

should be allocating its resources during these unprecedented times.

Appendix 6—Statement of Commissioner Dan M. Berkovitz

I am voting in favor of this proposed rule to amend Regulation 4.27 and Form CPO-PQR (“Proposal”). The information in Form CPO-PQR that no longer would be required under the Proposal has not proven to be useful to the Commission in identifying or measuring systemic or idiosyncratic risk.

In the wake of the financial crisis and the enactment of the Dodd-Frank Act, the Commission required certain commodity pool operators (“CPOs”) to report on Form CPO-PQR a variety of data that, at the time, the Commission believed would enable it to assess risks presented by pooled commodity investment vehicles, such as a pool’s exposure to certain asset classes and susceptibility to market stress.¹ As the Proposal explains, however, the Commission’s experience over the past seven years has unfortunately demonstrated that some of the information on Schedules B and C of Form CPO-PQR has not been useful for these purposes. The Proposal would amend the Form CPO-PQR requirements to eliminate the information that has not proven to be of value to the Commission, yet retain the requirements to report useful information, such as the pool schedule of investments.²

At the same time as the Commission streamlines its data collection requirements, it must also make better use of the data that it does collect. The Commission gathers a diverse and large array of data on a daily basis for over-the-counter and exchange-traded derivatives transactions.³ As the Proposal notes, these data sets have the *potential* to be more useful for risk monitoring and surveillance purposes than certain static information collected quarterly through Form CPO-PQR. But the Commission still has a long way to go before it can use such data to perform a comprehensive, forward-looking analysis of our markets. The Commission should improve its strategies and capabilities for aggregating and analyzing the information it will continue to receive.

The Proposal would take one step in this direction by requiring CPOs using the swap markets to report legal entity identifiers (“LEIs”). Collecting LEIs is important because they allow the Commission to aggregate SDR data from related pools, thereby furthering our understanding of the role these pools play in our markets.

However, the Proposal does not require all firms, such as those that do not trade swaps, to obtain and report LEIs, so this amendment will not allow the Commission to aggregate all derivatives transactions by pools under common control. The Commission can and should do more to integrate and analyze all of the data at its disposal.

Finally, I am pleased that the comment period for this Proposal is 60 days. Providing the public with sufficient time to prepare meaningful comments to our rules in these extraordinary times is good public policy.

I encourage the public to comment on this Proposal. In particular, the Proposal acknowledges that by removing from Form CPO-PQR some of the pool-specific data in Schedules B and C, less information would be available to the Financial Stability Oversight Counsel (“FSOC”). The Proposal also notes, however, that FSOC otherwise receives comparable data for the large portion of dually registered CPOs via Form PF. I am interested in commenters’ views on whether this amendment would affect FSOC’s ability to monitor for systemic risk.

I would like to thank the staff, particularly the Division of Swap Dealer and Intermediary Oversight, for their engagement with my office on this Proposal. I look forward to the Commission articulating further steps to enhance its surveillance of commodity pools, and our markets more broadly.

[FR Doc. 2020-08496 Filed 5-1-20; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[SATS No. OH-258-FOR; Docket ID: OSM-2017-0005; S1D1S SS08011000 SX064A000 201S180110 S2D2S SS08011000 SX064A000 20XS501520]

Ohio Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are announcing receipt of a proposed amendment to the Ohio regulatory program (hereinafter, the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Through this proposed amendment, Ohio is requesting to modify 41 rules to the Ohio Administrative Code, including, but not limited to, permit applications, hydrologic map and cross sections, general map requirements, requirements for permits for special categories of

mining, underground mining permit application, small operator assistance program, and self-bonding etc. This document gives the times and locations that the Ohio program and this proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., Eastern Standard Time (e.s.t.), June 3, 2020. If requested, we will hold a public hearing on the amendment on May 29, 2020. We will accept requests to speak at a hearing until 4 p.m., e.s.t. on May 19, 2020.

