5415, 5504, 5555, 5684(a), 5741, 5761(b), 5802, 6020, 6021, 6064, 6102, 6155, 6159, 6201, 6203, 6204, 6301, 6303, 6311, 6313, 6314, 6321, 6323, 6325, 6326, 6331–6343, 6401–6404, 6407, 6416, 6423, 6501–6503, 6511, 6513, 6514, 6532, 6601, 6602, 6611, 6621, 6622, 6651, 6653, 6656–6658, 6665, 6671, 6672, 6701, 6723, 6801, 6862, 6863, 6901, 7011, 7101, 7102, 7121, 7122, 7207, 7209, 7214, 7304, 7401, 7403, 7406, 7423, 7424, 7425, 7426, 7429, 7430, 7432, 7502, 7503, 7505, 7506, 7513, 7601–7606, 7608–7610, 7622, 7623, 7653, 7805.

§§ 70.431, 70.432, and 70.462 [Amended]

Par. 7. Remove the reference to ''part 290'' and add, in its place, a reference to ''part 44'' in the following places:

a. Section 70.431(b)(5);

b. Section 70.432(d); and

c. Section 70.462.

PART 290—EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

Par. 8. The authority citation for 27 CFR part 290 continues to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703–5705, 5711–5713, 5721–5723, 5731, 5741, 5751, 5754, 6061, 6065, 6151, 6402, 6404, 6806, 7011, 7212, 7342, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

PART 290—[REDESIGNATED AS PART 44]

Par. 9. Transfer 27 CFR part 290 from subchapter M to subchapter B and redesignate as 27 CFR part 44.

PART 44—EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

Par. 10. The authority citation for the newly redesignated 27 CFR part 44 continues to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703–5705, 5711–5713, 5721–5723, 5731, 5741, 5751, 5754, 6061, 6065, 6151, 6402, 6404, 6806, 7011, 7212, 7342, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 11. Amend the newly redesignated part 44 as follows:

AMENDMENT TABLE FOR PART 44

Amend section:	By removing the reference to:	And adding in its place:
44.31(a)	290.32	44.32
44.32(b)	290.31	44.31
44.33(b)(3)	290.34	44.34
44.33(c)(2)	290.142	44.142
44.35(a)	290.33(c)(2)	44.33(c)(2)
44.62	290.207	44.207
44.62	290.263	44.263
44.63	290.62	44.62
44.67(a)	290.66	44.66
44.82	290.93	44.93
44.83	290.82	44.82
44.84	290.82	44.82
44.85	290.82	44.82
44.86	290.88	44.88
44.87	290.83	44.83
44.88	290.82	44.82
44.88	290.86	44.86
44.93	290.142	44.142
44.102	290.85	44.85
44.104	290.144	44.144
44.104	290.88	44.88
44.104	290.126	44.126
44.105	290.88	44.88
44.105	290.146	44.146
44.105	290.151	44.151
44.105	290.144	44.144
44.107	290.146	44.146
44.107	290.151	44.151
44.108	290.126	44.126
44.110	290.146	44.146
44.110	290.151	44.151
44.111	290.88	44.88
44.112	290.111	44.111
44.112	290.126	44.126
44.112	290.89	44.89
44.123	290.86	44.86
44.123	290.124	44.124
44.123	290.125	44.125
44.124	290.123	44.123
44.144	290.93	44.93
44.161	290.146	44.146
44.161	290.151	44.151
44.200	290.147	44.147
44.205(d)	290.72	44.72
44.222	290.224	44.224
44.223	290.121	44.121
44.223	290.122	44.122
44.224	290.222	44.222
44.225	290.224	44.224
44.226	290.224	44.224
44.230	290.228	44.228
44.243	290.121	44.121
44.243	290.122	44.122
44.244	290.243	44.243
44.244	290.245	44.245
44.244	290.246	44.246
44.245	290.244	44.244
44.264	290.200	44.200
44.266	290.201	44.201

Signed: May 24, 2001.

Bradley A. Buckles,

Director.

Approved: June 11, 2001.

Timothy E. Skud,

Acting Deputy Assistant Secretary, (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 01–20906 Filed 8–17–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

[VA–119–FOR]

Virginia Regulatory Program

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

ACTION: Final rule.

SUMMARY: OSM is approving, with two exceptions, an amendment to the Virginia permanent regulatory program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The program amendment consists of changes to the Virginia Surface Mining Reclamation Regulations concerning letters of credit. The amendment is intended to revise the Virginia program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: August 20, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Penn, Director, Big Stone Gap Field Office, Office of Surface Mining Reclamation and Enforcement, 1941 Neeley Road, Suite 201, Compartment 116, Big Stone Gap, Virginia 24219, Telephone: (540) 523–4303.

SUPPLEMENTARY INFORMATION:

I. Background on the Virginia Program

Section 503(a) of SMCRA 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 SMCRA. 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 the conditions of

approval in the December 15, 1981, **Federal Register** (46 FR 61085–61115). You can find later actions on conditions of approval and program amendments at 30 CFR 946.11, 946.12, 946.13, 946.15, and 946.16.

