

section 3 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*

OSM has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on local, state, or tribal governments or private entities.

#### **List of Subjects in 30 CFR Part 914**

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 14, 1998.

**Brent Wahlquist,**

*Regional Director, Mid-Continent Regional Coordinating Center.*

For the reasons set out in the preamble, 30 CFR part 914 is amended as set forth below:

#### **PART 914—INDIANA**

1. The authority citation for part 914 continues to read as follows:

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

2. Section 914.15 is amended in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

#### **§ 914.15 Approval of Indiana regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
* * *	* * *	* * *
March 6, 1998 .....	September 29, 1998 .....	310 IAC 12-0.5-6(a) through (c); 12-3-78(a) and (b); 12-5-98(a), (c) and (d); and 12-5-145.5.

3. Section 914.16 is amended by removing and reserving paragraphs (n), (p), and (gg).

[FR Doc. 98-25979 Filed 9-28-98; 8:45 am]

BILLING CODE 4310-05-P

#### **DEPARTMENT OF THE INTERIOR**

#### **Office of Surface Mining Reclamation and Enforcement**

#### **30 CFR Part 935**

[OH-218-FOR; Amendment Number 61]

#### **Ohio Regulatory Program**

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

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

**SUMMARY:** OSM is approving an amendment to the Ohio regulatory

program (hereinafter referred to as the "Ohio program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This amendment provides that areas reclaimed following the removal of temporary structures that are part of the sediment control system, such as sedimentation ponds and diversions, are not subject to a revegetation responsibility period and bond liability period separate from that of the permit area or increment thereof served by such facilities. The amendment also authorizes as a husbandry practice, the repair of damage to land and/or established permanent vegetation that has been unavoidably disturbed, that does not restart the revegetation responsibility period. The amendment is intended to improve operational efficiency of the Ohio program.

**EFFECTIVE DATE:** September 29, 1998.

**FOR FURTHER INFORMATION CONTACT:** George Rieger, Field Branch Chief,

Appalachian Regional Coordinating Center, Office of Surface Mining Reclamation and Enforcement, 3 Parkway Center, Pittsburgh, PA 15220 Telephone: (412) 937-2153.

#### **SUPPLEMENTARY INFORMATION:**

- I. Background on the Ohio 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 Ohio Program**

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Background information on the Ohio program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the August 10, 1982, **Federal Register** (47 FR 34688). Subsequent actions concerning conditions of approval and program

amendments can be found at 30 CFR 935.11, 935.15, and 935.16.

## II. Submission of the Proposed Amendment

By letter dated February 11, 1993 (Administrative Record No. OH-1831), Ohio submitted proposed Program Amendment Number 61 concerning augmentative practices. OSM announced receipt of this amendment in the April 1, 1993, **Federal Register** (58 FR 17173) and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on May 3, 1993. Since no one requested an opportunity to provide testimony at a public hearing, no hearing was held.

By letter dated June 11, 1993 (Administrative Record No. OH-1888), Ohio submitted additional revisions to this proposed amendment (Program Amendment Number 61R). OSM announced receipt of the revised amendment in the July 6, 1993, **Federal Register** (58 FR 36177), and, in the same notice, reopened the public comment period and again provided an opportunity for a public hearing. The public comment period closed on July 21, 1993. On August 16, 1993 (58 FR 43261), OSM approved most of the proposed amendment, but deferred decision on Ohio Administrative Code (OAC) 1501:13-9-15(F)(5), (6), and (7) concerning nonaugmentative practices.

OSM reopened a public comment period on September 15, 1993 (58 FR 48333) for the provisions OAC 1501:13-9-15(F)(6) and (7) as originally submitted on February 11, 1993, and revised on June 11, 1993, with regard to removal of sedimentation ponds and associated areas. The comment period closed on October 15, 1993. This notice also included similar proposed revisions to the Kentucky and Illinois regulations as well as a discussion of OSM's proposed policy concerning restart of the revegetation responsibility period upon removal of required sedimentary control structures. Subsequently, in the May 29, 1996, **Federal Register** (61 FR 26792), and in the October 22, 1997 **Federal Register** (62 FR 54765) OSM approved similar proposed revisions to the Colorado and Illinois regulations (respectively), based on the adoption of the proposed OSM policy published on September 15, 1993 (58 FR 48333).

