

REGION VI

Market areas designation and local	1-family and condo unit	2-family	3-family	4-family
HUD Field Office—Fort Worth Office				
Hood County	\$73,600	\$82,900	\$100,750	\$116,250
HUD Field Office—San Antonio Office				
Kendall County	79,500	85,050	103,350	119,250

REGION VIII

Market areas designation and local	1-family and condo unit	2-family	3-family	4-family
HUD Field Office—Salt Lake City Office				
Summit County	\$90,000	\$101,300	\$122,650	\$142,650

Date: November 5, 1987.

Thomas T. Demery,

Assistant Secretary for Housing-Federal
Housing Commissioner.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation
and Enforcement

30 CFR Part 913

Surface Coal Mining and Reclamation
Operations Under the Federal Lands
Program; State-Federal Cooperative
Agreements; Illinois

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

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) is adopting a cooperative agreement between the Department of the Interior (Department) and the State of Illinois (State) for the regulation of surface coal mining and reclamation operations (including surface operations and surface impacts incident to underground mining operations) and certain coal exploration operations on Federal lands in Illinois. Such a cooperative agreement is provided for under section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This final rule provides the terms of the cooperative agreement and additional information on other issues.

EFFECTIVE DATE: December 28, 1987.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Director, Springfield Field Office, Office of Surface Mining Reclamation and Enforcement, 600 East Monroe Street, Springfield, Illinois 62701, Telephone: (217) 492-4495.

SUPPLEMENTARY INFORMATION:

I. Background

II. Responses to Public Comments on the
Proposed Agreement and Summary of
the Final Agreement

III. Procedural Matters

I. Background

The State of Illinois' Application

Section 523(c) of SMCRA, 30 U.S.C. 1201 *et seq.*, and the implementing regulations at 30 CFR Parts 740 and 745, allow a State and the Secretary of the Interior to enter into a permanent program cooperative agreement if the State has an approved State program for the regulation of surface coal mining and reclamation operations, including surface operations and surface impacts incident to underground mining operations, on non-Federal and non-Indian lands.

Permanent program cooperative agreements are authorized by the first sentence of section 523(c), which provides that "[a]ny State with an approved State program may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, provided the Secretary determines in writing that such State has necessary personnel and funding to fully implement such a cooperative agreement in accordance with the provision[s] of [SMCRA]." 30 U.S.C. 1273(c).

On December 22, 1981, Illinois submitted its proposed permanent regulatory program. The Secretary reviewed and conditionally approved the permanent regulatory program on June 1, 1982. The State program, as amended, is referred to in this preamble and cooperative agreement as the Program.

On November 7, 1986, James R. Thompson, Governor of Illinois (Governor), requested that a permanent program cooperative agreement be

entered into between the Secretary of the Interior and the Governor of Illinois.

30 CFR 745.11(b) requires that certain information be submitted with a request for a permanent program cooperative agreement, if the information has not previously been submitted in the State program. The State of Illinois submitted an initial draft of a proposed permanent program cooperative agreement and the supporting information required by 30 CFR 745.11(b) on August 14, 1986. Most of the information relating to the budget, staffing, organization and duties of the State regulatory authority, the Illinois Department of Mines and Minerals, was described in Illinois' Proposed Permanent Coal Program text. In addition, the State of Illinois submitted a written certification from the Chief Legal Counsel of the Illinois Department of Mines and Minerals, Land Reclamation Division (LRD), that no State statutory, regulatory or other legal constraint exists which would limit the capability of the Department of Mines and Minerals, acting through the LRD, to fully comply with section 523(c) of SMCRA, as implemented by 30 CFR Part 745.

*Relation to the Federal Lands Program
of SMCRA*

The nature and extent of the Secretary's ability to delegate authority for surface coal mining operations on Federal lands to States through cooperative agreements was a subject of a Federal District Court opinion in *In Re: Permanent Surface Mining Regulation Litigation II*, Civil Action No. 79-1144 (D.D.C. July 6, 1984). The Illinois cooperative agreement (Agreement) is consistent with that opinion. It delegates the Secretary's authority under SMCRA which is required to be covered under the Federal lands program and retains the Secretary's non-delegable responsibilities under the Mineral Leasing Act.

Although OSMRE has not yet amended the scope of the Federal lands program, 30 CFR Chapter VII, Subchapter D, to be consistent with the District Court decision, this agreement encompasses the salient features of that decision. If changes to the Federal lands program are adopted which are not covered by this agreement, OSMRE and the Secretary will promptly initiate the steps necessary to conform the agreement.

II. Responses to Public Comments on the Proposed Agreement and Summary of the Final Agreement

The proposed agreement which was published in the *Federal Register* on March 24, 1987, announced that the public comment period would close April 24, 1987, and that a public hearing would be held, if it were requested. Since no one asked to testify, a public hearing was not held.

One comment on the proposed agreement discussed the applicability of State program requirements which are more stringent than OSMRE regulations. It stated that the State statute expressly prohibits State regulations to be more stringent than Federal regulations. OSMRE finds that this issue is independent of the cooperative agreement. Illinois regulations apply on Federal lands in Illinois whether or not there is a cooperative agreement in effect, as provided under 30 CFR 740.11(a).

