

amendment was initiated by Ohio and is intended to make the Ohio program as effective as the corresponding Federal regulations concerning the frequency of inspections at abandoned coal mining operations.

EFFECTIVE DATE: July 25, 1995.

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SUPPLEMENTARY INFORMATION:

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I. Background on the Ohio Program

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1982, **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.15, and 935.16.

II. Discussion of the Proposed Amendment

The Ohio Department of Natural Resources, Division of Reclamation (Ohio) submitted proposed Program Amendment Number 70 by letter dated March 28, 1995 (Administrative Record No. OH-2104). In this amendment, Ohio proposed to revise one rule at Ohio Administrative Code (OAC) section 1501:13-14-01 to make the Ohio program as effective as the corresponding Federal regulations concerning the frequency of inspections at abandoned coal mining operations.

OSM announced receipt of PA 70 in the April 11, 1995, **Federal Register** (60 FR 18380), 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 11, 1995.

On May 11, 1995, OSM notified Ohio of its one comment about PA 70 (Administrative Record No. OH-2128). In response to that OSM comment, Ohio submitted Revised Program Amendment Number 70 (PA 70R) by letter dated May 31, 1995 (Administrative Record No. OH-2127). In PA 70R, Ohio proposed

one further revision to OAC section 1501:13-14-01 paragraph (A)(3)(c)(ii).

OSM announced receipt of PA 70R in the June 16, 1995, **Federal Register** (60 FR 31661), 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 July 3, 1995.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment to the Ohio program. Only substantive changes to Ohio's rules are discussed below. Rule revisions which are not discussed below concern editorial changes intended to improve the clarity and readability of the rules.

A. Revisions to Ohio's Regulations That Are Substantively Identical to the Corresponding Provisions of the Federal Regulations

State regulations (OAC section 1501:13-14-01)	Subject	Federal regulations (30 CFR Part 840)
(A)(3)	Definition of "Abandoned Coal Mining and Reclamation Operation".	840.11(g)
(E)	Alternative inspection frequency at abandoned sites.	840.11(h)

Because the above proposed revisions are identical in meaning to the corresponding Federal regulations, the Director finds that these proposed rules are no less effective than the Federal rules.

B. Revisions to the Ohio's Regulations With No Corresponding Federal Provisions

1. OAC Section 1501:13-14-01 Paragraph (A)(4)

Ohio is revising its definition of "active coal mining and reclamation operation" to mean an operation other than an inactive or abandoned coal mining reclamation operation. Although there is no corresponding Federal definition of this term, the Director finds that Ohio's definition is not inconsistent with the Federal regulations at 30 CFR 840.11 or with the revisions which Ohio is making elsewhere in this rule.

IV. Summary and Disposition of Comments

Public Comments

On April 11 and June 16, 1995, the Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received. No public hearings were held as no one requested the opportunity to provide testimony.

Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from the Regional Director of the U.S. Environmental Protection Agency (EPA) and from the heads of four other Federal agencies and one State agency with an actual or potential interest in the Ohio program.

The EPA commented that abandoned sites can result in acid or other polluted mine drainage which may vary in severity over the seasons. EPA stated that it is important that Ohio consider this seasonal variation and other variable factors when determining the necessary inspection frequency. One inspection per year may be reasonable for non-polluting abandoned sites. However, Ohio should inspect polluting abandoned sites more frequently than one per year to assess changes in severity and the priority of the site for environmental cleanup. Polluting abandoned sites with forfeited reclamation bond should be reclaimed as soon as possible. If forfeited bonds are not sufficient to cover reclamation costs, Ohio should pursue the responsible party for available resources.

The Director concurs with EPA's comments and OSM and Ohio staff have discussed these comments. Ohio will consider actual existing pollutants, seasonal variation, and potential generation of pollutants in evaluating and establishing any modified inspection frequency at abandoned sites. Ohio will give priority to reclaiming polluting forfeited sites and will seek recovery of any additional funds necessary within its statutory authority.

Nonsubstantive comments were also received from the Mine Safety and Health Administration. No other agency comments were received.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Ohio on March 28, 1995, and revised on May 31, 1995.