interested parties and other persons, questionnaires requesting factual information for the review;

(ii) If the Secretary considers it appropriate, conduct a verification under § 355.36;

(iii) Issue, based on available information, preliminary results of review that include the factual and legal conclusions on which the preliminary results are based;

(iv) Publish in the **Federal Register** notice of ''Preliminary Results of Countervailing Duty Section 753 Review,'' including an invitation for argument consistent with § 355.38;

(v) Promptly notify all parties to the proceeding of the preliminary results, and provide to such parties which request disclosure a future explanation of the calculation methodology used in reaching the preliminary results;

(vi) Issue final results of review that include the factual and legal conclusions on which the final results are based;

(vii) Publish in the **Federal Register** notice of ''Final Results of Countervailing Duty Section 753 Review;'' and

(viii) Promptly notify all parties to the proceeding and the Commission of the final results, and provide such parties which request disclosure a further explanation of the calculation methodology used in reaching the final results.

(e) *Effect of affirmative Commission determination.* Upon being notified by the Commission that it has made an affirmative determination under section 753(a)(1) of the Act:

(1) The Secretary will order the termination of the suspension of liquidation required pursuant to paragraph (b) of this section; and

(2) The countervailing duty order shall remain in effect until revoked, in whole or in part.

(f) *Effect of negative Commission determination.* Upon being notified by the Commission that it has made a negative determination under section 753(a)(1) of the Act, the Secretary will revoke the countervailing duty order and refund, with interest, any estimated countervailing duty collected during the period liquidation was suspended pursuant to paragraph (b) of this section.

[FR Doc. 95–11582 Filed 5–10–95; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8581]

RIN 1545–AQ87

Certain Cash or Deferred Arrangements and Employee and Matching Contributions Under Employee Plans; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations (T.D. 8581), which were published in the **Federal Register** for Friday, December 23, 1994, (59 FR 66165) relating to certain cash or deferred arrangements and employee and matching contributions under employee plans.

EFFECTIVE DATE: December 23, 1994.

FOR FURTHER INFORMATION CONTACT: Catherine Livingston Fernandez (202) 622–4606 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction are under sections 401(a)(30), 401(k), 401(m), 402(a)(8), 402(g), 411(d)(6), 415(c), 416, and 4979 of the Internal Revenue Code.

Need for Correction

As published, T.D. 8581 contains an error which may prove to be misleading and is in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.401(k)–1 (h)(4)(ii) is revised to read as follows:

§ 1.401(k)–1 Certain cash or deferred arrangements.

* * * * *

(h) * * *

(4) * * *

(ii) * * *

(A) The plan does not fail to satisfy the requirements of section 401(a) merely because of the nonqualified cash or deferred arrangement.

(B) Employer contributions under the nonqualified cash or deferred arrangement are considered to satisfy the requirements of section 401(a)(4).

(C) Except as provided in paragraphs (a)(7) and (f) of this section, elective contributions under the arrangement are treated as employer contributions under the Internal Revenue Code of 1986, as if the arrangement were a qualified cash or deferred arrangement. See § 1.401(k)–1(a)(4)(ii). See § 1.402(a)–1(d) for rules governing when elective contributions under the arrangement are includible in an employee's gross income.

* * * * *

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 95–11583 Filed 5–10–95; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH–232; Combined Program Amendments Numbers 25R and 56R]

Ohio Regulatory 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 regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment is intended to revise Ohio's ''Guidelines for Evaluating Revegetation Success'' to be consistent with the corresponding Federal regulations. These guidelines describe the sampling methods which Ohio proposes to use to evaluate revegetation success prior to bond release on areas with different postmining land uses.

EFFECTIVE DATE: May 11, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Robert H. Mooney, 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, and 935.16.

