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 12988

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon 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.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 Part CFR 920

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 5, 1997.

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 in the table by adding a new entry in chronological order by ''Date of Final Publication'' to read as follows:

§ 920.15 Approval of Maryland regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	*
August 5, 1996	March 26, 1997	M.C.A. §§ 15–514(a)(4), 15–514.1.

[FR Doc. 97–7535 Filed 3–25–97; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 935

[OH–236–FOR]

Ohio Abandoned Mine Land Reclamation Plan

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving, with certain exceptions, a proposed amendment to the Ohio abandoned mine land reclamation plan (hereinafter referred to as the ''Ohio plan'') under the Surface mining Control and Reclamation Act of 1977 (SMCRA). Ohio proposed revisions and additions to its plan pertaining to acid mine drainage set aside program, water quality improvement, project eligibility, and remining incentives. The amendment is intended to revise the Ohio plan to be consistent with SMCRA, as amended.

EFFECTIVE DATE: March 26, 1997.

FOR FURTHER INFORMATION CONTACT: George Rieger, Field Branch Chief, Appalachian Regional Coordinating Center, OSM, 3 Parkway Center, Pittsburgh, PA 15220, Telephone: (412) 937–2153.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Plan
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Ohio Plan

On August 10, 1982, the Secretary of the Interior approved the Ohio plan. Background information on the Ohio plan, including the Secretary's findings, the disposition of comments, and the approval of the plan can be found in the April 15, 1994, **Federal Register** (59 FR 17930). Subsequent actions concerning the conditions of approval and amendments to the plan can be found at 30 CFR 935.25.

II. Submission of the Proposed Amendment

By letter dated March 19, 1996, (Administrative Record No. OH–2163) Ohio submitted a proposed amendment to its plan pursuant to SMCRA at its

own initiative. Ohio proposed to amend the following subsections of Section 4—Abandoned Mined Land Evaluation Program: 4.1—Introduction, 4.5—Annual Work Plan, and 4.5.3—Project Selection.

OSM announced receipt of the proposed amendment in the April 17, 1996, **Federal Register** (61 FR 16731), 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 17, 1996.

During its review of the proposed amendment, OSM identified concerns relating to the use of abandoned mine land funds for the reclamation of previously mined areas by an active coal mine operator. OSM notified Ohio of these concerns by letter dated November 13,1 996 (Administrative Record No. OH–2163–11).

By letter dated December 6, 1996 (Administrative Record No. OH–2163–12), Ohio responded to OSM's concerns by submitting additional explanatory information and revisions to its proposed program amendment. Ohio revised the language on page 4–2 to read ''encourage reclamation in conjunction with active mining of abandoned areas causing acid mine drainage (AMD) within approved hydrologic units and in other areas causing a MD through the funding of AMD remediation projects and studies necessary to develop pollution abatement plans.'' At page 4–17, Ohio clarified that AMD funds are being used to collect and analyze data necessary to qualify watersheds as hydrologic units. At page 4–19, Ohio revised Stage 5 of the project selection process to provide for the reclamation of abandoned mine areas causing AMD in conjunction with active mining. Federal abandoned mine land funds may be used to fund reclamation of abandoned mine lands causing AMD under certain conditions.

By letter dated December 20, 1996 (Administrative Record No. OH–2163–13), Ohio submitted additional revisions. At page 4–2, Ohio deleted as one of its goals the reclamation in conjunction with active mining of abandoned areas causing AMD within approved hydrologic areas and other areas. At page 4–19, Ohio deleted the language identified as Stage 5 of the project selection process. The deletions are based on Ohio's understanding that such language is not necessary to fulfill its goals and objectives regarding the use of acid mine drainage set-aside funds for the restoration of watersheds impacted by acid mine drainage from abandoned coal mines. Sufficient flexibility exists within its program to manage the funds in a manner that will achieve its objectives.

Based on the additional explanatory information and revisions to the proposed program amendment submitted by Ohio, OSM reopened the public comment period in the January 23, 1997 **Federal Register** (62 FR 3491). The public comment period closed on February 7, 1997.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 884.14 and 884.15, 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.

Abandoned Mined Land Evaluation Program

1. Section 4.1.G—Introduction

Ohio proposed to add subsection G to provide for the reclamation of areas causing acid-mine drainage (AMD) such that AMD problems are eliminated as a component of a high priority reclamation project; such that AMD areas causing a ''general welfare'' impact to the public will be eligible for abatement; and such that AMD areas impacting watersheds will be abated in accordance with AMD set-aside criteria contained in the Ohio Code (ORC) at section 1513.37(E).

