

13. The Stock Raising Homestead Act of 1916, 43 U.S.C. 291, *et seq.*

14. The Archaeological Resources Protection Act of 1979, 16 U.S.C. 470aa., *et seq.*

15. The Constitution of the United States.

16. The Constitution of the State of North Dakota, State law, and rules.

[48 FR 41395, Sept. 15, 1983, as amended at 53 FR 11501, Apr. 7, 1988]

PART 935—OHIO

Sec.

935.1 Scope.

935.10 State regulatory program approval.

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935.30 State-Federal Cooperative Agreement.

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

§ 935.1 Scope.

This part contains all rules applicable only within Ohio that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

[47 FR 34717, Aug. 10, 1982]

§ 935.10 State regulatory program approval.

The Ohio State regulatory program as submitted on February 29, 1980, and resubmitted on January 22, 1982, is conditionally approved, effective August 16, 1982. Beginning on that date, the Department of Natural Resources shall be deemed the regulatory authority in Ohio for all surface coal mining and reclamation operations on non-Indian and non-Federal lands. Only surface coal mining and reclamation operations on non-Indian and non-Federal lands shall be subject to the provisions of the Ohio permanent regulatory program. Copies of the approved program, as amended, are available at:

(a) Ohio Department of Natural Resources, Division of Reclamation, Building H-2, 1855 Fountain Square Court, Columbus, Ohio 43224.

(b) [Reserved]

[48 FR 23193, May 24, 1983, as amended at 59 FR 17930, Apr. 15, 1994]

§ 935.11 Conditions of State regulatory program approval.

The approval of the Ohio State program is subject to the State revising its program to correct the deficiencies listed in this section. The program revisions may be made, as appropriate, to the statute, the regulations, the program narrative, or the Attorney General's opinion. This section indicates, for the general guidance of the State, the component of the program to which the Secretary requires the change be made.

(a)–(e) [Reserved]

(f) Steps will be taken to terminate the approval found in § 935.10.

(g) [Reserved]

(h) Steps will be taken to terminate the approval found in § 935.10:

(1) Unless Ohio submits to the Secretary by September 30, 1985, a revised program amendment that demonstrates how the alternative bonding system will assure timely reclamation at the site of all operations for which bond has been forfeited.

(i)–(j) [Reserved]

(k) Steps will be initiated to terminate the approval found in § 935.10.

(l)–(m) [Reserved]

[47 FR 34717, Aug. 10, 1982, as amended at 48 FR 1958, Jan. 17, 1983; 48 FR 23193, May 24, 1983; 48 FR 46027, Oct. 11, 1983; 48 FR 46531, Oct. 13, 1983; 49 FR 18482, May 1, 1984; 49 FR 37590, Sept. 25, 1984; 49 FR 43953, Nov. 1, 1984; 50 FR 25710, June 21, 1985]

§ 935.12 [Reserved]

§ 935.15 Approval of Ohio regulatory program amendments.

The following is a list of the dates amendments were submitted to OSM, the dates when the Director's decision approving all, or portions of these amendments, were published in the FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

