

**Surface Mining Reclamation and Enforcement, Interior**

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IAC 1701.Appendix A, also known as 62 IAC 1701.5, as submitted by Illinois on May 22, 1987, are disapproved to the extent that they expand the “needed for and adjacent” test to allow claims of valid existing rights for lands for which the applicant obtained the requisite property rights after August 3, 1977.

(d) In 62 IAC 1816.68(a) and 1817.68(a), as submitted by Illinois on July 17, 1989, the deletion of “wind velocity and direction” from the list of factors required in the blast records is disapproved.

[53 FR 43138, Oct. 25, 1988, as amended at 54 FR 123, Jan. 4, 1989; 55 FR 35314, Aug. 29, 1990]

**§ 913.20 Approval of Illinois abandoned mine land reclamation plan.**

The Secretary approved the Illinois abandoned mine land reclamation plan, as submitted on July 20, 1980, effective June 1, 1982. Copies of the approved plan are available at:

(a) Illinois Department of Natural Resources, Office of Mines and Min-

erals, Abandoned Mine Land Reclamation Division, One Natural Resources Way, Springfield, Illinois 62701-1787.

(b) Office of Surface Mining Reclamation and Enforcement, Indianapolis Field Office, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204-1521.

[64 FR 20166, Apr. 26, 1999, as amended at 69 FR 42870, July 19, 2004]

**§ 913.25 Approval of Illinois abandoned mine land reclamation plan amendments.**

The following is a list of the dates amendments were submitted to OSM, the dates when the Director’s decision approving all, or portions of these amendments, were published in the FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

Original amendment submission date	Date of final publication	Citation/description
January 19, 1984 .....	June 11, 1984 .....	Emergency reclamation program.
September 6, 1989 ...	February 14, 1990 ..	Non-coal reclamation.
June 29, 1990 .....	November 2, 1990 ..	Procedures for public participation, ranking and selection of reclamation projects, liens, bids and contracts.
August 13, 1992 .....	January 14, 1993 ...	Ch. 96½, par. 8001.03; 8002.13.
July 2, 1993 .....	September 21, 1993	20 ILCS 1920 §§ 2.11, .13; 62 IAC 2501.37.
April 10, 1995 .....	July 11, 1995 .....	Executive Order No. 2 (1995), Part I(C); Part II(D); Part III(A), (C); Part IV(F).
October 22, 1998 .....	January 22, 1999 ...	Illinois Plan Narrative; 62 IAC 2501.1, .4, .7, .8, .10, .11, .13, .16, .19, .22, .25, .28, .31, and .40; 44 IAC 1150.10, 20, .30, .100, .200, .300, .400, .500, .700, .800, .900, .1000, .1100, .1200, .1300, .1325, and .1350.

[62 FR 9938, Mar. 5, 1997, as amended at 64 FR 3419, Jan. 22, 1999; 69 FR 42870, July 19, 2004]

**§ 913.30 State-Federal cooperative agreement.**

The Governor of the State of Illinois (Governor) and the Secretary of the Department of the Interior (Secretary) enter into a Cooperative Agreement (Agreement) to read as follows:

**ARTICLE I: INTRODUCTION, PURPOSES AND RESPONSIBLE AGENCIES**

A. *Authority:* This Agreement is authorized by section 523(c) of the Surface Mining Control and Reclamation Act (SMCRA), 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program approved by the Secretary under section 503 of SMCRA, 30 U.S.C. 1253, to elect to enter into an agreement for State regulation of surface coal

mining and reclamation operations (including surface operations and surface impacts incident to underground mining operations) on Federal lands. This Agreement provides for State regulation of coal exploration operations not subject to 43 CFR part 3480, Subpart 3480 through 3487, and surface coal mining and reclamation operations in Illinois on Federal lands (30 CFR Chapter VII Subchapter D), consistent with SMCRA and State and Federal laws governing such activities and the Illinois State Program (Program).

B. *Purposes:* The purposes of this Agreement are to (a) foster Federal-State cooperation in the regulation of surface coal mining and reclamation operations and coal exploration operations not subject to 43 CFR part 3480, subparts 3480 through 3487; (b) minimize intergovernmental overlap and duplication;

and (c) provide uniform and effective application of the Program on all lands in Illinois in accordance with SMCRA, the Program, and this Agreement.

