Executive Order 12988—Civil Justice Reform

The Department of 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). 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 regarding 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.

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

On May 18, 2001, the President issued Executive Order 13211 requiring 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 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. 1992(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 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 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. In making the determination as to whether this rule would have significant economic impact, the Department relied upon data and assumptions for the counterpart 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, 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 counterpart 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 counterpart 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 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 29, 2015.

Thomas D. Shope,

Regional Director, Appalachian Region.

For the reasons set forth in the preamble, 30 CFR part 917 is amended as follows:

PART 917—KENTUCKY

■ 1. The authority citation for Part 917 continues to read as follows:

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

§ 917.16 [Amended]

■ 2. Section 917.16 is amended in the table by removing and reserving paragraphs (e) and (h).

[FR Doc. 2015–26478 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 935

[OH–254–FOR; Docket ID: OSM–2012–0012; S1D1S SS08011000 SX066A000 156S180110; S2D2S SS08011000 SX066A000 15XS501520]

Ohio Regulatory Program

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

ACTION: Final rule; approval of amendment and addition of a required regulatory program amendment.

SUMMARY: We are approving, with one additional requirement, an amendment to the Ohio regulatory program (the Ohio program) under the Surface

Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The amendment we are approving updates the Ohio Administrative Code (OAC) to address issues raised by OSMRE regarding the consistency of Ohio's program with the final Federal rule relative to Ownership and Control, Permit and Application Information and Transfer, and Assignment or Sale of Permit Rights, which became effective on December 3, 2007. The amendment specifically revises the following regulations within the OAC: Definitions; Incorporation by reference; permit applications, requirements for legal, financial, compliance and related information; permit applications, revisions, and renewals, and transfers, assignments, and sales of permit rights; improvidently issued permits; and enforcement and individual civil penalties. Ohio submitted this amendment to ensure the Ohio program is consistent with, and in accordance with, SMCRA, and no less effective than the corresponding regulations. During the course of our review of this amendment, we determined that Ohio must amend its program to ensure the term ''violation notice'' is consistent with the approved Ohio program.

DATES: *Effective date:* October 19, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Owens, Chief, Pittsburgh Field Division, Office of Surface Mining Reclamation and Enforcement, 4605 Morse Road, Rm. 102, Columbus, Ohio 43230; Telephone: (614) 416–2238; email: *bowens@osmre.gov;* Fax: (614) 416–2248.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program

Section 503(a) of the SMCRA 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 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 this Act . . . ; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Ohio program effective August 16, 1982. You can find background information on the Ohio program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Ohio program in the August 16, 1982, **Federal Register** (47 FR 34688). You can also find later actions concerning Ohio's regulatory program and regulatory program amendments at 30 CFR 935.11, 935.15, and 935.30.

II. Description and Submission of the Proposed Amendment

Following the approval of the December 3, 2007, Federal rule, ''Ownership and Control; Permit and Application Information; Transfer, Assignment, or Sale of Permit Rights; Final Rule,'' **Federal Register** (72 FR 68000), OSMRE performed a side-by-side comparison of Ohio's regulations to ensure the OAC provisions were no less effective than the Federal regulations. Following the review of Ohio's regulations, OSMRE and Ohio discussed the implementation of Ohio regulations and potential revisions. Ohio, via a letter of September 25, 2009, (Administrative Record Number OH–2190–01) responded to the findings of the OSMRE side-by-side analysis. This response described Ohio's plan to address provisions that were determined by OSMRE to be less effective than the Federal regulations, and stated an Ohio proposed amendment would be submitted to OSMRE. By letter dated March 30, 2012, (Administrative Record Number OH 2190–01), Ohio sent OSMRE a request to approve six revised regulations. This amendment contains the changes made to the OAC as a result of the side-by-side review conducted by OSMRE. Key provisions of the approved amendment add the definitions of ''knowingly,'' ''transfer, assignment, or sale of permit rights,'' and ''violation'' to the OAC; require enhanced identification of interests; add a provision for a central repository documenting identification of interests; and alter procedures for the determination of an improvidently issued permit.

We announced receipt of the proposed amendment in the August 3, 2012, **Federal Register** (77 FR 46346). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting.

We did not hold a public hearing or meeting because no one requested one. The public comment period ended on September 4, 2012. One comment was posted in the Federal Docket Management System in response to the proposal. However, it was later determined that this comment was erroneously posted and was not related to the proposed amendment. Therefore, no comments were received.

