



DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[SATS No. OH-259-FOR; Docket ID: OSM-2017-0002; SID1S SS08011000 SX064A000 234S180110; S2D2S SS08011000 SX064A000 23XS501520]

Ohio Abandoned Mine Land Reclamation Plan

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

ACTION: Final rule; approval of amendment

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving an amendment to the Ohio Abandoned Mine Land (AML) Reclamation Plan (Ohio Plan or Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Ohio proposed to amend its existing plan to reflect statutory, regulatory, policy, procedural, and organizational changes made since it was originally approved in 1982. Ohio also submitted relevant statutory provisions amended by the State legislature in 2016, as well as draft statutory revisions regarding what land and water resources are eligible for Federal grant funds and other proposed amendments for consistency with SMCRA, for OSMRE's review and consideration.

DATES: Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

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SUPPLEMENTARY INFORMATION:

- I. Background on the Ohio Plan
- II. Submission of the Amendment
- III. OSMRE's Findings

IV. Summary and Disposition of Comments

V. OSMRE's Decision

VI. Statutory and Executive Order Reviews

I. Background on the Ohio Program

The AML Reclamation Program was established by Title IV of the Act (30 U.S.C. 1201 *et seq.*) in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded, in part, by a reclamation fee collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal mines and for other authorized activities. Section 405 of the Act allows States and Tribes to assume exclusive responsibility for reclamation activity within the State or on Tribal lands if they develop, and submit to the Secretary of the Interior for approval, a program (often referred to as a plan) for the reclamation of abandoned coal mines. Section 405 also requires that each State with an abandoned mine reclamation program must have an approved State regulatory program pursuant to section 503 of the Act.

On August 10, 1982, the Secretary of the Interior approved the Ohio Plan. You can find background information on the Ohio Plan, including the Secretary's findings, the disposition of comments, and conditions of approval of the Ohio Plan in the August 10, 1982, *Federal Register* (47 FR 34719). You can also find later actions concerning the Ohio Plan and Plan amendments at 30 CFR 935.25.

II. Submission of the Amendment

By letter dated March 17, 2017 (Administrative Record No. OH-2195-01), and in accordance with 30 CFR 884.15(a), Ohio sent us an amendment to its Plan on its own initiative. By letter dated September 15, 2017 (Administrative Record No. OH-2195-04), Ohio provided a revised amendment to describe the proposed revisions more clearly. By letter dated September 18, 2018 (Administrative Record No. Oh-2195-06), Ohio

submitted an updated amendment with a revision to section XI of its Plan.

We announced receipt of the proposed amendment in the May 10, 2019, *Federal Register* (84 FR 20599). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on June 10, 2019. We received a single comment that was not germane to the Plan amendment, and, therefore, we have not provided a response.

III. OSMRE's Findings

The following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 884.14 and 884.15. We are approving the amendment as described below. Any revisions that we do not specifically discuss below concerning minor wording or editorial changes can be found in the full text of the Plan amendment available at www.regulations.gov. OSMRE also notes that we are separately reviewing State reclamation plans to identify any components that may need to be addressed in light of the Infrastructure Investment and Jobs Act, more commonly referred to as the Bipartisan Infrastructure Law (BIL) (Pub. L. 117-58). That review is ongoing and not reflected in our decision on Ohio's amendment here.

Amended Statutory Language¹

On December 19, 2016, Ohio's Legislature amended the statutory language at sections 1515.27, 1513.28, 1513.30, 1513.31, 1513.32, and 1513.37 of the Ohio Revised Code (ORC) regarding the process of determining site eligibility for reclamation

¹ Generally, States do not request that OSMRE accept changes to AML statutes or regulations as amendments to an AML Plan, which is a narrative document that usually is not in the form of a statute or regulation. However, there is no provision in SMCRA or the Federal regulations governing submission and approval of AML Plans and amendments thereto that prohibits a State from including statutes or regulations in conjunction with its AML Plan. Therefore, when we approve a change or proposed change to a statutory provision in this rulemaking, we mean that we are approving that provision as an amendment to the AML Plan. For clarity and ease of reference, we recommend that Ohio submit changes to its AML Plan narrative document that are consistent with these statutory amendments.

