that the State submittal, which is the subject of this rule, is based upon Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on state, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the facts that the State submittal, which is the subject of this rule is based upon Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining. Underground mining. Required regulatory program amendments.

Dated: June 26, 2015.

Thomas D. Shope,

Regional Director, Appalachian Region.

For the reasons set out in the preamble, 30 CFR part 935, 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
* *	*	* * * * *
March 30, 2012	October 19, 2015	OAC §§ 1501:13–1–02; –14–02; –14–06; –4–03; –4–06; –5–02; –1–14. Changes to Definitions, Ownership and Control, Permit and Application Information and Transfer, assignment or Sale of Permit Rights, and Improvidently Issued Permit procedures.

■ 3. Section 935.16 is added to read as follows:

§ 935.16 Required regulatory program amendments.

(a) By December 18, 2015, Ohio shall amend its program, or provide a written description of an amendment together with a timetable for enactment which is consistent with established administrative or legislative procedures in the State, to require permit applications to list all unabated ''violation notices'', as that term is defined in the Ohio approved program.

(b) [Reserved]

Editorial Note: This document was received for publication by the Office of Federal Register on October 14, 2015.

[FR Doc. 2015–26479 Filed 10–16–15; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[SATS No. PA–154–FOR; Docket ID: OSM–2010–0002; S1D1S SS08011000 SX064A000 167S180110 S2D2S SS08011000 SX064A000 16XS501520]

Pennsylvania Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: We are approving an amendment to the Pennsylvania regulatory program (the ''Pennsylvania program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The amendment that we are approving involves a statutory amendment to Pennsylvania's Coal Refuse Disposal Control Act (CRDCA). The amendment adds another category of sites considered as preferred when selecting a location for the placement of coal refuse.

DATES: *Effective Date:* This rule is effective October 19, 2015.

FOR FURTHER INFORMATION CONTACT: Ben Owens, Chief, Pittsburgh Field Division, Office of Surface Mining Reclamation and Enforcement, Telephone: (412) 937–2827, email: *bowens@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its state program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act . . .; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' 30 U.S.C. 1253(a)(1) and (7).

You can find background information on the Pennsylvania program, including the Secretary's findings, the disposition of comments, and conditions of approval in the July 30, 1982, **Federal Register**, (47 FR 33050). You can also find later actions concerning Pennsylvania's program and program amendments at 30 CFR 938.11, 938.12, 938.13, 938.15, and 938.16. We are providing the following background information as it is referenced in our findings and/or response to comments.

Background: Pennsylvania's Coal Refuse Disposal Control Act (CRDCA)

CRDCA and Preferred Sites: Section 4.1(a) of the CRDCA, 52 P.S. 30.54a(a) provides site selection criteria for determining where to place coal refuse following mining activities. The Act provides for coal refuse to be disposed on a ''preferred site'' unless it can be demonstrated to the Pennsylvania Department of Environmental Protection (PADEP) that another site is more suitable based upon engineering, geology, economics, transportation systems, and social factors, and is not adverse to the public interest.

Pennsylvania provided various justifications for the inclusion of such provisions: It limits sites eligible to receive coal refuse placement by prohibiting placement in certain environmentally sensitive areas; it encourages disposal of coal refuse on

areas previously affected by coal mining; and it is better to have a few large refuse disposal areas than numerous small coal refuse disposal sites. The CRDCA provided that areas that have been previously affected by mining activities within a specific area of the source mine are preferred for coal refuse disposal unless the applicant demonstrates that another site is more suitable based on site-specific conditions.

Pennsylvania had defined a preferred site as one of the following: (1) A watershed polluted by acid mine drainage; (2) a watershed containing an unreclaimed surface mine, but which has no mining discharge; (3) a watershed containing an unreclaimed surface mine with discharges that could be improved by the proposed coal refuse disposal operation; (4) unreclaimed coal refuse piles that could be improved by the proposed coal refuse disposal operation; and (5) other unreclaimed areas previously affected by mining activities. Section 4.1(a), 52 P.S. 30.54a(a) of CRDCA.

Permitting Pennsylvania Coal Refuse Disposal Sites: The CRDCA at section 4.1 and the regulations provide a two-step process for the permitting of coal refuse disposal sites. The first step is a pre-application site selection process intended to steer applicants to areas previously disturbed by mining. In the absence of previously disturbed sites, the site selection process requires an evaluation of nearby candidate sites with the goal of choosing the site that results in minimal adverse impacts. Following Pennsylvania's approval of the applicant's site selection, the applicant proceeds to the second step, which involves preparing and submitting a permit application for the selected site. Pennsylvania's regulations, at 25 Pa. Code 90.5, outline the need to conduct the mandatory site selection step prior to applying for a permit for coal refuse disposal activities, and 25 Pa. Code 90.3 and 90.11 through 90.50 outline the coal refuse disposal permitting requirements.