By letter dated April 14, 1998 (Administrative Record Number OH-2175-00), Ohio submitted revised language of the Program Amendment #61R. Subsection OAC 1501:13-9-

15(F)(4)(c) provides for practices that will not be considered augmentative when the practice and the rate of application is an accepted local practice for comparable unmined lands that can be expected to continue as a postmining practice. Subsection (F)(5) provides for the nonaugmentative repair of areas that held required sediment control structures. Subsection (F)(6) provides the minimum time that vegetation established or reestablished under subsections (F)(4)(c) and (F)(5) must have been seeded prior to a request for Phase III bond release.

On April 29, 1998 (63 FR 23405), OSM reopened the public comment period and solicited comments on the proposed provisions submitted on April 14, 1998. The comment period closed on May 29, 1998. No one requested an opportunity to testify at a public hearing, so none was held.

## 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 amendments.

### *OAC 1501:13-9-15(F)(4)*

Existing subsections OAC 1501:13-9-15(F)(4)(c) and (d) have been redesignated subsections (d) and (e), respectively, and new subsection (c) has been added to read as follows.

(c) Reseeding and adding soil amendments when necessary to repair damage to land and/or established permanent vegetation, that is unavoidably disturbed in order to meet the reclamation standards of this chapter, provided that:

(I) The damage is not caused by a lack of planning, design, or implementation of the mining and reclamation plan, inappropriate reclamation practices on the part of the permittee, or the lack of established permanent vegetation; and

(II) The total acreage of repaired areas under paragraphs (F)(4)(b) & (c) of this rule does not exceed ten percent of the total land affected, with no individual area exceeding three acres.

As amended, subsection 1501:13-9-15(F)(4)(c) authorizes as a husbandry practice that does not restart the revegetation responsibility period, the repair of damage to land and/or established permanent vegetation that has been unavoidably disturbed. The Federal regulations at 30 CFR 816.116(c)(4) provide for the approval of such husbandry practices provided that such practices can be expected to continue as part of the postmining land use, or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success.

In its submittal of this amendment, Ohio asserted that if land is damaged for any reason, careful management of that land would dictate that the damage is repaired. Repair of most damage to land involves a disturbance to established vegetation or ground cover. Once vegetation or ground cover is disturbed or destroyed, normal maintenance practice would be to replace the established vegetation through seeding, sodding, or some other practice necessary to reestablish the damaged vegetation.

Ohio further stated that it has been its experience that many reclaimed sites will experience some type of damage to established vegetation at some point during the period of extended responsibility period. Examples of such damage would include erosion, small slips, channel erosion, unauthorized access, landowner tillage, and settlement. This damage is not normally a result of failure of vegetation or inadequate vegetation practices, and the degree of damage varies from site to site. In fact, the proposed amendment requires that the damage not be caused by a lack of planning, design, or implementation of the mining and reclamation plan, inappropriate reclamation practices on the part of the permittee, or the lack of established permanent vegetation. Further, Ohio asserted that it is proposing reasonable size limitations on the repairs that can be made that will not restart the revegetation responsibility period. In addition, all vegetation cover and productivity standards must be met, and any repaired areas must meet a maintenance period of at least one year after repaired areas are seeded before final bond release. These additional standards, the State asserts, will ensure that all vegetation is successful prior to bond release.

The Director agrees that, considering the limitations provided for by Ohio as to cause of the damage to land and size, the proposed husbandry practice is reasonable, and that repair of the damage as explained by the State is a normal husbandry practice in Ohio. The Director also concurs with the State's assertion that to achieve bond release, all the Ohio program's vegetation cover and productivity standards must be met. Therefore, the Director finds that proposed OAC 1501:13-9-15(F)(4) is not inconsistent with SMCRA section 515(b)(20)(A) and no less effective than the Federal regulations at 30 CFR 816.116(c).