Another comment focused on whether fish and wildlife resources, and their habitats, would be adequately protected, and whether there would be sufficient involvement of the U.S. Fish and Wildlife Service (FWS) to assure compliance with applicable Federal laws under its jurisdiction. LRD is the regulatory authority under the cooperative agreement. LRD is responsible for determining an operator's compliance with all applicable provisions of SMCRA, including those that pertain to fish and wildlife resources. Additional fish and wildlife protection requirements, under other Federal laws, remain under the jurisdiction of the FWS. While there may be some permit application packages (PAPs) that do not pose any particular fish and wildlife concerns, the agreement provides that LRD forward a copy of each PAP to all Federal agencies having responsibilities under Federal law for the proposed mining area, with a request for each agency's review and determination of compliance. This process also provides an opportunity for Federal agencies to recommend additional conditions, where necessary, for the operation to comply with all

applicable requirements before LRD issues the permit, and where applicable, the Secretary approves the mining plan.

OSMRE received a comment stating that under paragraph VI.B.1. (review of a PAP where there is no Federally leased coal), the criteria for determining non-significant permit revisions were not defined. The commenter stated that the criteria should be made available to interested agencies and a system should be established to overview these determinations. The criteria for determining whether a proposed revision is non-significant (and thus when it is significant) are available and may be found in the Illinois State Program regulations under section 1788.12. It should be noted that LRD is delegated the responsibility to obtain for each PAP, the comments and determinations of other Federal agencies, " * * * except for non-significant revisions * * *". This requirement is based on section 511(a)(2) of SMCRA and 30 CFR 774.13(b)(2), which requires a public review and comment process only for significant revisions to a permit application. Although LRD is not required to obtain comments or concurrences from other Federal agencies in processing a non-significant revision, LRD is not restricted from consulting with such other Federal agencies when the need arises.

The comment that there should be a system to overview the criteria for non-significant revisions in the Program is not exclusively relevant to the cooperative agreement, but also applies to OSMRE's State program oversight process. Through oversight of the State program, OSMRE reviews the program to determine whether its provisions are functioning properly. If problems exist in implementation of a portion of the program, such as that relating to non-significant permit revisions, OSMRE and the State would determine the appropriate remedy.

Another comment asked whether LRD will be required to obtain comments and determinations from FWS on all PAPs. Comments from the FWS and other interested Federal and State agencies are sought for new permits and for significant revisions to permits. The procedure for obtaining comments is described in a later section of this preamble. Although it is not clear which determinations the commenter is referring to, OSMRE recognizes that FWS may have a greater role when the issuance of a permit involves the action of Federal agency. Under this cooperative agreement, although permit issuance is delegated to LRD, the

Secretary retains the duty to approve mining plans when leased Federal coal is involved and to take various other actions, such as making compatibility determinations and certain valid existing rights decisions. Thus, in most instances a Federal action will occur for each mine on Federal lands.

Another comment stated that under paragraph VI.C.1. (review of PAPs for Federally leased coal), the delegable responsibilities to be taken on by LRD and those to be retained by the Secretary as well as those under other applicable Federal laws, are not defined, and wanted to know which of those relate to fish and wildlife and the environment. Under this agreement only SMCRA responsibilities are delegated. No Secretarial responsibilities under other Federal laws, such as the Endangered Species Act, as amended, 16 U.S.C. 1531 *et seq.*, are delegated.

OSMRE received a comment concerning the need for a mechanism to assure that fish and wildlife concerns are adequately and appropriately considered for permit revisions, permit renewals, and mining plan modifications. The Agreement and sections 1788.12 and 1788.14 of the Illinois program provide a mechanism to assure that fish and wildlife concerns are adequately addressed through review and comment by FWS on renewals and significant revisions to approved PAPs.

Another comment proposed that the Illinois Department of Conservation (DOC) concur in the determination of whether or not a mining plan modification is involved. Under the provisions of paragraph VI.D.1., there is no procedure for LRD or any other State agency to concur in the determination that a permit revision or renewal constitutes a mining plan modification. That is a determination under the Mineral Leasing Act and may not be delegated to a State. However, whether or not significant permit revisions or renewals constitute mining plan modifications, the procedure for processing them provides for comments of appropriate Federal and State agencies so as to assure that fish, wildlife and the environment are adequately considered. (See paragraphs VI.D.1. and VI.D.3 which reference paragraphs VI.C. or VI.B., as appropriate.)

Another comment stated that the text of the agreement did not refer to underground mining, although it is listed under the "List of Subjects" in the procedural matters section of this notice. Because the definition of "surface coal mining operations" includes surface

operations and surface impacts incident to underground mining operations, such operations are automatically included in the scope of this agreement. For clarity, the Summary of this **Federal Register** Notice and the first paragraph of Article I of the text of the Final Agreement includes a parenthetical statement that the surface operations and surface impacts of underground mining are covered in the Agreement.

Another comment noted that the acronym "SMORA", which appeared in the proposed agreement under Articles V.D. and VI.A.1 was not explained or defined. This undefined term is actually a typographical error for the term "SMCRA", i.e., the "Surface Mining Control and Reclamation Act".

Also, Appendix A has been revised to incorporate suggestions on proper citation of the Endangered Species Act and inclusion of the Fish and Wildlife Coordination Act.

A summary of the final agreement appears below.

Article I: Introduction, Purposes, and Responsible Agencies

Paragraph A of Article I sets forth the legal authority for the Agreement, which is provided by section 523(c) of SMCRA. This paragraph states that the Agreement provides for State regulation of surface coal mining and reclamation operations, and coal exploration operations not subject to 43 CFR Part 3480, Subparts 3480 through 3487, in Illinois on Federal lands.

Paragraph B sets forth the purposes of the Agreement, which are to foster Federal-State cooperation in regulating surface coal mining and reclamation operations and coal exploration not subject to 43 CFR Part 3480, Subparts 3480 through 3487; minimize intergovernmental overlap and duplication, and apply the Program uniformly and effectively.

Paragraph C names the Illinois Department of Mines and Minerals, Land Reclamation Division (LRD) as the agency responsible for administering the Agreement on behalf of the Governor, and the Office of Surface Mining Reclamation and Enforcement (OSMRE) as the agency responsible for administering the Agreement on behalf of the Secretary of the Department of the Interior (Secretary).

Article II: Effective Date

Article II provides that after it has been signed by the Secretary and the Governor, the Agreement becomes effective 30 days after publication as a final rule in the **Federal Register**. It remains in effect until terminated as provided in Article XI.

Article III: Definitions

Article III provides that any terms and phrases used in the Agreement have the same meanings as set forth in SMCRA and the State Act, regulations promulgated pursuant to those Acts, 30 CFR Parts 700, 701 and 740, and the Program. Defining terms and phrases in this manner ensures consistency between applicable regulations and the Agreement. Where there are conflicts in definitions, those included in the Program apply.

Article IV: Applicability

Article IV states that the laws, regulations, terms, and conditions of the Program and the Agreement are applicable to Federal lands in Illinois except as otherwise stated in the Agreement, SMCRA, 30 CFR 740.4, 740.11(a), and 745.13, and other applicable laws, Executive Orders, or regulations. This provision is consistent with the Federal lands program, which made the Program applicable on all Federal lands in Illinois.

The reference to the Program is intended to encompass the approval of that State program on June 1, 1982, and any amendments thereto which are approved in accordance with 30 CFR 732.17. Excluded from the scope of the Agreement are the authorities and responsibilities reserved to the Secretary pursuant to SMCRA 30 CFR 740.4 and 745.13 and other applicable laws, Executive Orders, or regulations.

Article V: General Requirements

Article V mutually binds the Governor and the Secretary to the provisions of the Agreement.

Paragraph A requires that LRD continue to have authority under State law to carry out the Agreement.

Paragraph B (Funds) provides that upon application for funds, the State shall be reimbursed by OSMRE pursuant to section 705(c) of the Act if necessary funds have been appropriated to OSMRE by Congress. Section 705(c) of SMCRA provides that a State with a cooperative agreement may receive an increase in its annual grant for the development, administration and enforcement of a State program on Federal lands by an amount which the Secretary determines is approximately equal to the amount the Federal government would otherwise have expended to regulate surface coal mining and reclamation operations on the Federal lands within the State. See 30 U.S.C. 1295(c). The reference in section 705(c) to section 523(d) is obviously a typographical error; the correct reference is section 523(c). The

regulations implementing section 705(c) appear at 30 CFR 735.16 through 735.26.

If, when requested by the State, adequate funds have not been appropriated, OSMRE and LRD will meet and decide on appropriate measures to ensure that mining operations are regulated in accordance with the approved State program.

Paragraph C of Article V requires the State to make annual reports to OSMRE with respect to compliance with this Agreement. Paragraph C also provides for a general exchange of information developed under the Agreement, unless such an exchange is prohibited by Federal law. Final evaluation reports prepared by OSMRE on State administration and enforcement of this Agreement will be provided to LRD. The Agreement requires that LRD's comments on the report be appended before being sent to Congress and other interested parties. One change from the proposal is the insertion of a clause recognizing that if Congress requests the final report by a date certain, OSMRE could have to comply with such a request regardless of whether LRD has submitted its comments to OSMRE.

Paragraph D requires LRD to maintain the necessary personnel to fully implement this Agreement.

Paragraph E requires that LRD avail itself of the facilities necessary to carry out the requirements of the Agreement. This provision ensures that the State has access to and will utilize any resources necessary to conduct inspections, investigations, studies, tests, and analyses required to fulfill the requirements of this Agreement.

Paragraph F of Article V concerns permit application fees and civil penalties. Permit fees will be determined according to section 2.05 of the State Act, section 1771.25 of the State regulations, and the applicable provisions of the State program and Federal law. Any permit fees collected by the State that are attributable to the Federal lands covered by this agreement will be considered program income. The State will retain all permit fees from operations on Federal lands and deposit them with the State Treasurer. The State will report the amount of these fees in the financial status report required under 30 CFR 735.26. Civil penalties or fines collected by the State will not be considered program income.

Article VI: Review of a Permit Application Package

Paragraphs A through C of Article VI generally describe the procedures that the State and OSMRE will follow in the review and analysis of permit

application packages (PAP) for operations on Federal lands.

"Permit application package" is a term adopted by OSMRE in the Federal lands program (48 FR 6912, February 16, 1983). It is the material submitted by an applicant proposing to mine on Federal lands, including applications for permit revisions and renewals. OSMRE adopted the term because there are requirements for mining on Federal lands in addition to those required by a permit application under the approved State program for non-Federal lands. For example, operations on Federal lands may be subject to requirements of the Federal lands management agency under Federal laws other than SMCRA. The package concept allows for such information to be included with the permit application required by the approved State program. See the definition of "permit application package" under 30 CFR 740.5.

Under paragraph A, an applicant proposing to conduct surface coal mining and reclamation operations on Federal lands is required by LRD and the Secretary to submit a PAP in an appropriate number of copies to LRD. LRD will furnish OSMRE and other Federal agencies with an appropriate number of copies of the PAP.

The PAP will be in the form required by LRD and include any supplemental information required by OSMRE, the Federal land management agency and other agencies with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP. At a minimum, the PAP must satisfy the requirements of 30 CFR 740.13(b) and must include the information necessary for LRD to make a determination of compliance with the approved State program and for OSMRE and appropriate Federal agencies to make determinations of compliance with applicable requirements of SMCRA, the Federal lands program, and other Federal laws, Executive Orders and regulations for which they are responsible.

