(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section; 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by a manufacturer investigation that revealed that certain high-pressure turbine (HPT) rotor stage 1 disks (HPT stage 1 disks) and a certain compressor rotor stages 6–10 spool were manufactured from material suspected to have reduced material properties due to iron inclusion. The FAA is issuing this AD to prevent fracture and subsequent uncontained failure of certain HPT stage 1 disks and a certain compressor rotor stages 6–10 spool. The unsafe condition, if not addressed, could result in uncontained debris release, damage to the engine, and damage to the aircraft.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

(1) For engines with an installed HPT stage 1 disk having a part number (P/N) and serial number (S/N) identified in Compliance, paragraph 3.E., Tables 1 through 2, of CFM Service Bulletin (SB) LEAP–1B–72–00–0392–01A–930A–D, Issue 002, dated September 5, 2023 (CFM SB LEAP–1B–72–00–0392–01A–930A–D, Issue 2): At the next piece-part exposure of the HPT stage 1 disk, or before exceeding the applicable cycles since new (CSN) threshold identified in Compliance, paragraph 3.E., Tables 1 through 2, of CFM SB LEAP–1B–72–00–0392–01A–930A–D, Issue 2, whichever occurs first after the effective date of this AD; or if the applicable CSN threshold has been exceeded as of the effective date of this AD, within 50 flight cycles (FCs) from the effective date of this AD; remove the HPT stage 1 disk from service and replace with a part eligible for installation.

(2) For engines with an installed compressor rotor stages 6–10 spool having a P/N and S/N identified in Compliance, paragraph 3.E., Table 3, of CFM SB LEAP–1B–72–00–0392–01A–930A–D, Issue 2: At the next piece-part exposure of the compressor rotor stages 6–10 spool, or before exceeding the applicable CSN threshold identified in Compliance, paragraph 3.E., Table 3, of CFM SB LEAP–1B–72–00–0392–01A–930A–D, Issue 2, whichever occurs first after the effective date of this AD; or if the applicable CSN threshold has been exceeded as of the effective date of this AD, within 50 FCs from the effective date of this AD; remove the compressor rotor stages 6–10 spool from service and replace with a part eligible for installation.

(h) Definition

For the purpose of this AD, a ''part eligible for installation'' is an HPT stage 1 disk or compressor rotor stages 6–10 spool that does not have a P/N and S/N identified in Compliance, paragraph 3.E., Tables 1 through 3 of CFM SB LEAP–1B–72–00–0392–01A–930A–D, Issue 2.

(i) Installation Prohibition

After the effective date of this AD, do not install an HPT stage 1 disk or compressor rotor stages 6–10 spool that has a P/N and S/N identified in Compliance, paragraph 3.E., Tables 1 through 3 of CFM SB LEAP–1B–72–00–0392–01A–930A–D, Issue 2 on any engine.

(j) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed prior to the effective date of this AD by following the Accomplishment Instructions specified in CFM SB LEAP–1B–72–00–0392–01A–930A–D, Issue 001, dated March 7, 2023.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520 Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the AIR–520 Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (l)(1) of this AD and email to: *ANE-AD-AMOC@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(l) Related Information

(1) For more information about this AD, contact Mehdi Lamnyi, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7743; email: *mehdi.lamnyi@faa.gov*.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (m)(3) and (4) of this AD.

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) CFM International, S.A. Service Bulletin LEAP–1B–72–00–0392–01A–930A–D, Issue 002, dated September 5, 2023.

(ii) [Reserved]

(3) For service information identified in this AD, contact CFM International, S.A., GE Aviation Fleet Support, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45215; phone: (877) 432–3272; email: *aviation.fleetsupport@ge.com*.

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov*.

Issued on November 20, 2023.

Ross Landes,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2023–27092 Filed 12–8–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

[SATS No. VA–127–FOR; Docket ID: OSM–2015–0003; S1D1S SS08011000 SX064A000 223S180110; S2D2S SS08011000 SX064A000 22XS501520]

Virginia Regulatory Program

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

ACTION: Final rule; approval of amendment with deferrals.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving, with two deferrals, an amendment to the Virginia regulatory program (the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). This amendment includes revisions to Virginia's statutes and/or coal mining regulations that: remove self-bonds from the types of performance bond instruments authorized; adjust the financing of its alternative bonding system (ABS), which is in the form of a bond pool; and revise proof of publication requirements involving permit applications and bond release applications. We are deferring our decision on the removal of a regulation requiring certain actions by self-bonded operators when a condition affects their financial status and the proposed monetary cap on Virginia's pool bond fund.

DATES: The effective date is January 10, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Castle, Acting Field Office Director, Charleston Field Office. Telephone: (859) 260–3900, Email: *osm-chfo@osmre.gov.*

SUPPLEMENTARY INFORMATION:

VI. Statutory and Executive Order Reviews

I. Background on the Virginia Program

A. Background—General: Subject to OSMRE's oversight, 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, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. *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. With this amendment, Virginia is requesting changes to the bonding program we previously approved as described below.

B. Background—Virginia's Bonding Program: SMCRA section 509, *Performance Bonds,* 30 U.S.C. 1259, and the Federal regulations at 30 CFR part 800, *Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations under Regulatory Programs,* prescribe the minimum bonding requirements for filing and maintaining bonds and insurance for coal mining and reclamation operations under regulatory programs. We approved Virginia's initial bonding provisions under its regulatory program on September 21, 1982 (47 FR 41557). We have approved other revisions to Virginia's bonding program, including those published on January 18, 1983 (48 FR 2123), February 28, 1983 (48 FR 8271), December 27, 1983 (48 FR 56949), December 31, 1987 (52 FR 49403), February 2, 1990 (55 FR 3588), August 5, 1991 (56 FR 37153), and May 29, 2012 (77 FR 31486).

Virginia's bonding program is authorized under Title 45.1 of the Code of Virginia, Chapter 19, *Virginia Coal Surface Mining Control and Reclamation Act of 1979* (VACSMCRA), Article 2, *Regulation of Mining Activity,* and Article 5, *Coal Surface Mining Reclamation Fund,* and implemented through its regulations at Title 4, *Conservation and Natural Resources,* of the Virginia Administrative Code. Virginia's bonding program includes provisions involving self-bonds and an alternative bonding system in the form of a bond pool, both subjects of this document, as summarized below.

1. Virginia's Bonding Program Options: Virginia's program includes two options for permittees to post a performance bond:

a. *Full-Cost Bond:* If a permittee elects not to participate in the bond pool or does not qualify to become a participant in the pool, the permittee is required to submit an adequate full-cost bond for each bonded area covering the *entire* (full) cost of reclamation for coal mining operations. The various types of performance bonds permitted by Virginia to satisfy full-cost bond requirements include: surety bonds; collateral bonds (including certificates of deposit and letters-of-credit); escrow accounts; combined surety/escrow accounts; a combination of these bonding methods; and self-bonds, which Virginia has stopped accepting in anticipation of our approval of this amendment. The amount is dependent upon the reclamation requirements of the approved permit and associated reclamation plan cost estimate. In no case may the total bond initially posted for the entire area under one permit be less than $10,000.

b. *Alternative Bonding System (ABS):* In lieu of requiring each permittee to submit permit-specific full-cost performance bonds for every coal mining operation, Virginia has an ABS in the form of a bond pool. (In Virginia this is referred to as the Pool Bond Fund, but to maintain consistency with our nomenclature in State Program Amendments and other OSMRE literature, we will refer to it as the ''bond pool'' or ''bond pool fund'' unless we are specifically referencing the text of Virginia statutes or regulations.) The ABS is designed to provide funding, if necessary, to carry out reclamation plan requirements in the event of forfeiture. Participation in the ABS is voluntary and requires an operator to submit an application to participate. Acceptance into the bond pool is based on the applicant's financial standing and reclamation record. Other restrictions apply, including those involving a review of ownership, control, and violation history.

Further, in order to participate in the ABS, an operator must post an underlying financial security in the form of a performance bond. The performance bond can be in the form of any bond type approved by Virginia. The amount of the underlying financial security is determined by the greater of either a per-acre sum or a stated minimum, but is not tied to the estimated cost of reclamation. This underlying financial security results in a bond calculation that is less than the amount required under a full-cost bond, which considers the estimated cost of reclamation in its calculation.

Various sources of funding make up the bond pool fund account (an interest-bearing account referred to as the Coal Surface Mining Reclamation Fund or the ''Fund''), which is used to supplement the underlying financial security. These sources include entrance fees, a reclamation tax based upon coal production, special assessments, interest, and civil penalty collections. Before 2014, the reclamation tax was collected from Fund participants commencing with and running from the date of the coal production, processing, or loading from those operations under a permit for a period of one year. When the quarterly Fund balance (including interest earned) was less than $1.75 million, participants paid the following amounts on a quarterly basis into the Fund according to the type of permit: $0.04/ton of coal extracted/produced for surface mining; $0.03/ton for deep mining; and $0.015/ton for preparation or loading facilities. When any quarterly Fund balance was greater than $2 million, payments would cease until any quarterly Fund balance was less than $1.75 million. The Fund is used for the following purposes only: (1) reclaiming permit areas covered by the Fund in the event of bond forfeiture (after the underlying financial security is used); and (2) covering administrative costs of the Fund. The Fund is administered by the Virginia Department of Mines, Minerals and Energy (DMME), now known as the Virginia Department of Energy (*see* section II, *Submission of the Amendment,* indicating that we will continue to refer to DMME for the purpose of this amendment to maintain consistency with the provisions Virginia submitted). As of August 31, 2021, the Fund had a balance of approximately $10,688,000.