ADDRESSES: You may submit comments, identified by SATS No. OH-258-FOR, by any of the following methods:

- **Mail/Hand Delivery:** Mr. Ben Owens, Field Office Director, Pittsburgh Field Office, Office of Surface Mining Reclamation and Enforcement, 3 Parkway Center, Pittsburgh, Pa 15220.
- **Fax:** (412) 937-2177.
- **Federal eRulemaking Portal:** The amendment has been assigned Docket ID: OSM-2017-0005. If you would like to submit comments go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Comment Procedures” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to review copies of the Ohio program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSMRE’s Pittsburgh Field Office or the full text of the program amendment is available for you to read at www.regulations.gov.

Mr. Ben Owens, Field Office Director, Pittsburgh Field Office, Office of Surface Mining Reclamation and Enforcement, 3 Parkway Center, Pittsburgh, Pa 15220, Telephone: (412) 937-2827, email: bowens@osmre.gov.

In addition, you may review a copy of the amendment during regular business hours at the following location:

¹ See Final Rule, Commodity Pool Operators and Commodity Trading Advisors: Amendments to Compliance Obligations, 77 FR 11252, 11252 (Feb. 24, 2012).

² “The eliminated data elements include detailed, pool-specific information, provided on both the individual and aggregate level, such as questions about investment strategy and counterparty credit exposure, asset liquidity and concentration of positions, clearing relationships, risk metrics, financing, and investor composition.” Proposal, Amendments to Compliance Requirements for Commodity Pool Operators on Form CPO-PQR, at Sect. III.A.

³ See generally *id.* at Sect. III.

Mr. Dave Crow, Acting Chief, Ohio Department of Natural Resources, Division of Mineral Resources Management, 2045 Morse Road, Building H2, Telephone: (614) 265-1020, email: dave.crow@dnr.state.oh.us.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Owens, Field Office Director, Pittsburgh Field Office, 3 Parkway Center, Pittsburgh, Pa 15220. Telephone: (412) 937-2827, email: bowens@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Ohio Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Statutory and Executive Order Reviews

I. Background on the Ohio Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Ohio program on August 16, 1982. You can find background information on the Ohio program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Ohio program in the August 10, 1982, **Federal Register** (47 FR 34717). You can also find later actions concerning the Ohio program and program amendments at 30 CFR 935.10, State Regulatory Program Approval; and 935.11, Conditions of State Regulatory Program Approval; and 935.15, Approval of Ohio Regulatory Program Amendments.

II. Description of the Proposed Amendment

By letter dated November 20, 2015 (Administrative Record No. OH-2194-01), Ohio sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*) Ohio seeks to revise its program to amend 41 revised rules to the Ohio Administrative Code to include the following:

Proposed New Rules

1. *Section 1501:13-4-08.1—Proposed new rule—Application, supplemental and hydrologic maps, and cross-sections, designs and plans for underground workings.* This new rule is proposed to contain all the mapping rules specific to underground workings. A companion rule, 1501:13-4-08, is

proposed to be amended to contain all the mapping rules for surface affectment, including surface coal mining operations and underground mining surface operations.

2. *Section 1501:13-4-10—Proposed new rule with the same number and title—will have updated and new map symbols.* The new proposed rule, is to be replaced. The rescinded rule with the same number and title, will have updated and new map symbols.

Rule Rescissions

1. *Section 1501:13-7-04—Rule proposed for rescission—Self-bonding—*This rule is proposed for rescission due to the Division of Mineral Resources Management no longer wanting to accepting self-bonds as performance security.

2. *Section 1501:13-4-10—Rule proposed for rescission—Uniform color code and map symbols.* The current rule proposed for rescission, is to be replaced with a proposed new rule with the same number and title, which will have updated and new map symbols.

Rule Revisions

Ohio's proposed rule changes are for the purpose of complying with the five-year-review requirements of Section 106.03 of the Ohio Revised Code, to make revisions that are as effective as the Federal requirements, to revise the mapping requirements so they are easier to understand and follow, to rescind the self-bonding rule and revise other performance bond rules so that self-bonding cannot be used as performance security, to allow the applicant/permittee to certify that a current proof of liability insurance and rider is part of the centralized ownership and control file, to protect underground mining from other underground mining and from coal exploration drilling, to clarify a Phase III bond release requirement related to seeding after minor repairs, to update the publication dates of the Code of Federal Regulations and the United States Code, and to make numerous administrative corrections and clarifications.

A. Minor Revision to Ohio Rules

The minor wording, editorial, punctuation, grammatical, and recodification changes being addressed in this finding are non-substantive.

1. *Section 1501:13-1-02—Effective date and applicability—*Proposed to include two new rules 1501:13-3-01 and 1501:13-3-02, that became effective October 28, 2010.

2. *Section 1501:13-1-02—Definitions—*Proposed to remove the definition of self bonds. The Division

will no longer accept self bonds as performance security.

3. *Section 1501:13-1-13—Rule references—*Proposed paragraph renumbering.

4. *Section 1501:13-3-01—Standards for demonstration of valid existing right—*Proposed to change paragraph (A)(2)(b)(iv) which references to the life-of-mine map.

5. *Section 1501:13-5-03—Form, conditions and terms of performance security—*Paragraph (A)(3) is proposed to be removed. Paragraph (C)(2) is proposed to be revised to state that the Division will no longer accept self bonds as performance security.

6. *Section 1501:13-6-03 Small operator assistance program—*Paragraph (F)(2)(c) is proposed to revise the references to cross section maps and plans, since these are being moved to rules 1501:13-4-08 and 1501:13-4-08.1.

7. *Section 1501:13-7-01 General requirements for providing performance security for coal mining and reclamation operations—*Paragraph (E)(4) is proposed to be removed. The Division will no longer accept self bonds as performance security.

8. *Section 1501:13-7-03 Form, conditions, and terms of performance security—*Paragraphs (A)(3) and (C)(2) are proposed to be removed. The Division will no longer accept self bonds as performance security.

9. *Section 1501:13-7-05 Procedures, criteria, and schedule for release of performance security for permits reliant on the reclamation forfeiture fund—*Paragraph (B)(4)(a) is proposed to be removed. The Division will no longer accept self bonds as performance security.

10. *Section 1501:13-7-05.1 Procedures, criteria, and schedule for release of performance security for permits not reliant on the reclamation forfeiture fund—*Paragraph (B)(4)(a) is proposed to be removed. The Division will no longer accept self bonds as performance security.

11. *Section 1501:13-7-06 Performance security forfeiture criteria and procedures—*Paragraph (C)(4)(b) is proposed to add the word "or" to the end of this paragraph, since current paragraph (c) is proposed to be removed. Paragraph (C)(4)(c) is proposed to be removed. The Division will no longer accept self bonds as performance security.

12. *Section 1501:13-8-01 Coal exploration; performance standards—*Paragraph (J) is proposed to correct a paragraph Reference.

13. *Section 1501:13-9-02 Casing and sealing of drilled holes—*Paragraph (A)

is proposed to correct grammatical errors. Paragraph (C) is proposed to correct grammatical errors and an addition to clarify that it is the Chief who makes the finding of no adverse environmental or health and safety effect.

14. *Section 1501:13–9–16 Cessation of operations*—Paragraphs (A)(1), (A)(2) and (B)(1) are proposed to correct grammatical errors and use consistent terms. Paragraph (B)(1) is proposed to add a reference to Chapter 1513 of the Revised Code

15. *Section 1501:13–10–01 Roads: performance standards*—Paragraphs (B)(2) and (G)(1)(a) are proposed to correct grammatical errors. Paragraph (G)(4)(f) has a sentence re-worded to clarify its meaning and to mirror the language of 30 CFR 816.151(d)(6) and 30 CFR 817.151(d)(6).

16. *Section 1501:13–12–01 Underground operations*—Paragraph (B) is proposed to clarify that underground operations must meet all applicable requirements of Chapter 1513 of the Revised Code.

17. *Section 1501:13–13–03 Operations on prime farmland*—Paragraph (B) has Minor corrections. Paragraph (D) has a paragraph reference corrected. Paragraph (E)(1) is proposed to correct grammar, the proposed language is to change “of” to “to” to mirror the language of 30 CFR 823.14 (b).

18. *Section 1501:13–14–01 Inspections*—Paragraph (A)(2)(b) is proposed to move the phrase “Conducted under a D-permit” because it is outdated and no longer needed; all coal mining in Ohio is now conducted under D permits

B. Revisions to Ohio’s Rules That Have the Same Meaning as the Corresponding Provisions of the Federal Regulations

Ohio proposed revisions to the following rules containing language that is the same as or similar to the corresponding sections of the Federal regulations.

1. *Section 1501:13–1–10 Availability of records*—Proposed to add provision (B)(2) in order for it to be as effective as the federal program. The federal regulations at 30 CFR 840.14 (c)(1) and (2) require that either a copy of the records be available for inspection in the county where mining is taking place or a description of the records and a description of the procedure for obtaining the records be available in the county where mining is taking place. Paragraphs (B)(2)(b) and (b)(i) provisions in subparagraph (b) is revised and (b)(i) is added for clarification to keep Ohio’s program as effective as the federal program. The

federal regulations at 30 CFR 840.14 (c)(2) requires that any resident of the area where mining is taking place either be able to inspect copies of the records in the county where the mining is taking place or be provided copies of the records at no charge. Paragraph (B)(2)(b)(ii) is revised for other persons who request copies of the records, the Division will follow ODNr policy in charging for the copies.

2. *Section 1501:13–1–14 Incorporation by reference*—Proposed changes to paragraphs (A) and (B) are annual updates of the editions of the Code of Federal Regulations and the United States Code that are incorporated by reference. The website address is simplified. Paragraphs (B)(16) and (17) are proposed to be removed from this list

3. *Section 1501:13–4–03 Permit applications; requirements for legal, financial, compliance and related information*—Proposed to change grammatical issues in paragraphs (B)(11), (C)(5), (D)(1) and (F)(3). Proposed to add paragraph (D)(2) requiring information about lands within the permit area where the private mineral estate to be mined has been severed from the private surface estate will be revised to limit this information to lands where surface disturbance will result from the applicant’s proposed use of a surface mining method. Paragraphs (D)(2)(a) to (c) are revised to add “surface disturbance” qualifications to all paragraphs due to HB 163 (effective September 30, 2011). Paragraph (D)(3) is proposed to change “title” to “rights” to mirror the language of ORC Section 1513.07 (E)(2)€(iii). Paragraphs (E)(3) and (4) are proposed to add “measured horizontally” due to HB 163 (effective September 30, 2011). Paragraph (H) is proposed to be revised by reorganizing provisions and removal of a comma to clarify the requirements for newspaper advertisement.

4. *Section 1501:13–4–04 Permit application requirements for information on environmental resources*—Proposed changes to paragraph (C)(2)(a)(i) include a Reference to rule 1501:13–4–08 due to the revisions in paragraphs (J) and (K), as explained below. Paragraphs (D)(5) and (E)(3) is proposed to reference to new paragraphs (D)(6) and (D)(7) added. Paragraph (D)(6) is proposed to add a new paragraph and sub-paragraphs regarding seasonal variations which provide a standard method for collection and submitting water samples to identify seasonal variations in water quality and quantity. The provisions include a chart showing the flow periods and their duration. These new

paragraphs contain the requirements of the Division’s Permitting & Hydrology Policy/Procedure Directive 2000–2 (also known as PPD 2000–2). Paragraph (D)(7) is proposed to add a new paragraph regarding seasonal variations that states: Water quality and quantity data collected and described other than as required by paragraph (D)(6) of this rule may be submitted to identify seasonal variations in ground water and surface water, provided the chief determines that that alternative data are sufficient to identify seasonal Revised Code and the rules adopted thereunder. Paragraphs (J) and (K) which are the mapping provisions of this rule are proposed to be moved to rule 1501:13–4–08, which will apply to coal mining operations including underground mining surface operations. The mapping requirements for underground workings will be in rule 1501:13–4–08.1. Paragraphs (L) and (M) are proposed to be re-numbered (J) and (K) due to the revisions in paragraphs (J) and (K), as explained above. Paragraphs (L)(3), and (L)(4)(a) and (b) are proposed to be revised to address references changed due to the revisions in paragraphs (J) and (K), as explained above.

5. *Section 1501:13–4–05 Permit application requirements for reclamation and operations plans*—Paragraph (A)(2)(b) is proposed to restore the word “necessary” to this provision. It was removed effective April 30, 2009 but OSMRE requires that it be put back for the provision to be as effective as the Federal provision. Paragraph (G)(2) is proposed to add additional language per HB 163, effective September 30, 2011, that explains that the provisions of (G)(2) do not apply in cases where no surface disturbance will result from the applicant’s proposed use of auger/highwall mining. Paragraph (H)(7) is proposed as a new paragraph to address incorporation by reference requirements. The paragraph refers the reader to rule 1501:13–9–04, which contains information on where a copy of Soil Conservation Service Technical Release No. 60 can be obtained.

6. *Section 1501:13–4–08 Hydrologic map and cross-sections*—Proposed revision to contain all the mapping rules specific to surface coal mining operations, including underground mining surface operations. A new rule, 1501:13–4–08.1, is being proposed to contain all the mapping rules specific to underground workings.

7. *Section 1501:13–4–09 General map requirements*—Proposed to add (B) to require that a map’s legend indicate which of the map symbols listed in rule 1501:13–4–10 appear on the map.

Paragraph (D)(1) is proposed to add supplemental map and hydrologic map to the list of maps that are submitted to DMRM

8. *Section 1501:13-4-11 Maps showing reaffected of permit area*—Paragraph (A) is proposed to eliminate the word “former” to clarify the meaning of the sentence. The rule applies to maps showing land affected under a permit that is reaffected under a subsequent permit. Paragraphs (A) and (B) are proposed to change a rule reference change to 1501:13-4-08 (A), because the mapping requirements of rule 1501:13-4-04 are proposed to be moved to that rule. Paragraph (B) is proposed to correct punctuation throughout. Paragraphs (B), (B)(2) and (B)(5) are proposed to restore valid existing rights language to correct an error that was made when the rule was revised in 2009. At that time, the phrase “valid existing rights” was removed from the rule, when in fact it needs to remain in the rule to appropriately distinguish the requirements of (B) from those of (A). A person having valid existing rights to land generally means that his or her rights were secured prior to the enactment of the Federal Surface Mining Control and Reclamation Act (SMCRA) of 1977. If land under an existing permit is reaffected by a person with valid existing rights, mapping and certification requirements for that land would follow (B), rather than (A). The term “valid existing rights” is defined in OAC 1501:13-1-02.

9. *Section 1501:13-4-12 Requirements for permits for special categories of mining*—Paragraph (F)(2) is proposed to change the references to the prime farmland requirements because of changes proposed for rules 1501:13-4-04 and 1501:13-4-13

10. *Section 1501:13-4-13 Underground mining permit application requirements for information on environmental resources*—Paragraph (C)(2)(a)(i) is proposed to refer to rules 1501:13-4-08 and new rule 1501:13-4-08.1 due to the revisions in paragraphs (J) and (K), as explained below. Paragraphs (D)(5) and (E)(3) is proposed to reference to new paragraph (O)(6) and (O)(7) added. Paragraph (D)(6) is proposed as a new paragraph and subparagraphs regarding seasonal variations which provide a standard method for collecting and submitting water samples to identify seasonal variations in water quality and quantity. The provisions include a chart showing the flow periods and their duration. These new paragraphs contain the requirements of the Division’s Permitting & Hydrology Policy/Procedure Directive 2000-2 (also known as PPD 2000-2). The Division is

proposing to put these requirements into rule due to a 2007 court decision, *Buckeye Forest Council, Inc. v. Div. of Mineral Res. Mgmt.*, 172 Ohio App.3d 440. In this decision, the court stated that, since PPD 2000-2 uniformly applies to all mining permit application statewide, it qualifies as a rule and its requirements should therefore be adopted by the Division through rule-making. Paragraph (O)(7) is proposed as a new paragraph regarding seasonal variations that states: Water quality and quantity data collected and described other than as required by paragraph (D)(6) of this rule may be submitted to identify seasonal variations in ground water and surface water, provided the chief determines that the alternative data are sufficient to identify seasonal variations needed for the hydrologic assessments required by Chapter 1513 of the Revised Code and the rules adopted thereunder. Paragraphs (J) and (K) are proposed to address the mapping provisions of this rule and are proposed to be moved to rule 1501:13-4-08, which will apply to coal mining operations including underground mining surface operations. The mapping requirements for underground workings will be in rule 1501:13-4-08.1. Paragraphs (L) and (M) are proposed to be re-numbered (J) and (K) due to the revisions in paragraphs (J) and (K), as explained above. Paragraphs (L)(3), and (L)(4)(a) and (b) are proposed to have references changed due to the revisions in paragraphs (J) and (K), as explained above.

11. *Section 1501:13-4-14 Underground mining permit application requirements for reclamation and operations plans*—Paragraph (A)(2)(b) is proposed to restore “necessary” to this provision. It was removed effective April 30, 2009, but OSMRE requires that it be put back for the provision to be as effective as the Federal provision. Paragraph (H)(7) is proposed as a new paragraph to address incorporation by reference requirements. The paragraph refers the reader to rule 1501:13-9-04, which contains information on where a copy of Soil Conservation Service Technical Release No. 60 can be obtained.

12. *Section 1501:13-5-01 Review, public participation, and approval or disapproval of permit applications and permit terms and conditions*—Paragraph (E)(6) is proposed to add additional language per HB 163 (effective September 30, 2011) so that this rule agrees with the language of rule 1501:13-4-03 (D)(2), (G)(3). Added a reference to proposed new mapping rule 1501:13-4-08.1

13. *Section 1501:13-7-07 Liability insurance*—Paragraph (A) is proposed to specify that, for an application to satisfy the liability insurance requirement of this rule, the application can contain a notarized certification acknowledging that a current proof of liability insurance and rider is part of the applicant’s Central File for Identity Information. Having the liability insurance information in the Central File for Identity Information will avoid duplication of paperwork; the Central File contains up-to-date application information about a coal operator in one place in the Division, rather than requiring the coal operator to submit such information repeatedly in each individual application.

14. *Section 1501:13-9-01 Signs and markers*—Paragraph (C)(1) is proposed to remove “but shall not be limited to”. Paragraph (C)(2) is proposed to be reworded for clarity. Paragraphs (C)(3) to (5) is proposed to correct conjunctions and punctuation. Paragraph (E) is proposed to clarify buffer zone marking requirements and a reference to the stream buffer zone provisions of rule 1501:13-9-04 added

15. *Section 1501:13-9-07 Disposal of excess spoil*—Proposed to add paragraph (K). Reference to 1501:13-4-14 (O) added because (O) also contains requirements for the disposal of excess spoil. Paragraph (M)(1) is proposed to correct a reference. Paragraph (N)(1) is proposed to add a reference to paragraph (B). Through a rule amendment in 1988, a reference to (B) was removed, although it’s not clear why. 30 CFR 816.74 (c) and 30 CFR 817.74 (c) require that the design be certified by a registered professional engineer. (The definition of engineer in rule 1501:13-1-02 already specifies that engineer means a professional engineer registered in accordance with ORC Chapter 4733.) (N)(5)(d). Reference to rule 1501:13-9-14 added because 1501:13-9-14 also contains requirements for postmining graded slopes.

16. *Section 1501:13-9-08 Protection of underground*—Proposed amendment to clarify that paragraph (A) is for surface mining operations, while new paragraphs (B) and (C) are for underground mining operations and coal exploration drilling, respectively. The distance limit requirements for surface mining operations are not being revised. Paragraph (A)(1) is proposed to be revised to comply with LSC’s rule-drafting protocol. Paragraphs (B) and (B)(1) and (2) are proposed new provisions to protect underground mining operations from other underground mining operations. The

requirements are similar to those of (A), which protect underground mining operations from surface mining operations, except that the distance limit in (B) is 200 feet instead of 500 feet. The distance limit of 200 feet already exists in Mine Safety law, ORC section 1563.39, as well as in federal MSHA regulations, 30 CFR 75.388(a)(2), for underground mining operations near other underground mines. Paragraph (C) is a proposed new provision to protect underground mining operations from coal exploration drilling. The requirements mirror those of (B), and are proposed to establish a clear distance limit for coal exploration drilling near underground mines in the interest of mine safety.

17. *Section 1501:13–9–11 Protection of fish, wildlife, and related environmental values*—Paragraph (C)(1) is proposed to be revised to mirror the requirements of, and to make the rule as effective as, 30 CFR 816.97(f) and 30 CFR 817.97(f) with regard to the protection of wetlands and riparian vegetation. Paragraph (C)(2) is proposed to make a small change in the word order of the requirements of this paragraph to match (C)(1) and 30 CFR 816.97(f) and 30 CFR 817.97(f). Also, the word “disturbance” changed to “disturbances” to be consistent with (C)(1) and 30 CFR 816.97(f) and 30 CFR 817.97(f).

18. *Section 1501:13–9–15 Revegetation*—Paragraph (F)(1), (F)(4)(c) and (F)(4)(c)(ii) is proposed to make small changes to correct grammatical errors and to conform to rule-writing standards. Paragraphs (F)(3) and (O)(5)(b) are proposed to correct paragraph references. Paragraph (F)(6) is proposed to add language to clarify that the Chief has the authority to not require the permittee to wait an additional 12 months after seeding for minor repairs before applying for a phase III release, provided the Chief determines the extent of the area of repair was limited in size and the permittee remains in compliance with paragraph (G)(3)(b). Paragraphs (I)(1), (5) and (6) are proposed to update information about target yields and how the public can access this information.

19. *Section 1501:13–9–17 Postmining use of land*—Paragraph (B) is proposed to make grammatical changes to mirror 30 CFR 816.133 (b) and to match the singular noun use of (B)(1) and (2). A comma is proposed to be added to paragraph (B)(1). Paragraphs (D)(2) and (D)(7) are proposed to be added from 30 CFR 816.133 (c)(3)(i) and (iv). Two criteria that must be met to have an alternative postmining land use approved are: The use will not be

impractical or unreasonable, and the use will not cause or contribute to violation of Federal State, or local law. Paragraph (D)(8) is proposed to correct a rule reference.

20. *Section 1501:13–11–02 Support facilities and utility installations*—Proposed to make changes to paragraph (A). Rule referencing changes to 1501:13–4–08 and 1501:13–4–08.1 due to the mapping requirements of rules 1501:13–4–04 and 1501:13–4–13 are proposed to be moved to those rules. Paragraph (C) is proposed to be amended to require that coal mining operations minimize damage, destruction, or disruption of services provided by oil, gas, and water wells, and by water and sewage lines, to mirror the requirements of 30 CFR 816.180. Paragraph also amended to include telephone “and other telecommunication lines.”

The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES** or at www.regulations.gov.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Electric or Written Comments

If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information, may

be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., e.s.t. on May 19, 2020. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak, and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Statutory and Executive Order Reviews

Executive Order 12866—Regulatory Planning and Review and Executive Order 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the approval of State program amendments is exempted from OMB review under Executive Order 12866. Executive Order 13563, which

reaffirms and supplements Executive Order 12866, retains this exemption.

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSMRE for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR part 935

Intergovernmental relations, Surface mining, Underground mining.

