the words "and from" after "leading to"; deleting the phrase "and such contiguous appendages as are necessary for the total structure"; and deleting the reference to active spoil disposal areas and substituting the phrase that "road" does not include ramps and routes of travel within the immediate mining area or within spoil or coal mine waste disposal areas. The Director finds that the definition is now substantively identical to and therefore no less effective than the definition of "road" contained in the Federal Regulations at 30 CFR 701.5.

2. COMAR 26.20.02.13 Description of Proposed Mining Operations

Paragraph BB.(1) is modified by adding the following requirements: design drawings, and specifications for road widths, gradients, surfacing materials, cuts, fill embankments, culverts, bridges, drainage ditches, low water crossings, and drainage structures;

Existing paragraph BB.(2) is deleted and new paragraph BB.(2) is added to require that each permit application include:

Drawings and specifications of each proposed road that is located in the channel of an intermittent or perennial stream, as necessary for approval of the road by the Bureau in accordance with COMAR 26.20.19;

New paragraph BB.(3) is added to require that each permit application include:

Drawings and specifications for each proposed ford of perennial or intermittent streams that is used as a temporary route, as necessary for approval of the ford by the Bureau in accordance with COMAR 26.20.19;

Existing paragraph BB.(3) is renumbered as BB.(4).

Existing paragraph BB.(5) is deleted and replaced with the following permit application requirement:

Drawings and specifications for each low-water crossing of perennial or intermittent stream channels so that the Bureau can maximize the protection of the stream in accordance with COMAR 26.20.19:

Existing paragraph BB.(4) is renumbered as BB.(6).

New paragraph BB.(7) is added to require that each permit application include:

A description of the plans to remove and reclaim each road that will not be retained under an approved postmining land use, and the schedule for this removal and reclamation; and

New paragraph BB.(8) is added to require that each permit application include:

Design and certification of the plans and drawings for each primary road by a qualified registered professional engineer in accordance with COMAR 26.20.19.01G.

The Director finds that the changes described above are substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 780.37(a) and (b).

New paragraph CC. is added to require that each permit application include:

A description of each support facility to be constructed, used, or maintained within the proposed permit area, including plans and drawings. The plans and drawings shall include a map, appropriate cross sections, design drawings, and specifications sufficient to demonstrate compliance with COMAR 26.20.19.08 and .09.

The Director finds that the changes described above are substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 780.38.

3. COMAR 26.20.19.01 General

New paragraphs A., B., and C. are added as follows:

A. Each road, as defined in §§ B and C of this regulation shall be classified as either a primary road or an ancillary road.

B. A primary road is any road which is:

(1) Used for transporting coal or spoil;
(2) Frequently used for access or other purposes for a period in excess of six months; or

(3) To be retained for an approved postmining land use.

C. An ancillary road is any road not classified as a primary road.

Existing paragraph A. is re-lettered as D. and further modified by adding the word "locate" before "design, construction..." and deleting the phrase "control or minimize erosion and siltation, air and water pollution, and damage to public or private property." Also, new subparagraphs "1" through "7" are added. With the modifications, paragraph D states that:

Each person who conducts surface mining activities shall locate, design, construct or reconstruct, utilize, and maintain roads and restore the area to meet the requirements of the Regulatory Program to:

(1) Control or prevent erosion, siltation, and the air pollution attendant to erosion, including road dust as well as dust occurring on other exposed surfaces, by measures such as vegetating, watering, using chemical or other dust suppressants, or otherwise stabilizing all exposed surfaces in accordance with current, prudent engineering practices;

(2) Control or prevent damage to fish, wildlife, or their habitat and related environmental values;

(3) Control or prevent additional contributions of suspended solids to stream flow or runoff outside the permit area;

(4) Neither cause nor contribute to, directly or indirectly, the violation of State or federal water quality standards applicable to receiving streams;

(5) Refrain from seriously altering the normal flow of water in stream beds or drainage channels;

(6) Prevent or control damage to public or private property, including the prevention or mitigation of adverse effects on lands within the boundaries of units of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including designated study rivers, and National Recreation Areas designated by Act of the U.S. Congress; and

(7) Use nonacid and nontoxic-forming substances in road surfacing.