Surface Mining Reclamation and Enforcement, Interior

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Original amendment submission date	Date of final publication	Citation/description
September 16, 1982 October 13, 1982	January 17, 1983 ... January 31, 1983, July 22, 1983.	OAC:13-1-01. OAC 1501:13-1-02(E), -07; 13-4-03 through -05.
January 6, 1983	May 24, 1983	ORC as amended by SB 240 and 323.
June 10, 1983, August 11, 1983, August 22, 1983. July 18, 1983	October 6, 1983	OAC 1501:13-1-02; 13-4-04, -05, -13, -14; 13-9-04; 13-12-03, -04.
January 30, 1984	October 13, 1983 ...	ORC 1513:01(G)(2), (U); -13(A)(1), (C)(1), (3).
February 8, 1984	April 23, 1984	OAC 1501:13-4-13(K)(1).
December 28, 1983 ..	May 1, 1984	OAC 1501:13-9-15(E)(5); ORC1513-101(J), (k), (L).
March 5, 1984	June 5, 1984	OAC 1501:13-14-01.
June 15, 1984	August 8, 1984	OAC 1501:13-14-05.
July 23, 1984	September 25, 1984	OAC 1501:13-4-04(I), (L), -13(I), (J), (L); 13-9-04(B)(5), (G)(15); and Division Advisory Memo No. 31.
March 9, 1984	November 1, 1984 ..	ORC contained in Substitute House Bill No. 164.
September 17, 1984	November 7, 1984 ..	OAC 1501:13-4-13(E)(2).
July 10 and 23, 1984	December 31, 1984	OAC 1501:13-2-15.
July 11, 1984, July 23, 1984.	March 18, 1985	OAC 1501:13-9-06.
July 3, 1985	May 23, 1985	OAC 1501:13-14-01; ORC 1513-3-01 through -22.
November 15, 1985 ..	September 18, 1985	OAC 1513-3-01 through -22.
January 15, 1986	April 9, 1986, June 9, 1986.	ORC 1513.02, .07, .08, .10, .16, .18, .20, .25, .27 through .33, .37, .181; 5749.02, .021.
October 26, 1985	May 6, 1986	OAC 1513-3-01 through 04, 16, 17.
November 6, 1984	July 17, 1986	OAC 1501:13-3-05; 13-4-04, -13; 13-9-04.
March 3, 1986	July 28, 1986	OAC 1501:13-14-03.
July 10, 1986	September 18, 1986	OAC 1501:13-4-05, 14; 13-9-07.
October 8, 1986	October 29, 1986 ...	OAC 1501:13-9-06.
December 1, 1986, January 13, 1987.	March 5, 1987	OAC 1501:13-9-07.
May 16, 1986	June 19, 1987	OAC1501:13-7-03(B)(5)(g), (7)(h).
January 28, 1987	July 17, 1987	OAC 1501:13-1-01, -02, -07, -10, -13; 13-3-02 through -07; 13-4-01 through -04, -06, -08, -12, -13, -14; 13-5-01; 13-6-03; 13-7-01 through -08; 13-8-0; 13-9-01, -04, -06, -08, -09, -10 (formerly 13-14-05), -11, -13, -14, -15; 13-10-01; 13-13-02 through -06, -08; 13-14-01 through -05; 1513-3-03, -08; ORC 1513.16(H)(2), (3), .18(F).
June 26, 1987	August 10, 1987	OAC 1513-3-02, -03, -04, -08, -19, -21.
January 16, 1987	December 9, 1987 ..	OAC 1501:13-1-02.
October 16, 1987	March 10, 1988	OAC 1501:13-7-03(B)(5)(g).
March 24, 1988	May 27, 1988	OAC 1501:13-1-02(M), (PP), (YY); 13-3-03 (C), (G), -04(E); 13-4-01(B), -04(A), (K)(7), -05(K), -13(A), (K)(7), -14(J); 13-5-01(E)(16).
May 24, 1988, August 23, 1988.	July 14, 1988	OAC 1513:1513-3-21(E) (3), (4), (5).
March 8, 1988, July 1, 1988.	December 22, 1988	OAC 1501:13-1-02; 13-4-03, -04, -05; 13-4-13, -14; 13-7-03, -04, -05, -07(B); 13-9-04, -07, -09, -14, -15; 13-10-01; 13-14-02, -05.
April 17, 1987	January 30, 1989 ...	OAC 1501:13-4-02(B)(1)(b), (B)(1)(c), (C)(1), (C)(1)(a).
November 3, 1987	February 21, 1989 ..	OAC 1501:13-9-15(A)(1)(a), (F)(8), (e)(i), (f)(i), (F)(9) through (12).
January 26, 1989	December 15, 1989	OAC 1501:13-9-15(F)(4)(c).
October 2, 1989	January 31, 1990 ...	OAC 1501:13-9-15(A)(1)(a), (F), (G), (H), (I)(2)(c), (4)(c), (8), (b), (f)(i), (I)(9).
August 11, 1989	April 20, 1990	ORC 1513.02(J), .08(A), .18(B), (C), (F), (H), .24, .37(J).
December 5, 1989	June 5, 1990	ORC 1513.05, .13(E), (F); OAC 1513-3-21.
October 20, 1988	July 20, 1990	OAC 1501:13-7-01(A)(4), (5), (6)(a)(i), (ii), -05(A)(1), (2)(b), (iv), (c)(ii), (B)(2)(c), (4) through (4)(e).
May 11, 1990	July 25, 1990	OAC 1501:13-3-07(B)(8); 13-4-01(B); 13-7-01(A)(6)(c)(ii), -05(A)(3), (5)(b)(i), (B)(2)(e); 13-9-07(K)(1)(b).
March 1, 1989	August 21, 1990	OAC 1501:13-7-06(F).
January 20, 1989	September 18, 1990	OAC 13-1-02, 03; 13-4-14; 13-5-01; 13-7-04, -05; 13-9-11; 13-14-06.
May 11, 1990	September 24, 1990	ORC 1513.07, .16; OAC 1501:13-4-15(A) through (I).
December 7, 1990	February 21, 1991 ..	OAC 1501:13-9-15(I)(2)(c)(ii).
June 15, 1990	February 26, 1991 ...	OAC 1501:13-10-01(G)(1).
January 31, 1991	April 19, 1991	OAC 1501:13-4-03(A), (B), (C); 13-5-01(A)(4)(a), (D), and letter of interpretation dated April 1, 1991 (Administrative Record Number OH-1498), (E)(8), (F), (G)(5), (H)(5), -02; 13-14-02(A)(8), (C)(7), (D)(1)(c), (I); ORC 1513.07(E)(6).
March 1, 1991	May 21, 1991, June 6, 1991.	OAC 1501:03-9-13.
January 31, 1989	May 30, 1991	OAC 1501:13-9-11(D)(3).
August 23, 1991	October 21, 1991 ...	ORC 1513.07(B)(4); OAC 1501:13-6-03(C)(1)(b), (I)(1)(d), (I)(1)(e).
November 16, 1987, October 12, 1990.	December 9, 1991 ..	OAC 1501:13-14-02(A)(2).
	April 13, 1992	ORC 1513.01(G)(1)(a); 1513.07(E)(5), (6); OAC 1501:13-1-02(S)(1)(a); 13-4-16; 13-5-03; 13-14-01; OAC 1513.16(F)(3)(b).