II. Submission of the Amendment

By letter dated September 22, 2000 (Administrative Record Number VA–1008) the Virginia Department of Mines, Minerals and Energy (DMME) submitted an amendment to the Virginia program. In its letter, the DMME stated that the program amendment changes the Virginia program rules at 4 VAC 25–130–700.5 and 4 VAC 25–130–800.21 in response to amendments required by OSM in the May 3, 1999, **Federal Register** (64 FR 23542).

On May 3, 1999, OSM approved an amendment to the Virginia program which amended the Virginia Coal Surface Mining Control and Reclamation Act by adding ''letter of credit'' as an acceptable form of collateral bond to satisfy the performance bonding requirements of the Virginia Act. In our approval of the Virginia amendment, we required that the Virginia program regulations be revised to be no less effective than the Federal regulations at 30 CFR 800.5(b), and 30 CFR 800.21(b)(2) concerning letters of credit. We codified this requirement at 30 CFR 946.16(a). The amendment submitted by Virginia is intended to satisfy this required amendment.

We announced receipt of the proposed rulemaking in the October 4, 2000, **Federal Register** (65 FR 59152), invited public comment, and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on November 3, 2000. We received three comment letters from Federal agencies. No one requested to speak at a public hearing, so no hearing was held.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendments to the Virginia program. Only the substantive changes submitted by Virginia will be discussed below.

4 VAC 25–130–700.5. Definitions

The definition of ''Collateral bond'' is amended by adding a new paragraph (d) to read as follows.

(d) An irrevocable letter of credit of any bank organized or authorized to transact business in the United States, payable only to the Department at sight prepared in accordance with the Uniform Customs and Practices for Documentary Credits (1993 revision or the UCP revision current at the time of issuance of the letter of credit) International Chamber of Commerce (Publication No. 500).

This new language is substantively identical to the Federal definition of ''Collateral bond'' at 30 CFR 800.5(b)(4), with two exceptions. Virginia uses the phrase ''at sight'' while the Federal rule says ''upon presentation.'' Ballentine's Law Dictionary, 3d ed., defines ''at sight'' to mean ''on presentment; on being shown the instrument.'' Therefore, Virginia's use of the phrase ''at sight'' is no less effective than 30 CFR 800.5(b)(4). The new State language also requires that irrevocable letters of credit be prepared in accordance with the Uniform Customs and Practices for Documentary Credits (1993 revision or the UCP revision current at the time of issuance of the letter of credit) International Chamber of Commerce (Publication No. 500). The Uniform Customs and Practices for Documentary Credits was created by the International Chamber of Commerce and is used in the United States as well as many other countries. The UCP defines the liabilities and responsibilities of banks, the relationship of letters of credits with other documents as well as various other provisions. We find that the incorporation by reference to the 1993 UCP is not inconsistent with the Federal regulations at 30 CFR 800.5(b)(4) and can be approved. However we are not approving the phrase, ''or the UCP revision current at the time of issuance of the letter of credit.'' We are not approving this language because we cannot approve future revisions without reviewing the revisions and understanding their effects on the Virginia program and whether they would render the Virginia program less effective.

4 VAC 25–130–800.21. Collateral bonds

This provision is amended by revising paragraph (a) by adding the phrase ''except for letters of credit'' in the introductory sentence, adding a new paragraph (c), and re-lettering existing paragraph (c) as paragraph (d).

As amended, 4 VAC 25–130–800.21(a) reads as follows.

(a) Collateral bonds, except for letters of credit, shall be subject to the following conditions: The division shall * * *

The counterpart Federal regulations at 30 CFR 800.21(a), concerning collateral bonds, contains this same phrase. We find that the words ''except for letters of credit'' have the same effect in the Virginia program as they do in the counterpart Federal regulations. We find, therefore, that the State amendment does not render the Virginia program less effective than the Federal regulations at 30 CFR 800.21(a) and can be approved.

VAC 25–130–800.21(c) and (d)

These provisions have been amended to read as follows.

(c) Letters of credit shall be subject to the following conditions:

(1) The letter may be issued only by a bank organized or authorized to do business in the United States and must conform to the Uniform Customs and Practice for Documentary Credits (1993 Revision or revision current at the time of issuance of the letter of credit) International Chamber of Commerce (Publication No. 500);

(2) Letters of credit shall be irrevocable during their terms. A letter of credit used as security in areas requiring continuous bond coverage shall be forfeited and shall be collected by the division if not replaced by other suitable bond or letter of credit at least 30 days before its expiration date; and

(3) The letter of credit shall be payable to the Department at sight, in part or in full, upon receipt from the division of a notice of forfeiture issued in accordance with 4 VAC 25–130–800.50.

(d) Persons with an interest in collateral posted as a bond, and who desire notification of actions pursuant to the bond, shall request the notification in writing to the division at the time collateral is offered.

We find that the new language at 4 VAC 25–130–800.21(c) is substantively identical to the counterpart Federal regulations at 30 CFR 800.21(b) concerning collateral bonds, letters of credit, with the following two exceptions. Virginia uses the phrase ''at sight'' while the Federal rule says ''upon demand.'' Virginia's Commercial Code at § 3–108, states that an instrument payable on demand include those payable at sight or on demand. Therefore, Virginia's use of the phrase ''at sight'' is no less effective than the Federal rules. The new State language at 4 VAC 25–130–800.21(c)(1) also provides that letters of credit must conform to the Uniform Customs and Practice for Documentary Credits (1993 Revision or revision current at the time of issuance of the letter of credit) International Chamber of Commerce (Publication No. 500). As previously stated, the UCP defines the liabilities and responsibilities of banks, the relationship of letters of credits with other documents as well as various other provisions. We find that the incorporation by reference to the 1993 UCP is not inconsistent with the Federal regulations at 30 CFR 800.21(b)(1) and can be approved. However we are not approving the phrase, ''or revision current at the time of issuance of the

letter of credit.'' We are not approving this language because we cannot approve future revisions without reviewing the revisions and understanding their effects on the Virginia program and whether they would render the Virginia program less effective.

In addition to our partial approval of the Virginia amendments, we find that the approved provisions fully address the requirements of the required amendment codified at 30 CFR 946.16(a), which can, therefore, be removed.

IV. Summary and Disposition of Comments

Federal Agency Comments

On October 10, 2000, we asked for comments from various Federal agencies which may have an interest in the Virginia amendment (Administrative Record Number VA–1009). We solicited comments in accordance with section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the Federal regulations. Two comment letters were received. The U.S. Department of Labor, Mine Safety and Health Administration (MSHA) responded and stated that the Virginia amendment does not impact, nor conflict with any law, policy or regulation enforced by MSHA. The U.S. Department of Agriculture, Natural Resources Conservation Service responded and concurred with the amendments.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(i) and (ii), OSM is required to solicit comments and obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated 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 amendments submitted by Virginia pertain to air or water quality standards. By letter dated October 10, 2000, we requested EPA's comments on the proposed amendment (Administrative Record Number VA–1009).

The EPA responded by letter dated April 11, 2001 (Administrative Record Number VA–1012), and stated that the amendment does not conflict with the Clean Water Act. The EPA provided no other comments.

Public Comments

We solicited public comments on the amendment. We did not receive any public comments.

V. Director's Decision

Based on the findings above, we are approving the amendments to the Virginia program, except as noted below. We are not approving the words, ''or the UCP revision current at the time of issuance of the letter of credit,'' in the definition of ''Collateral bond,'' paragraph (d), at 4 VAC 25–130–700.5; and, we are not approving the words, ''or revision current at the time of issuance of the letter of credit,'' at 4 VAC 25–130–800.21(c)(1). In addition, we are removing the required amendment codified at 30 CFR 946.16(a), which has been satisfied by this amendment.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 946 which codifies decisions concerning the Virginia 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 demonstrates that the State has the capability of carrying out the provisions of SMCRA and meeting its purposes. Making this regulation effective immediately will expedite that process.

VI. Procedural Determinations

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 12630—Takings

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

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 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, 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 regulatory programs and program amendments since each such 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 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 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. Since 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

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget 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 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. 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 for the counterpart Federal regulation.

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.

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 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 was not considered a major rule.

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 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 30, 2001.

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 946.12 is amended by revising the section heading and adding new paragraph (c) to read as follows:

§ 946.12 State program provisions and amendments not approved.

* * * * *

(c)(1) We are not approving the words, ''or the UCP revision current at the time of issuance of the letter of credit,'' in the definition of ''Collateral bond,'' paragraph (d), at 4 VAC 25–130–700.5; and

(2) We are not approving the words, ''or revision current at the time of issuance of the letter of credit'' at 4 VAC 25–130–800.21(c)(1).

3. Section 946.15 is amended by adding a new entry to the table in chronological order by ''Date of final publication'' to read as follows:

§ 946.15 Approval of Virginia regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* *	* *	* * *
September 22, 2000	[*Insert date of publication in the Federal Register*].	4 VAC 25–130–700.5 (partial approval); 800.21(a), (c)(1) (partial approval), (2) and (3), and (d).

§ 946.16 [Removed]

4. Section 946.16 is removed.

[FR Doc. 01–20903 Filed 8–17–01; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 207–0277a; FRL–7026–5]

Revision to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). This revision concerns volatile organic compound (VOC) emissions from Phase I gasoline transfer into stationary storage tanks and Phase II gasoline transfer into vehicle fuel tanks. We are approving a local rule that regulates this emission source under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on October 19, 2001 without further notice, unless EPA receives adverse comments by September 19, 2001. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect a copy of the submitted rule revision and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see a copy of the submitted rule revision at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 744–1135.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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