Virginia's Reclamation Fund Advisory Board (RFAB), previously known as the Pool Bond Fund Advisory Committee (PBFAC), consists of five members and is responsible for formulating recommendations to Virginia's Director of the DMME (the Director) concerning oversight of the general operation of the Fund. The RFAB reports biannually to the Director and to the Governor on the status of the Fund and makes recommendations to the Director involving regulations or changes for the administration or operation of the Fund.

The Director has the discretion to adopt the recommendations of the RFAB through regulatory action.

2. Self-Bond: Before 2014, Virginia's program accepted self-bonds (a bond without separate surety) as the financial security for full-cost bonds and bonds under the bond pool. In 2014, through legislative action, Virginia ceased accepting self-bonds as an acceptable form of bond for new permits and new increments as discussed in section II of this document. As of August 31, 2021, there are 20 permits with some form of self-bonding, with 19 of these permits using self-bonds to meet the minimum bonding required to participate in the bond pool. These 19 permits use self-bonds to cover reclamation costs before the Fund would need to provide additional funding for reclamation efforts. These self-bonds are held by one operator/permittee.

3. Virginia Action following OSMRE Review of the Virginia Bonding Program: In response to our January 22, 2011, report summarizing our review of Virginia's full-cost bonding program (Administrative Record No. VA 2037), Virginia sent us a letter dated February 10, 2011 (Administrative Record No. VA 2038), announcing its plans to initiate a risk assessment review of its ABS that would be conducted by a neutral third party. Virginia procured actuarial services from Pinnacle Actuarial Resources, and the company submitted its final report to Virginia on May 29, 2012 (Pinnacle Report), recommending changes to the ABS to keep it financially sound (Administrative Record No. VA 2022).

C. Background—Proof of Publication: As part of our oversight role, we reviewed Virginia's permitting process for permit renewal applications and, in a September 2014 report entitled *Processing of Permit Renewal Applications,* noted that following the required public advertisement that an application had been submitted, proof that those advertisements had been published either were not being submitted or were not being made part of the application package within four weeks after the last date of publication, as required by Virginia's regulations. We recommended Virginia consider revising its regulations so that Virginia's electronic permitting process does not violate Virginia's approved program (Administrative Record No. VA 2044).

II. Submission of the Amendment

Following the 2012 actuarial review of the ABS and to improve the operation of the ABS, in March 2014, Virginia enacted Senate Bill 560 (S.B. 560) and House Bill 710 (H.B. 710) to amend certain provisions of the VACSMCRA. *See* 2014 Va. Acts chs. 111, 135. The enactment of this legislation effected the following changes to VACSMCRA: (1) it removed an applicant's ability to submit its own bond without separate surety, thereby removing the self-bonding option; and (2) it revised the ABS by changing the parameters of entrance fees and reclamation tax payments. Virginia now seeks to amend its program to reflect these changes to VACSMCRA, as codified through revised statutes in Title 45.1, Chapter 19 of the Code of Virginia (Virginia Code or Va. Code) and changes to its implementing regulations at Title 4, Agency 25, Chapter 130 of the Virginia Administrative Code (VAC).

By letter dated June 12, 2015, Virginia sent us an amendment to its program under SMCRA (Administrative Record No. VA 2024). With this amendment, Virginia seeks to revise Va. Code 45.1–241, 45.1–270.3, and 45.1–270.4, as amended by 2014 Va. Acts chs. 111, 135 (Administrative Record No. VA 2021). Virginia also seeks to revise its administrative regulations at Title 4 of the VAC that involve the option to self-bond and the ABS fees and taxes.

In addition to the revisions to Virginia's bonding program, Virginia also seeks to revise its permitting regulations by modifying its procedures related to the submission of proof that public notice had been published in a newspaper of general circulation for permit applications and bond release applications. Virginia also proposed certain non-substantive editorial statutory and regulatory revisions that involve clarification of syntax, renumbering of paragraphs, and reference changes, but do not change the administrative regulations substantively. The full text of the program amendment is available at *www.regulations.gov,* searchable by the Docket ID Number referenced at the top of this document.

We announced receipt of the proposed amendment in the October 22, 2015, **Federal Register** (80 FR 63933) (Administrative Record No. VA 2026). 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. The public comment period ended on November 23, 2015. On November 17, 2015, we received a letter from an organization requesting an extension to the public comment period (Administrative Record No. 2027). We granted that request in a letter dated November 20, 2015 (Administrative Record No. VA 2028), reopened the public comment period, and announced the extension in the February 8, 2016, **Federal Register** (81 FR 6479) (Administrative Record No. VA 2029). The public comment period ended on March 9, 2016. No request for public hearing was received. Public comments that were received are addressed in the Public Comments section of this document.

In a letter dated October 24, 2016, Virginia clarified that while the submission included a revision that removed escrow bonds from its approved list of types of acceptable performance bond at 4 VAC 25–130–800.23, it was not their intent to do so. (Administrative Record No. VA 2040). Therefore, escrow bonds are not being addressed in this document.

In a letter dated April 24, 2017, Virginia notified us of a change affecting its initial submission (Administrative Record No. VA 2041). The original submission included changes to the reclamation tax payments under Va. Code 45.1–270.4, *Assessment of Reclamation Tax Revenues for Fund,* which were initially set to expire on July 1, 2017. *See* Enactment 2 of 2014 Va. Acts chs. 111, 135. After submitting the amendment, Virginia enacted H.B. 2200, repealing the expiration date and thereby making the 2014 changes permanent. *See* 2017 Va. Acts Ch. 7. We base our findings on the permanent status of the 2014 statutory revisions at Va. Code 45.1–270.4.

Most recently, during a 2021 special legislative session, the Virginia legislature enacted Senate Bill 1453 (S.B. 1453) (approved March 24, 2021) and House Bill 1855 (H.B. 1855) (approved April 7, 2021). These bills amended the Virginia Code to, among other things, rename the Department from the ''Department of Mines Minerals and Energy'' to the ''Department of Energy,'' and recodify and reorganize Virginia's mining laws from Title 45.1, *Mines and Mining,* to Title 45.2, *Mines, Minerals, and Energy,* effective October 1, 2021. *See* 2021 Va. Acts, Sp. S. I, chs. 387, 532; *see also* Va. Code 45.2–1000—45.2–1051 (recodification of VACSMCRA). Virginia has not requested that OSMRE review 2021 Va. Acts, Sp. S. I, chs. 387, 532. This notification of our approval of certain amendments to Virginia's regulatory program pertains only to the identified changes to Virginia's program reflected in 2014 Va. Acts chs. 111, 135 and 2017 Va. Acts Ch. 7 and does not address the 2021 enactment. For that reason, and for the sake of clarity, this document will refer to provisions of VACSMCRA as they were codified before October 1, 2021. For reference, Va. Code 45.1–241, –270.3, and –270.4 discussed in this document now appear

at Va. Code 45.2–1016, –1045, and –1046, respectively.

III. OSMRE's Findings

The 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 deferrals, as described below.

A. Performance Bonds: Self-Bonding

Virginia seeks to revise the following statutory and regulatory provisions related to self-bonding.

1. Revised Statutes at Title 45.1 of the Virginia Code: Substantive changes to VACSMCRA as amended by 2014 Va. Acts chs. 111, 135 that involve self-bonding are described along with our findings.

a. Va. Code 45.1–241, Performance Bonds: Virginia seeks to revise subsection C of this section, which addresses the type of performance bond acceptable to ensure that reclamation is completed during and after mining activities. The first sentence, which Virginia seeks to delete, allowed the operator to submit a self-bond without a separate surety when the applicant could meet certain requirements. The requirements involved demonstrating the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation. This revision eliminates the self-bonding provision of the law that was originally approved on December 27, 1983.

b. Va. Code 45.1–270.3, Initial Payments into Fund; Renewal Payments; Bonds: Virginia seeks to delete subsection C, which addresses the acceptance of a performance bond submitted without separate surety (self-bond) for underground mining and surface mining operations covered by the ABS.

2. Revised Regulations at Title 4 of the Virginia Administrative Code (VAC): Virginia requests the following deletions from DMME's administrative regulations at Chapter 130, *Coal Surface Mining Reclamation Regulations.* Virginia states that the deletions in Chapter 130 reflect the deletion of the statutory provisions at Va. Code 45.1–241 and 45.1–270.3 relating to self-bonding.

a. 4 VAC 25–130–700.5, Definitions: Virginia seeks to delete the definitions of ''*cognovit note,*'' ''*indemnity agreement,*'' and ''*self-bond*'' to reflect the proposed deletion of the self-bonding provisions under 4 VAC 25–130–801 and Va. Code 45.1–241.C and 45.1–270.3, as described above.

b. 4 VAC 25–130–800.12, Form of the Performance Bond: We note that Virginia included 4 VAC–25–130–800.12 as part of the original submission but did not indicate any revision at this section. Virginia later confirmed its intent to remove subparagraph (f) (self-bond) from the list of prescribed types of allowable performance bond, reflecting the proposed deletion of the self-bonding provisions of VACSMCRA.

c. 4 VAC 25–130–801.12, Entrance Fee and Bond: Virginia seeks to delete subsections (c) and (d) to reflect the proposed deletion of the self-bonding provisions of VACSMCRA.