The Director finds that the changes described above are substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.150(a) and (b).

Existing paragraph B. is deleted and existing paragraph C. is re-lettered as E.

Existing paragraph D. is deleted and new paragraphs F. and G. are added as follows:

F. The plans and drawings for primary roads shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer as meeting the requirements of this chapter and any prudent engineering practices. The Director finds that this paragraph is substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 780.37(b).

G. The construction or reconstruction of primary roads shall be certified in a report to the Bureau by a qualified registered professional engineer. The report shall indicate that the primary road has been constructed or reconstructed as designed and in accordance with the approved plan. The Director finds that this paragraph is substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.151(a).

4. COMAR 26.20.19.02 Location

This section is now re-titled Location of Primary Roads.

Paragraph A. is modified to include the word "primary," so that the paragraph, as modified, states that "[P]rimary roads shall be located, insofar as possible, on the most stable available areas to minimize erosion."

Paragraph B. is modified by adding the phrase "in accordance with the applicable requirements of COMAR 26.20.20 and COMAR 26.20.21.02, .03, and .04." As modified, the paragraph states that "[N]o part of any roads may be located in the channel of an intermittent or perennial stream unless specifically approved by the Bureau in accordance with the applicable requirements of COMAR 26.20.20 and COMAR 26.20.21.02, .03, and .04."

Paragraph C. is modified by including the phrase "on perennial or intermittent streams by primary roads." As modified, the first sentence of paragraph C states that "[S]tream fords on perennial or intermittent streams by primary roads are prohibited unless they are specifically approved by the Bureau as temporary routes during periods of construction."

The Director finds that the changes to Paragraphs A., B., and C., above, render those paragraphs substantively identical to and therefore no less effective than the Federal regulations at 30 CFR 816.151(c)(1), 816.150(d)(1) and 816.151(c)(2), respectively.

5. COMAR 26.20.19.03 Design and Construction

This section is re-titled as Design and Construction of Primary Roads and paragraph A. is modified to include the word "primary." As modified, the paragraph states that "[P]rimary roads shall be designed and constructed or reconstructed in compliance with the standards of this regulation in order to control subsequent erosion and disturbance of the hydrologic balance." While this paragraph has no precise Federal counterpart, the Director finds that, as modified, the paragraph is consistent with the Federal regulations at 30 CFR 816.151.

Paragraph D., Road Embankments, is modified by adding the following subparagraphs:

(9) Each primary road embankment shall have a minimum static safety factor of 1.3. The Director finds that this proposal is substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.151(b).

(10) Each road embankment shall be constructed of fill material that contains sufficient moisture content to achieve proper compaction.

(11) A primary road embankment that is designed and constructed to meet the criteria of this section with an embankment slope not steeper than 2:1 and a foundation slope equal to or less than 25 percent shall be considered to meet the minimum static safety factor under §D(9) of this regulation.

As a result of its technical review of the informal proposed rule submitted on August 4, 1998, OSM recommended that Maryland prepare a stability analysis for road embankments. Specifically, OSM recommended that the analysis be revised to specify the angle of the side slopes and the phreatic surface in the embankment to reflect conditions to be found in a road embankment. Additionally, OSM recommended that the moisture content of the embankment material should be specified as adequate to achieve the required dry density compaction associated with the assumed soil strengths. Maryland's formal submittal addresses OSM's concerns, and the Director finds that the proposal is consistent with the Federal Regulations at 30 CFR 780.37(c) and 816.151(b) because the engineering design standards proposed in subparagraph (11) will ensure compliance with the 1.3 minimum static safety factor requirement.

6. COMAR 26.20.19.04 Drainage

This section is re-titled as Drainage Control for Primary Roads.