III. OSMRE's Findings

We are approving the amendment request under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. There are a few changes that are not addressed in the Findings because they involve minor clarifications and non-substantive corrections. The following outlines the approved amendment to the OAC:

1501:13–1–02. Definitions

The definition of ''knowing'' or ''knowingly'' has been added. This definition is now substantively identical to and therefore no less effective than, its Federal counterpart definition at 30 CFR 701.5, because it substitutes the word ''person'', which is used in the Federal definition, for the word ''individual.'' Additionally, the approved amendment revises the definition in other sections of the OAC. Ohio added the definition of ''[t]ransfer, assignment, or sale of permit rights'' to the definition section. Ohio's definition of this term describes any change of a permittee, including any fundamental legal changes in the structure or nature of the permittee or a name change. The Ohio definition is substantively identical to, and therefore no less effective than, its Federal counterpart definition at 30 CFR 701.5.

The definition of ''violation'' has been added for the purposes of the following OAC sections:

- Permit applications; requirements for legal, financial, compliance and related information;
- Review, public participation, and approval or disapproval of permit applications and permit terms and conditions; and
- Improvidently issued permits.

Violation is defined as any of the following:

- Written notification from a governmental agency identifying a failure to comply with applicable Federal or state law or regulations relative to environmental air or water protection;
- Noncompliance identified by the Chief of the Division of Mineral Resources Management, OSMRE, or a comparable authority, pursuant to the Federal or state regulatory program. Notice of this noncompliance may be given via a notice of violation, cessation order, final order, bill or demand letter relative to a delinquent civil penalty; a bill or demand letter relative to delinquent reclamation fees or a

performance security or bond forfeiture order.

The Ohio definition is substantively identical to, and therefore no less effective than, the Federal counterpart definition at 30 CFR 701.5.

The definition of ''violation notice'' has been revised to apply to the following OAC sections:

- Permit applications; requirements for legal, financial, compliance and related information;
- Review, public participation, and approval or disapproval of permit applications and permit terms and conditions;
- Improvidently issued permits; and
- A violation notice is now defined as a written notification from a regulatory authority or other governmental entity of a violation, as defined in this section. This change reflects the language used to define this term in 30 CFR 701.5.

The Ohio definition is substantively identical to, and therefore, no less effective than, the Federal counterpart definition at 30 CFR 701.5.

1501:13–14–02. Enforcement

Section (A)(8) has been revised to require any permittee, within thirty days of the issuance of a cessation order, to provide accurate and current identification of interest information as defined in the Permit applications; requirements for legal, financial compliance and related information sections of the OAC. This additional language is identical to the requirement in OAC 1501:13–5–01(G)(5), which is already part of Ohio's approved program. Therefore, we are approving it. Formatting changes were made throughout section 13–14–02 to reflect changes in numbering.

1501: 13–14–06. Individual Civil Penalties

Revisions were made to remove the definition of ''knowingly'' from this section. Consequently, formatting changes were required to account for the elimination of this definition. In this same amendment, Ohio added a nearly identical definition of ''Knowing or knowingly'' to OAC 1501:13–1–02. Therefore, the definition proposed for deletion is no longer needed; the deletion is hereby approved.

1501: 13–4–03. Permit Applications; Requirements for Legal, Financial, Compliance and Related Information

Grammar and formatting changes are present that do not alter the meaning or intent of the OAC as previously structured. Multiple changes have been made to incorporate all inclusive gender references. In addition, sections (B)(2) and (3) have been revised to require submission of addresses for all owners of record, holders of record of any leasehold interests, and any purchasers of record of the property to be mined. Previously this requirement did not require the submission of addresses. The revision expands the requirements for providing addresses in order to encompass all aspects of interest. These changes render the Ohio provisions no less effective than the Federal counterpart regulation at 30 CFR 778.13(a) and they are, therefore, approved.

As discussed further below, at section (J), this section is further clarified to require submission of data when a departure or change of an individual named in a permit application occurs.

Section (B)(5)(d) is revised by deleting the requirement that, for each permit owned or controlled by an owner or controller of the applicant within a five year period preceding the submission of the application, the application must contain the dates of issuance of any Federal or state permits and Mine Safety and Health Administration (MSHA) identification numbers. Dates of issuance are not required to be submitted pursuant to the Federal regulations at 30 CFR 778.12(c). Therefore, we are approving this deletion.

Section (C)(1) requires violation history relative to an operator to be provided in the permit application. Previously, the applicant was the only individual required to submit this information. This addition renders the Ohio provision no less effective than the counterpart at 30 CFR 778.14(a), and it is, therefore, approved.