II. Discussion of the Proposed Amendment

On October 21, 1993 (Administrative Record No. OH–1944), the Ohio Department of Natural Resources, Division of Reclamation (Ohio) submitted a final combined version of two previous program amendments, Program Amendments Numbers 25R and 56R (PA 25R and PA 56R). In this combined submission, Ohio proposed to revise parts of the Ohio Administrative Code (OAC) pertaining to land use and revegetation success standards. Ohio also submitted ''Guidelines for Evaluating Revegetation Success'' establishing the sampling methods for measuring vegetative ground cover, tree and shrub stocking, and crop and pasture productivity.

In the May 2, 1994, **Federal Register** (59 FR 22507), the Acting Assistant Director of OSM announced his decision approving combined PA 25R and 56R with certain exceptions. In that decision, the Assistant Director required Ohio to submit a proposed amendment to modify its ''Guidelines for Evaluating Revegetation Success'' to require that species diversity, erosion control, and other applicable requirements of OAC 1501:13–9–15 (B) and (C) be evaluated at the time of final bond release. The Assistant Director also required that Ohio revise the formula for determining the sample size for evaluating tree and shrub success and provide documentation of concurrence by other agencies with specific portions of Ohio's evaluation methods.

By letter dated July 19, 1994 (Ohio Administrative Record OH–2032), Ohio resubmitted revised ''Guidelines for Evaluating Revegetation Success'' which were intended to address the Assistant Director's requirements in his May 2, 1994, decision on PA 25R and 56R. OSM announced its receipt of the revised guidelines in the **Federal Register** (59 FR 38576) on July 29, 1994. The public comment period ended on August 29, 1994.

By letter dated October 21, 1994, (Administrative Record No. OH–2066), OSM provided its questions and comments to Ohio on the July 19, 1994, submission of Ohio's revised guidelines. These questions and comments required further changes to the guidelines in addition to the changes required as part of the May 2, 1994, decision by the Assistant Director of OSM.

By letter dated December 20, 1994 (Administrative Record OH–2075), Ohio resubmitted further revisions to the guidelines which were intended to address the questions and comments in OSM's October 21, 1994, letter. OSM announced its receipt of the revised guidelines in the **Federal Register** (60 FR 3184) on January 13, 1995. The public comment period ended on February 13, 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 to the Ohio program.

All of the proposed changes in this Ohio program amendment concern Ohio's ''Guidelines for Evaluation of Revegetation Success.'' None of the proposed changes modify Ohio's statutes in the Ohio Revised Code or rules in the Ohio Administrative Code (OAC). Only substantive changes to Ohio's guidelines are discussed below. Revisions which are not discussed below concern editorial or nonsubstantive wording changes intended to improve the clarity and readability of the guidelines.

Ohio's proposed guidelines govern reclamation of surface mining activities and the surface effects of underground mining activities. The Federal counterparts are 30 CFR part 816 for surface mining activities and 30 CFR part 817 for underground mining activities. With a few exceptions, 30 CFR parts 816 and part 817 are substantively identical. OSM will discuss the proposed changes to Ohio's guidelines in relation to the Federal rules governing surface mining activities at 30 CFR part 816 with the understanding that such discussion also applies to the Federal rules governing underground mining activities at 30 CFR part 817. Any exceptions will be discussed separately.

(a) Verification That the Soil Surface is Stabilized From Erosion

Ohio is revising the first paragraph in Section A of its guidelines to require Ohio inspectors to verify, at the time of the final bond release inspection, that the vegetative cover is successfully stabilizing the soil surface from erosion. This verification enforces one of the general requirements for revegetation at OAC section 1501:13–9–15(B)(4), the State counterpart to 30 CFR 816.111(a)(4). The Director therefore finds that this revision to the Ohio guidelines brings those guidelines into conformity with other provisions of the Ohio program and is no less effective than the corresponding Federal rule at 30 CFR 816.111(a)(4).

(B) Evaluation of Vegetative Species Composition and Diversity

Ohio is revising the first paragraph in Section A of its guidelines to require Ohio inspectors to evaluate vegetative species composition and diversity at the time of the final bond release inspection. The inspector's evaluation will be based primarily on visual observations in the field and will be documented using a new diversity checklist, included as Attachment 4 to the guidelines. Ohio is also adding a new Section A.VI to the guidelines explaining the concept of species diversity and the use of the new diversity checklist.