Subparagraph A.(1) is modified by adding the word "primary" before the word "road," by adding "bridges" to the list of structures used in a primary road drainage control system, by substituting the word "drainage" for water, and by substituting a 2-year 24-hour precipitation event for the existing 1 year. As modified, paragraph A.(1) states that:

Each primary road shall be designed, constructed or reconstructed, and maintained to have adequate drainage, using structures such as but not limited to bridges, ditches, cross drains, and ditch relief drains. The drainage control system shall be designed to safely pass peak runoff from a 2-year, 24-hour precipitation event.

The Federal regulations at 30 CFR 816.151(d)(1) require that the drainage control system be designed to safely pass the peak runoff from a 10-year, 6-hour precipitation event, or greater event as specified by the regulatory authority. As part of its informal submittal of this proposed amendment dated August 4, 1998, Maryland provided a comparison study to OSM showing that drainage control structures designed to safely pass the 2-year, 24 hour storm results in safer structures than those designed using the 10-year, 6-hour storm. (Administrative Record No. MD-581-04). OSM reviewed this study and found the criteria to be acceptable. (Administrative Record No. MD-581-05). Therefore, the Director finds that the modifications to subparagraph A.1. do not render it less effective than the Federal regulations at 30 CFR 816.151(d)(1).

Existing subparagraph 2. is deleted and a new subparagraph 2. is added as follows: Drainage pipes and culverts shall be installed as designed and maintained in a free and operating condition and to prevent or control erosion at inlets and outlets. The Director finds that subparagraph 2, as modified, is substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.151(d)(2).

New subparagraphs (3) and (4) are added as follows:

(3) Drainage ditches shall be constructed and maintained to prevent uncontrolled drainage over the road surface and embankment.

(4) Culverts shall be installed and maintained to sustain the vertical soil pressure, the passive resistance of the foundation, and the weight of vehicles using the road. The Director finds that subparagraphs (3) and (4) are substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.151 (d)(3) and (d)(4).

Paragraph C., Culverts, is modified by substituting a 2-year 24-hour precipitation event for the existing 1 year. As modified, the first sentence of the paragraph states that "[C]ulverts shall be designed to safely pass a 2-year, 24-hour precipitation event." The Federal regulations at 30 CFR 816.151(d)(1) require that drainage control systems be designed to safely pass the peak runoff from a 10-year, 6-hour precipitation event, or greater event as specified by the regulatory authority. Maryland's comparison study referenced above showed that drainage control structures designed to safely pass the 2-year, 24 hour storm results in safer structures than those designed using the 10-year, 6-hour storm criteria. As mentioned previously, OSM performed a technical review of these criteria and found them to be acceptable. (Administrative Record No. MD-581-05). Therefore, the Director finds that paragraph C, as modified, remains no less effective than the Federal regulations at 30 CFR 816.151(d)(1).

7. COMAR 26.20.19.06 Maintenance

New paragraph D. is added as follows:

A road damaged by a catastrophic event, such as a flood, shall be repaired as soon as is practicable after the damage has occurred.

The Director finds that the changes described above are substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.150(e)(2).

8. COMAR 26.20.19.07 Removal of Roads

This section is re-titled as Reclamation of Roads.

The existing paragraph is deleted and replaced with the following:

A road not to be retained under an approved postmining land use shall be reclaimed in accordance with the approved reclamation plan as soon as practicable after it is no longer needed for mining and reclamation operations. This reclamation shall include:

- (1) Closing the road to traffic;
- (2) Removing all bridges and culverts, unless approved as part of the postmining land use;
- (3) Removing or disposing of road surfacing materials that are incompatible with the postmining land use and revegetation requirements;
- (4) Reshaping cut and fill slopes as necessary to be compatible with the postmining land use and to complement the natural drainage pattern of the surrounding terrain;
- (5) Protecting the natural drainage pattern by installing dikes or cross

drains, as necessary, to control surface runoff and erosion; and

(6) scarifying or ripping the roadbed, replacing topsoil or substitute material, and revegetating disturbed surfaces.

The Director finds that the changes described above are substantively identical to and therefore no less effective than the Federal Regulations at 30 CFR 816.150(f).