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

Paragraph B of Article VI describes the procedures that LRD and OSMRE will follow for review of a PAP where leased Federal coal is not involved.

Under paragraph B.1., LRD will assume the responsibilities listed in 30 CFR 740.4(c) (1), (2), (4), (6), and (7) to

the extent authorized, where a PAP does not involve leased Federal coal.

The phrase "to the extent authorized" means that the exceptions to delegable responsibilities identified in 30 CFR 740.4(c) cannot be removed from OSMRE responsibility.

Also, to assure a more efficient administrative approach, LRD will be delegated the responsibility for obtaining, except for non-significant revisions, the comments and determinations of other Federal agencies with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP. This exemption for non-significant revisions does not restrict LRD from consulting with such other agencies.

Paragraph B.1 also provides that responsibilities and decisions which can be delegated to LRD under other applicable Federal laws may be specified in working agreements between OSMRE and LRD, with the concurrence of any Federal agency involved, and without amendment to this Agreement.

Paragraph B.2. assigns to LRD the primary responsibility for the analysis, review, and approval or disapproval of the permit application component of the PAP. LRD will also be the principal contact for the applicant on issues concerned with the development, review and approval of the permit application package or an application for permit revision or renewal for surface coal mining and reclamation operations in Illinois on Federal lands and will be responsible for informing applicants of determinations.

Under paragraph B.3., the Secretary will make his determinations under SMCRA that cannot be delegated to the State. Some of these, such as those of section 522(b), have been delegated to OSMRE.

Under paragraph B.4., OSMRE and LRD will coordinate with each other, as needed. OSMRE will provide, upon request, technical assistance to LRD. OSMRE will be responsible for forwarding any information from applicants, including copies of correspondence that have a bearing on the PAP, to LRD. Any information in LRD files concerning operations on lands subject to the Federal lands program will be available to OSMRE. The Secretary reserves the right to act independently of LRD and to carry out responsibilities under laws other than SMCRA. OSMRE will also provide assistance to LRD in resolving conflicts with land management agencies.

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

LRD will be required to include in the permit any lawful terms or conditions imposed by the Federal lands management agency and will require that the lawful requirements of that agency be met. The permit will also be required to include the lawful terms and conditions required by other applicable Federal laws and regulations. LRD will give written notification to the Federal land management agency, the applicant, and any agency with jurisdiction or responsibility over Federal lands affected by operations proposed in the PAP. LRD will provide a copy of the permit and written findings to OSMRE, upon request.

Paragraph C of Article VI discusses review procedures for PAP's where leased Federal coal is involved and, consequently, where the Secretary must make a decision on a mining plan.

Under paragraph C.1., LRD will assume the responsibilities listed in 30 CFR 740.4(c) (1), (2), (3), (4), (6), and (7), to the extent authorized; these responsibilities are outlined below.

Under paragraph VI.C.1., LRD will, to the extent authorized, take on the delegable responsibilities for review and approval, disapproval or conditional approval of permit applications, revisions or renewals thereof, and applications for transfer, sales and assignment of such permits under 30 CFR 740.4(c)(1). OSMRE will assist LRD in this review, upon request, to the extent possible.

Paragraph VI.C.1. also designates LRD as the primary contact for applicants in matters regarding review of the PAP. As such, LRD will inform the applicant of all joint State-Federal determinations.

Under 30 CFR 740.4(c)(2) LRD will consult with and obtain the consent of the Federal land management agency concerning post-mining land use and protection of non-coal resources, and under 30 CFR 740.4(c)(3) will consult with and obtain the consent of the Bureau of Land Management (BLM) with respect to development, production, and recovery of mineral resources where operations involve leased Federal coal. On matters concerned exclusively with 43 CFR 3480, Subparts 3480 through 3487, BLM will be the primary contact with the applicant, and will provide LRD with documentation on its decisions. LRD will provide OSMRE with copies of correspondence with the applicant and any information received from the applicant regarding the PAP. OSMRE will provide LRD with copies of all correspondence with the applicant

which may have a bearing on the PAP. OSMRE will not ordinarily contact the applicant regarding the PAP, although OSMRE is not prevented from doing so.

LRD will also obtain the comments of other Federal agencies with jurisdiction or responsibility over Federal land affected by the operations proposed in the PAP. LRD will request that all Federal agencies submit their findings or any requests for additional data to LRD, and when necessary to OSMRE, within 45 days of receiving the PAP. OSMRE will assist LRD in obtaining this information, upon request of LRD.

The review of the PAP will be done to ensure timely identification, communication and resolution of issues relating to statutory requirements of Federal agencies. LRD will request that other Federal agencies also inform OSMRE of their analyses and conclusions.

LRD will be responsible for approval and release of performance bonds under 30 CFR 740.4(c)(4) in accordance with Article IX of this Agreement, and for review and approval of exploration operations not subject to 43 CFR Part 3480, subparts 3480 through 3487, under 30 CFR 740.4(c)(6).

LRD will prepare documentation to comply with NEPA under 30 CFR 740.4(c)(7), but OSMRE will retain the non-delegable responsibilities under 30 CFR 740.4(c)(7) (i) through (vii).

Under paragraph VI.C.2., the Secretary retains those responsibilities that cannot be delegated to LRD, including those under 30 CFR 740.4(a) of the Federal lands program regulations, MLA, NEPA, this agreement, and other applicable Federal laws. The Secretary will consider the information in the PAP and, where appropriate, make decisions required by SMCRA, MLA, NEPA, and other Federal laws. The Secretary will carry out his responsibilities in a timely manner and avoid, to the extent possible, duplication of those responsibilities delegated to the State in this Agreement and the Program.