Section (C)(2) requires the applicant to provide the date of suspension or revocation of a permit, or forfeiture of a bond. The requirement to provide the date of issuance of any permit that was subsequently suspended or revoked, or for which a bond was forfeited, is proposed to be deleted. Section (C)(3) also adds a provision requiring all applications to include a listing of any of the applicant's, operator's, or owner's and controller's unabated cessation orders or notices of violation, or uncorrected air or water quality violations.

Furthermore, Section (C)(4) requires a certification by the Federal or state regulatory authority that issued the notice of violation or cessation order to confirm that the violation is being abated or corrected. It also adds a requirement to provide the identification numbers of any violation notice or cessation order. This provision does not interfere with the requirement in (C)(4)(f), which is being revised to clarify that the application shall contain information for all violations and cessation orders having an expired abatement period, and describe the action taken to abate or correct the violation or cessation order. These changes to Sections (C)(2) through (C)(4) are no less effective than their respective counterparts contained in the Federal regulations at 30 CFR 778.14(b) and (c), and they are, therefore, approved.

However, Section (C)(3) remains narrower in scope than its Federal counterpart at 30 CFR 778.14(c) because it only requires the listing of unabated cessation orders and uncorrected air and water quality violation notices received; whereas, the Federal regulation requires listing of all unabated violation notices. The term ''violation notice,'' as defined in both the Federal regulations at 30 CFR 701.5, and in the Ohio program at OAC 1501: 13–1–02, the latter of which is part of this submission, includes more than just cessation orders and air and water quality violations. For example, it includes unpaid reclamation fees or civil penalties. As such, we are requiring Ohio to amend its program to require permit applications to list all unabated ''violation notices,'' as that term is defined in the Ohio approved program.

Under Section (J), the addition of a ''Central file for identity information'' allows applicants or permittees to provide requisite information in a streamlined method whereby all ''identification of interests'' information required in permit applications, revisions and renewals and transfers, assignments and sales of permit rights provisions, is submitted to the Chief of the Division of Mineral Resources Management, and is applicable to all permits held by that applicant or permittee. These items will be maintained in a central file for reference in the event of any subsequent submission. To participate, applicants or permitees must submit a sworn or affirmed oath, in writing, verifying all the information is accurate and complete, including all ownership and permittee interests. The central file will be updated and maintained for reference, eliminating the need to provide identity information in each application. The file will be available for public review upon request.

In the event a permittee or applicant has an established central file, certification shall be made that the file is accurate and complete when submitting permit applications, revisions, renewals, transfers, assignments, and sales of permits rights

in accordance with 1501:13–4–06. Upon submission, the permittee shall submit a certification, provided by the Chief of the Division of Mineral Resources Management swearing or affirming that the information is accurate, complete, and updated. This must be in the form of a written oath. Any information that is missing, as required by the provisions set forth herein, must be submitted and accompanied by a written oath providing affirmation of a complete information repository.

The corresponding regulations refer to the central repository for identification information and incorporate by reference provisions of the statute. While proposed Section (J) of the OAC has no precise Federal counterpart, we find that it provides an alternative means for submitting, updating and maintaining ''identification of interests'' information that is consistent with the Federal regulations at 30 CFR 778.8(c), which allows OSMRE to create a central file for this type of information; we are, therefore, approving it.

1501:13–4–06. Permit Applications Revisions, and Renewals, and Transfers, Assignments and Sales of Rights

The amendment revises Section (I) by adding a provision requiring notification within 30 days of any addition, departure or change required to be shown in the permit application. This must be done in writing and must include any person's name, address, telephone number, title, and relationship to the applicant, including percentage of ownership, interest and position within the organizational structure. Information detailing commencement and departure are also required. These changes render Section (I) no less effective than the Federal regulations at 30 CFR 774.12(c).

1501:13–5–02. Improvidently Issued Permits

Pursuant to the approved amendment, should the Chief of the Division of Mineral Resources Management have reason to believe a coal mining and reclamation permit was improvidently issued, he or she shall make a preliminary finding indicating improvident issuance if:

- A determination based on the permit eligibility, in effect at the time of issuance, indicates either:

(a) The permit should not have been issued due to an unabated or uncorrected violation or,

(b) The permit was issued based on the presumption that a violation was in the process of being corrected;

- The violation remains unabated or uncorrected and the time frame for appeal is expired or a payment schedule, as approved, is not being complied with as ordered; and
- Ownership or control existing at the time of issuance demonstrates a link to the violation and remains in effect, or if the link was severed, the permittee continues to be responsible for the violation.

