

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.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
August 25, 1998	April 13, 1999	COMAR 26.20.34.06G, 26.20.34.09G, deletion of 26.20.06.02.

**§ 920.16 [Amended]**

3. Section 920.16 is amended by removing and reserving paragraph (a).

[FR Doc. 99-9197 Filed 4-12-99; 8:45 am]

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**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 935**

[OH-244-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 1513-3-21 of the Ohio Administrative Code (OAC) as it relates to awards of costs and expenses, including attorney's fees, arising in connection with appeals heard by the Reclamation Commission. The amendment is intended to revise the Ohio program to be consistent with its statute at Ohio Revised Code (ORC) Section 1513.13(E) as well as the corresponding Federal regulations.

**EFFECTIVE DATE:** April 13, 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 January 21, 1999 (Administrative Record No. OH-2177-00) Ohio submitted proposed amendments to its program concerning award of costs and fees in connection with appeals heard by the Reclamation Commission. We announced receipt of the proposed amendment in the February 8, 1999, **Federal Register** (64 FR 6005), invited public comment, and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on March 10, 1999.

**III. Director's Findings**

Following, according to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are our findings concerning the proposed amendment.

Any revisions that we do not specifically discuss below concern nonsubstantive wording changes or revised cross-references and paragraph notations to reflect organizational changes that result from this amendment.

**OAC 1513-3-21 Award of Costs and Expenses**

(a) Paragraphs (A) and (B) are amended by changing the reference from the "board of review" to the "Reclamation Commission", by changing the scope of the paragraph from proceedings "under Chapter 1513 of the Revised Code" to "proceedings before the Reclamation Commission," and specifically requiring that a petition

for costs and expenses including attorney's fees be submitted in accordance with Section 1513.13(E) and (E)(1)(c) of the ORC.

(b) New paragraph (C) is added to specify that a decision by the Chief of the Division of Mines and Reclamation granting or denying in whole or in part a request for an award of costs and expenses including attorney's fees made under Section 1513.13(E)(1)(a) or 1513.13(E)(1)(b) of the ORC shall be appealable to the commission under Section 1513.13(A) of the ORC.

(c) Existing Paragraph (C) pertaining to the contents of a petition is re-numbered as (D) and further amended by including the specific references to the ORC included in (a) and (b) above.

(d) Existing Paragraphs (D), (E) and (F) are re-numbered as (E), (F), and (G). New paragraphs (F) and (G) are further amended by changing the scope of the paragraphs from proceedings "under Chapter 1513 of the Revised Code" to proceedings "before the Reclamation Commission."

The changes described above revise the OAC to correspond with provisions previously approved in the ORC at Section 1513.13 entitled, Appeal of Violation, Order or Decision to Reclamation Commission. The Director finds that the proposed revisions to the OAC included in this amendment render these provisions consistent with ORC Section 1513.13(E) pertaining to costs and expenses, including attorneys fees, arising from proceedings before the Chief of the Ohio Division of Mines and Reclamation and before the Reclamation Commission. In addition, the revisions do not render OAC Section 1513-3-21 inconsistent with section 525(e) of SMCRA or with the Federal regulations at 43 CFR 4.1294.

**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. Because no one requested an opportunity to speak at a public hearing, no hearing was held. No comments were received.

#### *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 Department of the Army, Army Corps of Engineers, concurred without comment (Administrative Record No. OH-2177-02). No other comments were received.

#### *Environmental Protection Agency (EPA)*

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions Ohio proposed to make in its amendment pertains to air or water quality standards. Nevertheless, OSM requested EPA's comments on the proposed amendment. EPA did not respond to OSM's request.

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

Based on the above findings, the Director approves the proposed amendment as submitted by Ohio on January 21, 1999.

#### **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*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), this rule will not produce a Federal mandate of \$100 million or greater in any year, i.e., it is not a "significant regulatory action" under the Unfunded Mandates Reform Act.

#### **List of Subjects in 30 CFR 935**

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 31, 1999.

**Allen D. Klein,**

*Regional Director, Appalachian Regional Coordinating Center.*

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

#### **PART 935—OHIO**

1. The authority citation for Part 935 continues to read as follows:

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

2. Section 935.15 is amended 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
	*	*	*
January 21, 1999 .....		April 13, 1999 .....	OAC 1513-3-21.

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**ENVIRONMENTAL PROTECTION  
AGENCY**

**40 CFR Part 52**

[DC017-2013a; FRL-6323-5]

**Approval and Promulgation of Air  
Quality Implementation Plans; District  
of Columbia; Withdrawal of Final Rule**

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

**ACTION:** Withdrawal of notice of final  
rulemaking.

**SUMMARY:** Because EPA received  
adverse comments, EPA is withdrawing

the direct final rule for the conditional approval of revisions to the District of Columbia state implementation plan (SIP). EPA published the direct final rule on February 25, 1999 (64 FR 9272), conditionally approving the District of Columbia's requirements for reasonably available control technology (RACT) on major sources of nitrogen oxides. EPA stated in the direct final rule that if EPA received adverse comments by March 29, 1999, EPA would publish a timely notice of withdrawal in the **Federal Register**. EPA subsequently received adverse comments on that direct final rule. EPA will address the comments received in a subsequent final action and issue a final rule based on the parallel proposal also published on February 25, 1999 (64 FR 9289). As stated in the parallel proposal, EPA will

not institute a second comment period on this action.

**DATES:** This withdrawal is made on April 13, 1999.

**FOR FURTHER INFORMATION CONTACT:**  
Kristeen Gaffney (215) 814-2092, or by  
e-mail at  
gaffney.kristeen@epamail.epa.gov.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air  
pollution control, Nitrogen oxides,  
Ozone, Reporting and recordkeeping  
requirements.

Dated: April 5, 1999.

**Thomas C. Voltaggio,**

*Acting Regional Administrator, Region III.*

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