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

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

Under paragraph VI.C.3., OSMRE will assist the State in carrying out its

responsibilities by coordinating resolution of conflicts between LRD and other Federal agencies in a timely manner between those Federal agencies involved.

OSMRE will exercise its responsibilities in a timely manner and would provide LRD with a work product within 50 days of receiving the State's request for assistance in reviewing the permit application, unless a different time is agreed upon by OSMRE and LRD. OSMRE will also assist in scheduling joint meetings, upon request, between State and Federal agencies.

Paragraph VI.C.4. describes the procedures that OSMRE and the State will follow in reviewing the PAP. OSMRE and LRD will coordinate their activities and exchange information during the review process. The State will review the PAP to ensure compliance with the Program and State law and regulations, while OSMRE will review the PAP to ensure compliance with the non-delegable responsibilities of SMCRA and other Federal laws and regulations. Unless the District of Columbia circuit court of appeals reverses the July 6, 1984, District Court Opinion in *In Re: Permanent Surface Mining Regulation Litigation II*, *supra*, review of the MLA mining plan will include review of the operation and reclamation plan component of the SMCRA permit application. OSMRE and the LRD will plan and schedule PAP review and each will choose a project leader, who would serve as the primary points of contact for both during the review process. OSMRE will provide the State with its review comments within 50 days of receiving the PAP.

LRD will prepare a State decision package indicating whether the PAP complies with the Program. The review and finalization of the State's decision package will be conducted in accordance with procedures agreed upon by LRD and OSMRE for processing PAPs.

LRD may issue a SMCRA permit before the necessary Secretarial approval of the mining plan. However, LRD must advise the operator that Secretarial approval of the mining plan must be obtained before the operator enters the Federal lease. The permit issued by the State will be required to include the terms and conditions required by the lease and those required by other applicable Federal laws and regulations.

After making its decision, LRD will notify the applicant, the Federal land management agency, and any agency with jurisdiction or responsibility over Federal lands affected by operations proposed in the PAP. A copy of the

permit and written finding will be submitted to OSMRE.

Under paragraph C.5., OSMRE will provide technical assistance to LRD upon request, if available resources allow.

Paragraph D of Article VI addresses review procedures for permit revisions; permit renewals; and transfer, assignment or sale of permit rights.

Paragraph D.1. assigns to LRD the authority to review, approve or disapprove permit revisions or renewals not constituting modifications of a mining plan pursuant to 30 CFR 746.18. LRD must consult with OSMRE on whether any permit revision or renewal constitutes a mining plan modification. OSMRE will inform LRD within 30 days of receiving a copy of the permit revision or renewal as to such a decision. Where approval of a mining plan modification is required, OSMRE and LRD will follow the procedures outlined in paragraphs C.1. through C.5. of this Article.

Under paragraph D.2., OSMRE may establish criteria consistent with 30 CFR 746.18 to determine which permit revisions or renewals clearly do not constitute mining plan modifications. Those revisions or renewals meeting the criteria may be approved by LRD prior to contacting OSMRE.

Under paragraph D.3., permit revisions or renewals not constituting mining plan modifications or meeting the criteria outlined in paragraph D.2. will be reviewed and approved or disapproved by the State following the procedures outlined in 62 Ill. Adm. Code 1774 and paragraph B of this Article.

Under paragraph D.4., transfer, assignment or sale of permit rights will be processed in accordance with 62 Ill. Adm. Code 1774 and 30 CFR 740.13(e).

Article VII: Inspections

Paragraphs A and B state LRD will conduct inspections on lands covered by this Agreement, prepare and file State inspection reports in accordance with its approved Program, and provide OSMRE with copies of the inspection reports.

Paragraph C will designate LRD as the point of contact and primary inspection authority in dealing with the operator. However, the Secretary will retain the right to conduct inspections of surface coal mining and reclamation operations on Federal lands without prior notice to LRD for the purpose of evaluating the manner in which the Agreement is being carried out, for insuring that performance and reclamation standards are being met, for complying with 30 CFR Parts 842 and 843, and for satisfying other legal obligations.

Paragraph D states that when OSMRE intends to conduct an inspection under 30 CFR 842.11, LRD will ordinarily be given reasonable notice of such an inspection to provide an opportunity for State inspectors to join in the inspection. When a Federal inspection is in response to a citizen complaint, such as a complaint alleging the threat of imminent danger to the public or imminent harm to the environment, OSMRE will give LRD at least 24 hours notice, if practical. All citizen complaints not involving an imminent harm to the public or the environment will be referred to LRD for action.

The Article preserves OSMRE's obligation and authority to conduct inspections pursuant to 30 CFR Parts 842 and 843. The right of Federal and State agencies to conduct inspections for purposes outside the scope of the proposed cooperative agreement will not be affected.

Article VIII: Enforcement

Article VIII will set forth the enforcement obligations and authorities of OSMRE and LRD.

Under paragraph A, LRD has primary enforcement authority on Federal lands in accordance with the requirements of the Agreement and the Program. Enforcement authority given to the Secretary under other laws and orders are reserved by the Secretary.

Under paragraph B, LRD has primary responsibility for enforcement during joint inspections with OSMRE. Paragraph B also includes a requirement that LRD notify OSMRE prior to suspending or revoking a permit.