C. *Responsible Administrative Agencies:* The Land Reclamation Division (LRD) of the Illinois Department of Mines and Minerals will be responsible for administering this Agreement on behalf of the Governor. The Office of Surface and Mining Reclamation and Enforcement (OSMRE) will administer this Agreement on behalf of the Secretary.

#### ARTICLE II: EFFECTIVE DATE

After being signed by the Secretary and the Governor, this Agreement will take effect 30 days after publication in the FEDERAL REGISTER as a final rule. This Agreement will remain in effect until terminated as provided in Article XI.

#### ARTICLE III: DEFINITIONS

The terms and phrases used in this Agreement which are defined in SMCRA, 30 CFR parts 700, 701 and 740, the Program, and this Agreement including the State Act [Ill. Rev. Stat. Ch 96½, Section 7901 *et seq.* (1985)], and the rules and regulations promulgated pursuant to those Acts, will be given the meanings set forth in said definitions. Where there is a conflict between the above reference State and Federal definitions, the definitions used in the Program will apply.

#### ARTICLE IV: APPLICABILITY

In accordance with the Federal lands program, the laws, regulations, terms and conditions of the Program and this Agreement are applicable to Federal lands in Illinois except as otherwise stated in this Agreement, SMCRA, 30 CFR 740.4, 740.11(a) and 745.13, and other applicable laws, Executive Orders, or regulations.

#### ARTICLE V: GENERAL REQUIREMENTS

The Governor and the Secretary affirm that they will comply with all the provisions of this Agreement.

A. *Authority of State Agency:* IRD has and will continue to have the authority under State law to carry out this Agreement.

B. *Funds:* 1. Upon application by LRD and subject to appropriations, OSMRE will provide the State with the funds to defray the costs associated with carrying out its responsibilities under this Agreement as provided in section 705(c) of SMCRA, the grant agreement, and 30 CFR 735.16. Such funds will cover the full cost incurred by LRD in carrying out these responsibilities, provided that such cost does not exceed the estimated cost the Federal government would have expended on such responsibilities in the absence of this Agreement.

2. OSMRE's Springfield Field Office and OSMRE's Eastern Field Operations office

will work with LRD to estimate the amount the Federal government would have expended for regulation of Federal lands in Illinois in the absence of this Agreement.

3. OSMRE and the State will discuss the OSMRE Federal lands cost estimate. After resolution of any issues, LRD will include the Federal lands cost estimate in the State's annual regulatory grant application submitted to OSMRE's Springfield Field Office.

The State may use the existing year's budget totals, adjusted for inflation and workload considerations in estimating regulatory costs for the following grant year. OSMRE will notify LRD as soon as possible if such projections are unrealistic.

4. If LRD applies for a grant but sufficient funds have not been appropriated to OSMRE, OSMRE and LRD will promptly meet to decide on appropriate measures that will insure that surface coal mining and reclamation operations on Federal lands in Illinois are regulated in accordance with the Program. If agreement cannot be reached, either party may terminate the Agreement in accordance with Article XI of this Agreement.

5. Funds provided to the LRD under this Agreement will be adjusted in accordance with Office of Management and Budget Circular A-102, Attachment E.

C. *Reports and Records:* LRD will make annual reports to OSMRE containing information with respect to compliance with the terms of this Agreement pursuant to 30 CFR 745.12(d). Upon request, LRD and OSMRE will exchange information developed under this Agreement, except where prohibited by Federal or State law.

OSMRE will provide LRD with a copy of any final evaluation report prepared concerning State administration and enforcement of this Agreement. LRD comments on the report will be appended before transmission to the Congress, unless necessary to respond to a request by a date certain, or to other interested parties.

D. *Personnel:* Subject to adequate appropriations and grant awards, the LRD will maintain the necessary personnel to fully implement this Agreement in accordance with the provisions of SMCRA, the Federal lands program, and the Program.

E. *Equipment and Laboratories:* Subject to adequate appropriations and grant awards, the LRD will assure itself access to equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses can be performed which are necessary to carry out the requirements of the Agreement.