Upon a preliminary finding of an improvidently issued permit, the Chief may serve the permittee with written notice establishing a prima facie case indicating the permit was improvidently issued. Within thirty days, the permittee may request an informal review and may provide evidence to the contrary.

Section (C) augments references to abatement of a violation by adding the term ''correction.'' It also deletes references to penalties and fees, because these terms are now included within the definition of the term ''violation.''

Section (D) allows the Chief of the Division of Mineral Resources Management to suspend a permit as opposed to the previous regulation granting only the right to rescind the permit. Moreover, the approved amendment provides that, upon a determination indicating the permit was improvidently issued, the Chief shall serve the permittee notice of the proposed suspension and rescission, which includes the reasons for the finding and stipulates within sixty days the permit will be suspended, or in one hundred and twenty days, the permit will be rescinded, unless the permittee submits rebuttal proof and the Chief finds:

- The previous determination was incorrect;
- The violation has been abated or corrected;
- The violation is under appeal and an initial judicial decision affirming the violation is absent;
- The violation is subject to an approved abatement, correction plan or payment schedule;
- Ownership or control is severed and no continuing responsibility is apportioned to the permittee; or
- An appeal as to ownership or control exists and an initial judicial decision affirming such ownership or control is absent.

The approved amendment eliminates previous provisions allowing automatic suspension within ninety days upon proper showing. In the event the permit is deemed suspended or rescinded, the Chief shall immediately order the cessation of coal mining and reclamation operations and post written notice of the cessation order at the Division of Mineral Resources Management District Office closest to the permit area.

We find that these changes render the Ohio provisions governing improvidently issued permits no less effective than their Federal counterpart provisions found in 30 CFR 773.21, 773.22, and 773.23. Therefore, the changes are approved.

1501: 13–1–14. Incorporation by Reference

The Web site provided in the approved amendment is updated to ensure public access to Federal regulation references. The revised Web site is *www.gpo.gov/fdsys/.* Also, the dates for the Code of Federal Regulations and for the United States Code have been updated to incorporate subsequent publications of both codes. These incorporations by reference have no Federal counterparts; nevertheless, the changes are not inconsistent with SMCRA or the Federal regulations, and are therefore approved.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (Administrative Record Numbers OH–2190–05 and 06), but did not receive any.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i) and § 503(b) of SMCRA, OSMRE is to request comments on an amendment when any Federal agency has an actual or potential interest or special expertise related to the program amendment. On April 12, 2012, OSMRE sent requests for comment to the following agencies (in addition to the agencies specifically outlined below): The U.S. Department of Agriculture, Natural Resource Conservation Service; the U.S. Department of Interior, Fish and Wildlife Service; and the U.S. Department of Labor, MSHA. On May 4, 2012, the MSHA responded to the request for comments (Administrative Record Number OH–2190–04), stating that they concur with the amendment and have no further comments to offer. None of the other agencies responded to the requests for comment.

Environmental Protection Agency (EPA) Concurrence

On April 12, 2012, OSMRE notified and requested comment from EPA regarding the amendment (Administrative Record Number OH–2190–02). Although OSMRE requested comments on the amendment, EPA did not respond to our request. Pursuant to 30 CFR 732.17(h)(11)(ii) we are required

to obtain 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.*). As detailed within this final rule, this amendment deals with ownership and control regulations; therefore, no water or air quality standards are under review that may trigger the requirement for EPA concurrence.

State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSMRE is required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. Consistent with this regulation, on April 12, 2012, OSMRE requested comments (Administrative Record Number OH–2190–02), on Ohio's amendment from the Ohio Historic Preservation Office and the Advisory Council on Historic Preservation, but neither responded to the request.

V. OSMRE's Decision

Based on the above findings, OSMRE approves the amendment Ohio sent us on March 30, 2012. In addition, we are requiring Ohio to amend its program to require permit applications to list all unabated ''violation notices,'' as that term is defined in the Ohio approved program.

To implement this decision, we are amending the Federal regulations at 30 CFR part 935, which codify decisions concerning the Ohio program. OSMRE finds that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that Ohio's program demonstrates it has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process.

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 regulation.

Executive Order 12866—Regulatory Planning and Review

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

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). 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 regarding 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.

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.

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

On May 18, 2001, the President issued Executive Order 13211 requiring agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866 (Regulatory Planning and Review), and (2) likely to have 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. 1992(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 certifies that this rule will not have a significant economic effect 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 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; 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 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