### *OAC 1501:13-9-15(F)(5)*

Subsection OAC 1501:13-9-15(F)(5) has been amended to provide that

reseeding of areas that have been unavoidably disturbed in the course of gaining access for removal of structures that are part of the sediment control system or initial seeding of areas upon which the sediment control system was located and subsequently removed will not restart the period of extended responsibility for revegetation success.

In the past, OSM has either disapproved or taken no action on proposed State program amendment provisions that would have specified that areas reclaimed following the removal of siltation structures and associated diversions are not subject to a revegetation responsibility period and bond liability period separate from that of the permit area or increment thereof served by such facilities. In response to this program amendment and similar recent program amendments from other States, and to concerns raised by other parties, OSM has reconsidered its position on this issue.

**a. OSM's Policy Concerning the Term of Liability for Reclamation of Temporary Sediment Control Facilities**

Section 515(b)(20) of SMCRA provides that the revegetation responsibility period shall commence "after the last year of augmented seeding, fertilizing, irrigation, or other work" needed to assure revegetation success. In the absence of any indication of Congressional intent in the legislative history, OSM interprets this requirement as applying to the increment or permit area as a whole, not individually to those lands within the permit area upon which revegetation is delayed solely because of their use in support of the reclamation effort on the planted area.

As implied in the preamble discussion of 30 CFR 816.46(b)(5), which prohibits the removal of ponds or other siltation structures until 2 years after the last augmented seeding, planting of the sites from which such structures are removed need not itself be considered an augmented seeding necessitating an extended or separate liability period (48 FR 44038-44039; September 26, 1983). Indeed, given the Federal regulation that prohibits removal of sediment ponds until two years after the last augmented seeding, restarting the five year responsibility period when a sediment pond is removed would result in the responsibility period being a minimum of seven years in all cases. This is clearly not consistent with the five year minimum period mandated by SMCRA at section 515(b)(20)(A).

The purpose of the revegetation responsibility period is to ensure that

the mined area has been reclaimed to a condition capable of supporting the desired permanent vegetation. Achievement of this purpose will not be adversely affected by this interpretation of section 515(b)(20) of SMCRA since (1) the lands involved are small in size and widely dispersed and (2) the delay in establishing revegetation on these sites is due not to reclamation deficiencies or the facilitation of mining, but rather to the regulatory requirement that ponds and diversions be retained and maintained to control runoff from the planted area until the revegetation is sufficiently established to render such structures unnecessary for the protection of water quality.

In addition, the areas affected likely would be no larger than those which could be reseeded (without restarting the revegetation period) in the course of performing normal husbandry practices, as that term is defined in 30 CFR 816.116(c)(4) and explained in the preamble to that rule (53 FR 34636, 34641; September 7, 1988; 52 FR 28012, 28016; July 27, 1987). Areas this small would have a negligible impact on any evaluation of the permit area as a whole. Most importantly, this interpretation is unlikely to adversely affect the regulatory authority's ability to make a statistically valid determination as to whether a diverse, effective permanent vegetative cover has been successfully established in accordance with the appropriate revegetation success standards. From a practical standpoint, it is usually difficult to identify precisely where such areas are located in the field once revegetation is established in accordance with the approved reclamation plan.

The above discussion of the rules in 30 CFR Part 816, which applies to surface mining activities, also pertains to similarly or identically constructed section in 30 CFR Part 817, which applies to underground mining activities.

**b. Comparison of Ohio's Proposed Provision OAC 1501:13-9-15(F)(5) with OSM's Policy Clarification**

Ohio proposes to allow, as a nonaugmentative practice, the reseeding of areas that have been unavoidably disturbed in the course of gaining access for removal of structures that are part of the sediment control system or for initial seeding of areas upon which the sediment control system was located and subsequently removed. Ohio's reference to areas that have been unavoidably disturbed in the course of gaining access for removal of sediment control structures is interpreted by OSM to include those roads necessary for

maintenance of sediment ponds, diversions, and reclamation areas. However, such roads would not include haul roads or other primary roads which should either have been removed upon completion of mining or approved to be retained for an approved postmining land use.

