

- 310 IAC 12-5-3 concerning performance standards for coal exploration;
- 310 IAC 12-5-4 concerning permits for coal exploration;
- 310 IAC 12-6-20 concerning individual civil penalties, definitions;
- 310 IAC 12-6-21 concerning individual civil penalties;
- 310 IAC 12-6-22 concerning the amount of individual civil penalties;
- 310 IAC 12-6-23 concerning assessment procedures for individual civil penalties;
- 310 IAC 12-6-24 concerning payment of individual civil penalties;
- 310 IAC 12-7-4 concerning financial interests, filing requirements;
- 310 IAC 12-7-5 concerning financial interests, filing dates; and
- 310 IAC 12-7-6 concerning financial interests, filing locations.

**§ 914.16 [Amended]**

3. In Section 914.16, paragraph (bb) is removed and reserved.

[FR Doc. 95-27806 Filed 11-8-95; 8:45 am]

BILLING CODE 4310-05-M

**30 CFR Part 920**

[MD-038-FOR]

**Maryland 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 Maryland regulatory program (hereinafter referred to as the "Maryland program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Maryland proposed revisions to its rules and statutes pertaining to the Small Operators Assistance Program (SOAP). The amendment is intended to revise the Maryland program to be consistent with the corresponding Federal regulations.

**EFFECTIVE DATE:** November 9, 1995.

**FOR FURTHER INFORMATION CONTACT:** Robert Biggi, Director, Harrisburg Field Office, OSM, Harrisburg Transportation Center, Third Floor, Suite 3C, 4th and Market Streets, Harrisburg, PA 17101. Telephone: (717) 782-4036.

**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 December 1, 1980, the Secretary of the Interior conditionally approved the Maryland program. Background information on the Maryland program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the December 1, 1980, Federal Register (45 FR 79449). Subsequent actions concerning conditions of approval and program amendments can be found at 30 CFR 920.12, 920.15 and 920.16.

**II. Submission of the Proposed Amendment**

By letter dated June 16, 1995, (Administrative Record No. MD-572.00) Maryland submitted a proposed amendment to its program pursuant to SMCRA at its own initiative. Maryland proposed to revise its SOAP provisions in the Annotated Code of Maryland (Code) to incorporate the provisions of House Bill 945 approved on May 18, 1995, by the Governor of Maryland and in the Code of Maryland Regulations (COMAR). Specifically, the code has been revised to delete the portion of existing section 7-505(c)(4) which refers to SOAP operator eligibility. This provision is proposed to be added to section 7-515. Also, the Code has been revised to delete the provisions of existing section 7-515 which specified alternative permit procedures for coal mining operations of two acres or less. The revised provisions at 7-515 provide that, upon written request of the operator, the Department of Natural Resources (Department) will assume the cost of certain, specified activities for those operations where probable total annual production at all locations will not exceed 300,000 tons. The Department is also required to either provide training to or assume the cost of training coal operators in the preparation of permit applications and compliance requirements. If the operator's annual production of coal

exceeds 300,000 tons, the operator is required to reimburse the Department for any assistance received. The corresponding regulations at COMAR 08.20.16.02A have been revised to specify the services that will be provided by a qualified laboratory and reimbursed by the Department to qualified operators. The eligibility for assistance provisions at COMAR 08.20.16.03A have been revised to increase the total annual coal production limit from 100,000 tons to 300,000 tons. COMAR 08.20.16.02B has been revised to increase the percentage of ownership for production purposes in an operation either by the applicant or others from 5% to 10%. The applicant liability provisions at COMAR 08.20.16.08A have been revised to require that if the operator's annual production of coal during the 12 months immediately following the date on which the operator is issued the permit exceeds 300,000 tons, the operator is required to reimburse the Department for the cost of services specified in section .02A. The same requirement applies if the operator sells, transfers, or assigns the permit to another person and the transferee's total production exceeds 300,000 tons.

OSM announced receipt of the proposed amendment in the July 13, 1995, Federal Register (60 FR 36080) 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 14, 1995.

**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 nonsubstantive wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

*A. Revisions to Maryland's Statutes and Regulations That Are Substantively Identical to the Corresponding Provisions of the Federal Statutes and Federal Regulations*

State regulation	Subject	Federal counterpart
COMAR 08.20.16.02A .....	Program Services .....	30 CFR 795.9 (a), (b).
COMAR 08.20.16.03A .....	Eligibility .....	30 CFR 795.6(a)(2).
COMAR 08.20.16.03B .....	Eligibility .....	30 CFR 795.6(a)(2) (i), (ii).
COMAR 08.20.16.08 A, B .....	Applicant Liability .....	30 CFR 795.12(a) (2), (3).
Code 7-515(A) (1), (3)-(6) .....	Operator Assistance .....	SMCRA 507(c)(1).

State regulation	Subject	Federal counterpart
Code 7-515(B) .....	Training .....	SMCRA 507(c)(2).
Code 7-515(C) .....	Reimbursement .....	SMCRA 507(h).

Because the above proposed revisions are identical in meaning to the corresponding Federal statutes and regulations, the Director finds that Maryland's proposed rules are no less stringent than SMCRA and no less effective than the Federal rules.

*B. Revisions to Maryland's Statutes That Are Not Substantively Identical to the Corresponding Provisions of the Federal Statutes*

1. Maryland deleted existing section 7-515 of its Code which authorized alternative permit procedures for small coal mining operations of two acres or less. New section 7-515 pertains to SOAP provisions. The Director finds that the proposed deletion does not render the Maryland program less effective than the Federal regulations. At section 7-505(c)(4), Maryland also deleted the requirement that the cost of analysis of test borings or core samplings and the determination of probable hydrologic consequences will be assumed by the Department upon the request of an operator for those operations where probable total annual production at all locations will not exceed 300,000 tons. This requirement was transferred to revised 7-515. The Director finds that the proposed deletion does not render the Maryland program less effective than the Federal regulations.