Subsection (c) provides that Virginia may accept the bond of an applicant of an underground mining operation without surety as provided by 4 VAC 25–130–801.13 upon a showing of an applicant's worth equivalent to $1 million and certified by an independent certified public accountant (CPA) initially and annually.

Subsection (d) provides that Virginia may accept the bond of an applicant of a surface mining operation or associated facility without separate surety if certain conditions are met (*e.g.,* establishment of a suitable agent for service of process, satisfactory continuous operation and financial solvency, and submission of an indemnity agreement).

d. 4 VAC 25–130–801.13, Self-bonding: Virginia seeks to delete this section to reflect the proposed deletion of the self-bonding provisions of VACSMCRA.

Subsection (a) prescribes the requirements to designate a suitable agent for service of process, provide the name and address of the CPA who prepared the statement of the applicant's net worth, and provide the location of the financial records that were used for the CPA's statement. In addition, it provides the requirements for submitting an acceptable cognovit note.

Subsection (b) prescribes the requirement to provide evidence indicating a history of satisfactory continuous operation and financial solvency.

Subsection (c) requires that the CPA certification be updated to reflect prior obligations and self-bonding liabilities still in effect whenever a Fund participant applies for additional permit(s).

Subsection (d) requires that whenever the conditions upon which the self-bond was approved no longer prevail, Virginia must require the posting of a surety or collateral bond before coal surface mining operations may continue. The permittee is responsible to immediately notify DMME of any change in total liabilities or total assets which would jeopardize the support of the self-bond. If permittees fail to have sufficient resources to support the self-bond, they are deemed to be without bond coverage and in violation of bond requirements.

OSMRE's Finding: Section 509(c) of SMCRA and its implementing regulations at 30 CFR 800.4(d), *Regulatory Authority Responsibilities;* 800.5, *Definitions;* 800.12, *Form of the Performance Bond;* and 800.23, *Self-bonding,* permit a regulatory authority to accept different forms of performance bonds, including self-bonds, as a mechanism to ensure that funds will be available for completion of the reclamation plan if the work has to be performed by the regulatory authority in the event of a forfeiture. The regulatory authority may accept a self-bond without separate surety when the applicant demonstrates, to the satisfaction of the regulatory authority, the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation sufficient for authorization to self-insure or bond such amount.

Changes in the coal market and coal mining industry have resulted in changes to the financial solvency of some coal companies and have highlighted the need to ensure adequate financial assurance exists to ensure the reclamation of disturbed mine lands. Therefore, it is prudent that Virginia examined its financial assurance program and reconsidered the types of performance bonds it will accept as a reclamation guarantee. While SMCRA authorizes a regulatory authority to accept a self-bond as financial assurance, it does not require a regulatory authority to do so. SMCRA provides a regulatory authority with discretion to implement more stringent requirements, such as implementing a financial assurance program that requires more security than that provided through a self-bond. We have determined that the elimination of self-bonding through deletions from sections 45.1–241 and 45.1–270.3 of VACSMCRA does not make the Virginia program less stringent than SMCRA or less effective than the Federal regulations. Therefore, we approve these changes.

We note this amendment requests the deletion of the definition of *cognovit note,* at 4 VAC 25–130–700.5, *Definitions,* which we previously approved for deletion under Virginia's Program Amendment No. VA–126 on May 29, 2012. *See* 77 FR 31486, 31488. In that same document, we approved Virginia's definition of *indemnity*

agreement, noting that the Federal regulations did not define the term, but that Virginia's definition was consistent with how the Federal regulations used the term in the definitions of *surety bond, collateral bond,* and *self-bond* under 30 CFR 800.5. *See id.* at 31488. Therefore, we also see no effect to Virginia's program from removing the definition of the term *indemnity agreement* and approve its deletion. Regarding the deletion of the term *self-bond,* we are approving the removal of this definition because it is consistent with Virginia's request, and our approval, of the elimination of self-bonds as a financial assurance mechanism, thereby rendering the definition unnecessary. To the extent that some self-bonded operations remain in Virginia following this amendment, we consider any operative portions of these defined terms to be ''conditions upon which the self-bond was approved'' under 4 VAC 25–130–801.13(d), explained below, and therefore to still apply to existing self-bonded operations subsequent to their deletion. Regarding the deletion of 4 VAC 25–130–800.12(f), 801.12(c) and (d), and 801.13(a)–(c), we have determined that the changes to the VAC reflect changes to VACSMCRA that remove self-bonding from the Virginia program as described above. For the same reasons, the regulatory changes do not render the Virginia program less stringent than SMCRA or less effective than the Federal regulations, and so we are approving these changes.

We are not approving the removal of 4 VAC 25–130–801.13(d) at this time. This subsection requires the permittee to promptly notify Virginia of any condition affecting the permittee's financial status and prescribes the subsequent action to be taken when such conditions exist. Because some operators remain self-bonded, Virginia's request that the entire section on self-bonding be removed would mean that there would not be any regulations in place to address the action the operator or regulatory authority must take should a self-bonded permittee become insolvent or file for bankruptcy. The Federal regulations at 30 CFR 800.23(g) require that if, at any time during the period when a self-bond is posted, the financial conditions of the applicant or non-parent corporate guarantor change so that the conditions upon which the self-bond was approved no longer apply, the permittee must notify the regulatory authority immediately and post an alternate form of bond in the same amount as the self-bond within 90 days after notification. If an adequate bond is not posted by the end of the period allowed, the permittee must cease coal extraction and comply with the provisions of 30 CFR 800.16(e). Paragraph (e)(2) of 30 CFR 800.16 requires that in the event of bankruptcy, the permittee must be deemed to be without bond coverage and must be required to replace bond coverage within 90 days. If an adequate bond is not posted by the end of the 90-day period, the permittee is subject to the provisions of 30 CFR 816.132 or 817.132, which address cessation of operations (temporary and permanent). Mining operations must not resume until the regulatory authority has determined that an acceptable bond has been posted. Subsection (d) of 4 VAC 801.13, which Virginia seeks to delete, addresses the situation mentioned above. Without this subsection, there would not be any regulation that provides for immediate and corrective action, which would render Virginia's administrative regulations less effective than 30 CFR 800.23(g) and its related regulations.

We have determined that the subsection 4 VAC 25–130–801.13(d) cannot be removed until all previously approved self-bonds have either been: (1) lawfully released based on an accurate determination that the permittee has satisfactorily completed all reclamation obligations; or (2) replaced with an adequate substitute bond or set of bonds, each of which is backed by a qualified surety, adequate cash deposit, qualified government securities, qualified bank instruments, or an adequate combination of these forms of financial assurance/bond. Therefore, we are not approving the removal of subsection (d) at this time.

B. Alternative Bonding System (ABS): Entrance Fees, Reclamation Taxes, and Fund Balance Determinations

1. Revised Statutes at Title 45.1 of the Virginia Code: Substantive changes to VACSMCRA, as amended by 2014 Va. Acts chs. 111, 135 and 2017 Va. Acts Ch. 7, that involve the ABS (*e.g.,* entrance fees, reclamation taxes, and Fund balance determinations) are described along with our findings.

a. Va. Code 45.1–270.3, Initial Payments into Fund; Renewal Payments; Bonds: Virginia seeks to revise subsection A, which addresses entrance fee requirements for surface mining permittees participating in the Fund. Subsection A was revised to remove the references to subsections B and C of Va. Code 45.1–270.4, *Assessment of Reclamation Tax Revenues for Fund.* Subsections B and C of Va. Code 45.1–270.4 prescribe the Fund balance conditions upon which a reclamation tax will be collected from operators. Previously, the Fund balances used for determining the amounts of the entrance fees under Va. Code 45.1–270.3.A were the same as those used for determining the amount of reclamation taxes under Va. Code 45.1–270.4.B and C. The entrance fee payments and reclamation tax assessment were based on the same minimum and maximum balance limits of the Fund; the entrance fee or reclamation tax would be increased if the Fund was less than $1.75 million, and the entrance fee would be reduced and the reclamation taxes assessment would cease if the Fund balance was greater than $2 million. However, since Virginia is changing the limits for reclamation tax assessment to $20 million, discussed in section B.1(b) below, the references to the tax limits at subsections B and C of Va. Code 45.1–270.4 no longer apply. Virginia is deleting the references to the tax limits at subsections B and C of Va. Code 45.1–270.4 while retaining the $1.75 million and $2 million Fund balances used to determine the amount of the entrance fee.