activities. *See* 2016 Sub. H.B. No. 471. The updated language eliminated references to the sunsetted Council on Unreclaimed Strip Mined Lands and designated the chief of the Division of Mineral Resource Management (DMRM) as the entity responsible for the prioritization and approval process of proposed projects eligible for the unreclaimed lands funds. This updated language reflects administrative changes made over time to the agency authorized to administer the State's program for regulating surface coal mining and reclamation. The updated statutory language is in accordance with SMCRA and the Federal requirements of 30 CFR subchapter R, which does not proscribe a particular State administrative structure responsible for prioritizing and approving proposed projects. Therefore, we are approving the updated statutory language of the ORC as an amendment to the Ohio Plan.

Draft Statutory Amendments

Ohio's amendment also includes additional draft statutory changes to ORC 1513.37 to clarify and elaborate upon the priority by which land and water resources are eligible to receive Federal grants for reclamation of abandoned mine lands in accordance with the 2006 SMCRA amendments. Ohio's draft statutory language at ORC 1513.37(B) revises several aspects of the priority criteria. The number of priority categories is reduced from six to three. The highest priority categories (Priority 1 and 2) are expanded to include the land and water resources adjacent to a prioritized site and the term "general welfare" has been struck from those priorities. Additionally, Ohio drafted revisions to the specifications of the priority categories to allow lower priority projects (Priority 3) to be initiated before the completion of higher priority projects (Priority 1 or 2), provided that the expenditure is done at eligible AML sites adjacent to higher priority projects (Priority 1 or 2).

The SMCRA amendments were signed into law on December 20, 2006, as part of the Tax Relief and Health Care Act of 2006. *See* Pub. L. 109-432. The 2006 amendments

substantially modified the AML reclamation program in Title IV of SMCRA, including, but not limited to, removing previous priorities 4 and 5 and striking the term “general welfare” as components of priorities 1 and 2. *See* U.S.C. 1233(a). In addition, the 2006 amendments also permitted the initiation of Priority 3 reclamation projects before completing all Priority 1 and 2 projects if the Priority 3 reclamation is performed in conjunction with a Priority 1 or 2 project. *See* 30 U.S.C. 1232(g)(7). We note that our guidelines generally direct that reclamation of lower priority projects should not begin until the higher priority projects are at least in the process of being reclaimed. However, consistent with the 2006 amendments and associated changes to the implementing regulations, we also recognize that it can be economically and logistically advantageous to address lower priority problems as part of abating higher priority problems. Allowing a State to reclaim Priority 3 problems (e.g., spoil ridges) as part of abating Priority 1 or 2 hazards (e.g., highwalls) leverages its limited funding to get the best reclamation at a lower cost. This approach also generally reclaims more AML problems overall, and in some cases can more effectively abate and reclaim hazards, while reducing the cost of reclaiming the higher and lower priority problems.

Ohio offers draft statutory changes at ORC 1513.37(C)(3) regarding the eligibility of lands and waters affected by past coal mining. The Federal requirements at 30 CFR 874.14 were revised in 2008 (73 FR 67576), consistent with the 2006 SMCRA amendments, to remove the 30 percent limitation on grant funds that States and Indian Tribes could expend on water supply affected by coal mining. Ohio’s draft language at ORC 1513.37(C)(3) thus identifies the protection, repair, replacement, construction, or enhancement of facilities sourced by waters adversely affected by coal mining practices as projects eligible for funding.

Ohio offers draft statutory changes at ORC 1513.37(C)(5) regarding the inventory of eligible lands and waters maintained by the Secretary of the Interior. The draft

language allows for the chief to offer amendments to update the inventory as it applies to eligible lands under the jurisdiction of Ohio. This would allow Ohio to reclassify certain current Priority 3 lands and waters as Priority 1 or Priority 2 expenditures, in line with the ORC 1513.37 draft statutory language discussed above, which reflects the 2006 SMCRA amendments.