This evaluation of species diversity enforces one of the general requirements for revegetation at OAC section 1501:13–9–15(b) (1) and (2), the State counterparts to 30 CFR 816.111(a) (1) and (2). The Director therefore finds that this revision to the Ohio guidelines brings those guidelines into conformity with other provisions of the Ohio program and is no less effective than the corresponding Federal rules at 30 CFR 816.111(a) (1) and (2).

As part of his May 2, 1994, decision approving combined PA 25R and 56R, the Assistant Director of OSM also required Ohio to submit documentation that it has consulted with and obtained the approval from the responsible agency for the methods which Ohio will use to evaluate species diversity. As part of its July 19, 1994, submission of PA 25R and 56R, Ohio submitted a memorandum dated July 19, 1994 (Administrative Record OH–2039), from the Acting Chief of the Division of Natural Areas and Preserves (DNAP), Ohio Department of Natural Resources. In this memorandum, DNAP discussed its participation in developing the diversity checklist and approved Ohio's use of that checklist in evaluating revegetation success. This concurrence by DNAP satisfies the Assistant Director's requirement.

(C) Proper Handling and Planting of Trees and Shrubs

Ohio is revising section B.2 of its guidelines to clarify the procedures to be used to protect tree seedlings and shrubs during planting. Ohio is adding a statement that tree plantings in stream buffer zones must comply with Ohio Policy/Procedure Directive Regulatory 94–1. Ohio is adding a statement establishing the seasonal time period for planting of willow or other stakes or posts. Ohio is clarifying the approved methods of carrying seedlings during planting. Ohio is adding a specific provision that roots cannot be exposed once a seedling is planted. Finally, Ohio is adding a provision that stakes and posts shall be planted so that at least 40 to 50 percent of their total length is beneath the soil surface. The Director finds that these revisions to the Ohio guidelines clarify and improve those guidelines and are consistent with the corresponding Federal rules at 30 CFR 816.111 and 816.116.

(D) Sampling Methods

(1) *Formulas for Sampling Adequacy:* Ohio is revising section B.1.IV and Attachment 7 of its guidelines to correct three errors in the formulas for determining the size of the samples needed to evaluate the success of tree and shrub plantings. Ohio is also revising section C.1.IV and Attachment 11 of its guidelines to make corresponding corrections to the formulas for determining the size of the samples needed to evaluate the productivity of pasture, grazing land, and cropland.

(2) *Procedure for evaluating ground cover using less than 100 samples:* Ohio is revising sections A.1.II and A.1.IV and is deleting old Attachment 4 in its guidelines in order to require a minimum of 100 samples to evaluate ground cover.

(3) *Reference to ''subsamples, for hay'':* Ohio is deleting the reference in section C.1.V of the guidelines to ''subsamples, for hay.''

The Director finds that, with these three revisions, the Ohio guidelines are consistent with the corresponding Federal rules at 30 CFR 816.111 and 816.116.

(E) State Agency Concurrence on Stocking Standard for Commercial Forest

In his May 2, 1994, decision approving combined PA 25R and 56R, the Acting Assistant Director of OSM also required Ohio to provide documentation that Ohio has obtained approval from the Division of Forestry (DOF), Ohio Department of Natural Resources, for the standard regarding the maximum percentage of non-commercial trees planted on areas with commercial forest as the proposed postmining land use. As part of its July 19, 1994, submission of PA 25R and 56R (Administrative Record OH–2032), Ohio submitted a memorandum dated July 11, 1994, from the Chief of DOF. In this memorandum, DOF agreed with Ohio's standard that a maximum of 25 percent of the trees planted on lands reclaimed to commercial forest may be non-commercial trees and stated that this standard is appropriate and desirable. This concurrence by DPF satisfies the Assistance Director's requirement.