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No comments were received and because no one requested an opportunity to speak at a public hearing, 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 Maryland program. In a letter dated July 23, 1999 (Administrative Record No. MD-581-02), the U.S. Army Corps of Engineers noted that the proposed amendment requires submission of documentation of compliance with COMAR to the Bureau. The U.S. Army Corps of Engineers suggested that this responsibility be shifted to the permittee by requiring the use of agents, if appropriate, that are considered capable of fulfilling the Bureaus servicing needs. The Director notes that the existing Federal regulations require that such documentation be submitted to the regulatory authority, which, in Maryland, is the Maryland Department of the Environment, Water Management Administration, Bureau of Mines.

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.*).

The Director has determined that this amendment contains no such provisions and that EPA concurrence is therefore unnecessary. Also, EPA did not respond to OSM's request for comments.

V. Director's Decision

The Federal regulations at 30 CFR Part 920, codifying decisions concerning the Maryland 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 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 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 920

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 4, 1999.

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 920—MARYLAND

1. The authority citation for part 920 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 920.15 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

§ 920.15 Approval of Maryland regulatory program amendments.

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Original amendment submission date	Date of final publication	Citation/description
*	*	*
May 27, 1999	November 22, 1999.	COMAR 26.20.01.02B(82), 26.20.02.13 BB(1) through BB(8)&CC, 26.20.19.01A through G, 26.20.19.02 A, B&C, 26.20.19.03 A&D, 26.20.19.04 A(1) through (4)&C, 26.20.19.06D, 26.20.19.07(1) through (6).

[FR Doc. 99-30357 Filed 11-19-99; 8:45 am]
BILLING CODE 4310-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH-246-FOR]

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 (Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Ohio is proposing revisions to section 1501:13-1-04 of the Ohio Administrative Code (OAC) as it relates to exemptions for coal extraction incidental to government-financed highway or other construction. The amendment is intended to revise the Ohio program to include counterparts to the recently promulgated "AML Enhancement Rule," which revised the Federal regulations at 30 CFR 707.5 and added a new provision, at 30 CFR 874.17.

EFFECTIVE DATE: November 22, 1999.

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. Internet: grieger@osmre.gov.

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. You can find background information on the Ohio program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the August 10, 1982, **Federal Register** (47 FR 34688). You can find later actions on conditions of approval and program amendments at 30 CFR 935.11, 935.15, and 935.16.

II. Submission of the Proposed Amendment

By letter dated March 16, 1999 (Administrative Record No. OH-2178-00) Ohio submitted a proposed amendment to its program concerning exemptions for coal extraction incidental to government-financed highway or other construction. Ohio submitted the proposed amendment at its own initiative, in order to incorporate into its program the expanded exemption recently promulgated in the Federal regulations at 30 CFR 707.5, as part of the "AML Enhancement Rule." Under this rule,

approved Title IV abandoned mine land (AML) projects under SMCRA which involve incidental coal extraction and are less than 50 percent government financed may qualify for exemption. Projects which qualify for this expanded exemption must also meet the newly promulgated requirements contained in 30 CFR 874.17. (64 FR 7470, February 12, 1999). The proposed amendment was announced in the April 16, 1999, **Federal Register** (64 FR 18857). The initial comment period closed on May 17, 1999.

By letter dated July 9, 1999 (Administrative Record No. OH-2178-06), Ohio submitted a revised and final version of the proposed amendment. Ohio made this more recent submittal in response to an OSM, July 1, 1999, issue letter (Administrative Record No. OH-2178-05). In the letter, OSM had requested that the amendment clearly restrict exemptions to projects that are AML eligible, and clearly require that the exempted reclamation project be conducted in accordance with the provisions of 30 CFR Subchapter R.

III. Director's Findings

The following are changes to OAC Section 1501:13-1-04 made in the final submission of the proposed amendment. Revisions concerning nonsubstantive wording, format, or organizational changes will not be described in this notice.

OAC 1501:13-1-04 Exemption for coal extraction incidental to government financed highway or other construction.