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30 CFR Ch. VII (7-1-06 Edition)

Original amendment submission date	Date of final publication	Citation/description
January 16, 1990	July 27, 1992	OAC 1501:13-1-02(E)(1)(d), (YYYY); 13-4-05(H)(2)(c), (M)(1)(d), (e), (2), -14(H)(2)(c), (L)(1)(d), (e), (2); 13-9-04(G)(3)(b)(i), (ii), (iii), (H)(1)(c), (h)(i), (ii), (iii), (2)(h), (3)(b); 13-9-09(C)(2)(b), (5), 15(F) through (I)(2)(c)(i), (ii), (3)(c); 13-10-01(B)(1), (D)(1), (F) (5), (6), (G)(1), (G)(3), (G)(4); 13-11-02(A); ORC 1513.01(G)(2).
July 22, 1991, September 10, 1991.	August 18, 1992	OAC 1501:13-9-04(H)(1)(i), (2)(d), (e), (g), (h), -07(H).
May 12, 1992	September 11, 1992	OAC 1501:13-1-01(D)(1), (2).
December 11, 1991 ..	October 28, 1992 ..	OAC 1501:13-7-06(A), (1), (4), (B), (1), (2)(b), (C), (1), (2), (a), (b), (c), (C)(3), (4), (E)(1), (E)(4).
June 30, 1992	January 12, 1993 ...	OAC 1501:13-13-06(A).
May 12, 1992, June 22, 1992.	January 14, 1993 ...	OAC 1501:13-5-01(A)(4)(a), 13-9-15(J)(1).
December 9, 1992	April 23, 1993	OAC 1501:13-1-01(B).
February 7, 1992, March 2, 1992.	June 11, 1993	ORC 1513.02(F)(3).
April 5, 1993	June 22, 1993	OAC 1501:13-1-02 (HHHH), 13-4-15(B)(5), (I)(2)(a), (3)(d).
February 11, 1993	August 16, 1993	OAC 1501:13-9-15.
January 15, 1993	September 3, 1993	OAC 1501:13-4-02(C)(2) through (K).
May 1, 1992, June 11, 1993.	May 2, 1994	OAC 1501:13-4-06(E)(2)(g), 13-9-15, 17(B); Ohio Department of Natural Resources Guidelines for Evaluating Revegetation Success; Division of Reclamation Policy/Procedure Directive, Regulatory 94-2.
May 17, 1994	July 27, 1994	OAC 1501:13-9-17.
March 15, 1993	September 1, 1994	Program Amendment Number 63.
February 23, 1994	October 12, 1994 ...	OAC 1501:13-1-05, -10(B)(2).
March 4, 1993	November 15, 1994	OAC 1501:13-4-05(E)(1)(g), (H)(1)(b)(iv), (c)(iv), -14(E)(1)(f), (H)(1)(b)(iv), (c)(iv); 13-9-04(B)(1)(a), (b), (G)(2)(e); Ohio's Policy/Procedure Directive, Inspection and Enforcement 93-4.
July 19, 1994	May 11, 1995	Combined Program Amendments 25R and 56R: Ohio Guidelines for Evaluating Revegetation Success.
May 17, 1994	May 12, 1995	Program Amendment 68R: Contemporaneous Reclamation.
September 22, 1994	July 17, 1995	OAC 1501:13-1-03(D)(2), (I)(1), (J)(1), (L)(1), (2), (3) (Financial interest statements); 13-7-05(A)(2)(b)(ii), (c)(ii), (B)(2)(c).
March 28, 1995	July 25, 1995	OAC 1501:13-14-01.
February 2, 1995	November 9, 1995 ..	Program Amendment 63R: Ohio regulatory and Abandoned Mine Land reclamation programs.
July 3, 1995	February 28, 1996 ..	OAC 1501:13-4-15(d)(2); Policy Directives 92-3, 93-4.
May 23, 1996	September 4, 1996	OAC 1501:13-4-12(G)(3)(d), (4)(f), (i); 13-09-08(A)(1), (B); 13-13-01.
May 17, 1996	October 29, 1996 ...	OAC 1501:13-14-01(A)(2)(b), (c).
August 26, 1996	February 28, 1997 ..	OAC 1501:13-1-02(OOO), (JJJJJJ); 13-4-08(A)(15), -10(A)(6), -12(L), -15(B); 13-5-01(D)(7), (D), (E)(19), (A), (B), (C); 13-9-15(F)(2), (A), (3), (a), (4)(d), (G)(3)(a), (H)(2), (I)(6), (J)(1)(b), (L), (2), (M)(4), (O), (1) through (6).
October 3, 1996	October 14, 1997 ...	OAC 1501:13-6-03, (A)(1) (a) through (f), (B), (1), (2), (F)(2), (a) through (f), (C)(2), (a), (b), (D)(9), (10), (11).
June 24, 1997	February 24, 1998 ..	ORC 1513.13(E).
February 11, 1993 ...	September 29, 1998	OAC 1501:13-9-15(F)(4)(c), (F)(5), and (F)(6).
December 30, 1997 ..	December 4, 1998 ..	OAC 1501:13-4-05, 1501:13-4-12, 1501:13-4-14, 1501:13-7-05, 1501:13-9-04.
January 21, 1999	April 13, 1999	OAC 1513-3-21.
March 16, 1999	November 22, 1999	OAC 1501:13-1-04.
June 11, 2003	October 3, 2003	OAC 1501:13-9-10 (A)(1), (3), (B), (B)(7), (9), (14), (14)(e), (C)(1), (2), (3), (4), (5), (D)(1), (2)(b), (E)(1), (2), (5), (F)(1), (1)(b), (1)(f), (3), (4), (4)(a), (4)(b), and (4)(c).
November 7, 2003	September 27, 2004	OAC 1501:13-1-02(A), (D), (N), (O), (R), (MMMM), (OOOO); 1501:13-4-15(C)(2)(a),(b),(c); (C)(3)(b); (E)(3); (F)(1), (H)(3)(c).

[62 FR 9950, Mar. 5, 1997, as amended at 62 FR 53234, Oct. 14, 1997; 63 FR 9139, Feb. 24, 1998; 63 FR 51833, Sept. 29, 1998; 63 FR 66989, Dec. 4, 1998; 64 FR 17981, Apr. 13, 1999; 64 FR 63690, Nov. 22, 1999; 68 FR 57356, Oct. 3, 2003; 69 FR 57647, Sept. 27, 2004]

§ 935.16 Required regulatory program amendments. [Reserved]

§ 935.20 Approval of Ohio abandoned mine land reclamation plan.

The Ohio Abandoned Mine Land Reclamation Plan, as submitted on Octo-

ber 20, 1980, and as revised on November 21, 1980, November 2, 1981, and January 22, 1982, is approved effective August 10, 1982. Copies of the approved plan are available at the following locations:

Surface Mining Reclamation and Enforcement, Interior

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(a) Ohio Department of Natural Resources, Division of Reclamation, Building H-2, 1855 Fountain Square Court, Columbus, Ohio 43224.

(b) Office of Surface Mining Reclamation and Enforcement, Eastland Professional Plaza, 4480 Refugee Road, suite 201, Columbus, Ohio 43232.

[59 FR 17930, Apr. 15, 1994]

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

The following is a list of the dates amendments were submitted to OSM, the dates when the Director's decision approving all, or portions of these amendments, were published in the FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

Original amendment submission date	Date of final publication	Citation/description
January 6, 1983 August 20, 1986	May 24, 1983 August 17, 1987	ORC 1513.37(D)(2), (4), (5), (J). Ohio AMLR Plan 3.7.4, 3.9.1; RAMP Committee role; AMLR program staff organization.
October 2, 1989 February 19, 1992	April 20, 1990 September 24, 1992	ORC 1513.02(J), .08(A), .18(B), (C), (F), (H), .24, .37(J). AML emergency program; ORC 1513.37(C)(1), (L)(1), (2); OAC 1501:13-6-03(C)(1)(b), (l)(1)(d), (e).
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.