Ohio also offers draft revisions at ORC 1513.37(E)(3) to remove the 50% match requirement for watershed groups requesting grant funding from the Acid Mine Drainage (AMD) Abatement and Treatment Fund for remediation projects. Ohio considers these watershed groups essential to AMD treatment and abatement projects, in part because they are often able to complete remediation projects at a fraction of the cost compared to DMRM staff or environmental consultants. The groups are typically citizen-based charitable organizations that do not have the funding for the 50% match currently required to receive grant money. Ohio recognizes the importance of these groups and the essential work that they do, primarily in distressed counties in Ohio. By eliminating the matching requirement, Ohio is removing a burden on the watershed groups that might prevent them from participating in the program. There is no Federal law or condition of the Federal award that requires a matching grant funds from subaward recipients.

These statutory revisions were not enacted through the legislative bills Ohio identified in its submissions (2016 Sub. H.B. No. 471 and 2017 Am. Sub. H.B. No. 49) and are not currently part of the Ohio Revised Code. To the extent Ohio proceeds to enact these revisions, we find the draft statutory language meets the requirements of SMCRA and 30 CFR subchapter R. These revisions are largely reflected in Ohio's revised AML Plan, which we are approving. However, should Ohio actually enact statutory changes that require further revision to its Plan, the Plan revisions must be submitted for our review in accordance with 30 CFR part 884.

Revisions to Ohio's AML Plan

Ohio is updating and replacing its AML Plan with a version that is structured similarly to the Federal AML plan content requirements for States found at 30 CFR 884.13. Ohio has made multiple editorial changes for brevity, structural alignment with the Federal requirements, consistency with the 2006 changes to SMCRA under the Tax Relief and Health Care Act of 2006 (Pub. L. 109-432) and the associated changes to the implementing Federal regulations on November 14, 2008 (73 FR 67576), and the ORC. In order to simplify the Plan, the new version omits documentation that is either incorporated by reference, is no longer applicable to Ohio's AML Program, was replaced by updated information, or was never required to be included in the Plan. We also understand that additional revision and/or supplemental material concerning the Governor's letter, the Legal Opinion, and other components of the plan referenced below may be submitted in the near future to encompass components of the BIL and section 801 of the Consolidated Appropriations Act, 2023 (commonly referred to as the Safeguarding Treatment for the Restoration of Ecosystems from Abandoned Mines (STREAM) Act) (Pub. L. 117-328). We are not addressing those various potential revisions in this review but are aware that they may generate additional plan amendments in the near future.

1. Letter of Designation from the Governor

Ohio's revised plan references the Governor's letters, dated November 21, 1979, and amended February 3, 1981, designating the Department of Natural Resources, Division of Reclamation as the agency authorized to administer the State's program for regulating surface coal mining and reclamation, and for receiving and administering reclamation grants under 30 CFR part 886. These letters were submitted and approved as part of the original State reclamation plan and are consistent with the Federal requirements of 30 CFR 884.13(a)(1). Therefore, we are approving their inclusion. However, the Division of Mines and Reclamation was combined with the Division of Oil and Gas (H.B. 601, effective June 14, 2000) to create the DMRM in the Department of

Natural Resources. As a result of these changes, the 1979 and 1981 Governor's letters should be replaced with an updated version to designate DMRM as the agency responsible for the AML program, or a supplemental submission added to the Plan providing that additional context.

2. Legal Opinion

Ohio's revised plan references the legal opinion from the State Attorney General, dated October 4, 1979, verifying that the Division of Reclamation had sufficient legal authority under Ohio State law to conduct the State reclamation program in accordance with the requirements of Title IV of SMCRA. This legal opinion was submitted and approved as part of the original State reclamation plan and is consistent with the Federal requirements of 30 CFR 884.13(a)(2). Therefore, we are approving its inclusion.