Virginia also seeks to revise subsection A to add paragraphs (1) and (2) (which previously appeared under Va. Code 45.1–270.4.C), specifying how the Fund balance must be calculated. Under these paragraphs, planned expenditures are deducted from the Fund balance at the time the engineering cost estimate is prepared, and, if the actual expenditures are less than the engineering cost estimate, an adjustment (credit) is made to the Fund.

OSMRE's Finding: The deletion of cross-references to subsections B and C of Va. Code 45.1–270.4 does not change the entrance fee set forth in Va. Code 45.1–270.3 as we last approved it on February 2, 1990 (55 FR 3588), and has no effect on Virginia's program. Therefore, we are approving the deletions. Regarding the addition of paragraphs (1) and (2), we have determined that these are the same provisions we approved when they existed under section 45.1–270.4.C. *See* 52 FR 49403 (December 31, 1987). Moving these paragraphs to section 45.1–270.3.A has no substantive effect on implementation. Therefore, we are approving these additions.

b. Va. Code 45.1–270.4, Assessment of Reclamation Tax Revenues for Fund: Virginia seeks to revise subsections B and C to: (1) delete the $1.75 million Fund balance threshold, below which the reclamation tax would be imposed on operators until the Fund reached $2 million; (2) delete the $2 million Fund balance threshold, above which the

reclamation tax would cease until the Fund balance fell below $1.75 million; and (3) in place of these thresholds, Virginia seeks to revise subsections B and C to add a new Fund balance threshold of $20 million (herein referred to as a ''cap''), below which the reclamation tax would be imposed on operators, and above which the reclamation tax would cease. Further, these subsections were also changed to clarify that the Fund balance will be determined at the end of ''each'' calendar quarter, not ''any'' calendar quarter as previously provided, and delete paragraphs related to the calculation of the Fund balance, which are moved to Va. Code 45.1–270.3.A as summarized at section B.1.a. above. Virginia also seeks to delete a provision from subsection D that limits the collection of the reclamation tax to only the first year of commencement of coal production, processing, or loading from those operations covered under the permit, in effect imposing the reclamation tax for the duration of operations subject only to the Fund balance threshold of $20 million.

OSMRE's Finding: Section 509(c) of SMCRA provides that we may approve a regulatory authority's ABS if it will achieve the objectives and purposes of the bonding program. Under SMCRA's implementing regulations, set forth at 30 CFR 800.11(e), an ABS must: (1) assure that the regulatory authority will have available sufficient money to complete the reclamation plan for any areas which may be in default at any time; and (2) provide a substantial economic incentive for the permittee to comply with all reclamation provisions. The changes submitted by Virginia alter its existing ABS's ability to ensure the availability of sufficient money to complete reclamation.

First, we caution that a bond pool, particularly in an uncertain coal market, brings inherent risks to participating permittees and to Virginia. If the number of bond pool members and the amount of coal produced in Virginia decline, the production fees placed on coal being produced will need to rise correspondingly to maintain a financially sound and stable bond pool fund. Second, we focused our findings on the review of the provisions of the ABS and Virginia's ability to assure the objectives and purposes of the system are capable of being met. The actuarial recommendations were considered as part of the review. Subsequent oversight reviews of the ABS will be necessary to determine whether or not the ABS meets the provisions of 30 CFR 800.11(e), including the changes approved with this amendment. Our findings of the changes to the Virginia Code related to reclamation tax collection and limits follow:

- *Balance Threshold:* Regarding the reclamation tax assessment limits at Va. Code 45.1–270.4.B, we have determined that the deletion of the $1.75 million and $2 million Fund balance thresholds is a reasonable change to the ABS. Both SMCRA and the Federal regulations at 30 CFR 800.11(e)(1) require that sufficient money be available to complete the reclamation plan for any areas which may be in default at any time, if reclamation must be completed by the regulatory authority. Deleting the $1.75 million and $2 million Fund thresholds increases the amount of funds available to complete the reclamation plan for any areas which may be in default at any time for permits that are bonded under the ABS system. Therefore, this deletion is consistent with 30 CFR 800.11(e)(1), and we are approving it.
- *Fund Cap:* Virginia indicates that a $20 million cap on the Fund to determine reclamation tax payments, is considered a sufficient amount to support a system capable of providing sufficient resources to supplement any site specific underlying financial security that is held in the event of forfeiture at any given time. However, Virginia has not provided a justification for its determination of the cap amount or articulated a reasonable connection between its establishment and the amount of reclamation for which it is providing security. Neither SMCRA nor its implementing regulations allow regulatory authorities to set arbitrary limits on the amount of money to be made available for that purpose. Approving such a cap would not assure that the ABS will have available sufficient money to complete the reclamation plan for any areas which may be in default at any time and would be inconsistent with 30 CFR 800.11(e)(1); therefore, we are deferring our decision on the provisions of sections 45.1–270.4.B and C to the extent that they impose a cap of $20 million. We are approving the continuing collection of the tax beyond $2 million but deferring our decision on the cessation of the tax collection when the Fund reaches $20 million until such time as Virginia either takes legislative action to remove the cap from this statute or demonstrates that $20 million is a sufficient amount of money to complete the reclamation, including water treatment, on any area covered by the Fund. Our deferral has the effect of removing the cap upon the amount of money that can be in the Fund at any given time and will remain in effect until Virginia makes that demonstration.
- *One-Year Period:* With regard to subsection D, we find removing the limitation for collecting reclamation taxes for a one-year period is prudent because it should increase monies deposited into the Fund and is consistent with the Pinnacle Report recommendation and the requirements of 30 CFR 800.11(e)(1). Therefore, we are approving this deletion.

2. Revised Regulations at Title 4 of the Virginia Administrative Code (VAC): Virginia seeks to make the following changes to Chapter 130 of DMME's administrative regulations.

a. 4 VAC 25–130–801.11, Participation in the Pool Bond Fund: Virginia seeks to delete this section, stating that the section is duplicated under revised statutory provisions.

Subsection (a) provides for voluntary participation in the Fund for a permittee that can demonstrate at least a three-year history of compliance under the Act or any other comparable State or Federal Act.

Subsection (b) requires all participants in the Fund pay entrance fees as required by 4 VAC 25–130–801.12(a) and comply with the applicable parts of Va. Code 45.1–241.

Subsection (c) requires an irrevocable commitment by the permittee.

Subsection (d) provides that all fees and taxes are nonrefundable.

Subsection (e) permits the use of monies from the interest accrued to the Fund, as provided by Va. Code 45.1–270.5(B), to support one position for the administration of the Fund. If one position is deemed insufficient to ensure proper administration of the Fund, Virginia can obtain additional assistance if the Reclamation Fund Advisory Board concurs.

OSMRE's Finding: We have determined that 4 VAC 25–130–801.11 subsection (a) is duplicated at Va. Code 45.1–270.2.A; subsection (b) is duplicated at Va. Code 45.1–270.3; and subsection (c) is duplicated at Va. Code 45.1–270.2.B. These provisions are unnecessary to give effect to the statutory requirements, and therefore we approve their deletion. Subsection (d) is not specifically duplicated in the Virginia Code, however, the requirements of Va. Code 45.1–270.2.B provide that participation in the Fund requires an irrevocable commitment on part of the permittee. This commitment involves the payment of fees and taxes; therefore, we have determined that the deletion of this subsection does not alter the program requirements.

Regarding subsection (e), we note that while the administrative regulation

provides specifically that one administrative position is to be funded, Va. Code 45.1–270.5.B provides more generally that the interest accrued from the Fund may be used to properly administer the Fund. We also note that 4 VAC 25–130–801.11(e) references the PBFAC, which was replaced by the RFAB in 1985. Given that there are no counterpart Federal regulations that determine the manner in which the administration of an ABS is to be funded, and the revision merely removes a discretionary limitation on the Fund's administration, we have determined that the deletion of 4 VAC 25–130–801.11(e) does not render the program inconsistent with SMCRA or the implementing regulations and we are approving the deletion.

b. 4 VAC 25–130–801.12, Entrance Fee and Bond: Virginia seeks to revise subsection (a) by deleting the provisions that require an entrance fee of $5,000 when the total balance of the Fund is determined to be less than $1.75 million, an entrance fee of $1,000 when the total Fund balance is greater than $2 million, and a renewal fee of $1,000 from all permittees in the Fund at the time of renewal. Virginia seeks to delete these provisions, stating that they are duplicative of statutory provisions under Va. Code 45.1–270.3.

Virginia also seeks to delete subsection (g), which requires that, if a mining operation is to be in temporary cessation for more than six months, mining operators must post bond equal to the total estimated cost of reclamation for all portions of the permitted site which are in temporary cessation prior to the date on which the operation has been in temporary cessation for more than six months. This subsection provides additional time to post bond for operations that were in temporary cessation as of July 1, 1991. It also provides that the amount of the bond required for each area bonded is determined by DMME in accordance with 4 VAC 25–130–800.14 and remains in effect throughout the remainder of the period during which the site is in temporary cessation. When the site returns to active status, the bond posted would be released, provided the permittee had posted bond pursuant to subsection (b) of this section.

OSMRE's Finding: With regard to 4 VAC 25–130–801.12 subsection (a), we note that this regulation is duplicated at Va. Code 45.1–270.3.A and is not necessary to give effect to the statutory requirement; therefore, we are approving its deletion. With regard to subsection (g), we note that the regulation is duplicated in the statute at Va. Code 45.1–270.3.E, with the exception of the provision that states that the amount of the bond required for each permit area bonded under this subsection must be determined by DMME in accordance with 4 VAC 25–130–800.14. The provisions at 4 VAC 25–130–800.14, *Determination of Bond Amount* (used for full-cost bond permits), require the following: subsection (a) requires bond calculations be determined considering the reclamation plan and the estimated cost of reclamation; subsection (b) requires a minimum bond of $10,000; and subsection (c) provides that liability insurance may be used to repair material damage resulting from subsidence.

Va. Code 45.1–270.3.E requires full cost bond for these areas until the operation is back in active status and the operator can demonstrate alternative bonding requirements are met. The remainder of the approved Virginia program would still be relevant in determining the proper amount of full-cost bonding. Therefore, the specific reference to 4 VAC 25–130–800.14 being deleted by this revision to 4 VAC 25–130–801.12 does not affect the Virginia program as we have already approved it. Therefore, we are approving this deletion.

c. 4 VAC 25–130–801.14, Reclamation Tax: Virginia seeks to delete this section, stating that these provisions are duplicated in revised statutory provisions.

Subsection (a) provides that if, at the end of any calendar quarter, the total balance of the Fund (including interest) is less than $1.75 million, the reclamation tax assessment will be imposed. The reclamation tax amounts are provided as $.04/ton for surface mining operations; $.03/ton for underground mining; and $.015/ton for coal processing or preparation facilities, and are due within 30 days after the end of each taxable calendar quarter.

Subsection (b) provides that if, at the end of any calendar quarter, the total balance of the Fund (including interest) exceeds $2 million, payments will be deferred until required by subsection (a).

Subsection (c) provides that no permittee is required to pay the reclamation tax on more than 5 million tons produced per calendar year, regardless of the number of permits held by the permittee, except as provided in subsection (e).

Subsection (d) applies to permittees holding more than one type of permit and the amount of reclamation tax to be paid in such situations. It provides that any permittee holding more than one type of permit will not pay more than $.055/ton on coal originally surface mined by that permittee or $.045/ton of coal originally deep mined (underground mined) by that permittee. It also provides that for permittees holding one permit upon which coal is both mined and processed or loaded, the permittee will not pay more than the tax applicable to the surface or underground mining operation. However, the permittee must pay $.015/clean coal ton for all coal processed and/or loaded at the permit which originated from other permits during the calendar quarter.

Subsection (e) provides that the reclamation tax is required during the one-year period commencing with and running from the date of commencement of coal production, processing, or loading from the permit.

OSMRE's Finding: We note that subsection (a) is duplicated at proposed Va. Code 45.1–270.4.A and B; subsection (b) is duplicated at Va. Code 45.1–270.4.C; and subsections (c) and (d) are duplicated at proposed Va. Code 45.1–270.4.D (which will be re-lettered from existing section 45.1–270.4.E). Subsection (e) is duplicated at existing Va. Code 45.1–270.4.D (which is proposed to be deleted). We note that the following sentence appears in the regulations under subsection (d)(2) but does not appear in the statute: ''However, the permittee shall pay the one and one-half cents per clean ton for all coal processed and/or loaded at the permit which originated from other permits during the calendar quarter.'' We understand from Virginia's submission that this provision duplicates Virginia's statutes, including its current interpretation and implementation of the statutes, and therefore the deletion of this sentence would not affect Virginia's current implementation of its program. We also note that there are no counterpart Federal regulations that direct the way a state's ABS is to be funded. To the extent that the deletion of this sentence would cause Virginia to collect the reclamation tax in a different manner, our review would occur in the course of our oversight of the adequacy of the ABS system as a whole. For these reasons, deletion of 4 VAC 23–130–801.14 does not render the remaining Virginia provisions inconsistent with SMCRA or the Federal regulations and we are approving the deletion in its entirety.

d. 4 VAC 25–130–801.16, Reinstatement to the Pool Bond Fund: Virginia seeks to delete this section, stating that it duplicates the revised statutory provisions.

Subsection (a) involves the consequences of an operator's default on any reclamation obligation that causes the Fund to incur reclamation expenses. The permittee will no longer be eligible to participate in the Fund for any new permit or any permit renewal thereafter until full restitution for such default has been made to the Fund. The Director, along with the recommendation from the PBFAC (which was later replaced by the RFAB but not updated in this regulation), may require that the person seeking reinstatement pay interest at the composite rate determined by the Treasurer of Virginia compounded monthly.

Subsection (b) requires compliance with subsection (a) before seeking new permits or renewal of existing ones.

OSMRE's Finding: We note that subsections (a) and (b) are duplicated at Va. Code 45.1–270.6.A, with two exceptions: (1) subsection (a) provides that the permittee will not be eligible to participate in the bond pool for any new permit or any permit renewal, whereas the statutory provisions do not mention permit renewal; and (2) subsection (a) provides the Director of DMME discretion to impose an interest payment upon the permittee if approved by the PBFAC, whereas the statutory provisions do not.

Regarding the regulation's reference to permit renewal, the statute at Va. Code 45.1–270.6.A states in relevant part: ''An operator who has defaulted on any reclamation obligation and has thereby caused the Fund to incur reclamation expenses as a result thereof *shall not be eligible to participate in the Fund thereafter* until restitution for such default has been made.'' (emphasis added). Moreover, Va. Code 45.1–270.2 provides, in relevant part, that: ''Commencement of participation in the Fund, as to the applicable permit, shall constitute an irrevocable commitment to participate therein as to the applicable permit and for the duration of the coal surface mining operations covered thereunder.'' We interpret this statutory language to bar all operators who trigger this condition from participation in the Fund, whether their permits are new or up for renewal, and any operator who defaults on a reclamation obligation and causes the Fund to incur expenses resulting therefrom is obligated to make restitution before a permit renewal can be approved. Therefore, Virginia's proposal to delete 4 VAC 25–130–801.16(a) has no effect on Virginia's program.

Regarding interest payments, we note that Va. Code 45.1–270.6.A requires restitution by operators before they may be reinstated as a Fund participant. We understand from Virginia's submission that this provision duplicates Virginia's statutes, including its current interpretation and implementation of the statutes, and therefore the deletion of this sentence would not affect Virginia's current implementation of its program seeking interest as part of restitution to the Fund. We also note that there are no counterpart Federal regulations that direct the manner in which a state would seek such restitution. To the extent that the deletion of this sentence would cause Virginia to collect less restitution by omitting interest, just as it could currently at the Director's discretion, our review would occur in the course of our oversight of the adequacy of the ABS system as a whole. For these reasons, the deletion of 4 VAC 25–130–801.16 does not render the Virginia program inconsistent with SMCRA, and we are approving the deletion in its entirety.

C. Public Participation and Proof of Publication Language Referenced in the State Regulations

In response to our 2014 review findings, Virginia seeks to revise requirements related to the timing of an applicant's submission to DMME of proof that it had published public notice of its exploratory permit applications, mining permit-related applications, and bond release applications referenced in 4 VAC 25–130–772.12, 778.21, and 800.40. In its submission, Virginia stated that these provisions are being revised to coincide with corresponding Federal regulations.

Virginia proposes to revise its regulations by removing the timeframe within which a copy of the required newspaper announcement or proof of publication must be filed with DMME. Rather than requiring proof of publication within four weeks of the date of publication, the revised regulations will require the applicant to submit proof of publication with a subsequent submittal related to the permit application. The following sections related to proof of publication of notice for exploratory permit applications, mining permit-related applications, and bond release applications are affected by this change:

1. Coal Exploration—4 VAC 25–130–772.12, Permit Requirements for Exploration Removing more than 250 Tons of Coal or Occurring on Lands Designated as Unsuitable for Surface Coal Mining Operations: While the change was not specifically described in its submission, a comparison of its existing regulation to its revised regulation shows that Virginia seeks to revise subsection (c)(1) of this section to reflect the change noted above: removing the requirement that proof of publication be submitted within four weeks from the date of publication, and instead requiring such proof to be made part of a subsequent submittal related to the permit application prior to approval.

OSMRE's Finding: We have determined that this change does not render Virginia's program less stringent than the section 512 of SMCRA or less effective than the Federal regulations at 30 CFR 772.12. In promulgating the public participation process for coal exploration permits in § 772.12, we explained that exploration permits generally do not have as adverse an impact on the environment as surface mining, and therefore there can be more flexibility in the public participation requirements. *See* 48 FR 40622, 40628 (September 8, 1983). For that reason, § 772.12 provides no requirement to submit a copy of the newspaper advertisement or proof of publication to the regulatory authority for coal exploration permits. Therefore, Virginia's requirement to submit proof of publication is more stringent than Federal requirements, and we approve the change.

