

**§ 1000.103 How may IHBG funds be used for tenant-based or project-based rental assistance?**

(a) IHBG funds may be used for project-based or tenant-based rental assistance.

(b) IHBG funds may be used for project-based or tenant-based rental assistance that is provided in a manner consistent with section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(c) IHBG funds used for project-based or tenant-based rental assistance must comply with the requirements of NAHASDA and this part.

Dated: October 11, 2007.

**Orlando J. Cabrera,**

*Assistant Secretary for Public and Indian Housing.*

[FR Doc. E7-20525 Filed 10-17-07; 8:45 am]

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**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 914**

**[Docket No. IN-156-FOR, Administrative Cause No. 06-046R]**

**Indiana Regulatory Program**

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving, with certain exceptions, an amendment to the Indiana regulatory program (Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The Indiana Department of Natural Resources, Division of Reclamation (IDNR, department, or Indiana) revised its rules concerning the definition of “government-financed construction”; underground mining reclamation plans for siltation structures, impoundments, dams, embankments, and refuse piles; requirements for performance bond release; surface mining permanent and temporary impoundments; surface mining primary roads; and inspections of sites. Indiana revised its program to

be consistent with the corresponding Federal regulations, to clarify ambiguities, and to improve operational efficiency.

**DATES:** *Effective Date:* October 18, 2007.

**FOR FURTHER INFORMATION CONTACT:**

Andrew R. Gilmore, Chief, Alton Field Division—Indianapolis Area Office. Telephone: (317) 226-6700. E-mail: [IFOMAIL@osmre.gov](mailto:IFOMAIL@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Indiana Program
- II. Submission of the Amendment
- III. OSM’s Findings
- IV. Summary and Disposition of Comments
- V. OSM’s Decision
- VI. Procedural Determinations

**I. Background on the Indiana 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 State program includes, among other things, “a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act \* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.” See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Indiana program effective July 29, 1982. You can find background information on the Indiana program, including the Secretary’s findings, the disposition of comments, and the conditions of approval, in the July 26, 1982, **Federal Register** (47 FR 32071). You can also find later actions concerning the Indiana program and program amendments at 30 CFR 914.10, 914.15, 914.16, and 914.17.

**II. Submission of the Amendment**

By letter dated December 11, 2006 (Administrative Record No. IND-1741), Indiana sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*) in response to a required program amendment at 30 CFR 914.16(ff) and to include changes made at its own initiative. The provisions of 312 Indiana Administrative Code (IAC) 25 that Indiana proposed to revise were: 312 IAC 25-1-57, definition of “government-financed construction”; 25-4-87, underground mining

reclamation plans for siltation structures, impoundments, dams, embankments, and refuse piles; 25-5-16, requirements for performance bond release; 25-6-20, surface mining permanent and temporary impoundments; 25-6-66, surface mining primary roads; and 25-7-1, inspections of sites.

We announced receipt of the proposed amendment in the February 6, 2007, **Federal Register** (72 FR 5374). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on March 8, 2007. We received comments from two Federal agencies.

During our review of the amendment, we identified concerns about requirements for performance bond release. We notified Indiana of these concerns by letter dated May 9, 2007, (Administrative Record No. IND-1748). We also met with Indiana staff on June 26, 2007, to discuss the concerns regarding the amendment and corresponded with the State via email on June 23, 2007 (Administrative Record No. IND-1752). Indiana responded by email on July 24, 2007 (Administrative Record No. IND-1752), that it would not submit revisions to this portion of the amendment at this time and that we should proceed with processing the other portions of the amendment. Therefore, we are proceeding with the final rule **Federal Register** document.

**III. OSM’s Findings**

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment with exceptions as described below. Any revisions that we do not specifically discuss below concern nonsubstantive wording or editorial changes.