Pennsylvania's Coal Refuse Disposal Program Guidance [Protection of Endangered Species]: The Federal regulations at 30 CFR 816/817.97, concerning the protection of fish and wildlife and related values, require the minimization of disturbance and adverse impacts and enhancement where practicable, and consultations with State and Federal fish and wildlife resources agencies. See Other Background Information (Endangered Species for additional information). Pennsylvania's Coal Refuse Disposal Program Guidance (CRDPG), effective February 23, 1998, was intended to further clarify what PADEP stated in a March 8, 1996, letter to the Environmental Protection Agency concerning the implementation of section 4.1(b) of the CRDCA. The CRDPG specifically clarifies the intended implementation of section 4.1(b) related to threatened or endangered species. Pennsylvania's policy concerning the implementation of section 4.1(b) is as follows:

With respect to preferred sites, Pennsylvania's regulations provide that Pennsylvania will not approve (via the site selection process, *See* 25 Pa. Code § 90.202(e)(7)) or permit (via the permitting process) a site that is known or likely to contain Federally listed threatened or endangered species, unless Pennsylvania concludes and the United States Fish and Wildlife Service (USFWS) concurs that the proposed activity is not likely to adversely affect Federally listed threatened or endangered species or result in the ''take'' of Federally listed threatened or endangered species in violation of section 9 of the Endangered Species Act.

OSMRE Approval of CRDCA Section 4.1: We approved section 4.1 of the CRDCA (section noted above), Site Selection, on April 22, 1998, finding that while there are no direct Federal counterparts to the statutory language, the establishment of criteria to be used for selecting sites for coal refuse disposal is not inconsistent with SMCRA. *See* 30 U.S.C. 1202(d). Pennsylvania's rationale for encouraging coal mining activities that will result in the improvement of previously mined areas with preexisting pollutional discharges is reasonable and not inconsistent with SMCRA at section 102, concerning the purposes of SMCRA. *See* 63 FR 19802.

II. Description and Submission of the Amendment

By letter dated February 24, 2010 (Administrative Record No. PA 837.111), Pennsylvania sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Pennsylvania submitted the amendment to include changes made at its own initiative. The changes involve a recent statutory amendment to Pennsylvania's CRDCA, 52 P.S., Section 30.51 *et seq.*

With this amendment, Pennsylvania proposed a revision adding another category of sites to the list of ''preferred sites'' currently found in section 4.1(a). The proposed addition (subsection 4.1(a)(6)) would designate an ''area adjacent to or an expansion of an existing coal refuse disposal site'' as a preferred site.

In its submission, Pennsylvania indicates this amendment should be approved as consistent with Federal requirements for the following reasons:

(1) *Counterpart Federal Regulations:* There is no counterpart to section 4.1 of the CRDCA contained either in SMCRA or in OSMRE's regulations implementing Federal SMCRA;

(2) *Coal Refuse Disposal Control Act:* The amendment is consistent with the ''findings and declaration of policy'' in section 1 of the CRDCA, which states that: The accumulation and storage of coal refuse material can cause a condition which fails to comply with the established rules, regulations, or quality standards adopted to avoid air or water pollution and can create a danger to persons, property, or public roads or highways, either by reason of shifting or sliding, or by exposing persons walking onto the refuse to the danger of being burned. In order to minimize the exposure to these conditions and dangers, it is better to have a few large coal refuse disposal sites as opposed to numerous small coal refuse disposal sites. 52 P.S. 30.51(1);

(3) *Pennsylvania Regulations—Chapter 86:* All coal refuse disposal permit applications must comply with chapter 86 (regulations that apply to all coal mining activities); thus, permitting requirements remain unchanged by this statutory amendment. *See* 25 Pa. Code chapter 86;

(4) *Pennsylvania Regulations—Chapter 90:* All coal refuse disposal permit applications must comply with chapter 90 (regulations that apply to coal refuse disposal activities); the site-selection process established by the CRDCA is in addition to these requirements. *See* 25 Pa. Code chapter 90; and

(5) *Species-specific Protective Measures:* All coal refuse disposal permit applications must comply with any applicable species-specific protective measures developed by the USFWS and Pennsylvania's mining regulatory program to minimize anticipated incidental take of threatened or endangered species; thus, species-specific protective measures remain unaffected by the amendment.

III. OSMRE's Findings

For the reasons set forth below, we are approving the amendment request under SMCRA at 30 U.S.C. 1253, and the Federal regulations at 30 CFR 732.15 and 732.17.

Federal Counterparts: Five categories of preferred sites in section 4.1(a) were approved by OSMRE on April 22, 1998. *See* 63 FR 19802. As we stated in that notice, there was no direct Federal

counterpart to the proposed State language. We further noted that the establishment of criteria to be used for selecting sites for coal refuse disposal is not itself inconsistent with the intent of SMCRA. The Federal regulations do not include specific criteria for establishing coal refuse disposal areas. Allowing refuse disposal on areas adjacent to or an expansion of an existing coal refuse disposal site, provided that all other environmental and safety requirements are met, is not inconsistent with section 102(d) of SMCRA, 30 U.S.C. 1202(d), which requires surface coal mining operations to be conducted so as to protect the environment. That same rationale applies to our approval of the addition of the sixth category.

Consistent with CRDCA Policy: We note that the five preferred site categories previously identified in the CRDCA involve watershed areas previously affected by coal mining; other unreclaimed areas previously affected by mining activities; and unreclaimed coal refuse disposal sites that could be improved by the proposed coal refuse disposal operation. While the additional criterion that is the subject of this amendment would allow a previously undisturbed site to be deemed ''preferred,'' we note that the addition of ''an area adjacent to or an expansion of an existing coal refuse disposal site'' to the categories of ''preferred'' sites is consistent with the CRDCA policy as it would expand an already existing coal refuse disposal site, rather than create a new one. Also, adding this category would minimize the need to increase the number of coal refuse disposal sites.

Pennsylvania Regulations: As mentioned above, preferred sites are subject to all the permitting requirements established to ensure environmental protection. Once the selection of a site has been approved, an applicant must submit a site development plan that meets the informational requirements, permitting requirements, and performance standards in chapter 90, and also meets the requirements of chapter 86. The permitting regulations at chapter 86.31(c)(4) require Pennsylvania to notify Federal, State, and local government agencies with jurisdiction over, or an interest in, the area of the proposed activities, including, but not limited to, general governmental entities and fish and wildlife and historic preservation agencies, upon receipt of an application for a mining permit. The regulations at 25 Pa. Code 90.202(e)(7) regarding site selection, provide that at preferred sites known to contain Federally listed threatened or endangered species, approval will be granted only when the Department concludes, and the USFWS concurs, that the proposed activity is not likely to adversely affect Federally listed threatened or endangered species or result in the take of Federally listed threatened or endangered species in violation of section 9 of the Endangered Species Act of 1973, 16 U.S.C. 1538.

Pennsylvania Technical Guidance Document No. 563–2113–660, Coal Refuse Site Selection, further explains how chapter 90.202(e)(7) will be administered by PADEP. In the Background section on page 1, the guidance states that the ''District Mining Office will encourage meetings involving the applicant, the Pa. Fish and Boat Commission, the Pa. Game Commission and the U.S. Fish and Wildlife Service at key points in the review process, including: Prior to the site selection process to discuss the procedures to be used; before defining the search area; before selecting the final site; and before developing a mitigation plan. The District Mining Office will also solicit input from the Pennsylvania office of the U.S. Fish and Wildlife Service, the U.S. EPA and the U.S. Army Corps of Engineers during the site selection process and the permit application review process.''

In addition, Pennsylvania asserts that compliance with any applicable species-specific protective measures developed by the USFWS and Pennsylvania's mining regulatory program to minimize anticipated incidental take of threatened or endangered species remains unaffected by this program amendment.

Conclusion: Section 503(a) of SMCRA provides that state regulatory program laws must be in accordance with the requirements of SMCRA, and the state regulatory program regulations must be consistent with the regulations issued pursuant to SMCRA. The term ''in accordance with'' is defined at 30 CFR 730.5 as ''must be no less stringent than, meet the minimum requirements of and include all applicable provisions of [SMCRA].'' Section 505(b) of SMCRA, 30 U.S.C. 1255(b), further provides that any state program provision which provides for more stringent land use and environmental controls and regulations shall not be construed to be inconsistent with SMCRA.