F. *Permit Application Fees and Civil Penalties:* The amount of the fee accompanying an application for a permit for surface coal mining and reclamation operations on Federal lands in Illinois will be determined in accordance with section 2.05 of the Illinois

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State Act, 62 Ill. Adm. Code 1771.25, and the applicable provisions of the Program and Federal law. All permit fees, civil penalties and fines collected from operations on Federal lands will be retained by the State and will be deposited with the State Treasurer. Permit fees will be considered program income. Civil penalties and fines will not be considered program income. The financial status report submitted pursuant to 30 CFR 735.26 will include a report of the amount of fees, penalties, and fines collected during the State's prior fiscal year.

### ARTICLE VI: REVIEW OF PERMIT APPLICATION PACKAGE

#### *A. Submission of Permit Application Package*

1. LRD and the Secretary require an applicant proposing to conduct surface coal mining and reclamation operations on Federal lands covered by this Agreement to submit a permit application package (PAP) in an appropriate number of copies to LRD. LRD will furnish OSMRE and other Federal agencies with an appropriate number of copies of the PAP. The PAP will be in the form required by LRD and will include any supplemental information required by OSMRE, the Federal land management agency, and other agencies with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP.

At a minimum, the PAP will satisfy the requirements of 30 CFR 740.13(b) and include the information necessary for LRD to make a determination of compliance with the Program and for OSMRE and the appropriate Federal agencies to make determinations of compliance with applicable requirements of SMCRA, the Federal lands program, and other Federal laws, Executive Orders, and regulations for which they are responsible.

2. For any outstanding or pending permit applications on Federal lands being processed by OSMRE prior to the effective date of this Agreement, OSMRE will maintain sole permit decision responsibility. After the final decision, all additional responsibilities shall pass to LRD pursuant to the terms of this Agreement.

#### *B. Review Procedures Where There is No Leased Federal Coal Involved*

1. LRD will assume the responsibilities for review of permit applications where there is no leased Federal coal to the extent authorized in 30 CFR 740.4(c) (1), (2), (4), (6) and (7). In addition to consultation with the Federal Land Management Agency pursuant to 30 CFR 740.4(c)(2), LRD will be responsible for obtaining, except for non-significant revisions, the comments and determinations of other Federal agencies with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP. LRD will request such Federal agencies to furnish

their findings or any requests for additional information to LRD within 45 calendar days of the date of receipt of the PAP. OSMRE will assist LRD in obtaining this information, upon request.

Responsibilities and decisions which can be delegated to LRD under other applicable Federal laws may be specified in working agreements between OSMRE and the State, with the concurrence of any Federal agency involved, and without amendment to this agreement.

2. LRD will assume primary responsibility for the analysis, review and approval or disapproval of the permit application component of the PAP required by 30 CFR 740.13 for surface coal mining and reclamation operations in Illinois on Federal lands not requiring a mining plan pursuant to the Mineral Leasing Act (MLA). LRD will review the PAP for compliance with the Program and State Act and regulations. LRD will be the primary point of contact for applicants regarding decisions on the PAP and will be responsible for informing the applicant of determinations.

3. The Secretary will make his determinations under SMCRA that cannot be delegated to the State. Some of which have been delegated to OSMRE.

4. OSMRE and LRD will coordinate with each other during the review process as needed. OSMRE will provide technical assistance to LRD when requested, if available resources allow. LRD will keep OSMRE informed of findings made during the review process which bear on the responsibilities of OSMRE or other Federal agencies. OSMRE may provide assistance to LRD in resolving conflicts with Federal land management agencies. OSMRE will be responsible for ensuring that any information OSMRE receives from an applicant is promptly sent to LRD. OSMRE will have access to LRD files concerning operations on Federal lands. OSMRE will send to LRD copies of all resulting correspondence between OSMRE and the applicant that may have a bearing on decisions regarding the PAP. The Secretary reserves the right to act independently of LRD to carry out his responsibilities under laws other than SMCRA.

5. LRD will make a decision on approval or disapproval of the permit on Federal lands.

(a) Any permit issued by LRD will incorporate any lawful terms or conditions imposed by the Federal land management agency, including conditions relating to post-mining land use, and will be conducted on compliance with the requirements of Federal land management agency.

(b) The permit will include lawful terms and conditions required by other applicable Federal laws and regulations.

(c) After making its decision on the PAP, LRD will send a notice to the applicant,

OSMRE, the Federal land management agency, and any agency with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP.

A copy of the permit and written findings will be submitted to OSMRE upon request.

*C. Review Procedures Where Leased Federal Coal is Involved*

1. LRD will assume the responsibilities listed in 30 CFR 740.4(c) (1), (2), (3), (4), (6) and (7), to the extent authorized.

In accordance with 30 CFR 740.4(c)(1), LRD will assume primary responsibility for the analysis, review and approval, disapproval or conditional approval of the permit application component of the PAP for surface coal mining and reclamation operations in Illinois where a mining plan is required, including applications for revisions, renewals and transfer sale and assignment of such permits. OSMRE will, at the request of the State, assist to the extent possible in this analysis and review.

LRD will be the primary point of contact for applicants regarding the review of the PAP for compliance with the Program and State law and regulations. LRD will be responsible for informing the applicant of all joint State-Federal determinations.

LRD will to the extent authorized, consult with the Federal land management agency and the Bureau of Land Management (BLM) pursuant to 30 CFR 740.4(c)(2) and (3), respectively. On matters concerned exclusively with regulations under 43 CFR part 3480, Subparts 3480 through 3487, BLM will be primary contact with the applicant. BLM will inform LRD of its actions and provide LRD with a copy of documentation on all decisions.

LRD will send the OSMRE copies of any correspondence with the applicant and any information received from the applicant regarding the PAP. OSMRE will send to LRD copies of all OSMRE correspondence with the applicant which may have a bearing on the PAP. As a matter of practice, OSMRE will not independently initiate contacts with applicants regarding completeness or deficiencies of the PAP with respect to matters covered by the Program.

LRD will also be responsible for obtaining the comments and determinations of other Federal agencies with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP. LRD will request all Federal agencies to furnish their findings or any requests for additional information to LRD within 45 days of the date of receipt of the PAP. OSMRE will assist LRD in obtaining this information, upon request of LRD.

LRD will be responsible for approval and release of performance bonds under 30 CFR 740.4(c)(4) in accordance with Article IX of this agreement, and for review and approval

of exploration operations not subject to 43 CFR part 3480, subparts 3480-3487, under 30 CFR 740.4(c)(6).

LRD will prepare documentation to comply with the requirements of NEPA under 30 CFR 740.4(c)(7); however, OSMRE will retain the responsibility for the exceptions in 30 CFR 740.4(c)(7)(i)-(vii).

2. The Secretary will concurrently carry out his responsibilities under 30 CFR 740.4(a) that cannot be delegated to LRD under the Federal lands program, MLA, the National Environmental Policy Act (NEPA), this Agreement, and other applicable Federal laws. The Secretary will carry out these responsibilities in a timely manner and will avoid, to the extent possible, duplication of the responsibilities of the State as set forth in this Agreement and the Program. The Secretary will consider the information in the PAP and, where appropriate, make decisions required by SMCRA, MLA, NEPA, and other Federal laws.

Responsibilities and decisions which can be delegated to the State under other applicable Federal laws may be specified in working agreements between OSMRE and LRD, with concurrence of any Federal agency involved, and without amendment to this Agreement.

Where necessary to make the determination to recommend that the Secretary approve the mining plan, OSMRE will consult with and obtain the concurrences of the BLM, the Federal land management agency and other Federal agencies as required.

The Secretary reserves the right to act independently of LRD to carry out his responsibilities under laws other than SMCRA or provisions of SMCRA not covered by the Program, and in instances of disagreement over SMCRA and the Federal lands program.

3. OSMRE will assist LRD in carrying out LRD's responsibilities by:

(a) Coordinating resolution of conflicts and difficulties between LRD and other Federal agencies in a timely manner.

(b) Assisting in scheduling joint meetings, upon request, between State and Federal agencies.