*A. Minor Revisions to Indiana’s Rules*

Indiana made minor wording, editorial, punctuation, grammatical, restructuring, and recodification changes to the following previously approved rules:

Topic	State rule
Underground mining reclamation plans for siltation structures, impoundments, dams, embankments, and refuse piles.	312 IAC 25-4-87(a)(1)(B) and (a)(2)(A) and (C), (c), (e)(1) and (e)(4), and (f)(1).
Requirements for performance bond release.	312 IAC 25-5-16(b).

Topic	State rule
Surface mining permanent and temporary impoundments .....	312 IAC 25-6-20(a)(1), (a)(3)(A), (B), and (C), (a)(5), (a)(6), (a)(7)(B)(iii), (a)(9)(A), (D), (E)(iii), (b)(3), (b)(8)(B), (c)(1) and (2), (d) and (e).
Surface mining primary roads .....	312 IAC 25-6-66(2)(A) and (C), (2)(H), and (4)(B)(i).
Inspections of sites .....	312 IAC 25-7-1(f)(3)(E) and (F), (g)(2), (h)(1)(D)(ii), and (h)(3)(A).

1. For example, 312 IAC 25-4-87(a)(2)(A) was restructured from:

(A) Be prepared by, or under the direction of, and certified by a qualified registered professional engineer with assistance from experts in related fields such as geology, land surveying, and landscape architecture. to:

(A) Be prepared by, or under the direction of, and certified by a qualified registered professional engineer with assistance from

experts in related fields, such as the following:

- (i) Geology.
- (ii) Land surveying.
- (iii) Landscape architecture.

2. For example, 312 IAC 25-5-16(b) was recodified as 312 IAC 25-5-16(c).

3. For example, at 312 IAC 25-6-20(a)(3)(C), the phrase "in lieu of" was replaced by the phrase "instead of".

Because these changes are minor, we find that they will not make Indiana's

previously approved rules less effective than the corresponding Federal regulations.

*B. Revisions to Indiana's Rules That Have the Same Meaning as the Corresponding Provisions of the Federal Regulations*

Indiana's rules listed in the table below contain language that is the same as or similar to the corresponding Federal regulations.

Topic	State [rule]	Federal counterpart [regulation]
Definition of "Government-financed construction" .....	312 IAC 25-1-57 .....	30 CFR 707.5.
Surface Mining Primary Roads .....	312 IAC 25-6-66(2) .....	30 CFR 816.151(b).

Because the above State rules contain language that is the same as or similar to the corresponding Federal regulations, we find that they are no less effective than the Federal counterpart regulations.

*C. 312 IAC 25-4-87 Underground Mining Reclamation Plans for Siltation Structures, Impoundments, Dams, Embankments, and Refuse Piles*

1. At subsection (g)(3), Indiana proposed to remove the following sentence:

If necessary to protect the health or safety of persons or property or the environment, even though the volume of water impounded is less than one hundred (100) acre feet, the director may require an application to be made.

There is no Federal counterpart to Indiana's rule at subsection (g)(3). On November 29, 2004 (69 FR 69283), we approved the removal of a similar requirement at 312 IAC 25-4-49(g)(3) for surface mining reclamation plans. Therefore, we find the revision made to previously approved 312 IAC 25-4-87(g)(3) will not make the Indiana rules less effective than the Federal regulations or SMCRA.

*D. 312 IAC 25-5-16 Requirements for Performance Bond Release*

1. Indiana proposed to revise its rule at subsection (a) concerning what a permittee must include in the newspaper advertisement that is part of the bond release application. Currently, Indiana's rule requires the permittee to

state in the newspaper advertisement that, "any person with a valid legal interest that might be adversely affected by release of bond, or the responsible officer or head of any federal, Indiana, or local governmental agency that has jurisdiction by law or is authorized to develop and enforce environmental standards with respect to the operations, may file written comments or objections or may request a public hearing or informal conference." Indiana proposed to revise this requirement by deleting the words "informal conference."