However, the Division of Mines and Reclamation was combined with the Division of Oil and Gas (H.B. 601, effective June 14, 2000) to create the DMRM in the Department of Natural Resources. As a result of this change, the legal opinion should be replaced with an updated version that reflects the designated agency, DMRM, as the agency responsible for the AML program and the agency that has the authority under State law to conduct the program in accordance with the requirements of Title IV of SMCRA, or Ohio should add a supplemental submission to the Plan providing that additional context.

3. Policies and Procedures

Federal regulations at 30 CFR 884.13(a)(3) require a description of the policies and procedures to be followed by the designated agency in conducting a Title IV reclamation program. Parts IV through XI of Ohio's revised plan, as discussed in more detail below, provide descriptions of, and legal citations for, these requirements.

Part IV, Purpose of the Program, provides a general overview of Ohio's AML Program. Specifically, Ohio's revised plan identifies inadequately reclaimed mine sites as risks to public safety and environmental quality and describes the goal of the revised plan

as being to continue to reclaim land and water resources affected by coal mining, in accordance with State and Federal law and rules. This section is consistent with the requirements of 30 CFR 884.13(a)(3)(i).

Part V, Ranking Eligible Lands and Waters, provides the relevant eligibility and prioritization criteria to assess potential project areas for reclamation. These criteria are based on the updated requirements of section 403 and 404 of SMCRA, as well as several additional factors Ohio uses to assess and prioritize potential project areas for reclamation. Consistent with section 404 of SMCRA, coal lands and waters are deemed eligible if they were mined for coal or affected by such mining, waste banks, coal processing, or other coal mining processes, or abandoned/left in an inadequate state as outlined in this section. As a general matter, the ranking of eligible projects will be conducted in the following order of priority: emergency projects, as approved by us under section 410 of SMCRA; projects protecting public health, safety and property from extreme danger of adverse effects of coal mining practices (Priority 1); projects protecting public health and safety from adverse effects of coal mining (Priority 2); and projects restoring land, waters, and the environment previously degraded by coal mining, for natural resource conservation and restoration (Priority 3). By providing the specific criteria for the eligibility and ranking projects to be funded, Ohio's revised Plan is consistent with the requirements of 30 CFR 884.13(a)(3)(ii).

This section of the revised plan also includes guidelines for the annual grant application to be submitted to us as specified in section 405(f) and (h) of SMCRA and 30 CFR part 886; policies that address set-aside funds in accordance with section 402(g)(6) of SMCRA (30 U.S.C. 1232(g)(6)) and 30 CFR part 876; policies that address water supply projects in accordance with section 402(g)(1) and (5) of SMCRA (30 U.S.C. 1232(g)(1)-(5)); procedures for reclamation projects receiving less than 50% government funding, including adopting by reference 30 CFR part 707; and policies for handling

emergency projects.

Part VI, Coordination with Other Agencies, and Part VII, Coordination with OSMRE, describe Ohio's coordination with various Federal and State agencies, watershed groups, local governments, universities, and others in order to achieve mutual reclamation goals. Additionally, Ohio will consult with the relevant State and Federal regulatory agencies as necessary to ensure all required permissions are in order prior to project commencement. These sections are consistent with the requirements of 30 CFR 884.13(a)(3)(iii).

Part VIII, Policy for Land Acquisition, Management, and Disposition, describes the acquisition, management, and disposal of lands and waters adversely affected by past coal mining practices. Specifically, if it has been determined by both Ohio and us that acquisition of land is required for successful reclamation, the State will comply with 30 CFR part 879 regarding the acquisition, management, and disposal of the lands and waters. This section is consistent with the requirements of 30 CFR 884.13(a)(3)(iv).

Ohio's revised plan includes sections regarding work on private lands. In Part IX, Policy Regarding Reclamation on Private Lands, Ohio establishes policy provisions, including the completion of appraisals and filing of liens, for the reclamation projects on private land, in accordance with 30 CFR part 887. Part X, Policy Regarding Rights of Entry, describes Ohio's policies and procedures regarding rights of entry to lands or property, which are in accordance with 30 CFR part 877. These sections are consistent with the requirements of 30 CFR 884.13(a)(3)(v) and (vi).