(F) Prime Farmland Crop Productivity

In Its October 21, 1994, letter to Ohio (Administrative Record No. OH–2066), OSM recommended that Ohio should revise its guidelines to clarify that the first year of crop production cannot be included in determining revegetation success of reclaimed prime farmland. As suggested by OSM, Ohio is revising the third paragraph of Part C of the guidelines to exclude the first year's yields from consideration in meeting prime farmland crop productivity.

The Director finds that, with this revision, the Ohio guidelines are no less effective than the corresponding Federal rules at 30 CFR 810.11 regarding prime farmland and 30 CFR 816.116(c)(2) regarding revegetation success.

For the reasons discussed above in Sections III.A.B, and D, the Director is removing the requirement at 30 CFR 935.16(a) that Ohio revise its ''Guidelines for Evaluating Revegetation Success.''

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 on July 29, 1994, and January 13, 1995. No public comments were received. No public hearings were held as no one requested the opportunity to provide testimony.

Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from the Regional Administrator of the U.S. Environmental Protection Agency (EPA); the U.S. Department of Agriculture, Soil Conservation Service (SCS); and the heads of three other Federal agencies with an actual or potential interest in the Ohio program. Nonsubstantive comments were received from SCS and from the Mine Safety and Health Administration. No other comments were received.

The Director also solicited comments on the proposed amendment from the Ohio Historic Preservation Office (OHPO). OHPO commented that, in areas where historic properties have been avoided using a buffer zone during mining operations, the reclamation of the strip mine area around the buffer zone should be consistent with the protected area within the buffer zone. The Director concurs with this comment. OAC sections 1501:13–9–15(C)(1) (a) and (d) require that reestablished plant species must be compatible with the approved postmining land use and with the plant and animal species of the surrounding area. This surrounding area would include protected areas within buffer zones. The Director finds that these existing Ohio rules adequately provide for compatible reclamation around buffer zones and that nothing in the proposed amendment negatively affects the effectiveness of these existing rules.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Ohio on July 19, 1994, and revised on December 20, 1994.

The Federal regulations at 30 CFR Part 935 codifying decisions concerning the Ohio 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 conform their programs with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to a State program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved programs. In the oversight of the Ohio program, the Director will recognize only the approved program, together with any consistent implementing policies, directives, and other materials, and will require the enforcement by Ohio of such provisions.

VI. Procedural Determinations

Executive Order 12866

This final 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. 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 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 4, 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 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 by adding new paragraph (vvv) to read as follows:

§ 935.15 Approval of regulatory program amendments.

* * * * *

(vvv) The following amendment (Combined Program Amendments 25R and 56R) pertaining to the Ohio regulatory program, as submitted to OSM on July 19, 1994, and revised on December 20, 1994, is approved, effective May 11, 1995: Ohio Guidelines for Evaluating Revegetation Success

§ 935.16 [Removed and reserved]

3. In § 935.16, paragraph (a) is removed and reserved.

[FR Doc. 95–11649 Filed 5–10–95; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[MT–001; FRL–5206–2]

Clean Air Act Final Interim Approval of Operating Permits Program; State of Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim approval.

SUMMARY: The EPA is promulgating final interim approval of the Operating Permits Program submitted by the State of Montana for the purpose of complying with Federal requirements for an approvable State Program to issue operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: June 12, 1995.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the final interim approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 8, 999 18th Street, suite 500, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Laura Farris, 8ART–AP, U.S. Environmental Protection Agency, Region 8, 999 18th Street, suite 500, Denver, Colorado 80202, (303) 294–7539.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

Title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act (''the Act'')), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 (part 70) require that States develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to two years. If EPA has not fully approved a program by two years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program.

On February 14, 1995 EPA published a **Federal Register** notice proposing interim approval of the Operating Permits Program for the State of Montana (PROGRAM). See 60 FR 8335. EPA received no adverse comments on this proposed interim approval, and is taking final action to promulgate interim approval of the Montana PROGRAM.

II. Final Action and Implications

A. Analysis of State Submission

The Governor of Montana submitted an administratively complete title V Operating Permit Program (PROGRAM) for the State of Montana on March 29, 1994. The Montana PROGRAM, including the operating permit