The Director finds that the provisions of subsection G are not inconsistent with section 402(g)(6)(B) and 402(g)(7) of SMCRA which provide for the creation of an AMD abatement and treatment fund and from which amounts are expended by the State to implement acid mine drainage abatement and treatment plans.

2. Section 4.5—Annual Work Plan

Ohio proposed to delete the requirement that research and demonstration projects be submitted to OSM independent of work plan submissions using specific OSM procedures. In its submission letter dated March 19, 1996, Ohio stated projects of this type would be incorporated into the AMD program.

The Director finds that the proposed deletion does not render the Ohio program less effective than the Federal regulations so long as application for proposed implementation of research and demonstration projects is made to OSM prior to using funds for such projects.

3. Section 4.5.3—Project Selection

Ohio proposed to revise the project selection process to include AMD projects under certain conditions such as AMD set-aside, AMD associated with other high priority projects, and AMD associated with general welfare. Projects will be evaluated and approved based on an AMD abatement and treatment plan. The plan will provide for the comprehensive abatement of the causes and treatment of the effects of AMD within qualified hydrologic units affected by coal mining practices. The plan will identify the qualified hydrologic unit and the sources and effect of AMD within the unit. It will also identify projects and treatment and abatement measures, as well as cost and sources of funding. An analysis of the cost-effectiveness and environmental benefits of the treatment and abatement measures is also required. Ohio defined ''qualified hydrologic unit'' as a unit in which the water quality has been significantly affected by AMD from coal mining practices in a manner which adversely impacts biological resources and which contains lands and waters that meet certain, specified eligibility requirements.

Ohio proposed to fund AMD projects associated with ''general welfare'' according to specified guidelines. Ohio defined ''general welfare'' (as used in establishing the priority of AMD projects) as meaning an adverse impact, including an economic impact, on either a residential area, or community resulting from the mine drainage problem.

The Director finds that the project selection process as specified in section 4.5.3, State 4, is consistent with the plan content requirements at 30 CFR 876.13 (a)–(g) and the eligibility requirements found at 30 CFR 874.12. Further, the definition of ''qualified hydrologic unit'' is substantively identical to the Federal definition found at 30 CFR 870.5.

Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. Because no one requested an opportunity to speak at a public hearing, no hearing was held. Two public comments were received. One commenter stated that ongoing coordination with the Ohio Historical Society is necessary to address preservation concerns. The Director notes that all abandoned mine land projects, including those negotiated with adjacent mine operators, are reviewed by the State Historic

Protection Officer (SHPO). Further, a statement of concurrence that no significant cultural or historic properties will be adversely affected, signed by the SHPO, is included with the National Environmental Policy Act documents submitted prior to construction.

Another commenter had two concerns: (1) That the proposed revisions were unclear as whether Ohio's intention was to elevate the priority of AMD problems or to eliminate AMD problems as a component of high priority reclamation, and (2) that the issue of who assumes liability for remining operations is unclear. With respect to the first issue, the Director notes that the intent of the ''general welfare'' provision is to allow the use of Federal AML funds for AMD abatement projects that are not necessarily part of an approved hydrologic unit under the AMD set-aside program. This is accomplished by elevating the priority when the general welfare requirements are met. With respect to the second issue, The Director notes that the remining provisions were deleted in Ohio's December 20, 1996, revisions to the original amendment.

Federal Agency Comments

Pursuant to 884.14(a)(2) and 884.15(a), the Director solicited comments on the proposed amendment from various other Federal agencies with an actual or potential interest in the Ohio plan. The U.S. Department of the Army, Army Corps of Engineers, and the U.S. Department of Labor, Mine Safety and Health Administration, concurred without comment.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), the Director solicited the written concurrence of the Administrator of the EPA with respect to those proposed plan amendment which relate to air or water quality standards promulgated under the authority of the Clean Air Act (42 U.S.C. 7401 *et seq.*) or the Clean Water Act (33 U.S.C. 1252 *et seq.*).

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

V. Director's Decision

Based on the above findings, the Director approves the proposed plan amendment as submitted by Ohio on March 19, 1996, and revised on December 6, 1996, and December 20, 1996.

The Federal regulations at 30 CFR Part 935, codifying decisions concerning the Ohio plan, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State plan amendment process and to encourage States to bring their plans 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 proposed rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State and Tribal abandoned mine land reclamation plans and revisions thereof since each such plan is drafted and promulgated by a specific State or Tribal, not by OSM. Decisions on proposed abandoned mine land reclamation plans and revisions thereof submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and 30 CFR Parts 884 and 888.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State and Tribal abandoned mine land reclamation plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

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 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. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 5, 1997.