Part XI, Public Participation, indicates that Ohio is opting to use our public participation process, as outlined in 30 CFR 884.14(a), for State Reclamation Plan amendments and updates rather than the public participation process established during the development and approval of the original State Reclamation Plan.

Ohio's revised plan describes that opportunities for public participation and

involvement in specific AML projects will be provided during the development and implementation of the annual grant application and performance agreement between us and DMRM. In addition, Ohio provides that DMRM maintains ongoing outreach with local governments and businesses regarding building on or over abandoned mines as well as detailing significant activities related to AML projects on their website. This section is consistent with the requirements of 30 CFR 884.13(a)(3)(vii).

4. Program Administration and Management

Part XII, Program Management and Administration, of Ohio's revised Plan describes the administrative and management structure of the AML Program. Section B of part XII identifies the organization of the agency designated to reclaim abandoned mine lands affected by coal mining activities (DMRM) and describes DMRM's major functions as responding to citizen concerns, environmental document preparation, grant writing and management, remediation design, bidding and contracting, and construction. Section C of part XII describes additional agencies of Ohio's Department of Natural Resources that assist in the AML program, as well as the relationship between DMRM and other State agencies that play a relevant role in reclamation activities. Section D of part XII outlines the personnel staffing policies that DMRM will follow in the recruitment and retention for the AML Program. Section E describes the purchasing and procurement systems to be used by the agency, and section F describes the accounting system to be used by the agency. This section is consistent with the requirements of 30 CFR 884.13(a)(4).

5. Description of Reclamation Activities on Impacted Lands and Waters

Part XIII, Description of Reclamation Activities on Impacted Land and Waters, includes general descriptions, derived from available data, of the reclamation activities to be conducted. Specifically, the plan includes: maps depicting the known and suspected abandoned coal mines in the State, the known and suspected watersheds impacted by

mining, and the status of the State's Acid Mine Drainage Abatement and Treatment projects; a description of the problems occurring on the identified lands and waters in Ohio; and how the Plan proposes to address each of the identified problems. Ohio recognizes that individual sites will vary in scope and breadth of adverse effects caused by mining and provides an extensive list of proven reclamation techniques and approaches that may be applied in any given site. This section is consistent with the requirements of 30 CFR 884.13(a)(5)

6. Description of Conditions

Part XIV, Description of Local Conditions, includes a general description, derived from available data, of the conditions prevailing in the geographic areas of the State where reclamation is planned. The Plan, in part XVI.A, describes the economic base of the Ohio counties affected by coal mining. Aesthetic, historical, and cultural elements of significance are considered in part XVI.B. The wide variety of recreational opportunities of the area are enumerated in part XVI.C. The ecosystem and ecology of the area, the adverse effects of coal mining on these systems, and how the Abandoned Mine Land Program works to address these effects is described in part XVI.D. This section is consistent with the requirements of 30 CFR 884.13(a)(6).

Thus, we find Ohio's Plan, as amended, meets all content requirements stipulated under 30 CFR 884.13 while also updating the Plan consistent with changes made to the Federal program in 2006 and 2008. Therefore, we are approving Ohio's revised Abandoned Mine Land reclamation plan.

IV. Summary and Disposition of Comments

Public Comments

In the May 10, 2019, *Federal Register* document announcing our receipt of this amendment, we asked for public comments (Administrative Record No. OH-2195-08). The comment period closed on June 10, 2019. No requests for public meetings or

hearings were received. We received a single comment that was not germane to the program amendment and therefore we have not provided a response.

Federal Agency Comments

On March 22, 2017, under 30 CFR 884.14(a)(2) and 884.15(a), we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Ohio Plan (Administrative Record No. OH-2195-02). We did not receive any comments.