(c) Where OSMRE is assisting LRD in reviewing the PAP, furnishing to LRD the work product within 50 calendar days of receipt of the State's request for such assistance, unless a different time is agreed upon by OSMRE and LRD.

(d) Exercising its responsibilities in a timely manner, governed to the extent possible by the deadlines established in the Program.

4. Review of the PAP: (a) OSMRE and LRD will coordinate with each other during the review process as needed. LRD will keep OSMRE informed of findings made during the review process which bear on the responsibilities of OSMRE or other Federal agencies. OSMRE will ensure that any information OSMRE receives which has a bearing on

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decisions regarding the PAP is promptly sent to LRD.

(b) LRD will review the PAP for compliance with the Program and State law and regulations.

(c) OSMRE will review the operation and reclamation plan portion of the permit application, and any other appropriate portions of the PAP for compliance with the non-delegable responsibilities of SMCRA and for compliance with the requirements of other Federal laws and regulations.

(d) OSMRE and LRD will develop a work plan and schedule for PAP review and each will identify a person as the project leader. The project leaders will serve as the primary points of contact between OSMRE and LRD throughout the review process. Not later than 50 days after receipt of the PAP, unless a different time is agreed upon, OSMRE will furnish LRD with its review comments on the PAP and specify any requirements for additional data. To the extent practicable, LRD will provide OSMRE all available information that may aid OSMRE in preparing any findings.

(e) LRD will prepare a State decision package, including written findings and supporting documentation, indicating whether the PAP is in compliance with the Program. The review and finalization of the State decision package will be conducted in accordance with procedures for processing PAPs agreed upon by LRD and OSMRE.

(f) LRD may make a decision on approval or disapproval of the permit on Federal lands in accordance with the Program prior to the necessary Secretarial decision on the mining plan, provided that LRD advises the operator in the permit that Secretarial approval of the mining plan must be obtained before the operator may conduct coal development or mining operations on the Federal lease. LRD will reserve the right to amend or rescind any requirements of the permit to conform with any terms or conditions imposed by the Secretary in his approval of the mining plan.

(g) The permit will include, as applicable, terms and conditions required by the lease issued pursuant to the MLA and by any other applicable Federal laws and regulations, including conditions imposed by the Federal land management agency relating to post-mining land use, and those of other affected agencies, and will be conditioned on compliance with the requirements of the Federal land management agency with jurisdiction.

(h) After making its decision on the PAP, LRD will send a notice to the applicant, OSMRE, the Federal land management agency, and any agency with jurisdiction or responsibility over Federal land affected by operations proposed in the PAP. A copy of the written findings and the permit will also be submitted to OSMRE.

5. OSMRE will provide technical assistance to LRD when requested, if available resources allow. OSMRE will have access to LRD files concerning operations on Federal lands.

### *D. Review Procedures for Permit Revisions; Renewals; and Transfer Assignment or Sale of Permit Rights*

1. Any permit revision or renewal for an operation on Federal lands will be reviewed and approved or disapproved by LRD after consultation with OSMRE on whether such revision or renewal constitutes a mining plan modification pursuant to 30 CFR 746.18. OSMRE will inform LRD within 30 days of receiving a copy of a proposed revision or renewal, whether the permit revision, or renewal constitutes a mining plan modification. Where approval of a mining plan modification is required, OSMRE and LRD will follow the procedures outlined in paragraphs C.1. through C.5. of this Article.

2. OSMRE may establish criteria consistent with 30 CFR 746.18 to determine which permit revisions and renewals clearly do not constitute mining plan modifications.

3. Permit revisions or renewals on Federal lands which are determined by OSMRE not to constitute mining plan modifications under paragraph D.1. of this Article or that meet the criteria for not being mining plan modifications as established under paragraph D.2. of this Article will be reviewed and approved following the procedures set forth in 62 Ill. Adm. Code 1774 and paragraphs B.1. through B.5. of this Article.

4. Transfer, assignment or sale of permit rights on Federal lands shall be processed in accordance with 62 Ill. Adm. Code 1774 and 30 CFR 740.13(e).

### ARTICLE VII: INSPECTIONS

A. LRD will conduct inspections on Federal lands in accordance with 30 CFR 740.4(c)(5) and prepare and file inspection reports in accordance with the Program.