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 935.25 is amended in the table by adding a new 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 19, 1996	March 26, 1997	Revisions to the Ohio Abandoned Mine Land Reclamation Plan to provide for the reclamation of areas causing acid mine drainage AMD and to revise the project selection process.

[FR Doc. 97–7536 Filed 3–25–97; 8:45 am]
BILLING CODE 4310–05–M

30 CFR Part 943

[SPATS No. TX–017–FOR]

Texas 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 Texas regulatory program (hereinafter referred to as the ''Texas program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Texas proposed revisions to and additions of rules pertaining to authority, responsibility and applicability; definitions; restrictions of financial interests of State employees; exemption for coal extraction incident to government-financed construction; exemption for coal extraction incidental to the extraction of other minerals; lands unsuitable for mining; coal exploration; geologic and hydrologic permit information; blasting plans; maps and plans; protection of the hydrologic balance; ponds, impoundments, banks, dams, and embankments; prime farmland; alluvial valley floors; public availability of permit information; approval and conditions of permits; transfer, assignment or sale of permit rights; bonding requirements; liability insurance; bond release; signs and markers; water quality standards; diversions; siltation structures; permanent and temporary impoundments; surface and ground water monitoring; stream buffer zones; use of explosives; coal mine waste; protection of fish and wildlife and related environmental values; backfilling and grading; revegetation; water discharge into underground mines; enforcement; suspension and revocation of permits; assessment of civil penalties; individual civil penalties; and blaster certification and training. Texas also proposed minor changes in wording, numbering, and punctuation of its rules. The amendment is intended to revise the Texas program to be consistent with the corresponding Federal regulations and SMCRA and to incorporate the additional flexibility afforded by the revised Federal regulations.

EFFECTIVE DATE: March 26, 1997.

FOR FURTHER INFORMATION CONTACT: Ervin J. Barchenger, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6548, Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Texas 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 Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. Background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the February 27, 1980, **Federal Register** (45 FR 12998). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 943.10, 943.15, and 943.16.

II. Submission of the Proposed Amendment

By letter dated May 13, 1993 (Administrative Record No. TX–551), Texas submitted a proposed amendment to its program pursuant to SMCRA. Texas submitted the proposed amendment in response to May 20, 1985, June 9, 1987, October 20, 1988, February 7, 1990, and February 21, 1990, letters (Administrative Record Nos. TX–358, TX–388, TX–417, TX–472, and TX–476) that OSM sent to Texas in accordance with 30 CFR 732.17(c), in response to the required program amendments at 30 CFR 943.16 (k) through (q), and at its own initiative.

OSM announced receipt of the proposed amendment in the June 21, 1993, **Federal Register** (58 FR 33785), 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 would have closed on July 21, 1993. However, by letter dated July 16, 1993, the Texas Mining and Reclamation Association requested a 30-day extension of time in which to review and provide comments on the proposed amendment. OSM announced receipt of the extension request and reopened the comment period in the August 16, 1993, **Federal Register** (58 FR 43308). The extended comment period ended August 20, 1993.

During its review of the amendment, OSM identified several concerns relating to the proposed amendment. OSM notified Texas of these concerns by letter dated July 25, 1994 (Administrative Record No. TX–578). OSM provided Texas with further clarification of its concerns by letters dated November 4, 1994, November 21, 1994, and January 18, 1995 (Administrative Record Nos. TX–581, TX–589, and TX–585).

By letter dated September 18, 1995 (Administrative Record No. TX–598), Texas responded to OSM's concerns by submitting a revised program amendment package. OSM reopened the public comment period in the October 25, 1995, **Federal Register** (60 FR 54620) and provided an opportunity for a public hearing on the adequacy of the revised amendment. The public comment period closed on November 9, 1995. By letter dated December 15, 1995 (Administrative Record No. TX–634), Texas submitted documents to clarify and supplement its September 18, 1995, revised amendment. By letter dated March 1, 1996 (Administrative Record No. TX–612), Texas provided information to supplement the revegetation success portion of its September 18, 1995, revised amendment.

By letter dated January 29, 1996 (Administrative Record No. TX–610), Texas withdrew portions of its September 18, 1995, revised amendment. Texas withdrew the roads and transportation system portion of the amendment because it had submitted a formal amendment on December 20, 1995, titled ''Transportation System, Utilities, and Support System,'' which superceded the changes in this amendment. During its review of the September 18, 1995, revised amendment and supplemental information, OSM