[62 FR 9951, Mar. 5, 1997, as amended at 62 FR 14310, Mar. 26, 1997; 62 FR 32687, June 17, 1997]

§ 935.30 State-Federal Cooperative Agreement.

The Governor of the State of Ohio, acting through the Department of Natural Resources, Division of Reclamation (Division), and the Secretary of the Department of the Interior, acting through the Office of Surface Mining Reclamation and Enforcement (OSMRE), enter into a Cooperative Agreement (Agreement) to read as follows:

ARTICLE I: INTRODUCTION, PURPOSE, AND RESPONSIBLE ADMINISTRATIVE AGENCY

A. Authority: This Agreement is authorized by section 523(c) of the Surface Mining Control and Reclamation Act (Act), 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program approved by the Secretary under 30 U.S.C. 1253, to elect to enter into an Agreement with the Secretary of the Department of the Interior for State regulation of surface coal mining and reclamation operations on Federal lands. This Agreement provides for State regulation of surface coal mining and reclamation operations and of coal exploration operations not subject to 43 CFR part 3480, subparts 3480 through 3487, on Federal lands in Ohio which are under the jurisdiction of the United States Department of Agriculture, Forest

Service, except those lands containing leased Federal coal, consistent with State and Federal laws governing such activities in Ohio, the Federal lands program (30 CFR parts 740-745) and the Ohio State program (approved State program).

B. Purpose: The purpose of this Agreement is to (a) foster Federal-State cooperation in the regulation of surface coal mining and reclamation operations; (b) eliminate inter-governmental overlap and duplication; and (c) provide uniform and effective application of the approved State program on all lands in Ohio, except those containing leased Federal coal, in accordance with the Act, the approved State program, and this Agreement.

C. Responsible Administrative Agencies: The Division shall be responsible for administering this Agreement on behalf of the Governor. The Assistant Secretary, Land and Minerals Management, acting through OSM, shall administer this Agreement on behalf of the Secretary in accordance with the regulations in 30 CFR Chapter VII. The Federal lands in Ohio covered by this Agreement are only those under the jurisdiction of the United States Department of Agriculture, Forest Service (Forest Service) and include all or parts of the Wayne National Forest. It is understood by both parties that the Forest Service will continue to be involved in mining operations on its respective lands pursuant to its laws, regulations, agreements and

restrictions. These requirements are in addition to the requirements discussed in this Agreement.

ARTICLE II: EFFECTIVE DATE

After it has been signed by the Secretary and the Governor, this Agreement shall be effective upon publication in the FEDERAL REGISTER as a final rule. This Agreement shall remain in effect until terminated as provided in Article V.B. or X.

ARTICLE III: DEFINITIONS

Any terms and phrases used in this Agreement which are defined in the Act, 30 CFR parts 700, 701, and 740, or the approved State program shall be given the meanings set forth in said definitions. Where there is a conflict between the above referenced State and Federal definitions, the definitions used in the approved State program will apply, except in the case of a term or phrase which defines the Secretary's non-delegable responsibilities under the Act and other laws.

ARTICLE IV: APPLICABILITY

In accordance with the Federal lands program in 30 CFR parts 740-745, the laws, regulations, terms and conditions of the approved State program (conditionally approved on August 10, 1982, 30 CFR part 935, or as hereinafter amended in accordance with 30 CFR 732.17) are applicable to surface coal mining and reclamation operations on Federal lands in Ohio except as otherwise stated in this Agreement, the Act, 30 CFR 745.13, or other applicable laws or regulations.

This Agreement does not apply to surface coal mining and reclamation operations on lands containing leased Federal coal. This Agreement applies only to lands under the jurisdiction of the Forest Service.

ARTICLE V: GENERAL REQUIREMENTS

The Governor and the Secretary affirm that they will comply with all the provisions of this Agreement and will continue to meet all the conditions and requirements specified in this Article.

A. *Authority of State Agency:* The Division has and shall continue to have the authority under State law to carry out this Agreement.