Paragraph C preserves OSMRE's authority to take enforcement action to comply with 30 CFR Parts 843 and 845, where OSMRE conducts an inspection or where, during a joint inspection with LRD, the two do not agree on the appropriateness of a particular enforcement action. Such action will be based upon SMCRA or the substantive provisions contained in the Program, or both, but will use the Federal procedures and penalty system.

Paragraph D provides that OSMRE and LRD notify each other of all violations of applicable regulations and all actions taken on the violations.

Paragraph E provides that personnel of LRD and the Department of the Interior, including OSMRE, be mutually available to serve as witnesses in enforcement actions taken by either party.

Paragraph F specifies that this Agreement would not limit the Secretary's authority to enforce Federal laws other than SMCRA.

Article IX: Bonds

Under paragraph A, LRD and the Secretary will require each operator conducting operations on Federal lands to submit a performance bond payable to both the State and the United States. All applicable State and Federal requirements must be fulfilled prior to releasing an operator from any obligation covered by the performance bond. If the Agreement is terminated, paragraph A will require that the portion of the bond covering Federal lands reverts to being payable solely to the United States. LRD will advise OSMRE of annual adjustments to the performance bond pursuant to the Program.

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

Paragraph C clarifies that the performance bond does not meet the requirement for a Federal lease bond under 43 CFR Part 3474, or for the lessee protection bond required in certain circumstances by section 715 of the SMCRA.

Article X: Designating Land Areas Unsuitable for All or Certain Types of Surface Coal Mining and Reclamation Operations and Activities and Valid Existing Rights and Compatibility Determinations

Paragraph A.1. of Article X reserves to the Secretary authority to designate Federal lands as unsuitable for surface coal mining and reclamation operations and activities, including the authority to make substantial legal and financial commitment determinations pursuant to section 522(a)(6) of SMCRA.

Paragraph A.2. states that LRD and OSMRE will notify each other of any petition to designate lands as unsuitable that could impact adjacent Federal and non-Federal lands, and solicit and consider each other's views on a petition. OSMRE will coordinate with the Federal land management agency with jurisdiction over the area covered by the petition, and will solicit comments.

Paragraph B discusses valid existing rights (VER) and compatibility determinations. OSMRE's definition of VER, which was published on September 14, 1983 (48 FR 41314), relied on a general "takings" standard.

In its March 22, 1985, decision, the District Court remanded this definition

because the promulgation process violated the Administrative Procedure Act. On November 20, 1986, OSMRE published a suspension notice for the definition of VER pending further rulemaking. OSMRE has decided, for areas covered by sections 522(e) (1) and (2), to make VER determinations in Illinois using the VER definition contained in the State regulatory program in accordance with 30 CFR 740.11(a) and the suspension notice. Because the Illinois State program has a takings test, OSMRE will not process VER applications in Illinois within units of the National Park System until a Federal rule is finalized.

Paragraph B.1. states that OSMRE has responsibility for processing requests for VER determinations on Federal lands within the boundaries of areas where mining is prohibited by section 522(e)(1) of SMCRA. For private inholdings within section 522(e)(1) areas, LRD, with the consultation and concurrence of OSMRE, will determine whether operations on such lands will or will not affect the Federal interest (Federal lands as defined in section 701(4) of SMCRA). OSMRE has the responsibility for processing requests for VER determinations on private inholdings within the boundaries of section 522(e)(1) areas where mining affects the Federal interest.

Under paragraph B.2., OSMRE is responsible for processing requests for determinations of VER for proposed operations on Federal lands within the boundaries of any national forest, as identified in section 522(e)(2) of SMCRA. This authority is reserved by the Secretary in accordance with 30 CFR 745.13(o).

OSMRE will process compatibility determinations on Federal lands pursuant to section 522(e)(2) of SMCRA.

Under paragraph B.3., LRD will determine for Federal lands, whether the prohibitions or limitations of section 522(e)(3) of SMCRA are applicable to proposed mining operations which would adversely affect any public park, and in consultation with the State Historic Preservation Officer, any historic property listed in the National Register of Historic Places. LRD will also make the VER determination for such lands using the State program. Procedures will also be included for LRD to coordinate with any affected agency or agency with jurisdiction over the proposed operation.

In the case that VER is determined not to exist under section 522(e)(3) of SMCRA or 30 CFR 761.11(c), no surface coal mining operations will be permitted unless jointly approved by LRD and the

Federal, State or local agency with jurisdiction over the publicly owned park or historic place.

Under paragraph B.4., LRD will process and make VER determinations on Federal lands, using the State program, for all areas limited or prohibited by sections 522(e) (4) and (5) of SMCRA as unsuitable for mining. For such operations on Federal lands, LRD will coordinate with the affected agency and agency with jurisdiction over the proposed operation.

Article XI: Termination of Cooperative Agreement

Article XI specifies that this cooperative agreement may be terminated as specified under 30 CFR 745.15.

Article XII: Reinstatement of Cooperative Agreement

Article XII provides that, if terminated, the cooperative agreement may be reinstated under 30 CFR 745.16. That provision allows for reinstatement of a cooperative agreement upon application by the State after remedying the defects for which the Agreement was terminated and the submission of evidence to the Secretary that the State can and will comply with all of the provisions of the Agreement.

Article XIII: Amendment of Cooperative Agreement

Article XIII provides that the cooperative agreement may be amended by mutual agreement of the Governor and Secretary in accordance with 30 CFR 745.14.

Article XIV: Changes in State or Federal Standards

Paragraph A of Article XIV recognizes that the Secretary or the Governor may, from time to time, promulgate new or revised performance or reclamation requirements, or enforcement and administration procedures. If it is determined to be necessary to keep the Agreement in force, each party will change or revise its regulations or request necessary legislative action. Such changes will be made in accordance with 30 CFR Part 732 for changes to the approved State program and section 501 of the Act for changes to Federal lands program.