2. Surface Mining—4 VAC 25–130–778.21, Proof of Publication: Virginia seeks to revise this section to reflect the change noted above. As we stated in our 2014 report, we recommended Virginia consider changing its regulations so that its use of its new electronic permitting process does not cause a violation of the program. The electronic permitting process altered the manner in which the State transmitted its comments on an application to the applicant and the manner in which the applicant could submit its responses to the State. DMME's electronic permitting process requires all submissions, which include responses to its comments and items like proof of publication, to be included in one zip file to avoid piecemeal review and revision of the application. DMME does not accept receipt of any items submitted outside this format or individually. During our review we found that this process creates an obstacle for the permittee's submittal of the proof of publication within four weeks after the date of last publication as required by Virginia's regulations. This practice resulted in over half of the sampled applications in the review not meeting Virginia's four-week timeframe. Virginia states it would not be feasible to keep the current requirement that proof of publication be submitted within four weeks after the last date of publication due to fact that the application, the contents of which must

be kept together in one zip file, may be anywhere in the electronic process. Therefore, the requirement of submitting the proof of publication in the next subsequent electronic submission after the last date of publication, but prior to approval, is the option that best accommodates Virginia's electronic permitting system.

OSMRE's Finding: Unlike the proof of public notice requirements for coal exploration permit applications, the Federal regulations at 30 CFR 778.21, *Proof of publication,* require that the copy of the advertisement or proof of publication be submitted within four weeks after the last date of publication. The requirement to submit proof of publication was intended to aid in determining whether applicants complied with the requirement to publish public notice in a local newspaper of general circulation in the locality of the proposed operation and was initially proposed to require that proof of publication be submitted within one week after the last date of newspaper publication. *See* 43 FR 41662, 41693 (September 18, 1978). Based on public comment over the concern that delays occur in applicants receiving proof of publication from publishers, we adopted the commenter's suggestion that proof of publication be submitted within four weeks, accepting the commenter's reasoning that four weeks would be a reasonable length of time that would not unduly delay the application process. *See* 44 FR 14902, 15026 (March 13, 1979).

Based on this regulatory history of 30 CFR 778.21, we have determined that the change at 4 VAC 25–130–778.21 does not render Virginia's program less effective than the Federal regulations. Virginia's revision only relates to the length of time that may elapse before DMME receives proof that an applicant has complied with its duty to publish public notice. The revision does not relieve an applicant of its duty to publish the notice in a timely fashion, nor does it affect the public's opportunity to participate in the permit application process. Moreover, Virginia's revision does not unduly delay the permit review process. We understand that electronic permitting is designed to improve the permitting process by reducing administrative delays that existed in the conventional process and making public participation more accessible. To the extent that these improvements require greater flexibility regarding the time in which an applicant can submit proof of publication to DMME, prior to final action on the application, the proposed revision is no less effective than the Federal regulations, and we approve this change.

3. Bond Release: 4 VAC 25–130–800.40, Requirements to Release Performance Bonds: Virginia seeks to revise this section, which addresses public notice and proof of publication requirements for bond release applications and other documents required to be submitted with the bond release application. Virginia seeks to redraft paragraph (a)(2) as two paragraphs, numbered paragraphs (a)(2) and (3), and renumber existing paragraph (a)(3) as paragraph (a)(4). Existing paragraph (a)(2) includes a combination of notice requirements: it requires that proof of publication of public notice be submitted within 30 days after an application for bond release had been filed, specifies what information the public notice advertisement must contain and how and where it must be published, and requires that the applicant must submit copies of letters it is required to send to adjacent landowners and other enumerated parties. The revised paragraph (a)(2) addresses the advertisement and newspaper circulation requirements of the bond release application and what the advertisement should include. The revised paragraph also requires that the proof of publication be made part of a subsequent submittal after the last date of publication prior to approval, rather than within 30 days of submission of the application. New paragraph (a)(3) contains the requirement to submit copies of notice letters.

OSMRE's Finding: For the same reason noted in our finding in C.3., above, we have determined that the change to the timeframe in which the applicant must submit proof of publication does not render Virginia's program less effective than the Federal regulations at 30 CFR 800.40, and the changes are therefore approved. The remaining changes only separate and rearrange existing language for clarity.

D. Editorial Changes

Virginia also proposed certain editorial revisions, which include clarification of syntax, renumbering of paragraphs, and reference changes, but do not change the administrative regulations substantively. The editorial statutory changes are found in sections 45.1–270.3 (clarification of syntax in subsection A and re-lettering of subsections D, E, and F) and 45.1–270.4 (clarification of syntax in subsections B and C and clarification of syntax and renumbering of subsection E). The editorial regulatory changes are found at 4 VAC 25–130–801.12 (re-lettering of subsections (e) and (f)) and 4 VAC 25–130–801.15 (clarification at subsection (a) and reference changes at subsections (b) and (d)). Because the changes in these sections are only editorial adjustments and corrections, we are approving them.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on two occasions. We announced receipt of the amendment and opportunity for public comment and/or hearing in the October 22, 2015, **Federal Register** (80 FR 63933) (Administrative Record No. 2026). We reopened the public comment period in the February 8, 2016, **Federal Register** (81 FR 6479) (Administrative Record No. 2029) to afford the public more time to comment. The public comment period ended on March 9, 2016. On March 9, 2016, we received a combined response from The Southern Appalachian Mountain Stewards (SAMS) and Sierra Club (SC) (Administrative Record No. 2030). We received a letter dated March 9, 2016, which was signed by 1,185 private citizens (Administrative Record No. 2032). Identical form letters dated January 14, 2016, through January 19, 2016, were received from 21 private citizens (Administrative Record No. 2031). No public hearing was requested.

A. SAMS and SC Comments: The following summarizes the comments from the SAMS and SC.

1. Public Participation Requirements: The commenters support the proposal to revise Virginia's public participation requirements to coincide with the Federal regulations but note that Virginia's submission includes descriptions of the revisions that are unhelpful, conclusory statements that do not explain the events or conditions that prompted the revisions, and how the revisions resolve those concerns. The commenters suggest requiring Virginia to provide a narrative description of each proposed program change, including the expected effect that the proposed change would have on the DMME's administration of the program. The commenters suggest that this would substantially assist members of the public in understanding the purpose and effect of the proposed changes.

OSMRE's Response: As noted in OSMRE's findings under section C, *Public Participation and Proof of Publication,* the intent of the revisions was not to make Virginia's regulations coincide with corresponding Federal regulations. Nevertheless, Virginia's

revisions do not affect the public's opportunity to participate and allow the DMME to ensure that permit applicants comply with the requirement to publish notice of applications without unduly delaying the permit review process.

2. Self-Bonding: The commenters support the proposal to repeal and rescind statutory and regulatory provisions that authorize Virginia to accept self-bonds. However, the commenters note that Virginia is not compelling operators that currently use self-bonding to transition to conventional financial assurances and further note that eliminating self-bonding by itself does not raise the assets in the bond pool fund. The commenters urge us to require Virginia to transition all existing self-bonds to conventional bonds. Alternatively, commenters state that if we determine that Virginia may continue to maintain existing self-bonds, commenters oppose approval of the rescission of certain regulatory definitions and substantive requirements governing self-bonds, unless and until Virginia certifies to us that every previously approved self-bond has either been: (1) lawfully released based on an accurate determination that the permittee has satisfactorily completed all reclamation obligations; or (2) replaced with an adequate substitute bond or set of bonds, each of which is backed by a qualified surety, adequate cash deposit, qualified government securities, qualified bank instruments, or an adequate combination of these forms of financial assurance. The commenters reference a settlement agreement between Virginia and a coal company that did not require the coal company to replace its self-bond with another form of performance bond.

OSMRE's Response: We decline to require Virginia to transition existing self-bonds to conventional bonds because SMCRA affords the regulatory authority the discretion to accept different forms of performance bonds, including self-bonds, as a mechanism to ensure that funds will be available for completion of the reclamation plan if the work has to be performed by the regulatory authority in the event of a forfeiture. If we find, through our oversight activities, that a self-bonded permittee no longer meets Virginia's program requirements, we can initiate appropriate action. Also, we recognize that eliminating self-bonding does not increase the assets in the bond pool fund. However, the elimination of future self-bonding decreases the potential liability to the Fund and is approved for that reason. We agree with the commenters' alternative suggestion to maintain certain provisions governing existing self-bonds. Our findings are under section A, *Performance Bonds: Self-Bonding.*

3. Escrow Bonding: The commenters also note that Virginia proposes to rescind the administrative regulations that authorize and govern escrow bonding at 4 VAC 25–130–800.23 but has not proposed to remove the authorization in 4 VAC 25–130–800.12 (c), (d), and (e) of the use of escrow accounts as a form of performance bond. The commenters request that we require Virginia to rescind those provisions because with this amendment proposal, Virginia will no longer permit this type of bonding form.

OSMRE's Response: Virginia clarified that it was not the State's intent to rescind the escrow bonding regulation.

4. ABS: The commenters identified a number of risks associated with the solvency of the bond pool fund: inclusion of self-bonded operations, status of operations (*e.g.,* the number of operations under temporary cessation, partial cessation, or ''active/not producing'' status), liability for sites that require water treatment, and decrease in Fund revenue because of a decline in coal production. The commenters recognize that the changes to Virginia's statutes and regulations governing the ABS would incrementally improve the system, but, according to the commenters, the changes are not enough to guarantee financial soundness of its ABS. The commenters' support is contingent on: (1) Virginia's presentation to us, on or before July 1, 2016, of a current, independent, professional actuarial report concerning the current solvency of the ABS that is based on complete data concerning current assets and liabilities of the Fund and a reasonable forecast of changes in assets and liabilities over the next five years; and (2) Virginia's adoption, on or before the close of the 2017 session of the Virginia General Assembly, of appropriate additional statutory and regulatory amendments that effectively implement each of the recommendations of the May 29, 2012 Pinnacle Report. The Pinnacle Report concluded that the primary risks to the Fund were the participation by companies, whether directly or through parent-subsidiary relationships, that held multiple permits that could be forfeited simultaneously in the event of default, the number of self-bonded permits, and that the risk of self-bonding was not reflected in the coal tax rate.

The commenters also support their position by referencing our November 1990 report entitled ''Alternative Bonding Systems: An Analytical Approach and Identified Factors to Consider for Evaluating Alternative Bonding Systems'' (commenters refer to it as the ''ABS Memo'') and a letter from an internationally recognized actuarial consultant, Tillinghast, dated November 9, 1990 (commenters refer to it as the Tillinghast Letter). The commenters state that it is the only known criteria that we have endorsed related to the evaluation of an alternative bonding system.

As the November 1990 report states, the analysis was conducted by an ad hoc committee whose purpose was to develop consistent considerations for evaluating an ABS. The report identifies factors which are recommended for use in analyzing and understanding the mechanisms for an ABS to operate as a solvent and legally sufficient system capable of complying with statutory and regulatory requirements. The considerations were developed through research and discussions with states and were supplemented with the advice of Tillinghast.

The commenters refer to these guidelines as our stated criteria for evaluating an ABS and state that SMCRA requires us to evaluate each system on every occasion when the regulatory authority proposes to change it. Referring to those guidelines, the commenters had three areas of concern, which we will address below.

a. Periodic Financial Soundness Reviews: The commenters state that both the Pinnacle Report and the OSMRE ABS Memo emphasize and/or recommend periodic financial soundness reviews. Accordingly, the commenters state that we should require an updated actuarial report on the solvency of the bond pool fund. The commenters suggest that a current actuarial report be required and should focus on, among other things, the risk posed by: mining permits held by companies currently in bankruptcy; mines in temporary cessation and those in active/non-producing status; Virginia's reliance on its coal reclamation tax; coal production; Virginia's reclamation tax rate; DMME's lack of authority to impose one or more retroactive or special assessments in the future; and specific bonding requirements at Va. Code 45.1–270.2.D, 45.1–270.30.D, 45.1–270.3.E, and 45.1–270.4.D, which limit the amount of tax collected from any individual operator. The commenters further request that the updated evaluation incorporate the risk analysis factors highlighted in the OSMRE ABS Memo. In particular, they point to the need to project the level of expenditures with respect to current,

projected, and incurred, but not reported liabilities and related costs. They contend the updated actuarial report must consider the forfeiture rate that would occur following the financial failure of most participating permittees in the ABS, including failures resulting in a severe economic downturn that could cause a failure of the industry.

The commenters suggest that we should direct Virginia to consider, based on the results of the new actuarial study, eliminating the bond pool system entirely if financial distress in the coal mining industry continues. The commenters suggest individual surety bonds for the full reclamation amount offer the most reliable guarantee that funds will be available to carry out the reclamation required by SMCRA.

OSMRE's Response: OSMRE's findings regarding Virginia's ABS are found under *Section B. Alternative Bonding System (ABS): Entrance Fees, Reclamation Taxes, and Fund Balance Determinations.* We agree with the commenters that Virginia has taken steps to improve its ABS. We rely on actuarial findings and recommendations as well as our oversight activities to assist us in our determination of whether the ABS is capable of satisfying the requirements of 30 CFR 800.11(e). However, we are not at this time requiring Virginia to adopt any particular recommendations from the Pinnacle Report. We recognize that actuarial recommendations are based on past history and forecasts and do not necessarily reflect current economic conditions and financial soundness. Our oversight activities will continue to focus on the solvency of the Fund, including the financial status of self-bonded permittees, and will evaluate Virginia's reporting on the solvency of the Fund accordingly.

b. Authority to Adjust Fees and Taxes: The commenters state that they oppose, as a matter of administrative principle, the aspects of the proposed amendment to the ABS that commenters believe effectively rescind the authority of the DMME Director to promulgate regulations (effective only on our approval pursuant to 30 CFR 732.17(g)) that set, from time to time, specific entrance fees, renewal fees, reclamation tax rates, and special assessments in amounts that reasonably can assure the solvency of the ABS. Instead, the commenters state that we should require Virginia to expressly authorize the Director to promulgate regulations setting the amount or rate of such specific fees, above a set floor, so as to enable the Director to make timely adjustments that are or may become necessary to achieve or maintain solvency of the ABS. The commenters, citing the OSMRE ABS Memo, state that we have a duty to assure, as part of the consideration for approving an ABS, that any such system include ''legislative authority that allows the [regulatory authority] to adjust rates as needed to cover accountable liabilities.''

OSMRE's Response: We have determined that Virginia's proposed changes do not rescind any authority from DMME to set fees. The authority provisions to which the commenters refer, principally 4 VAC 25–130–801.12 and 801.14, merely duplicate the statutory fee requirements and do not grant DMME the independent authority to deviate from the fees set by the statute. Therefore, their rescission does not remove authority from DMME. The commenters' assertion that the OSMRE ABS Memo requires us to ensure that DMME, rather than the Virginia General Assembly, has the statutory authority to adjust fees is incorrect. The recommendation the commenters reference relates to elements that states should include in the narrative description of their ABS program only if their ABS program includes those elements, subject to legal restrictions that include those in the state constitution. Moreover, neither section 509(a) of SMCRA, nor the Federal regulations at 30 CFR 800.11(e), dictate how ABS systems must be funded. Therefore, we do not require state legislatures to grant regulatory agencies the authority to adjust fees and taxes because the states may choose to meet the requirements of SMCRA and its implementing regulations through other means. *See, e.g.,* 66 FR 67446 (December 28, 2001) (approving the creation of a Special Reclamation Fund Advisory Council that reports to the West Virginia Legislature and the Governor on the adequacy of the special reclamation tax set by statute). The recommendations in the OSMRE ABS Memo only suggest that if an ABS is funded a certain way, those elements should be included in the narrative submission.

c. Fund Cap: The commenters support eliminating the $2 million Fund cap and increasing the Fund cap to $20 million because this change would allow additional money to accumulate to cover the potential liabilities of the Fund. However, the commenters note that Virginia has not demonstrated that $20 million would be sufficient to cover all of the potential liabilities to the Fund, especially in light of declining coal production and industry finances. The commenters suggest that Virginia follow the recommendation of the Pinnacle Report to repeal the Fund cap altogether, thereby allowing the Fund to continue growing.

OSMRE's Response: We agree with the commenters that the $2 million Fund cap should be removed. We also agree with the commenters that Virginia has not demonstrated that $20 million would be sufficient to make Virginia's ABS solvent. Our findings regarding Virginia's ABS are found under section B, *Alternative Bonding System (ABS): Entrance Fees, Reclamation Taxes, and Fund Balance Determinations.*

B. Private Citizen Comments: The following summarizes the comments that were received from private citizens.

The commenters state that, in approving Virginia's regulations, we should consider the comments submitted by the SAMS and SC. They opine that although eliminating self-bonding is a good start, Virginia needs to do more to prevent the citizens from bearing the costs of mine clean up. They request that we advise Virginia that it needs to do more and undertake a new study that actually accounts for the effects of decreased coal production and mine operator insolvency and eliminate caps on its pooled reclamation fund.

OSMRE's Response: We have considered the SAMS and SC's comments during the review process and have addressed future actuarial studies and the Fund caps. Our findings are located under section B, *Alternative Bonding System (ABS): Entrance Fees, Reclamation Taxes, and Fund Balance Determinations.* Virginia is aware of its responsibility to continually assess the status of its bonding program, specifically the solvency of the bond pool. We believe that, in managing the bond pool, Virginia will conduct a financial analysis of the bond pool using third-party actuarial studies as it deems necessary. In our oversight of the Virginia bonding program, particularly of the bond pool and its solvency, we will be reviewing how Virginia assesses and manages the bond pool. If in the future we determine that Virginia is not managing the bond pool program effectively, we will notify the State of our findings through the 732 processes for Virginia to undertake any corrective actions required.

Federal Agency Comments

On June 23, 2015, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendments from various Federal agencies with an actual or potential interest in the Virginia program (Administrative Record No. 2025). No Federal agency comments were received.

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. However, on June 23, 2015, under 30 CFR 732.17(h)(11)(i), we requested comments from the EPA (Administrative Record No. 2025). The EPA did not provide any comments.

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 June 23, 2015, we requested comments from the Virginia Department of Historic Resources on Virginia's amendment (Administrative Record No. VA 2025). We did not receive any comments.