B. *Funds:* Upon application by the Division and subject to the availability of appropriations, the Department shall provide the State with the funds to defray the costs associated with carrying out responsibilities under this Agreement as provided in section 705(c) of the Act and 30 CFR part 735. If the State requests funds and sufficient funds have not been appropriated to OSM, OSM and the Division shall meet promptly to decide on appropriate measures that will ensure that surface coal mining and reclamation operations are regulated in accordance

with the approved State program. If agreement cannot be reached, then either party may terminate the Agreement. Funds provided to the State under this Agreement shall be reduced; in proportion to the amount of fees collected by the State that are attributable to the Federal lands covered by this Agreement.

C. *Reports and Records:* The Division shall make annual reports to OSMRE on the results of the Division's implementation and administration of this Agreement, pursuant to 30 CFR 745.12(d). Upon request, the Division and OSMRE shall exchange information developed under this Agreement, except where prohibited by Federal law. OSMRE shall provide the Division with a copy of any final evaluation report prepared concerning the Division's administration and enforcement of this Agreement.

D. *Personnel:* The Division shall have the necessary personnel to implement this Agreement fully in accordance with the provisions of the Act and the approved State program.

E. *Equipment and Laboratories:* The Division will assure itself access to facilities which are necessary to carry out the requirements of the Agreement.

ARTICLE VI: REVIEW OF PERMIT APPLICATION PACKAGE

The Division shall assume the primary responsibility for the review of permit application packages for surface coal mining and reclamation and coal exploration operations on Forest Service lands covered by this Agreement. The Division shall coordinate the review of permit application packages with the Forest Service and other Federal agencies which may be affected by the proposed surface coal mining and reclamation operation to ensure compliance with Federal laws other than the Act and regulations other than the approved State program. When requested by the State, OSMRE shall assist the State in identifying Federal agencies other than the Forest Service which may be affected by the mining proposal.

A. *Submission of Permit Application Package:* The Division shall require an operator proposing to mine on Forest Service lands to submit a permit application package in an appropriate number of copies to the Division. The permit application package shall be in the format required by the Division and include any supplemental information (as specified by OSMRE or the Forest Service) needed to satisfy the requirements of non-delegable requirements of the Act, Federal laws other than the Act, and regulations other than the approved State program.

B. *Coordination With Affected Agencies:* Upon receipt, the Division shall transmit a copy of the complete permit application package to the Forest Service and to other Federal agencies affected by the proposed

surface coal mining and reclamation operation with a request for review pursuant to 30 CFR 740.13(c)(4). OSM shall determine whether or not a proposed surface coal mining and reclamation operation is prohibited or limited by the requirements of section 522(e) of the Act (30 U.S.C. 1272(e)) and 30 CFR parts 760-762 with respect to Federal areas designated by Congress as unsuitable for mining and shall make any necessary determinations under section 522(b) of the Act. The Division shall obtain, in a timely manner, the comments of the Forest Service and other Federal agencies affected by the mining proposal.

C. Contact With the Applicant: As a matter of practice, OSMRE will not independently initiate contacts with the applicant regarding permit application packages. However, OSMRE reserves the right to act independently of the Division to carry out any non-delegable responsibilities under the Act, or under other Federal laws and regulations, provided, however, that OSMRE shall inform the Division of the necessity of such action taken and send copies of all relevant correspondence to the Division.

D. File and Records: The Division shall maintain a title of all original correspondence with the applicant and any information received which may have a bearing on decisions regarding surface coal mining and reclamation operations on Forest Service lands. Upon request, the Division shall provide, for OSMRE or Forest Service review, copies of any titles and records for surface coal mining and reclamation operations on Forest Service lands.

E. Permit Application Decision and Permit Issuance: After consultation with the Forest Service and after making a finding of compliance with the approved State program and other applicable requirements, the Division may approve a permit application or application for permit revision or renewal and issue a permit. The permit issued by the Division shall condition the initiation of surface coal mining and reclamation operations on compliance with the requirements of the approved State program and, as applicable, requirements of OSM or the Forest Service pursuant to Federal laws other than the Act and regulations other than the approved State program. After the Division issues its decision on the permit application, it shall promptly send a notice of the action to OSM and to the Forest Service.

ARTICLE VII: INSPECTIONS

The Division shall conduct inspections on Forest Service lands covered by this Agreement and prepare and file inspection reports in accordance with the approved State program.

A. Inspection Reports: The Division shall, within 15 days of conducting any inspection on Federal lands, file with OSM an inspec-

tion report describing (1) the general conditions of the lands under the permit; (2) whether the operator is complying with the applicable performance and reclamation requirements; and (3) the manner in which specific operations are being conducted.