Environmental Protection Agency (EPA) Concurrence and Comments

On March 22, 2019, OSMRE solicited comments on the proposed amendment from EPA (Administrative Record No. OH-2195-02). The EPA did not respond to our request.

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

On March 22, 2019, OSMRE solicited comments on the proposed amendment from the Ohio SHPO and ACHP (Administrative Record No. OH-2195-02). We did not receive comments from the SHPO or ACHP.

V. OSMRE's Decision

Based on the above findings, we are approving Ohio's AML Plan amendment that was sent to us on March 17, 2017 (Administrative Record No. 2195-01), and subsequent submittals providing clarification on September 15, 2017 (Administrative Record No. 2195-04), and an addition to the amendment request on September 18, 2018 (Administrative Record No. 2195-06).

To implement this decision, we are amending the Federal regulations at 30 CFR part 935 that codify decisions concerning the Ohio program. In accordance with the Administrative Procedure Act, this rule will take effect 30 days after the date of publication.

VI. Statutory and Executive Order Reviews

Executive Order 12630 – Governmental Actions and Interference with Constitutionally Protected Property Rights

This rule would not effect a taking of private property or otherwise have taking implications that would result in private property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the corresponding Federal regulations.

Executive Order 12866 – Regulatory Planning and Review, Executive Order 13563—Improving Regulation and Regulatory Review, and Executive Order 14094 – Modernizing Regulatory Review

Executive Order 12866, as amended by Executive Order 14094, provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993 (OMB Memo M-94-3), the approval of plan amendments is exempted from OMB review under Executive Order 12866, as amended by Executive Order 14094. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Executive Order 12988 – Civil Justice Reform

The Department of the Interior has reviewed this rule as required by section 3 of Executive Order 12988. The Department determined that this *Federal Register* document meets the criteria of section 3 of Executive Order 12988, which is intended to ensure that the agency review its legislation and proposed regulations to eliminate drafting errors and ambiguity; that the agency write its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive order to the quality of this *Federal Register* document and to changes to the Federal regulations. The review under this

Executive order did not extend to the language of the Ohio Plan or to the Plan amendment that Ohio drafted.

Executive Order 13132 – Federalism

This rule has potential federalism implications as defined by section 1(a) of Executive Order 13132. Executive Order 13132 directs agencies to “grant the States the maximum administrative discretion possible” with respect to Federal statutes and regulations administered by the States. Ohio, through its approved reclamation program, implements and administers SMCRA and its implementing regulations at the State level. This rule approves an amendment to the Ohio Plan submitted and drafted by Ohio, and thus, is consistent with the direction to provide maximum administrative discretion to States.

Executive Order 13175 – Consultation and Coordination with Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this rule under the Department’s consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on the distribution of power and responsibilities between the Federal Government and Tribes. The basis for this determination is that our decision is on the Ohio Plan that does not include Indian lands, as defined by SMCRA, or reclamation on Indian lands. Indian lands are regulated independently under the applicable Federal reclamation program. The Department’s consultation policy also acknowledges that our rules may have Tribal implications where the State proposing the amendment encompasses ancestral lands in areas with minable coal. We are currently working to identify and engage appropriate Tribal stakeholders to devise a constructive approach for consulting on these amendments.

Executive Order 13211 – Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking 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 significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. We are not required to provide a detailed statement under NEPA because this rule qualifies for a categorical exclusion under the U.S. Department of the Interior Departmental Manual, part 516, section 13.5(B)(29).

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

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. 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.

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 on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Ben Owens, Acting Regional Director
North Atlantic - 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. Amend section 935.25 in the table by adding an entry in chronological order by “Date of final publication” to read as follows:

§ 935.25 Approval of Ohio abandoned mine land reclamation plan amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * * * * March 17, 2017	* * <u>[Insert date of publication in the Federal Register]</u>	Repeal and replace Certified AML Plan to be consistent with changes to Federal program and update to reflect current agency conditions/practices, structure and organization. Revision of ORC 1513.27, 1513.28, 1513.30, 1513.31, 1513.32, 1513.37.