The counterpart Federal regulation at 30 CFR 800.40(a)(2) specifies that the advertisement must contain the name and address of the regulatory authority to which written comments, objections, or requests for public hearings and informal conferences on the specific bond release may be submitted pursuant to 30 CFR 800.40(f) and (h). The Federal regulation at 30 CFR 800.40(f) provides that certain persons may file written objections and request a "public hearing" regarding the proposed bond release. The Federal regulation at 30 CFR 800.40(h) provides that "without prejudice to the right of an objector or the applicant, the regulatory authority may hold an informal conference \* \* \* to resolve such written objections."

We find that Indiana's proposed revision is no less effective than the Federal regulation at 30 CFR 800.40(a)(2) because this Federal regulation does not require the newspaper advertisement to contain information on who may request a

public hearing or informal conference. Instead, it requires the advertisement to contain information on where requests for public hearings or informal conferences may be submitted. Therefore, we are approving Indiana's revision.

2. Indiana proposed to add a new rule at subsection (b) that allows the director of IDNR to initiate an application for the release of bond. If a bond release application is initiated by the director of IDNR, the department will have to perform the notification and certification requirements otherwise imposed on the permittee. While the counterpart Federal regulation at 30 CFR 800.40(a) allows a permittee to file an application for bond release, the Federal regulations are silent as to whether a regulatory authority may initiate bond release proceedings. However, a similar provision was approved for the Kentucky program on December 31, 1990 (55 FR 53490) and the Illinois program on April 7, 2000 (65 FR 18239). Also, on September 14, 2004, we approved a similar change for Indiana's statute at IC 14-34-6-7 (69 FR 55348). We approved the statutory change with the understanding that Indiana would revise its implementing rule at 312 IAC 25-5-16. Indiana's revision at 312 IAC 25-5-16(b) meets this requirement.

Under Indiana's proposal, bond release proceedings initiated by the director of IDNR must conform to the same procedural steps as a bond release initiated by the permittee. Thus, the

public participation and notification requirements of section 519 of SMCRA and the Federal regulation at 30 CFR 800.40 would still apply when the director of IDNR initiates a bond release in Indiana. For the above reasons, we find that allowing the director of IDNR to initiate bond release does not make Indiana's performance bond release requirements at 312 IAC 25-5-16(b) less effective than the Federal regulation at 30 CFR 800.40(a). Therefore, we are approving the new provision.

3. Indiana proposed to redesignate existing subsections (c) through (f) as new subsections (d) through (g) and to revise new subsection (d). Indiana also proposed to delete existing subsections (g) and (i) and to add new subsection (h). In addition, Indiana proposed to revise existing subsection (h) and redesignate it as new subsection (i). Finally, Indiana proposed to add new subsection (j).

In a letter dated May 9, 2007 (Administrative Record No. IND-1748), we notified Indiana that we completed our review of the State's proposed amendment and identified some provisions that appeared to be less effective than the Federal regulations. We also met with Indiana staff on June 26, 2007, to discuss our concerns regarding the amendment.

We advised Indiana that 312 IAC 25-5-16, starting at new subsection (d), contains deficiencies that include inappropriate reference citations and the removal and/or absence of required program provisions, thus making the Indiana rules less effective than the Federal regulations. During our discussions and in an email dated July 24, 2007 (Administrative Record No. IND-1752), Indiana advised us that it would submit revisions to the amendment to address these concerns at a later date and that we should proceed with processing the amendment. Therefore, we cannot approve Indiana's proposed revisions at 312 IAC 25-5-16 new subsections (d) through (j).

#### *E. 312 IAC 25-6-20 Surface Mining Permanent and Temporary Impoundments*

1. At subsection (a)(3)(B) regarding criteria for stability of impoundments, Indiana proposed to remove the language "and located where failure would not be expected to cause loss of life or serious property damage."

The counterpart Federal regulation at 30 CFR 816.49(a)(4)(ii) does not contain the deleted language. Therefore, we find that the removal of the language will not make Indiana's rule at 312 IAC 25-6-20(a)(3)(B) less effective than the counterpart Federal regulation.