Paragraph B requires the State and OSMRE to provide each other with copies of changes in their respective laws and regulations.

Article XV: Changes in Personnel and Organization

Article XV requires LRD and OSMRE to advise each other of substantial

changes in organization, funding, staff, or other changes which could affect administration or enforcement of the Agreement.

Article XVI: Reservation of Rights

Article XVI recognizes that the Act, 30 CFR 745.13, and other legal authorities prohibit the Secretary from delegating certain authorities to the State. Article XVI states that this Agreement will not be construed as waiving or preventing the assertion of any rights in this Agreement that the State or the Secretary may have under laws other than SMCRA, or their regulations, including those listed in Appendix A of this Agreement.

III. Procedural Matters

1. E.O. 12291 and Regulatory Flexibility Act

On October 21, 1982, the Department of the Interior received from the Office of Management and Budget an exemption for Federal/State cooperative agreements from the requirements of sections 3 and 7 of Executive Order 12291.

The Department has reviewed this proposed agreement in light of the Regulatory Flexibility Act (Pub. L. 96-354). Having conducted this review, the Department has determined that this document will not have a significant economic effect on a substantial number of small entities because no significant departure from either the State or Federal requirements already in effect will occur and no new or additional information will be required by the proposed agreement.

2. Paperwork Reduction Act of 1980

There are recordkeeping and reporting requirements in the Illinois Cooperative Agreement which are the same as those required by the permanent program regulations. Those recordkeeping and reporting requirements needed clearance from the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and were assigned the following clearance numbers:

Location of requirement	OMB clearance No.
Article V.C. (Required by 30 CFR Part 745)	See discussion below.
Article VI.A. (Required by 30 CFR Part 773)	1029-0041
Article VII.A. (Required by 30 CFR Part 840)	1029-0051
Article IX.A. (Required by 30 CFR Part 800)	1029-0043

Recordkeeping and reporting requirements under Article V.C. of the cooperative agreement are required by 30 CFR Part 745. In accordance with 5 CFR 1320.13(g), Part 745 has been

submitted to OMB for clearance. The reporting provision in Article V.C. will not be required until OMB clearance is received.

3. National Environmental Policy Act

Proceedings relating to adoption of a permanent program cooperative agreement are part of the Secretary's implementation of the Federal lands program pursuant to section 523 of the Act. Such proceedings are exempt under section 702(d) of the Act from the requirements to prepare a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Author

The author of this regulation is Dr. Fred Block, Branch of Federal and Indian Programs, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution, NW., Washington DC, 20240; Telephone (202) 343-1864.

List of Subjects in 30 CFR Part 913

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

For the reasons set forth herein, 30 CFR Part 913 is amended as follows:

Dated: October 22, 1987.

James E. Cason,

Acting Assistant Secretary—Land and Minerals Management.

PART 913—ILLINOIS

1. The authority citation for Part 913 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*; and Pub. L. 100-34.

2. Section 913.30 is added to read as follows:

§ 913.30 State-Federal cooperative agreement.

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

Article I: Introduction, Purposes and Responsible Agencies

A. *Authority:* This Agreement is authorized by section 523(c) of the Surface Mining Control and Reclamation Act (SMCRA), 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program approved by the Secretary under section 503 of SMCRA, 30 U.S.C. 1253, to elect to enter into an agreement for State regulation of surface coal mining and reclamation operations (including surface operations and surface impacts incident to underground mining operations) on Federal lands. This Agreement provides for State regulation of coal exploration operations not subject to 43 CFR Part 3480.

Subpart 3480 through 3487, and surface coal mining and reclamation operations in Illinois on Federal lands (30 CFR Chapter VII Subchapter D), consistent with SMCRA and State and Federal laws governing such activities and the Illinois State Program (Program).

B. Purposes: The purposes of this Agreement are to (a) foster Federal-State cooperation in the regulation of surface coal mining and reclamation operations and coal exploration operations not subject to 43 CFR Part 3480, subparts 3480 through 3487; (b) minimize intergovernmental overlap and duplication; and (c) provide uniform and effective application of the Program on all lands in Illinois in accordance with SMCRA, the Program, and this Agreement.

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

Article II: Effective Date

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

Article III: Definitions

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

Article IV: Applicability

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

Article V: General Requirements

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

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

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

have expended on such responsibilities in the absence of this Agreement.

2. OSMRE's Springfield Field Office and OSMRE's Eastern Field Operations office will work with LRD to estimate the amount the Federal government would have expended for regulation of Federal lands in Illinois in the absence of this Agreement.

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

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

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

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

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

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

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

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

F. Permit Application Fees and Civil Penalties: The amount of the fee accompanying an application for a permit for surface coal mining and reclamation operations on Federal lands in Illinois will be determined in accordance with section 2.05 of the Illinois State Act, 62 Ill. Adm. Code 1771.25, and the applicable provisions of the Program and Federal law. All permit fees, civil penalties and fines collected from operations on Federal lands will be retained

by the State and will be deposited with the State Treasurer. Permit fees will be considered program income. Civil penalties and fines will not be considered program income. The financial status report submitted pursuant to 30 CFR 735.26 will include a report of the amount of fees, penalties, and fines collected during the State's prior fiscal year.