B. Division Authority: The Division shall be the point of contact and primary inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by this Agreement, except as described in this Agreement and the Secretary's regulations. Nothing in this Agreement shall prevent inspections by authorized Federal or State agencies for purposes other than those covered by this Agreement.

C. OSM Authority: For the purpose of evaluating the manner in which this Agreement is being carried out and to insure that performance and reclamation standards are being met, OSM may conduct inspections of surface coal mining and reclamation operations on Federal lands, without prior notice to the Division. In order to facilitate a joint Federal-State inspection, when OSM is responding to a citizen complaint of an imminent danger to the health or safety of the public or of a significant, imminent environmental harm pursuant to 30 CFR 842.11(b)(1)(i), it will contact the Division, if circumstances and time permit, prior to the Federal inspection. OSM may conduct any inspections necessary to comply with 30 CFR part 842. If an inspection is made without Division inspectors, OSM shall provide the Division with a copy of the inspection report within 10 days after inspection.

D. Witness Availability: Personnel of the State and OSM shall be mutually available to serve as witnesses in enforcement actions taken by either party.

ARTICLE VIII: ENFORCEMENT

A. Division Enforcement: The Division shall have primary enforcement authority on Federal lands covered by this Agreement in accordance with the approved State program and this Agreement. During any joint inspection by OSM and the Division, the Division shall take appropriate enforcement action, including issuance of orders of cessation and notices of violation.

B. Notification: The Division shall promptly notify the Forest Service of all violations of applicable laws, regulations, orders, and approved permits for surface coal mining and reclamation operations on lands administered by the Forest Service.

C. Secretary's Authority: (1) This Agreement does not affect or limit the Secretary's authority to enforce violations of laws other than the Act. (2) During an inspection made solely by OSM or any joint inspection where

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the Division and OSMRE fail to agree regarding the propriety of any particular enforcement action, OSM may take any enforcement action necessary to comply with 30 CFR parts 843 and 845. Such enforcement action shall be based on the Act or the applicable substantive provisions included in the regulations of the approved State program and shall be taken using the procedures and penalty system contained in 30 CFR parts 843 and 845.

ARTICLE IX: BONDS

A. *Performance Bond*: The Division shall require all operators on Federal lands covered by this Agreement to submit a performance bond to cover the operator's responsibilities under the Federal Act and the approved State program, payable to both the United States and Ohio. The performance bond shall be of sufficient amount to comply with the requirements of the approved State program and any other conditions of the permit. Release of the performance bond shall be conditioned upon compliance with all applicable requirements. The Division shall obtain the concurrence of the Forest Service prior to releasing the operator from any obligation under the performance bond. If this Agreement is terminated, (1) the bond will revert to being payable only to the United States to the extent that Federal lands are involved, and (2) the bond will be delivered by the Division to OSM if only Federal lands are covered by the bond.

B. *Forfeiture*: In the event of forfeiture by an operator of the performance bond for surface coal mining and reclamation operations on Federal lands covered by this Agreement, the State shall use funds received from bond forfeiture and, where necessary, funds from the Ohio Reclamation Forfeiture Special Account (pursuant to section 1513.18 of the Ohio Revised Code) to ensure that reclamation is accomplished in accordance with the approved State program and the approved permit.

ARTICLE X: TERMINATION OF COOPERATIVE AGREEMENT

This Agreement may be terminated by the Governor or the Secretary under the provisions of 30 CFR 745.15.

ARTICLE XI: REINSTATEMENT OF COOPERATIVE AGREEMENT

If this Agreement has been terminated in whole or in part it may be reinstated under the provisions of 30 CFR 745.16.

ARTICLE XII: AMENDMENT OF COOPERATIVE AGREEMENT

This Agreement may be amended by mutual agreement of the Governor and the Secretary in accordance with 30 CFR 745.14.

30 CFR Ch. VII (7-1-06 Edition)

ARTICLE XIII: CHANGES IN STATE OR FEDERAL STANDARDS

A. *Effect of Changes*: The Secretary or the State may promulgate new Federal or State regulations, including new or revised performance or reclamation requirements or enforcement or administration procedures. OSM and the Division shall immediately inform each other of any final changes and of any effect such changes may have on the cooperative agreement. If it is determined to be necessary to keep this Agreement in force, the Division shall request necessary State legislative action and each party shall revise its regulations or promulgate new regulations, as applicable. Such changes shall be made under the procedures of 30 CFR part 732 for changes to the approved State program and sections 501 and 523 of the Federal Act for changes to the Federal lands program.