V. OSMRE's Decision

Based on the above findings, we are approving Virginia's amendment that was submitted to us on June 12, 2015 (Administrative Record No. 2024), with the following two deferrals:

1. We are deferring our decision on the removal of 4 VAC 25–130–801.13(d) of the self-bonding regulations until all previously approved self-bonds have either (1) been lawfully released based on an accurate determination that the permittee has satisfactorily completed all reclamation obligations, or (2) been replaced with an adequate substitute bond or set of bonds, each of which is backed by a qualified surety, adequate cash deposit, qualified government securities, qualified bank instruments, or an adequate combination of these forms of financial assurance.

2. We are deferring our decision on the provisions of 45.1–270.4.B and C of the Virginia Code to the extent that they impose a cap of $20 million. We are approving the continuing collection of the tax beyond $2 million but deferring our decision on the cessation of the tax collection when the Fund reaches $20 million until such time as Virginia either takes legislative action to remove the cap from this statute or demonstrates that $20 million is a sufficient amount of money to complete the reclamation, including water treatment, on any area covered by the Fund. Our deferral has the effect of removing the cap upon the amount of money that can be in the Fund at any given time and will remain in effect until Virginia makes that demonstration.

To implement this decision, we are amending the Federal regulations at 30 CFR part 946 that codify decisions concerning the Virginia program. In accordance with the Administrative Procedure Act, this rule will take effect 30 days after the date of publication.

VI. Statutory and Executive Order Reviews

Executive Order 12630—Governmental Actions and Interference With Constitutionality Protected Property Rights

This rule would not effect a taking of private property or otherwise have taking implications that would result in public property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the corresponding Federal regulations.

Executive Order 12866—Regulatory Planning and Review, 13563—Improving Regulation and Regulatory Review, and 14094—Modernizing Regulatory Review

Executive Order 12866, as amended by Executive Order 14094, provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the approval of State program is exempted from OMB review under Executive Order 12866, as amended by Executive Order 14094. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by section 3 of Executive Order 12988. The Department determined that this **Federal Register** document meets the criteria of section 3 of Executive Order 12988, which is intended to ensure that the agency review its legislation and proposed regulations to eliminate drafting errors and ambiguity; that the agency write its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive order to the quality of this **Federal Register** document and to changes to the Federal regulations. The review under this Executive order did not extend to the language of the State regulatory program amendment that Virginia drafted.

Executive Order 13132—Federalism

This rule has potential federalism implications as defined under section 1(a) of Executive Order 13132. Executive Order 13132 directs agencies to ''grant the States the maximum administrative discretion possible'' with respect to Federal statutes and regulations administered by the States. Virginia, through its approved regulatory program, implements and administers SMCRA and its implementing regulations at the State level. This rule approves an amendment to the Virginia program submitted and drafted by the State, and thus is consistent with the direction to provide maximum administrative discretion to States.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on the distribution of power and responsibilities between the Federal Government and Tribes. The basis for this determination is that our decision on the Virginia program does not include Indian lands, as defined by SMCRA, or regulation of activities on Indian lands. Indian lands are regulated independently under the applicable, approved Federal program. The Department's consultation policy also acknowledges that our rules may have Tribal implications where the State proposing the amendment encompasses ancestral lands in areas with mineable coal. We are currently working to identify and engage appropriate Tribal stakeholders to devise a constructive approach for consulting on these amendments.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking 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 significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

This rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866; and this action does not address environmental health or safety risks disproportionately affecting children.

National Environmental Policy Act

Consistent with sections 501(a) and 702(d) of SMCRA (30 U.S.C. 1251(a) and 1292(d), respectively) and the U.S. Department of the Interior Departmental Manual, part 516, section 13.5(A), State program amendments are not major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C).

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 3701 *et seq.*) directs OSMRE to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical (OMB Circular A–119 at p. 14). This action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with SMCRA.

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

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 the Federal regulations that set minimum performance standards for alternative bonding systems 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 related Federal regulations.

Congressional Review 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 on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based on an analysis of the Federal regulations that set minimum performance standards for alternative bonding systems, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 946

Intergovernmental relations, Surface mining, Underground mining.

Thomas D. Shope,

Regional Director, North Atlantic-Appalachian Region.

For the reasons set out in the preamble, 30 CFR part 946 is amended as follows:

PART 946—VIRGINIA

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

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

■ 2. Amend § 946.12 by adding paragraph (d) to read as follows:

§ 946.12 State program provisions and amendments not approved.

* * * * *

(d) We are not approving the following portions of provisions of the proposed program amendment that Virginia submitted on June 12, 2015:

(1) We are deferring our decision on the removal of 4 VAC 25–130–801.13(d) of the self-bonding regulations until all previously approved self-bonds have either been lawfully released based on an accurate determination that the permittee has satisfactorily completed all reclamation obligations or replaced with an adequate substitute financial assurance under the approved Virginia regulatory program.

(2) We are deferring our decision on the provisions of 45.1–270.4.B and C of the Virginia Code that address reclamation tax revenue to the extent that they impose a cap of $20 million. We are approving the continuing collection of the tax beyond $2 million but deferring our decision on the cessation of the tax collection when the Fund reaches $20 million until such time as Virginia either takes legislative action to remove the cap from this statute or demonstrates that $20 million is a sufficient amount of money to complete the reclamation, including water treatment, on any site covered by the Fund.

■ 3. Amend § 946.15 in the table by adding the entry ''June 12, 2015'' 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
*	*	* * * * *
June 12, 2015	December 11, 2023	45.1–241.C (Performance Bonds), 45.1–270.3 (Initial Payments into Fund; Renewal Payments; Bonds); and 45.1–270.4 (Assessment of Reclamation Tax Revenue for Fund) (partial). 4 VAC 25–130–700.5 (Definitions) ''indemnity agreement'' and ''self-bond'' (deleted); 772.12 (Permit Requirements for Exploration Removing more than 250 Tons of Coal or Occurring on Lands Designated as Unsuitable for Surface Coal Mining Operations); 778.21 (Proof of Publication); 800.12(f) (Form of the Performance Bond); 800.40© and (d) (Requirements to Release Performance Bonds); 801.11 (Participation in the Pool Bond Fund) (deleted); 801.12 (Entrance Fee and Bond); 801.13 (Self-bonding) (deleted); 801.14 (Reclamation Tax) (deleted); 801.15 (Collection of the Reclamation Tax and Penalties for Non-Payment); 801.16 (Reinstatement to the Pool Bond Fund) (deleted).

[FR Doc. 2023–27105 Filed 12–8–23; 8:45 am]
BILLING CODE 4310–05–P

POSTAL SERVICE

39 CFR Part 233

Inspection Service Authority; Technical Correction

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The U.S. Postal Service™ is amending its regulations governing mail covers so that they are consistent with current mail classification terminology.

DATES: This rule is effective December 11, 2023.

ADDRESSES: Questions on this action are welcome. Mail or deliver written comments to Postal Inspector in Charge, Office of Counsel, U.S. Postal Inspection Service, 475 L'Enfant Plaza SW, Room 3114, Washington, DC 20260–3100.

FOR FURTHER INFORMATION CONTACT: Louis DiRienzo, Postal Inspector in Charge, Office of Independent Counsel, U.S. Postal Inspection Service, 202–268–2705.

SUPPLEMENTARY INFORMATION: On May 22, 2023, the Postal Service™ published a final rule announcing changes to domestic competitive products. 88 FR 32824. Among the changes in that final rule are provisions expanding First-Class Package Service to subsume USPS Retail Ground and Parcel Select Ground, eliminating USPS Retail Ground and Parcel Select Ground as standalone products, renaming the expanded First-Class Package Service USPS Ground Advantage™, and further segregating the USPS Ground Advantage product into retail and commercial price categories. The Postal Service is accordingly updating its regulations to adjust the definitions of sealed and unsealed mail to incorporate these changes.

List of Subjects in 39 CFR Part 233

Administrative practice and procedure, Crime, Law enforcement, Penalties, Privacy.

For the reasons stated in the preamble, the Postal Service amends 39 CFR part 233 as follows:

PART 233—INSPECTION SERVICE AUTHORITY

■ 1. The authority citation for 39 CFR part 233 continues to read as follows:

Authority: 39 U.S.C. 101, 102, 202, 204, 401, 402, 403, 404, 406, 410, 411, 1003, 3005(e)(1), 3012, 3017, 3018; 12 U.S.C. 3401–3422; 18 U.S.C. 981, 983, 1956, 1957, 2254, 3061; 21 U.S.C. 881; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 104–208, 110 Stat. 3009; Secs. 106 and 108, Pub. L. 106–168, 113 Stat. 1806 (39 U.S.C. 3012, 3017); Pub. L. 114–74, 129 Stat. 584.

§ 233.3 [Amended]

■ 2. In § 233.3(c)(3), add the words ''USPS Ground Advantage™—Retail'' immediately following ''Priority Mail Express;'' and immediately prior to ''Outbound International Expedited Services (Priority Mail Express International; as well as Global Express Guaranteed items containing only documents);''

■ 3. In § 233.3(c)(4), remove the words ''First Class Package Service; USPS Retail Ground,'' and add in their place the words ''USPS Ground Advantage™—Commercial;''.

Sarah Sullivan,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2023–26787 Filed 12–8–23; 8:45 am]
BILLING CODE 7710–12–P