Thomas D. Shope,
Regional Director, North Atlantic—
Appalachian Region.

[FR Doc. 2020–08805 Filed 5–1–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2020–0103; FRL–10008–44–Region 4]

Air Plan Approval; KY; Jefferson County Existing and New Miscellaneous Metal Parts and Products Surface Coating Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Jefferson County portion of the Kentucky State Implementation Plan (SIP), submitted by the Commonwealth of Kentucky (Commonwealth), through the Energy and Environment Cabinet (Cabinet) on September 5, 2019. The revisions were submitted by the Cabinet on behalf of the Louisville Metro Air Pollution Control District and makes a singular change to two regulations for clarity purposes regarding the applicability of exempt surface coating standards for existing and new miscellaneous metal parts and products operations. EPA is

proposing to approve the changes as they are consistent with the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before June 3, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2020–0103 at www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit www2.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT:

Sarah LaRocca, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8994. Ms. LaRocca can also be reached via electronic mail at larocca.sarah@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

EPA is proposing to approve a change to Regulation 6.31, *Standard of Performance for Existing Miscellaneous Metal Parts and Products Surface Coating Operations*, and Regulation 7.59, *Standard of Performance for New Miscellaneous Metal Parts and Products Surface Coating Operations*, of the Jefferson County portion of the Kentucky SIP, submitted by the Commonwealth on September 5, 2019. The SIP revisions clarify the applicability of the surface coating standard exemptions as it pertains to Section 3 of Regulations 6.31 and 7.59. The SIP revisions ensure consistency across the regulations and updates the current SIP-approved version of Regulation 6.31 (Version 6) and

Regulation 7.59 (Version 6) to Version 7 of each.

EPA has found that surface coatings of miscellaneous metal parts and products operations emit hazardous air pollutants (HAP). See 69 FR 129 (January 2, 2004). Regulation of these sources protects air quality and promotes public health by reducing HAP emissions into the environment. The organic HAP emitted by surface coatings and miscellaneous metal parts and products operations are volatile organic compounds (VOC), as defined by 40 CFR 51.100(s).¹

Tropospheric ozone, commonly known as smog, occurs when VOC and nitrogen oxides (NO_x) react in the atmosphere. Because of the harmful health effects of ozone, EPA limits the VOC and NO_x emissions that can be released into the atmosphere. VOC are compounds of carbon excluding carbon monoxide, carbon dioxide, and carbonates, and ammonium carbonate, which participate in atmospheric photochemical reactions, including in the formation of ozone. The compounds of carbon (or organic compounds) have different levels of photochemical reactivity; therefore, they do not form ozone to the same extent.

II. EPA's Analysis of the Submittal

Jefferson County Air Quality Regulations 6.31 and 7.59 address VOC emitted by miscellaneous metal parts and products surface coating operations at existing and new facilities, respectively. In this proposed action, EPA is proposing to approve a change to these two regulations. In Paragraph 5.1 of Section 5, *Exemptions*, of both regulations, clarifying text is being added to ensure consistency with Paragraph 5.2. In the SIP-approved versions of these regulations, Paragraph 5.1 lists the types of surface coatings that are “exempt from this regulation” and Paragraph 5.2 exempts any affected facility from Section 3 (Standards for Volatile Organic Compounds) if the total VOC emissions² from all affected facilities subject to this regulation are less than or equal to five tons per year. The SIP revisions create consistency between Paragraphs 5.1 and 5.2 by clarifying that the exemption in Paragraph 5.1 applies only to Section 3 (*i.e.*, the phrase “exempt from this regulation” is replaced with “exempt

¹ Specifically, the organic HAP emitted by these operations include xylenes, toluene, methyl ethyl ketone (MEK), phenol, cresols/cresylic acid, glycol ethers (including ethylene glycol monobutyl ether (EGBE)), styrene, methyl isobutyl ketone MIBK), and ethyl benzene. See 69 FR 129. The aforementioned compounds are identified as VOC in 40 CFR 51.100(s)(1).

² Potential emissions prior to any add-on controls.