B. *Copies of Changes*: The State and OSM shall provide each other with copies of any changes to their respective laws, rules, regulations, and standards pertaining to the enforcement and administration of this Agreement.

ARTICLE XIV: CHANGES IN PERSONNEL AND ORGANIZATION

The Division and the Secretary shall, consistent with 30 CFR part 745, advise each other of substantial changes in statutes, regulations, funding, staff, or other changes which could affect the administration and enforcement of this Agreement.

ARTICLE XV: RESERVATION OF RIGHTS

In accordance with 30 CFR 745.13, this Agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expressly addressed in this Agreement that the State or the Secretary may have under other laws or regulations, including but not limited to those listed in Appendix A.

Approved:

Richard F. Celeste,
Governor of Ohio.

Date: April 19, 1989.

Manuel Lujan,
Secretary of the Interior.

Date: December 11, 1989.

APPENDIX A

- 1. The Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.*, and implementing regulations.
- 2. The Mineral Leasing Act of 1920, 30 U.S.C. 181 *et seq.*, and implementing regulations, including 43 CFR part 3480.
- 3. The National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and implementing regulations, including 40 CFR part 1500.

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- 4. The Endangered Species Act, as amended, 16 U.S.C. 1531 *et seq.*, and implementing regulations, including 50 CFR part 402.
- 5. The Fish and Wildlife Coordination Act, as amended, 16 U.S.C. 661 *et seq.*, 48 Stat. 401.
- 6. The National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, and implementing regulations, including 36 CFR part 800.
- 7. The Clean Air Act, 42 U.S.C. 7401 *et seq.*, and implementing regulations.
- 8. The Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, and implementing regulations.
- 9. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*, and implementing regulations.
- 10. The Reservoir Salvage Act of 1960, as amended by the Preservation of Historical and Archaeological Data Act of 1974, 16 U.S.C. 469 *et seq.*
- 11. Executive Order 11593 (May 13, 1971), Cultural Resource Inventories on Federal Lands.
- 12. Executive Order 11988 (May 24, 1977), for flood plain protection.
- 13. Executive Order 11990 (May 24, 1977), for wetlands protection.
- 14. The Mineral Leasing Act for Acquired Lands, 30 U.S.C. 351 *et seq.*, and implementing regulations.
- 15. The Stock Raising Homestead Act of 1916, 43 U.S.C. 291 *et seq.*
- 16. The Archaeological Resources Protection Act of 1979, 16 U.S.C. 470aa, *et seq.*
- 17. The Constitution of the United States.
- 18. The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*, as amended.
- 19. 30 CFR chapter VII.
- 20. The Constitution of the State of Ohio.
- 21. Ohio Revised Code, Chapter 1531.
- 22. Ohio Administrative Code, Chapter 1501.

[49 FR 14739, Apr. 13, 1984, as amended at 54 FR 51743, Dec. 18, 1989]

PART 936—OKLAHOMA

- Sec.
- 936.1 Scope.
- 936.10 State regulatory program approval.
- 936.15 Approval of Oklahoma regulatory program amendments.
- 936.16 Required regulatory program amendments.

- 936.20 Approval of Oklahoma abandoned mine land reclamation plan.
- 936.25 Approval of Oklahoma abandoned mine land reclamation plan amendments.
- 936.30 State-Federal Cooperative Agreement.

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

§ 936.1 Scope.

This part contains all rules applicable only within Oklahoma that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

[46 FR 4910, Jan. 19, 1981]

§ 936.10 State regulatory program approval.

The Secretary conditionally approved the Oklahoma regulatory program, as submitted on February 28, 1980, amended on June 11, 1980, and resubmitted on December 8, 1980, effective January 19, 1981. He fully approved the Oklahoma program, as amended on August 15, 1985, effective January 14, 1986. Copies of the approved program are available at:

(a) Oklahoma Department of Mines, 4040 N. Lincoln, Suite 107, Oklahoma City, OK 73105.

(b) Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office, 5100 East Skelly Drive, Suite 470, Tulsa, OK 74135-6548.

[64 FR 20167, Apr. 26, 1999]

§ 936.15 Approval of Oklahoma regulatory program amendments.

The following is a list of the dates amendments were submitted to OSM, the dates when the Director's decision approving all, or portions of these amendments, were published in the FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

Original amendment submission date	Date of final publication	Citation/description
January 22, 1982	April 2, 1982	Permanent program regulations to replace those approved by the Secretary on January 19, 1981, and subsequently rescinded by the Oklahoma Legislature on February 12, 1981.
February 22, 1983	May 4, 1983	§§ 816.42(b) and 817.42(b).