2. At subsection (a)(9)(E)(ii) regarding inspection of impoundments, Indiana proposed to add the following type of impoundment to its list of those non-hazardous impoundments that are exempt from its quarterly examination requirements:

(ii) Impoundments that are entirely contained within an incised structure such that the incised structure would completely contain the waters of the impoundment should failure occur and failure would not create a potential threat to public health and safety or threaten significant environmental harm.

The impoundments listed in subsection (a)(9)(E) are among those that do not meet the size or other criteria of 30 CFR 77.216(a) or do not meet the Class B or C criteria for dams in the NRCS publication, Technical Release No. 60.

There is no Federal counterpart to the added provision. The Federal regulation at 30 CFR 816.49(a)(12) requires quarterly inspections of impoundments for appearance of structural weakness and other hazardous conditions. Because incised structures do not have dams, there is no probability of impoundment failure. Therefore, we find that 312 IAC 25-6-20(a)(9)(E)(ii) is no less effective than the counterpart Federal regulation at 30 CFR 816.49(a)(12), and we are approving it.

#### *F. 312 IAC 25-7-1 Inspections of Sites*

At subsection (h)(1)(D)(i) regarding the definition of "abandoned site," Indiana proposed to remove the language "or permit revocation proceedings have been initiated and are being pursued diligently."

On November 29, 2004, we required Indiana to revise its regulation at 312 IAC 25-7-1(h)(1)(D)(i) to allow a site to be classified as abandoned only in cases where a permit has expired or been revoked (69 FR 69287). We codified this requirement at 30 CFR 914.16(ff). Indiana's removal of the above quoted language meets this requirement. Therefore, we find that 312 IAC 25-7-1(h)(1)(D)(i) is no less effective than 30 CFR 840.11(g)(4)(i), and we approve it. We are also removing the required amendment at 30 CFR 914.16(ff).

### **IV. Summary and Disposition of Comments**

#### *Public Comments*

We asked for public comments on the amendment, but did not receive any.

#### *Federal Agency Comments*

On January 4, 2007, 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 an actual or potential interest in the Indiana program (Administrative Record No. IND-1744). We received comments from two agencies. The U.S. Department of the Interior Fish and Wildlife Service responded on January 22, 2007 (Administrative Record No. IND-1745), that it had no specific comments on the proposed amendment. The U.S. Department of Agriculture Forest Service (Forest Service) responded on February 9, 2007 (Administrative Record No. IND-1746), by recommending that Indiana retain, instead of deleting, the provision at 312 IAC 25-4-87(g)(3) that requires a permit application and prior approval from the director of IDNR before the construction of structures that impound less than 100 acre-feet of water. The Forest Service also recommended that Indiana add one or more criteria to 312 IAC 25-6-66(4) that encourages design parameters that foster the passage of aquatic organisms instead of having only criteria that approaches the design of water crossing structures strictly from an engineering standpoint. Because the Federal regulations do not contain requirements related to the Forest Service's above two recommendations, Indiana is not required to have them in the State's approved regulatory program. However, we sent a copy of the Forest Service's comments to Indiana for consideration.

#### *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 Indiana proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

On January 4, 2007, under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from EPA (Administrative Record No. IND-1744). EPA did not respond to our request.

#### *State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On January 4, 2007, we requested comments on Indiana's amendment (Administrative Record No.

IND-1744), but neither responded to our request.

#### V. OSM's Decision

Based on our discussions in OSM's Findings III.A. through D.2., and E. and F. above, we approve those revisions to Indiana's rules sent to us on December 11, 2006. We do not approve Indiana's newly redesignated subsections (d) through (g) and (i) and new subsections (h) and (j) at 312 IAC 25-5-16 as discussed in OSM's Findings III.D.3. For those rules we approve, Indiana must fully promulgate them in identical form to the rules submitted to and reviewed by OSM and the public.