B. LRD will, subsequent to conducting any inspection pursuant to 30 CFR 740.4(c)(5), and on a timely basis, file with OSMRE a legible copy of the completed State inspection report.

C. LRD will be the point of contact and primary inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by the agreement, except as described hereinafter. Nothing in this Agreement will prevent inspections by authorized Federal or State agencies for purposes other than those covered by this Agreement. The Department may conduct any inspections necessary to comply with 30 CFR parts 842 and 843 and its obligations under laws other than SMCRA.

D. OSMRE will ordinarily give LRD reasonable notice of its intent to conduct an inspection under 30 CFR 842.11 in order to provide State inspectors with an opportunity to join in the inspection.

When OSMRE is responding to a citizen complaint of an imminent danger to the public health and safety, or of significant, imminent environmental harm to land, air or water resources, pursuant to 30 CFR 842.11(b)(1)(ii)(C), it will contact LRD no less than 24 hours prior to the Federal inspection, if practicable, to facilitate a joint Federal/State inspection. All citizen complaints which do not involve an imminent danger or significant, imminent environmental harm will be referred to LRD for action. The Secretary reserves the right to conduct inspections without prior notice to LRD to carry out his responsibilities under SMCRA.

#### ARTICLE VIII: ENFORCEMENT

A. LRD will have primary enforcement authority under SMCRA concerning compliance with the requirements of this Agreement and the Program in accordance with 30 CFR 740.4(c)(5). Enforcement authority given to the Secretary under other Federal laws and Executive orders including, but not limited to, those listed in Appendix A (attached) is reserved to the Secretary.

B. During any joint inspection by OSMRE and LRD, LRD will have primary responsibility for enforcement procedures, including issuance of orders of cessation, notices of violation, and assessment of penalties. LRD will inform OSMRE prior to issuance of any decision to suspend or revoke a permit on Federal lands.

C. During any inspection made solely by OSMRE or any joint inspection where LRD and OSMRE fail to agree regarding the propriety of any particular enforcement action, OSMRE may take any enforcement action necessary to comply with 30 CFR parts 843 and 845. Such enforcement action will be based on the standards in the Program, SMCRA, or both, and will be taken using the procedures and penalty system contained in 30 CFR parts 843 and 845.

D. LRD and OSMRE will promptly notify each other of all violations of applicable laws, regulations, orders, or approved mining permits subject to this Agreement, and of all actions taken with respect to such violations.

E. Personnel of LRD and the Department of the Interior, including OSMRE, will be mutually available to serve as witness in enforcement actions taken by either party.

F. This Agreement does not affect or limit the Secretary's authority to enforce violations of Federal laws other than SMCRA.

#### ARTICLE IX: BONDS

A. LRD and the Secretary will require each operator who conducts operations on Federal lands to submit a performance bond payable to the State of Illinois and the United States to cover the operator's responsibilities under SMCRA and the Program. Such performance bond will be conditioned upon compliance with all requirements of the SMCRA, the Program, State rules and regulations, and any other requirements imposed by the Secretary or the Federal land management agency. Such bond will provide that if this Agreement is terminated, the portion of the bond covering the Federal lands will be payable only to the United States. LRD will advise OSMRE of annual adjustments to the performance bond pursuant to the program.

B. Performance bonds will be subject to release and forfeiture in accordance with the procedures and requirements of the Program. Where surface coal mining and reclamation operations are subject to an approved mining plan, a performance bond shall be released by the State after the release is concurred in by OSMRE.

C. Submission of a performance bond does not satisfy the requirements for a Federal lease bond required by 43 CFR Subpart 3474 or lessee protection bond required in addition to a performance bond, in certain circumstances, by section 715 of SMCRA.

#### ARTICLE X: DESIGNATING LAND AREAS UNSUITABLE FOR ALL OR CERTAIN TYPES OF SURFACE COAL MINING AND RECLAMATION OPERATIONS AND ACTIVITIES AND VALID EXISTING RIGHTS AND COMPATIBILITY DETERMINATIONS

##### *A. Unsuitability Petitions*

1. Authority to designate Federal lands as unsuitable for mining pursuant to a petition, including the authority to make substantial legal and financial commitment determinations pursuant to section 522(a)(6) of SMCRA, is reserved to the Secretary.

2. When either LRD or OSMRE receives a petition to designate land areas unsuitable for all or certain types of surface coal mining operations that could impact adjacent Federal or non-Federal lands pursuant to section 522(c) of SMCRA, the agency receiving the petition will notify the other of its receipt and the anticipated schedule for reaching a decision, and request and fully consider data, information and recommendations of the other. OSMRE will coordinate with the Federal land management agency with jurisdiction over the petition area, and will solicit comments from the agency.

##### *B. Valid Existing Rights and Compatibility Determinations*

The following actions will be taken when requests for determinations of VER pursuant

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to section 522(e) of SMCRA or for determinations of compatibility pursuant to section 522(e)(2) of SMCRA, and received prior to or at the time of submission of a PAP that involves surface coal mining and reclamation operations and activities:

1. For Federal lands within the boundaries of any areas specified under section 522(e)(1) of SMCRA, OSMRE will determine whether VER exists for such areas.

For private inholdings within section 522(e)(1) areas, LRD, with the consultation and concurrence of OSMRE, will determine whether surface coal mining operations on such lands will or will not affect the Federal interest (Federal lands as defined in section 701(4) of SMCRA). OSMRE will process VER determination requests on private inholdings within the boundaries of section 522(e)(1) areas where surface coal mining operations affects the Federal interest.

2. For Federal lands within the boundaries of any national forest where proposed operations are prohibited or limited by section 522(e)(2) of SMCRA and 30 CFR 761.11(b), OSMRE will make the VER determinations.

OSMRE will process requests for determinations of compatibility under section 522(e)(2) of SMCRA.

3. For Federal lands, LRD will determine whether any proposed operation will adversely affect any publicly owned park and, in consultation with the State Historic Preservation Officer, places listed in the National Register of Historic Places, with respect to the prohibitions or limitations of section 522(e)(3) of SMCRA. LRD will make the VER determination for such lands using the State Program. LRD will coordinate with any affected agency or agency with jurisdiction over the proposed surface coal mining and reclamation operations.

In the case that VER is determined not to exist under section 522(e)(3) of SMCRA or 30 CFR 761.11(c), no surface coal mining operations will be permitted unless jointly approved by LRD and the Federal, State or local agency with jurisdiction over the publicly owned park or historic place.

4. LRD will process and make determinations of VER on Federal lands, using the State Program, for all areas limited or prohibited by section 522(e)(4) and (5) of SMCRA as unsuitable for mining. For operations on Federal lands, LRD will coordinate with any affected agency or agency with jurisdiction over the proposed surface coal mining and reclamation operation.

### ARTICLE XI: TERMINATION OF COOPERATIVE AGREEMENT

This Agreement may be terminated by the Governor or the Secretary under the provisions of 30 CFR 745.15.

### ARTICLE XII: REINSTATEMENT OF COOPERATIVE AGREEMENT

If this Agreement has been terminated in whole or in part it may be reinstated under the provisions of 30 CFR 745.16.

### ARTICLE XIII: AMENDMENT OF COOPERATIVE AGREEMENT

This Agreement may be amended by mutual agreement of the Governor and the Secretary in accordance with 30 CFR 745.14.

### ARTICLE XIV: CHANGES IN STATES OR FEDERAL STANDARDS

A. The Secretary or the Governor may from time to time promulgate new or revised performance or reclamation requirements or enforcement and administration procedures. Each party will, if it determines it to be necessary to keep this Agreement in force, change or revise its regulations or request necessary legislative action. Such changes will be made under the procedures of 30 CFR part 732 for changes to the Program and under the procedures of section 501 of SMCRA for changes to the Federal lands program.

B. LRD and the Secretary will provide each other with copies of any changes to their respective laws, rules, regulations or standards pertaining to the enforcement and administration of this Agreement.

### ARTICLE XV: CHANGES IN PERSONNEL AND ORGANIZATION

Each party to this Agreement will notify the other, when necessary, of any changes in personnel, organization and funding, or other changes that may affect the implementation of this Agreement to ensure coordination of responsibilities and facilitate cooperation.

### ARTICLE XVI: RESERVATION OF RIGHTS

This Agreement will not be construed as waiving or preventing the assertion of any rights in this Agreement that the State or the Secretary may have under laws other than SMCRA or their regulations, including but not limited to those listed in Appendix A.

Dated: September 17, 1987.

James R. Thompson,  
*Governor of Illinois.*

Dated: October 22, 1987.

Donald Paul Hodel,  
*Secretary of the Interior.*

### APPENDIX A

1. The Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.*, and implementing regulations.

2. The Mineral Leasing Act of 1920, 30 U.S.C. 181 *et seq.*, and implementing regulations, including 43 CFR part 3480.

3. The National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and implementing regulations, including 40 CFR part 1500.

4. The Endangered Species Act, as amended, 16 U.S.C. 1531 *et seq.*, and implementing regulations, including 50 CFR part 402.

5. The Fish and Wildlife Coordination Act, as amended, 16 U.S.C. 661 *et seq.*; 48 Stat. 401.

6. The National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, and implementing regulations, including 36 CFR part 800.

7. The Clean Air Act, 42 U.S.C. 7401 *et seq.*, and implementing regulations.

8. The Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, and implementing regulations.

9. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*, and implementing regulations.

10. The Reservoir Salvage Act of 1960, amended by the Preservation of Historical and Archaeological Data Act of 1974, 16 U.S.C. *et seq.*

11. Executive Order 11593 (May 13, 1971), Cultural Resource Inventories on Federal Lands.

12. Executive Order 11988 (May 24, 1977), for flood plain protection.

13. Executive Order 11990 (May 24, 1977), for wetlands protection.

14. The Mineral Leasing Act for Acquired Lands, 30 U.S.C. 351 *et seq.*, and implementing regulations.

15. The Stock Raising Homestead Act of 1916, 43 U.S.C. 291 *et seq.*

16. The Constitution of the United States.

17. Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*

18. 30 CFR Chapter VII.

19. The Constitution of the State of Illinois.

20. Illinois Surface Coal Mining Land Conservation and Reclamation Act [Ill. Rev. State. 1979, Ch. 96 1/2/par. 7901 *et seq.*]

21. Illinois Department of Mines and Minerals, Coal Mining and Reclamation Permanent Program, Rules and Regulations, 62 Ill. Adm. Code 1700-1850.

[52 FR 45329, Nov. 27, 1987]

## PART 914—INDIANA

Sec.

914.1 Scope.

914.10 State regulatory program approval.

914.15 Approval of Indiana regulatory program amendments.

914.16 Required program amendments.

914.17 State regulatory program and proposed program amendment provisions not approved.

914.20 Approval of Indiana abandoned mine land reclamation plan.

914.25 Approval of Indiana abandoned mine land reclamation plan amendments.

914.30 State-Federal Cooperative Agreement.

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

### §914.1 Scope.

This part contains all rules applicable only within Indiana that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

[47 FR 32107, July 26, 1982]

### §914.10 State regulatory program approval.

The Secretary conditionally approved the Indiana regulatory program, as submitted on March 3, 1980, amended and clarified on June 4, 1980, resubmitted on September 28, 1981, and clarified on December 8, 1981, April 8, 1982, May 18-19, 1982 and May 26, 1982, effective July 29, 1982. He fully approved the Indiana program, as amended on April 19 and 28, 1983, effective August 19, 1983. Copies of the approved program are available at:

(a) Indiana Department of Natural Resources, Division of Reclamation, R.R. 2, Box 129, Jasonville, IN 47438-9517.

(b) Office of Surface Mining Reclamation and Enforcement, Indianapolis Field Office, Minton-Capehart Federal Building, Room 301, 575 North Pennsylvania Street, Indianapolis, IN 46204-1521.

[64 FR 20166, Apr. 26, 1999, as amended at 69 FR 55352, Sept. 14, 2004]

### §914.15 Approval of Indiana regulatory program amendments.

The following is a list of the dates amendments were submitted to OSM, the dates when the Director's decision approving all, or portions of these amendments, were published in the FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.