2. At section 7-515(A)(2), Maryland includes a cross-reference to section 7-505(C)(7) pertaining to maps and plans. The Director notes that the maps and plans required by 7-505(C)(7) differ from those required at section 507(b)(14) of SMCRA. However, at COMAR 08.20.16.02(A)(3), Maryland includes the correct cross-reference to the regulations at COMAR 08.20.02.11. The Director, therefore, finds the proposed revision at COMAR 08.20.16.02(A)(3) no less effective than the Federal regulations at 30 CFR 795.9(b)(3). The cross-reference to 7-505(c)(7) which pertains to reclamation plans, is approved only to the extent that it authorizes use of SOAP funding for the preparation of cross-sections, maps, and plans authorized by section 507(b)(14) of SMCRA and 30 CFR 795.9(b).

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.

One public comment was received in support of the amendment. 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. None 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.*).

On June 23, 1995, OSM solicited EPA's concurrence with the proposed amendment. On August 16, 1995, EPA gave its written concurrence (Administrative Record No. MD-572.04).

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment submitted by Maryland on June 16, 1995.

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 12778*

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (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 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. 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 corresponding Federal regulations.

List of Subjects in 30 CFR Part 920

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 20, 1995.

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 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 by adding paragraph (bb) to read as follows:

**§ 920.15 Approval of regulatory program amendments.**

\* \* \* \* \*

(bb) The following amendment, as submitted to OSM on June 16, 1995, is approved effective November 9, 1995.

The amendment consists of revisions to the following statutes in the Annotated Code of Maryland (Code) and regulations in the Code of Maryland Regulations (COMAR):

- Code 7-505 ..... Small Operators Assistance Program.
- Code 7-515 ..... Small Operators Assistance Program (cross-reference to 7-505(c)(7) which pertains to reclamation plans, is approved only to the extent that it authorizes use of SOAP funding for the preparation of cross-sections, maps, and plans authorized by section 507(b)(14) of SMCRA and 30 CFR 795.9(b)).
- COMAR ..... Program Services.
- 08.20.16.02A ....
- COMAR ..... Eligibility for Assistance.
- 08.20.16.03A, B
- COMAR ..... Applicant Liability.
- 08.20.16.08A, B

[FR Doc. 95-27808 Filed 11-8-95; 8:45 am]

BILLING CODE 4310-05-M

**30 CFR Part 935**

[OH-234; Amendment Number 63R]

**Ohio Regulatory and Abandoned Mined Land Reclamation Program Amendment**

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** OSM is announcing the approval of a proposed amendment to the Ohio permanent regulatory and Abandoned Mined Land reclamation programs (hereinafter referred to as the Ohio programs) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment was initiated by Ohio and is intended to reduce and reorganize the engineering staff of the Ohio programs in response to recent drops in Ohio coal production. The amendment would abolish 3.6 Ohio engineering staff positions and would reorganize the remaining engineering staff positions to assume the existing job duties. This program amendment does not propose any revisions to Ohio's coal mining law or rules.

**EFFECTIVE DATE:** November 9, 1995.

**FOR FURTHER INFORMATION CONTACT:** Mr. Daniel L. Schrum, Acting Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, 4480 Refugee Road, Suite 201, Columbus, Ohio 43232; Telephone: (614) 866-0578.

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Ohio Program.
- II. Discussion 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. Information on the general background of the Ohio program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1982, Federal Register (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.15, 935.16.

**II. Discussion of the Proposed Amendment**

By letter dated March 15, 1993 (Administrative Record No. OH-1845),

the Ohio Department of Natural Resources, Division of Reclamation (Ohio), submitted proposed Program Amendment Number 63 (PA 63). In that submission, Ohio proposed to reduce the staff of the Ohio programs by abolishing 28 existing positions. Ohio also proposed to reorganize the remaining staff positions to assume the existing job duties. PA 63 contained no proposed revisions to Ohio's coal mining law in the Ohio Revised Code or coal mining rules in the Ohio Administrative Code.

OSM announced receipt of PA 63 in the April 8, 1993, Federal Register (58 FR 18185), 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 May 10, 1993.

OSM and Ohio staff met on May 20, 1993, to discuss OSM's preliminary concerns and questions about PA 63. By letter dated June 16, 1993 (Administrative Record No. OH-1890), Ohio submitted additional information in response to those OSM concerns and questions. Through an oversight, OSM did not reopen the public comment period at that time.

Subsequently, by letter dated November 2, 1993 (Administrative Record No. OH-1948), OSM formally provided Ohio with its questions and comments on the March 15 and June 16, 1993, submissions of PA 63. OSM's questions and comments were listed under the following six headings: Streamlining of AML Designs; Engineering; Bond Forfeitures; Engineering; Inspection and Enforcement Issues; Position Descriptions; Bond Forfeiture Program; and SOAP Program.

By letter dated December 6, 1993 (Administrative Record No. OH-1971), Ohio provided its responses to OSM's November 2, 1993, questions and comments. In addition, Ohio included three attachments. The first attachment was a November 5, 1993, letter to OSM explaining organizational responsibilities within Ohio's engineering/geotechnical support group and AML program. The second attachment was a log of engineering inspection and enforcement activity. The third attachment was an example of the revised position description for Ohio's reclamation inspectors, dated April 5, 1993. In its December 6, 1993, Administrative Record information, Ohio noted that additional position descriptions for Ohio's engineering management staff were being revised but did not attach copies.