Since the Ohio provision is limited to sediment control structures and to areas unavoidably disturbed to gain access to those sediment control structures this provision is consistent with the OSM policy stated above. As interpreted in the policy statement above, the removal of sediment ponds and related structures is a nonaugmentative practice that does not restart the five-year responsibility period. Therefore, the Director finds that proposed OAC 1501:13-9-15(F)(5) is not inconsistent with SMCRA section 515(b)(20)(A) and no less effective than the Federal regulations at 30 CFR 816.116(c).

**OAC 1501:13-9-15(F)(6)**

Subsection OAC 1501:13-9-15(F)(6) has been amended to provide that for the purposes of paragraphs (F)(4)(c) and (F)(5) of this rule, permanent vegetation that is established or reestablished on these areas must have been seeded a minimum of twelve months prior to the request for Phase III bond release.

As discussed above, the Federal regulations provide that sediment ponds and diversions be retained and maintained to control runoff from the planted area until the revegetation is sufficiently established to render such structures unnecessary for the protection of water quality. Therefore, when the sediment control structures are removed, the surrounding drainage area has already been effectively revegetated. Following this, the entire revegetated area (or increment thereof), including the reclaimed area where the sediment control structure was located, is subject to the full Ohio program requirements concerning final inspection for bond release. The same is true for areas that have been repaired under approved husbandry practices. That is, the proposed 12-month criterion in no way reduces or eliminates any of Ohio's standards for reclamation success for bond release. The Director believes that the 12-month criterion should be sufficient to establish a permanent and diverse vegetative cover as is required by SMCRA section 515(b)(19), especially since the lands typically involved will be small in size, widely dispersed, and surrounded by revegetated lands.

Therefore, the Director finds that the proposed provision at OAC 1501:13-9-15(F)(6), as it pertains to OAC 1501:13-

9-15(F)(4)(c) and (F)(5) is not inconsistent with SMCRA section 515(b)(19) and can be approved.

#### IV. Summary and Disposition of Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment and OSM's proposed policy.

Comments were received from the Kentucky Coal Association, the North Dakota Public Service Commission, the Ohio Mining and Reclamation Association, the Buckeye Industrial Mining Co., the R&F Coal Company, the Lignite Energy Council, the National Coal Association, the Kentucky Resources Council, and the Ohio Department of Natural Resources. Except for the Kentucky Resources Council, all of the commenters were in favor of the policy.

In response to the Director's proposed clarification of OSM policy, the Kentucky Resources Council initiates its comments with the premise that OSM has proposed to treat the initial seeding and restoration of areas disturbed by diversions, roads and sedimentation ponds as "normal husbandry practices." It then argues that the initial seeding of such areas is not normal husbandry practice, and any revegetation other than "husbandry practices" as defined by 30 CFR 816.116(c)(4) constitutes "augmented seeding" and would therefore require extension of the full liability period for the establishment of permanent vegetation. First, the Director did not base not restarting the liability period on the contention that revegetation of such areas is a normal husbandry practice. Second, the Director does not agree that any revegetation other than "normal husbandry practices" constitutes "augmented seeding." The legislative history of the Act reveals no specific Congressional intent in the use of the term "augmented seeding."

Accordingly, OSM's interpretation of augmented seeding is given deference so long as it has a rational basis. OSM would not consider the seeding of small areas, such as ponds and their associated diversions and roads, as augmented seeding. However, only the reclamation and reseeded of ancillary roads and not haul roads would be considered nonaugmentative. For further discussion of such rationale, see the Director's Finding above. Areas reclaimed following removal of temporary sediment control, and associated structures such as diversions, disposal and storage areas for accumulated sediments and sediment

pond embankment material, and ancillary roads used to access such areas would not be subject to a separate or extended bond liability period apart from the applicable permit area served by such structures. The seeding of sedimentation ponds and their associated diversions and roads is not the result of reclamation failure, but because 30 CFR 816.46(b)(5) prohibits the removal of temporary sedimentation ponds until two years after the last augmented seeding.

