

Dated: December 17, 1999.

Charles E. Sandberg,

*Acting 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
* * *	* * *	* * *
August 31, 1999	January 7, 2000	310 12-5-159; IC 14-34-2-6(b) and (c).

3. Section 914.16 is amended by removing and reserving paragraph (b) and revising paragraph (ii) to read as follows:

§ 914.16 Required program amendments.

* * * * *

(ii) By April 28, 1997, Indiana shall submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to address the following:

(1) Amend the Indiana program at 310 IAC 12-3-49/83(e)(3) to add the requirement concerning stability analysis of each structure as is required by 30 CFR 780.25(f) and 784.16(f).

(2) [Reserved]

(3) The Director is requiring that Indiana further amend 310 IAC 12-5-24/90(a)(9)(E) to clarify that the term "subsection" should be "clause."

[FR Doc. 00-420 Filed 1-6-00; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

[VA-115-FOR]

Virginia Abandoned Mine Land Reclamation Plan

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing the approval of an amendment to the Virginia Abandoned Mine Land Reclamation (AMLR) Program (hereinafter referred to as the Virginia Program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.*, as amended. The amendment makes changes to the Ranking and Selection section by adding a subsection

concerning reclamation projects receiving less than 50 percent government funding. The amendment is intended to incorporate the additional flexibility afforded by the revised Federal regulations.

EFFECTIVE DATE: January 7, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Penn, Director, Big Stone Gap Field Office, Telephone: (540) 523-4303.

SUPPLEMENTARY INFORMATION:

- I. Background on the Virginia Plan
- 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 Virginia Plan

On December 15, 1981, the Secretary of the Interior conditionally approved the Virginia program. Background on the Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the December 15, 1981 **Federal Register** (46 FR 61085-61115). Subsequent actions concerning the conditions of approval and AMLR program amendments are identified at 30 CFR 946.20 and 946.25.

II. Submission of the Proposed Amendment

By letter dated September 10, 1999 (Administrative Record No. VA-981), the Virginia Division of Mined Land Reclamation (DMLR) submitted a proposed Program Amendment to the Virginia Program. The proposed amendment revises the "Ranking and Selection 884.13(c)(2)" section by adding a subsection entitled "Reclamation Projects Receiving Less Than 50% Government Funding." This amendment is intended to revise the Virginia program to incorporate the additional flexibility afforded by the revised Federal regulations.

OSM announced receipt of the proposed amendment in the October 8, 1999, **Federal Register** (64 FR 54843), 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 November 8, 1999. No public hearing was requested, so none was held. On October 22, 1999 (Administrative Record No. VA-997), the State submitted a correction to a typographical error in a citation on Page 15 of the amendment.

III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 884.14 and 884.15, finds that the proposed plan amendment submitted by Virginia on September 10, 1999, and amended on October 22, 1999, meets the requirements of the corresponding Federal regulations and is consistent with SMCRA.

Ranking and Selection 884.13(c)(2)

In this section, Virginia added a new subsection titled "Reclamation Projects Receiving Less Than 50% Government Funding." The new language is as follows:

Reclamation Projects Receiving Less Than 50% Government Funding

An abandoned mine land reclamation project may be considered for government-financed construction under Virginia program § 4 VAC 25-130 Part 707. If the level of government funding for the construction will be less than fifty percent of the total cost because of planned coal extraction, the procedures of this section apply. Such coal removal will be conducted in conformity with Virginia program § 4 VAC 25-130 Part 707 and the regulatory definitions for the terms "extraction of coal as an incidental part," "government financing agency," and "government-financed construction" contained within the Virginia regulatory program regulations at 4-VAC-25-700.5.

In considering such AML construction, the DMLR AML Section (Title IV authority) will consult with the DMLR Reclamation Services Section (Title V authority) to make the following determinations:

1. The likelihood of the coal being mined under a Title V permit. The determination will take into account available information such as:

- Coal reserves from existing mine maps or other sources;
- Existing environmental conditions;
- All prior mining activity on or adjacent to the site;
- Current and historic coal production in the area; and
- Any known or anticipated interest in mining the site.

2. The likelihood that nearby or adjacent mining activities might create new environmental problems or adversely affect existing environmental problems at the site.

3. The likelihood that reclamation activities at the site might adversely affect nearby or adjacent mining activities.

After the above consultation, if it is decided that a government-financed reclamation project is to proceed, then the DMLR AML Section and DMLR Reclamation Services Section must concur to in the following determinations:

1. The limits on any coal refuse, coal waste, or other coal deposits which can be extracted under 4-VAC-25-130 Part 707 and the Virginia regulatory definition of "government-financed construction" at § 4-VAC-25-130-700.5; and

2. The delineation of the boundaries of the AML project.

All of the above determinations, the information taken into account in making the determinations, and the names of the parties making the determinations will be documented in the AML project file. For each project, DMLR AML Section will:

- Characterize the site in terms of mine drainage, active slides and slide-prone areas, erosion and sedimentation, vegetation, toxic material, and hydrologic balance;
- Ensure that the reclamation project is conducted in accordance with the provisions of 30 CFR Subchapter R;
- Develop specific-site reclamation requirements, including performance bonds when appropriate in accord with State procedures; and
- Require the contractor conducting the reclamation to provide prior to the time reclamation begins applicable documents that clearly authorize the extraction of coal and payment of royalties.

The contractor shall be required to obtain a coal surface mining permit under the Virginia Coal Surface Mining Reclamation Regulations (Title 4 of the Virginia Administrative Code) for any coal extracted beyond the limits of the incidental coal specified in the AML project file.