There are no direct Federal counterparts to the new proposed site selection criterion. However, by providing this criterion, and by prohibiting, generally, coal refuse disposal operations on non-preferred sites, Pennsylvania imposes a more stringent environmental control of coal refuse disposal operations than is provided in either SMCRA or its implementing regulations. Moreover, Pennsylvania will continue to apply the Pennsylvania counterparts to the Federal permitting and performance standard requirements. Accordingly, for the reasons set forth above, OSMRE finds that Pennsylvania's amendment is not inconsistent with the provisions of SMCRA. We are, therefore, approving this amendment.

IV. Summary and Disposition of Comments

Public Comments

In the June 21, 2010, **Federal Register** notice announcing our receipt of this amendment, we asked for public comments (75 FR 34962). No requests for public meetings were received. We received public comments from one organization, Citizens for Pennsylvania's Future (PennFuture) on July 21, 2010, (Administrative Record No. 837.118), which are discussed below.

Comment Number 1 (Preparation Activities). PennFuture states that OSMRE may not approve a program amendment that would reduce the protection of Federally listed threatened and endangered species unless and until Pennsylvania amends its regulatory program under SMCRA to require that all site preparation activities, including timbering, be authorized in advance by the issuance of a mining permit. PennFuture provided a summary of a 2010 event whereby timbering activities were undertaken by an operator without a coal mining permit (pre-permit timbering activities). PennFuture had requested that OSMRE undertake a review of this situation. PennFuture asserted that PADEP's response to OSMRE's inquiry regarding this event (stating that timbering is not a mining activity and, therefore, not subject to permit requirements, etc.) is evidence that a programmatic deficiency needs to be corrected. PennFuture states that OSMRE must limit its approval of the amendment so that, until the programmatic deficiency is corrected, the absolute prohibition in section 4.1(b) of the CRDCA, 52 P.S. 30.54a(b) must apply to all sites, whether preferred or non-preferred, that are ''known to contain Federally listed threatened or endangered plants or animals.'' The ''absolute prohibition'' PennFuture refers to prohibits coal refuse disposal on sites known to contain Federal endangered or threatened animals or plants or State threatened or endangered animals, *unless* the site is designated a preferred site. PennFuture is asking OSMRE to

require Pennsylvania to also apply the prohibition to preferred sites until the timbering issue is resolved.

PennFuture's comments address Pennsylvania's assertion in the program amendment that compliance with any applicable species-specific protective measures developed by the USFWS and Pennsylvania's mining regulatory program to minimize anticipated incidental take of threatened or endangered species remains unaffected by this program amendment. PennFuture's comments also address Pennsylvania's assertion in the program amendment that all coal refuse disposal permit applicants must implement the measures required to implement the 1996 Biological Opinion.

PennFuture refutes these assertions by referencing Pennsylvania's actions regarding pre-permit timbering activities undertaken by the mining company, which the USFWS found to be beyond the scope of the 1996 Biological Opinion because it occurred without a SMCRA permit. PennFuture asserts that the reason PADEP's implementation of the 1996 Biological Opinion falls short is its interpretation that timbering is not a mining activity, even if it occurs on a site for which a mining permit application is pending. Under PADEP's interpretation of the State program, timbering is outside the scope of regulated mining activities that must be authorized in advance by the issuance of a SMCRA-based mining permit. PennFuture further comments that continuing to give effect to this interpretation would mean that the 1996 Biological Opinion would be inapplicable to the activity (timbering) presenting the greatest threat to a threatened and endangered species, the Indiana Bat, which the Biological Opinion is intended to protect.

OSMRE's Response

In its February 24, 2010, program amendment submission, PADEP asserts that the proposed amendment to the CRDCA does not alter provisions that implement the 1996 Biological Opinion, nor does it affect compliance with any species-specific protective measures developed by the USFWS or Pennsylvania's mining regulatory program. There are no aspects of the site selection criteria, including this amendment to the criteria that adds to the list of sites deemed ''preferred,'' that will allow operations to occur outside the scope of the approved program that was the basis for the USFWS's decision to issue the 1996 Biological Opinion. The mere selection of a site is not the equivalent of an authorization to begin coal refuse disposal, or any other pre-disposal activities that are likely to adversely affect Federally listed threatened or endangered species, or result in the ''take'' of Federally listed or endangered species. As such, this amendment will not alter the conditions that lead to the implementation of the 1996 Biological Opinion.