The Kentucky Resources Council overlooks the fact that for the vast majority of the reclaimed area the revegetation responsibility period will be at least five years. Neither Congressional history nor the language of the statute distinguishes between initial overall reclamation of a mined area and the subsequent restoration of temporary structures like sedimentation ponds and their associated areas. In the absence of such distinction, the Secretary is delegated discretion to determine whether a proposed state amendment is no less effective than the Act and consistent with the counterpart Federal regulation. The Director's stated interpretation of Section 515(b)(20) is that the period of revegetation responsibility applies "to the increment or permit area as a whole, not individually to those lands within that area upon which revegetation is delayed solely because of their use in support of the reclamation effort of the planted area." See 58 FR 48333-48335, September 15, 1993.

OSM has taken a consistent position in approving an amendment to the Colorado (61 FR 26792, May 29, 1996) and Illinois (62 FR 54765, October 22, 1997) surface mining programs which provided that reclaimed temporary drainage control facilities shall not be subject to the extended liability period for revegetative success or the related bond release criteria. The Director, therefore, does not agree with the commenter's interpretation of Section 515(b)(20) of SMCRA.

The Kentucky Resources Council also asserts that OSM's position violates 30 CFR 816.133. Section 816.133 requires that disturbed areas be restored in a timely manner to the premining uses of land or higher or better uses. In response, the Director notes that the Ohio amendment does not eliminate this requirement.

#### Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(I), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Ohio program.

Comments were received from the U.S. Forest Service and the U.S. Bureau of Mines. The U.S. Forest Service commented that it had reviewed OSM's proposed rule to clarify its policy towards revegetation success and agreed with the proposed rule.

The U.S. Bureau of Mines suggested that OSM consider the significant differences in the reclamation of sediment structures and roads, since sediment structures generally possess characteristics necessary for successful reclamation, while roads generally require significant initial work to develop a necessary growth environment. OSM agrees with the commenter. OSM's policy and Ohio's regulations require that when such structures are removed, the land on which they were located must be regraded and revegetated in accordance with approved plans and the requirements of 30 CFR 816.111 through 816.116, or State counterparts. Because the Ohio program amendment limits the reclamation and reseeded to small areas (those areas that have been unavoidably disturbed in the course of gaining access for removal of sediment control structures) roads posing significant potential for reclamation problems will be excluded.

#### Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). The proposed Ohio amendment does not pertain to air or water quality standards and, therefore, EPA's concurrence is not required.

Pursuant to 732.17(h)(11)(I), OSM solicited comments on the proposed amendment from the EPA. The EPA responded and concurred without comment on October 18, 1993 (Administrative Record No. KY-1246).

#### V. Director's Decision

Based on the above findings, the Director approves Ohio's regulations at OAC 1501:13-9-15(F)(4)(c), (F)(5), and (F6).

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 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 3 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 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 16, 1998.

**Ronald C. Recker,**

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

#### § 935.15 Approval of Ohio regulatory program amendments.

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
* February 11, 1993	* September 29, 1998	* OAC 1501:13–9-15(F)(4)(c), (F)(5), and (F)(6).

[FR Doc. 98–25980 Filed 9–28–98; 8:45 am]  
BILLING CODE 4310–05–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 211–0102a; FRL–6161–8]

### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on a revision to the California State Implementation Plan. The revision

concerns a rule from the Bay Area Air Quality Management District (BAAQMD). This approval action will incorporate this rule into the federally approved SIP. The intended effect of approving this rule is to clarify the general provisions and definitions that apply to the regulation of emissions of volatile organic compounds (VOCs), oxides of nitrogen (NOx), and other pollutants in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). Thus, EPA is finalizing the approval of this revision into the California SIP under provisions of the CAA regarding EPA action on SIP submittals and general rulemaking authority.

**DATES:** This rule is effective on November 30, 1998 without further notice, unless EPA receives adverse comments by October 29, 1998. If EPA

receives such comment, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Written comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rule revision are available for public inspection at EPA's Region IX office during normal business hours and at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460  
California Air Resources Board, Stationary Source Division, Rule