

to clarify the meaning of subsection (E) of OAC 1501:13-12-03. This subsection states that any agreement between the operator and the structure owner takes precedence over 1501:13-12-03. This section appears to conflict with the requirements of section 720(a)(1) of SMCRA, which requires repair or compensation of damaged structures without regard to private agreements (see 60 FR 16722, 16735; March 31, 1995). When OSM approved this subsection in 1991, OSM asked for clarification from Ohio about this subsection. Ohio clarified this subsection to mean that the agreement must at a minimum require repair or compensation for subsidence damage of a protected structure and that anything less than this would be considered no agreement between the parties (56 FR 52469, 52470-71; October 21, 1991). Therefore, this subsection is in accordance with section 720(a)(1) of SMCRA. The Director has concluded that Ohio law at ORC 1513.162 and rules at OAC 1501:13-1-02(S); 1501:13-9-04(P); and 1501:13-12-03 (C); (D); (E) as clarified in 56 FR 52469 (October 21, 1991); (F); (H); and (I) authorize enforcement of provisions of the Energy Policy Act of 1992 in Ohio from October 24, 1992.

If circumstances within Ohio change significantly, the Director may reassess this decision. Formal reassessment of this decision would be addressed by **Federal Register** notice.

Dated: July 20, 1995.

**David G. Simpson,**

*Acting Regional Director, Appalachian Regional Coordinating Center.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[FRL-5264-8]

### Ohio: Authorization of State Hazardous Waste Management Program

**AGENCY:** Environmental Protection Agency.

**ACTION:** Immediate final rule.

**SUMMARY:** Ohio submitted an application seeking final authorization of revisions to its hazardous waste program under the Resource

Conservation and Recovery Act of 1976, as amended (RCRA). The application included a program description, a statement by the Ohio Attorney General, a memorandum of agreement, and the revisions to Ohio's Administrative Code. The Environmental Protection Agency (EPA) has reviewed Ohio's application and has reached a decision, subject to public review and comment, that these hazardous waste program revisions satisfy all the requirements necessary to qualify for final authorization. Thus, EPA intends to grant final authorization to Ohio to operate its expanded program, subject to authority retained by EPA under the Hazardous and Solid Waste Amendments of 1984 (hereinafter HSWA).

**EFFECTIVE DATE:** Final authorization for Ohio shall be effective on September 25, 1995 unless EPA publishes a prior **Federal Register** (FR) action withdrawing this immediate final rule. All comments on Ohio's final authorization must be received by 4:30 p.m. central time on August 26, 1995. If an adverse comment is received, EPA will publish either (1) a withdrawal of this immediate final rule or (2) a document containing a response to the comment which either affirms that the immediate final decision takes effect or reverses the decision.

**ADDRESSES:** Copies of Ohio's final Authorization Revision Application are available for inspection and copying from 9 a.m. to 4 p.m., at the following addresses: Ms. Kit Arthur, Ohio Environmental Protection Agency, 1800 WaterMark Drive, Columbus, Ohio 43266, Phone 614/644-2956; Mr. Timothy O'Malley, U.S. EPA Region 5, Office of RCRA, 77 W. Jackson, Seventh Floor, Chicago, Illinois 60604, Phone 312/886-6085. Written comments should be sent to Mr. Timothy O'Malley, U.S. EPA Region 5, Office of RCRA, 77 W. Jackson (HRM-7J), Chicago, Illinois, 60604, Phone 312/886-6085.

**FOR FURTHER INFORMATION CONTACT:** Mr. Timothy O'Malley, Ohio Regulatory Specialist, U.S. EPA Region 5, HRM-7J, 77 West Jackson Blvd., Chicago, Illinois, 60604, (312) 886-6085.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

States with final authorization under section 3006(b) of RCRA, 42 U.S.C. § 6929(b), have a continuing obligation

to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program.

In accordance with 40 CFR 271.21, revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR Parts 124, 260-266, 268, and 270.

##### B. Ohio

Ohio initially received final authorization for its program effective June 30, 1989 (54 FR 27170). Subsequently, Ohio received authorization for revisions to its program, which became effective on June 7, 1991 (56 FR 14203) and August 19, 1991 (56 FR 28008). On June 21, 1994, Ohio submitted a program revision application for additional program approvals. Today, Ohio is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Ohio's application, and has made an immediate final decision that Ohio's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Ohio. The public may submit written comments on EPA's immediate final decision up until August 26, 1995. Copies of Ohio's application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

Approval of Ohio's program revision shall become effective in 60 days unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received, EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

On September 25, 1995, Ohio will be authorized to carry out, in lieu of the Federal program, those provisions of the State's program which are analogous to the following provisions of the Federal program: