

*Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in cost or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

**List of Subjects in 21 CFR Part 1310**

Drug traffic control, List I and List II chemicals, Reporting and recordkeeping requirements.

■ For the reasons set out above, 21 CFR part 1310 is amended to read as follows:

**PART 1310—RECORDS AND REPORTS OF LISTED CHEMICALS AND CERTAIN MACHINES**

■ 1. The authority citation for part 1310 continues to read as follows:

Authority: 21 U.S.C. 802, 830, 871(b).

■ 2. Section 1310.04 is amended by adding a new paragraph (g)(1)(v), to read as follows:

**§ 1310.04 Maintenance of records.**

\* \* \* \* \*

(g) \* \* \*

(1) \* \* \*

(v) gamma-Butyrolactone (Other names include: GBL; Dihydro-2(3H)-furanone; 1,2-Butanolide; 1,4-Butanolide; 4-Hydroxybutanoic acid lactone; gamma-hydroxybutyric acid lactone)

\* \* \* \* \*

■ 3. Section 1310.08 is amended by adding a new paragraph (k) to read as follows:

**§ 1310.08 Excluded transactions.**

\* \* \* \* \*

(k) Domestic, import, and export distributions of gamma-butyrolactone weighing 4,000 kilograms (net weight) or more in a single container.

Dated: September 2, 2003.

**Karen P. Tandy,**  
*Administrator.*

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**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 946**

[VA-120-FOR]

**Virginia Regulatory Program**

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

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

**SUMMARY:** We are approving a proposed amendment to the Virginia regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The program amendment increases the permit and anniversary fees for Coal Surface Mining and Reclamation permits issued by the Virginia Department of Mines, Minerals and Energy (DMME).

**EFFECTIVE DATE:** September 10, 2003.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert A. Penn, Director, Big Stone Gap Field Office; Telephone: (540) 523-4303. Internet: [rpenn@osmre.gov](mailto:rpenn@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Virginia 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 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.

**II. Submission of the Amendment**

By letter dated May 16, 2003 (Administrative Record Number VA-1029), the DMME submitted an amendment to the Virginia program. In its letter, the DMME stated that the 2003 Virginia General Assembly enacted legislation (House Bill 2465/ Senate Bill 1173 approved March 18, 2003) to increase the permit and anniversary fees for Coal Surface Mining and Reclamation permits issued by DMME.

The proposed amendment revises the Code of Virginia at section 45.1-235.E and the Virginia Coal Surface Mining and Reclamation Regulations at 4VAC25-130-777.17 concerning permit fees. Specifically, Virginia is increasing the permit application fee for a surface coal mining and reclamation permit from \$12.00 to \$26.00 per acre or any fraction thereof for the total acreage permitted. In addition, the anniversary fee is being increased from \$6.00 to \$13.00 per acre or any fraction thereof for areas disturbed under the permit. This fee is paid each year on the anniversary of the permit’s issuance, and represents an ongoing permitting cost.

We announced receipt of the proposed amendment in the July 7, 2003, **Federal Register** (68 FR 40227). 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 (Administrative Record Number VA-1031). We did not hold a public hearing or meeting because no one requested one. The public comment period ended on August 6, 2003. We received comments from four Federal agencies.

**III. OSM's Findings**

We are approving the amendment. Our findings concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17 are presented below.

The Federal regulations at 30 CFR 777.17, concerning permit fees, provide that an application for a surface coal mining and reclamation permit shall be accompanied by a fee determined by the regulatory authority. The Federal regulations also provide that the fee may be less than, but shall not exceed, the actual or anticipated cost of reviewing, administering, and enforcing the permit. The fee increases proposed by Virginia are the first such increases since the State received permanent program approval in 1981. We find that the permit fees proposed by Virginia are reasonable and consistent with the

discretionary authority provided by the Federal regulations at 30 CFR 777.17.

#### IV. Summary and Disposition of Comments

##### Public Comments

No public comments were received in response to our requests for comments from the public on the proposed amendments.

##### Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, on May, 29, 2003, we requested comments on the amendments from various Federal agencies with an actual or potential interest in the Virginia program (Administrative Record Number VA-1030). On June 4, 2003, the U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS) responded (Administrative Record Number VA-1032) and stated that it concurs with the changes concerning permit and fee rates. These changes, NRCS stated, will better reflect actual AML costs and changes passed by the 2003 Virginia General Assembly. NRCS stated that the amendment proposed by Virginia should conform to presently practiced regulations and costs to better suit their intended use. NRCS recommended that the amendment be accepted by OSM. As noted in our findings above, we are approving the amendment.