As noted in the findings above, Pennsylvania's coal refuse disposal site selection process is in addition to SMCRA's and the State program's permitting requirements, and, as such, provides an additional layer of environmental regulation of coal refuse disposal operations to that set forth in SMCRA and its implementing regulations. The site selection process is more stringent than SMCRA and the Federal regulations because it encourages coal refuse disposal on already disturbed sites, and also encourages construction of fewer, though larger, coal refuse disposal sites. Neither SMCRA nor the Federal regulations contains these environmentally sound incentives. While our approval of this amendment may render the site selection process less restrictive than before, that process remains more stringent than the environmental control and regulation of surface coal mining and reclamation operations contained in SMCRA.

Comment Number 2 (Section 7 Consultation with USFWS). Under section 7 of the Endangered Species Act, OSMRE must engage in consultation with USFWS about the proposed program amendment.

PennFuture states that under section 7 of the Endangered Species Act, OSMRE must engage in formal consultation with the USFWS over any action that ''may affect'' the Indiana bat or any other Federally listed threatened or endangered species, unless, after informal consultation, OSMRE determines, and the USFWS concurs, that the proposed action is not likely to adversely affect any listed species or critical habitat. PennFuture states that in light of the consultation between the two agencies that occurred when the amendment to the CRDCA was submitted to OSMRE as a program amendment, and the fact that the proposed program amendment currently under review could significantly add to the number of preferred sites, OSMRE must initiate consultation with USFWS over the proposed amendment.

OSMRE's Response

Our approval of this amendment is subject to the same restrictions contained in our April 22, 1998, approval of an amendment to the CRDCA. Namely, with respect to preferred sites, the State will not approve (via the site selection process) or permit (via requirements in chapters 86 or 90) a site that is known or likely to contain Federally listed threatened or endangered species unless the State demonstrates, and the USFWS concurs, that the proposed activity is not likely to adversely affect Federally listed threatened or endangered species or result in the ''take'' of Federally listed threatened or endangered species in violation of section 9 of the Endangered Species Act. *See* 63 FR 19805. Further, the presence of Federally listed threatened or endangered species on a preferred site would still require Pennsylvania to conclude, and the USFWS to concur, prior to the commencement of surface mining activity, that the proposed activity is not likely to adversely affect Federally listed threatened or endangered species or result in the taking of such species. 25 Pa. Code 90.202(e)(7). As confirmed by PADEP in the submission, the 1996 Biological Opinion, and any species-specific protective measures required by the USFWS would apply to all permits issued under this new category of preferred sites, thereby providing the required protection of Federally listed endangered and threatened species. For all of these reasons, we have determined that additional section 7 consultation for this amendment is not warranted.

Federal Agency Comments

Under Federal regulations at 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Pennsylvania program (Administrative Record No. PA 837.111). The Mine Safety and Health Administration (MSHA), District 1, in a letter dated March 31, 2010, (Administrative Record No. PA 837.116), responded that it does not have any comments or concerns with this request.

Environmental Protection Agency (EPA) Concurrence and Comments

Under Federal regulations at 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued 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 revision that Pennsylvania proposes to make in this amendment does not pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

V. OSMRE's Decision

Based on the above findings, we approve the amendment Pennsylvania sent to us on February 24, 2010, pertaining to Pennsylvania's CRDCA. However, our approval is with the understanding that, with respect to preferred sites, the State will not approve a site (via the site selection process) or permit (via requirements in chapters 86 or 90) a site that is known or likely to contain Federally listed threatened or endangered species, unless the State concludes, and the USFWS concurs, that the proposed activity is not likely to adversely affect Federally listed threatened or endangered species or result in the ''take'' of Federally listed or endangered species in violation of section 9 of the Endangered Species Act.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowable 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 because each program is drafted and promulgated by a specific State, not by OSMRE. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 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.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Government

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. The basis for this determination is that our decision is on a State regulatory program and does not involve a Federal program involving Indian lands.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because 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) *et seq.*).

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 certifies 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 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. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon data and assumptions for the Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State, or local government agencies or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 29, 2015.

Thomas D. Shope,

Regional Director, Appalachian Region.

For the reasons set out in the preamble, 30 CFR part 938 is amended as set forth below:

PART 938—PENNSYLVANIA

■ 1. The authority citation for part 938 continues to read as follows:

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

■ 2. Section 938.15 is amended in the table by adding a new entry in chronological order by ''Date of Final Publication'' to read as follows:

§ 938.15 Approval of Pennsylvania regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * * * *	*	*
February 24, 2010	October 19, 2015	52 P.S. 30.54a(a)(6)

[FR Doc. 2015–26477 Filed 10–16–15; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2015–0001: Internal Agency Docket No. FEMA–8405]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

DATES: The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Bret Gates, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4133.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance