

13–9–10(F)(3), concerning suspension and revocation, is amended by deleting the words “or a designated certifying authority,” and adding in their place the words “and may work on a blasting crew only under the direct supervision of a certified blaster.” As amended, 13–9–10(F)(3) provides as follows:

(3) Upon notice of a suspension or revocation, the blaster shall immediately surrender the suspended or revoked certificate and all copies thereof to the chief, and may work on a blasting crew only under the direct supervision of a certified blaster.

These changes do not render the State provision less effective than the Federal regulations at 30 CFR 850.15(b)(3), pertaining to notice of revocation of blaster certification. Also, the added State language is consistent with 30 CFR 850.13(a)(2), which allows persons who are not certified as blasters to work on blasting crews that are under the direction of certified blasters.

13–9–10(F)(4), concerning suspension and revocation, is amended by deleting the phrase “during the term of the suspension,” deleting paragraph (4)(a), paragraph (4)(b) becomes (4)(a); paragraph (4)(c) becomes paragraph (4)(b) and then replacing the word “a” with the word “the” at (4)(b), and adding a new paragraph (4)(c). As amended 13–9–10(F)(4) provides as follows:

(4) To repossess a suspended certificate the blaster must:

(a) Exhibit a pattern of conduct consistent with the acceptance of responsibility for blasting operations;

(b) Pass the written examination administered under paragraph (C) of this rule; and

(c) Meet any other requirements imposed by the chief under the terms of the suspension.

These changes have no direct Federal counterpart, but they are not inconsistent with the Federal regulations at 30 CFR 850.15, pertaining to blaster certification. For the foregoing reasons, we are approving this Ohio amendment in its entirety.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (Administrative Record Number OH–2183–02), but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503 (b) of SMCRA, we requested comments on the amendment from various Federal agencies with a potential interest in the Ohio program (Administrative Record Number OH–2183–03), but did not receive any.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued 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.*). None of the revisions that Ohio proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not request concurrence.

On July 3, 2003, we asked for comments from EPA on the amendment (Administrative Record No. OH–2183–03). The EPA did not respond to our request.

V. OSM's Decision

Based on the above findings, we approve the amendment Ohio sent us on June 11, 2003, and as revised on June 18, 2003.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 935, which codify decisions concerning the Ohio program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that 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 because each 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 the Federal regulations at 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.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to “establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.” Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be “in accordance with” the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations “consistent with” regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. The basis for this determination is that our decision is on a State regulatory program and does not involve a Federal program involving Indian lands.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use