On June 6, 2003, the U.S. Department of Labor, Mine Safety and Health Administration (MSHA) responded and stated that the amendment appears adequate to serve the intended purpose and does not conflict with MSHA regulation or policy (Administrative Record Number VA-1033).

On July 21, 2003, the U.S. Department of the Interior, Bureau of Land Management, Solid Minerals Group responded and stated that it had no comments regarding the revision (Administrative Record Number VA-1035).

##### 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 Virginia proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment. Under 30 CFR

732.17(h)(11)(i), we requested comments on the amendment from EPA (Administrative Record Number WV-1030).

The EPA responded by letter dated July 17, 2003 (Administrative Record Number VA-1034), and stated that there are no apparent inconsistencies with the Clean Water Act or other statutes or regulations under EPA's jurisdiction. EPA offered no further comments.

#### V. OSM's Decision

Based on the above findings, we approve the amendment sent to us by Virginia on May 16, 2003.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 946, which codify 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 demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

#### VI. Procedural Determinations

##### Executive Order 12630—Takings

This rule does not have takings implications. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

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

This rule is exempt 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 final rule applies only to the Virginia program and therefore does not affect tribal programs.

##### 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 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. 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 regulations.

*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 analysis performed under various laws and executive orders for the counterpart Federal regulations.

*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 analysis performed under various laws and executive orders for the counterpart Federal regulations.

**List of Subjects in 30 CFR Part 948**

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 11, 2003.

**Brent Wahlquist,**

*Regional Director, Appalachian Regional Coordinating Center.*

■ For the reasons set out in the preamble, 30 CFR Part 946 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 946.15 is amended in the table by adding a new entry 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
* * * * *	* * * * *	VA Code § 45.1–235.E.
May 16, 2003 .....	September 10, 2003.	4 VAC 25–130–777.17.

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**DEPARTMENT OF AGRICULTURE**

**Forest Service**

**36 CFR Part 219**

**RIN 0596–AC02**

**National Forest System Land and Resource Management Planning; Extension of Compliance Deadline for Site-Specific Projects**

**AGENCY:** Forest Service, USDA.

**ACTION:** Interim final rule; request for comment.

**SUMMARY:** The Department is issuing an interim final rule to extend the transition period for site-specific project decisions in the Forest Service land and resource management planning regulations adopted November 9, 2000. Early in 2001, the Department determined that the November 2000 planning regulations needed to be

revised, and a proposed planning rule was published on December 6, 2002, (67 FR 72770). An interim final rule at 36 CFR 219.35(b), published May 20, 2002, (67 FR 35431), already has extended the transition period for land and resource management plan amendments and revisions until the date of adoption of new planning regulations. This interim final rule at 36 CFR 219.35(d) provides the same extension of the transition period for site-specific projects. Comments are requested.

**DATES: Effective Date:** This interim final rule is effective September 10, 2003.

**Comment Date:** Comments must be received in writing by November 10, 2003.

**ADDRESSES:** Send written comments to: USDA FS Content Analysis Team, Attn: USDA FS Compliance Deadline, P.O. Box 7669, Missoula, MT 59807; by electronic mail to [compliancedeadline@fs.fed.us](mailto:compliancedeadline@fs.fed.us); or by facsimile to Extension of Compliance Deadline at (406) 329–3021. The agency cannot confirm receipt of comments. If you intend to submit comments in

batched e-mails from the same server, please be aware that electronic security safeguards on Forest Service and the Department of Agriculture computer systems intended to prevent commercial spamming may limit batched e-mail access. The Forest Service is interested in receiving all comments on this interim final rule, however, so please call (801) 517–1020 to facilitate transfer of comments in batched e-mail messages. Please note that all comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying at the office of the Content Analysis Team, 200 East Broadway, Room 301, Missoula, MT. Individuals wishing to inspect the comments should call Shari Kappel at (406) 329–3022 to facilitate an appointment.

**FOR FURTHER INFORMATION CONTACT:** Dave Barone, Planning Specialist, Ecosystem Management Coordination Staff, Forest Service at (202) 205–1019.

**SUPPLEMENTARY INFORMATION:**