On October 22, 1999 (Administrative Record No. VA-997), DMLR provided a typographic correction to the regulatory citation found on the last line of Page 15 of the amendment to fully reflect that the regulatory definition for the terms "extraction of coal as an incidental part," "government-financing agency," and "government-financed construction" are contained within the Virginia regulatory program regulations at § 4 VAC 25-130-700.5. In the original

submittal, the "130" was omitted from the citation.

We find that the provisions of this amendment are substantively identical to and no less effective than the Federal regulations at 30 CFR 874.17 concerning the AML agency procedures for reclamation projects receiving less than 50 percent government funding. Therefore, we are approving the amendment. We also note that OSM has just approved a definition of "government-financed construction" at 4 VAC 25-130-700.5 that is substantively identical to the Federal definition of "government-financed construction" at 30 CFR 707.5.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received.

Federal Agency Comments

Pursuant to 884.14(a)(2) and 884.15(a), OSM solicited comments on the proposed amendment from various other Federal agencies with an actual or potential interest in the Virginia plan (Administrative Record number VA-982). The U.S. Department of Agriculture, Natural Resources Conservation Service responded (Administrative Record number VA-992) and concurred with the amendment and recommended that it be approved. As noted above in the Findings, we are approving the amendment. The U.S. Department of Labor, Mine Safety and Health Administration (MSHA) responded (Administrative Record number VA-991) and stated that there appears to be no conflict with MSHA regulations or policy.

The Environmental Protection Agency responded (Administrative Record Number VA-996), and stated that the amendment appears to comply with the Clean Water Act, and that it does not have any specific comments.

V. Director's Decision

Based on the above finding, we are approving the proposed AMLR plan amendment as submitted by Virginia on September 10, 1999, and amended on October 22, 1999.

The Federal regulations at 30 CFR Part 946.25, codifying decisions concerning the Virginia plan amendments, are being amended to implement this decision. This final rule is being made effective immediately to

expedite the State plan amendment process and to encourage States to bring their plans 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 and Tribal abandoned mine land reclamation plans and revisions thereof since each such plan is drafted and promulgated by a specific State or Tribal, not by OSM. Decisions on proposed abandoned mine land reclamation plans and revisions thereof submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231-1243) and 30 CFR Parts 884 and 888.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State and Tribal abandoned mine land reclamation plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

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 in the analyses 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 946

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 23, 1999.

Allen D. Klein,

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 946—VIRGINIA

1. The authority citation for Part 946 continues to read as follows:

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

2. Section 946.25 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

§ 946.25 Approval of Virginia abandoned mine land reclamation plan amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * *	* * *	* *
September 10, 1999	January 7, 2000	Revisions to the Virginia State Reclamation Plan corresponding to 30 CFR 884.13(c)(2)—Ranking and Selection: Reclamation Projects Receiving Less Than 50% Government Funding.

[FR Doc. 00-421 Filed 1-6-00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01-99-130]

RIN 2115-AA97

Safety Zone: New York Harbor and Hudson River Fireworks.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing five permanent safety zones for fireworks displays located on Upper and Lower New York Bay, the Hudson River, and Raritan Bay. This action is necessary to provide for the safety of life on navigable waters during the events. This action establishes permanent exclusion areas that are only active prior to the start of the fireworks display until shortly after the fireworks display is completed, and is intended to restrict vessel traffic in a portion of Upper and Lower New York Bay, the Hudson River, and Raritan Bay.

DATES: This rule is effective February 7, 2000.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01-99-130) and are available for inspection or copying at

Waterways Oversight Branch, Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, New York 10305, room 205, between 8 a.m. e.s.t. and 3 p.m. e.s.t., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lieutenant J. Lopez, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4193.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On October 6, 1999, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone: New York Harbor and Hudson River Fireworks in the **Federal Register** (64 FR 54252). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

On October 25, 1999, we published a correction notice entitled Safety Zone: New York Harbor and Hudson River Fireworks in the **Federal Register** (64 FR 57419). This notice corrected the Latitude position of the barge location east of Ellis Island.

Background and Purpose

The Coast Guard is establishing five permanent safety zones that will be activated for fireworks displays occurring throughout the year that are not held on an annual basis but are normally held in one of these five locations. The five locations are east of Liberty and Ellis Islands in Upper New York Bay; east of South Beach, Staten Island in Lower New York Bay; west of Pier 60, Manhattan, on the Hudson River; and Raritan Bay in the vicinity of

the Raritan River Cutoff and Ward Point Bend (West). The number of events held in these locations has increased from three in 1996 to 21 in 1998. The Coast Guard has received 16 applications for fireworks displays in these areas to date in 1999. In the past, temporary safety zones were established with limited notice for preparation by the U.S. Coast Guard and limited opportunity for public comment. Establishing permanent safety zones by notice and comment rulemaking gave the public the opportunity to comment on the safety zone locations, size, and length of time the zones will be active. The Coast Guard has received no prior notice of any impact caused by the previous events.

The five safety zones are as follows:

The safety zone at Liberty Island includes all waters of Upper New York Bay within a 360-yard radius of the fireworks barge located in Federal Anchorage 20-C, in approximate position 40°41'16.5"N 074°02'23" W (NAD 1983), about 360 yards east of Liberty Island. The safety zone prevents vessels from transiting a portion of Federal Anchorage 20-C and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Recreational and commercial vessel traffic will be able to anchor in the unaffected northern and southern portions of Federal Anchorage 20-C. Federal Anchorages 20-A and 20-B, to the north, and Federal Anchorages 20-D and 20-E, to the south, are also available for vessel use. Marine traffic will still be able to transit through