To implement our decision, we are amending the Federal regulations at 30 CFR part 914, which codify decisions concerning the Indiana 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 rule effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

#### *Effect of OSM's Decision*

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any change to an approved State program be submitted to OSM for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any changes to approved State programs that are not approved by OSM. In the oversight of the Indiana program, we will recognize only the statutes, rules and other materials we have approved, together with any consistent implementing policies, directives and other materials. We will require Indiana to enforce only approved provisions.

#### VI. Procedural Determinations

##### *Executive Order 12630—Takings*

The provisions in the rule based on counterpart Federal regulations do not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations. The revisions made at the initiative of the State that do not have Federal counterparts have also been reviewed and a determination made that they do not have takings implications. This determination is based on the fact that this rulemaking has no takings implications.

##### *Executive Order 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget (OMB) 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.

This determination is based on the fact that the Indiana program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Indiana program has no effect on federally-recognized Indian tribes.

##### *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 of energy, a Statement of Energy Effects is not required.

##### *National Environmental Policy Act*

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

##### *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 certifies that a portion of the provisions in 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.*) because they are based upon counterpart 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. In making the determination as to whether this part of the rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations. The Department of the Interior also certifies that the provisions in this rule that are not based upon counterpart Federal regulations 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.*). This determination is based upon the fact that the provisions are administrative and procedural in nature and are not expected to have a substantive effect on the regulated industry.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that a portion of the State provisions are based upon counterpart Federal regulations for which an analysis was

prepared and a determination made that the Federal regulation was not considered a major rule. For the portion of the State provisions that is not based upon counterpart Federal regulations, this determination is based upon the fact that the State provisions are administrative and procedural in nature and are not expected to have a substantive effect on the regulated industry.

*Unfunded Mandates*

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that a portion of the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate. For the portion of the State provisions that is not based upon counterpart Federal regulations, this determination is based upon the fact that the State provisions are administrative and procedural in nature

and are not expected to have a substantive effect on the regulated industry.

**List of Subjects in 30 CFR Part 914**

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 27, 2007.

**William Joseph,**

*Acting Regional Director, Mid-Continent Regional Office.*

■ 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
* * *	October 18, 2007	..... 312 IAC 25–1–57; 25–4–87; 25–5–16(a), (b) [new], and (c) [formerly (b)]; 25–6–20; 25–6–66; and 25–7–1.

**§ 914.16 [Amended]**

■ 3. Section 914.16 is amended by removing paragraph (ff) and removing reserved paragraphs (gg) through (mm).

[FR Doc. 07–5144 Filed 10–17–07; 8:45 am]

**BILLING CODE 4310–05–P**

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 946**

[VA–125–FOR]

**Virginia Regulatory Program**

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We are approving an amendment to the Virginia regulatory program under the Surface Mining

Control and Reclamation Act of 1977 (SMCRA or the Act). The program amendment revises the Virginia Coal Surface Mining Reclamation Regulations concerning review of a decision not to inspect or enforce. The amendment is intended to specify the time limit for filing a request for review of a decision and to identify with whom a request for review should be filed.

**DATES:** *Effective Date:* October 18, 2007.

**FOR FURTHER INFORMATION CONTACT:** Mr. Earl Bandy, Director, Knoxville Field Office; Telephone: (276) 523–4303. Internet: [ebandy@osmre.gov](mailto:ebandy@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Virginia Program
- II. Submission of the Amendment
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**I. Background on the Virginia 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, “\* \* \* a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act \* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.” See 30 U.S.C. 1253(a) (1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Virginia program on December 15, 1981. You can find background information on the Virginia program, including the Secretary’s findings, the disposition of comments, and conditions of approval of the Virginia program in the December 15, 1981, **Federal Register** (46 FR 61088). You can also find later actions concerning Virginia’s program and program amendments at 30 CFR 946.12, 946.13, and 946.15.