Article VI: Review of Permit Application Package

A. Submission of Permit Application Package

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

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

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

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

1. LRD will assume the responsibilities for review of permit applications where there is no leased Federal coal to the extent authorized in 30 CFR 740.4(c) (1), (2), (4), (6) and (7). In addition to consultation with the Federal Land Management Agency pursuant to 30 CFR 740.4(c)(2), LRD will be responsible for obtaining, except for non-significant revisions, the comments and determinations of other Federal agencies with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP. LRD will request such Federal agencies to furnish their findings or any requests for additional information to LRD within 45 calendar days of the date of receipt of the PAP. OSMRE will assist LRD in obtaining this information, upon request.

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

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

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

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

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

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

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

(c) After making its decision on the PAP, LRD will send a notice to the applicant, OSMRE, the Federal land management agency, and any agency with jurisdiction or responsibility over Federal lands affected by the operations proposed in the PAP.

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

C. Review Procedures Where Leased Federal Coal is Involved

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

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

permits. OSMRE will, at the request of the State, assist to the extent possible in this analysis and review.

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

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

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

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

LRD will be responsible for approval and release of performance bonds under 30 CFR 740.4(c)(4) in accordance with Article IX of this agreement, and for review and approval of exploration operations not subject to 43 CFR Part 3480, subparts 3480-3487, under 30 CFR 740.4(c)(6).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article VII: Inspections

A. LRD will conduct inspections on Federal lands in accordance with 30 CFR 740.4(c)(5)

and prepare and file inspection reports in accordance with the Program.

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

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

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

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

Article VIII: Enforcement

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

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

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

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

E. Personnel of LRD and the Department of the Interior, including OSMRE, will be

mutually available to serve as witness in enforcement actions taken by either party.

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

Article IX: Bonds

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

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

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

Article X: Designating Land Areas Unsuitable for All or Certain Types of Surface Coal Mining and Reclamation Operations and Activities and Valid Existing Rights and Compatibility Determinations

A. Unsuitability Petitions

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

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

B. Valid Existing Rights and Compatibility Determinations

The following actions will be taken when requests for determinations of VER pursuant to section 522(e) of SMCRA or for determinations of compatibility pursuant to section 522(e)(2) of SMCRA, and received prior to or at the time of submission of a PAP

that involves surface coal mining and reclamation operations and activities:

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

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

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

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

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

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

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

Article XI: Termination of Cooperative Agreement

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

Article XII: Reinstatement of Cooperative Agreement

If this Agreement has been terminated in

whole or in part it may be reinstated under the provisions of 30 CFR 745.16.

Article XIII: Amendment of Cooperative Agreement

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

Article XIV: Changes in States or Federal Standards

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

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

Article XV: Changes in Personnel and Organization

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

Article XVI: Reservation of Rights

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

Dated: September 17, 1987.

James R. Thompson,
Governor of Illinois.

Dated: October 22, 1987.

Donald Paul Hodel,
Secretary of the Interior.

APPENDIX A

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

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

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

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

5. The Fish and Wildlife Coordination Act,

as amended, 16 U.S.C. 661 *et seq.*; 48 Stat. 401.

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

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

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

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

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

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

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

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

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

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

16. The Constitution of the United States.

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

18. 30 CFR Chapter VII.

19. The Constitution of the State of Illinois.

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

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

[FR Doc. 87-27312 Filed 11-25-87; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3287-8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: The USEPA announces final approval of the incorporation of rules to control volatile organic compounds (VOC) from petroleum refining fugitive emissions, rubber tire manufacturing and perchloroethylene dry cleaning in the Illinois State Implementation Plan (SIP) for ozone. USEPA's action is based

upon a revision which was submitted by the State to satisfy the requirements of Part D of the Clean Air Act (Act).

EFFECTIVE DATE: This final rulemaking becomes effective on December 28, 1987.

ADDRESSES: Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Randolph O. Cano, at (312) 886-6036, before visiting the Region V Office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT: Randy Cano, (312) 886-6036.

SUPPLEMENTARY INFORMATION: On July 11, 1985 (50 FR 28225), USEPA proposed rulemaking and solicited public comment on a January 28, 1983, proposed revision to the Illinois State Implementation Plan (SIP) for ozone. This proposed SIP revision was in the form of a December 30, 1982, Final Order of the Illinois Pollution Control Board (R80-5).

The Final Order was submitted to satisfy the provisions of the Act which requires States to revise their SIPs for areas that have not attained the national ambient air quality standards (NAAQS). For States with ozone nonattainment areas, USEPA has stated that the minimum acceptable level of ozone control includes reasonably available control technology (RACT) requirements for sources of VOC emissions for which USEPA had published Control Technology Guidelines (CTG) published by January 1978 (RACT I) and additional RACT requirements on an annual basis for VOC sources covered by CTGs published by January of the preceding year. (See 44 FR 20372 (April 4, 1979) as supplemented at 44 FR 38538 (July 2, 1979); 44 FR 50371 (August 28, 1979); 44 FR 53761 (September 17, 1979); and 44 FR 67182 (November 23, 1979)). Adoption and submittal of additional RACT regulations for sources covered by CTGs published between January 1978 and January 1979 (RACT II) were due January 1, 1981 (45 FR 78132; November 25, 1980).

The State's January 28, 1983, submittal was intended to satisfy the Federal requirements for adoption of rules

concerning certain sources covered by Group II of the CTGs.

USEPA's evaluation of the State's regulations, as contained in the notice of proposed rulemaking, found the rules for three source categories to be consistent with the requirements of RACT: petroleum refinery fugitive emissions, rubber tire manufacturing, and perchloroethylene dry cleaning. As a consequence, USEPA proposed approval of the regulations for these source categories on July 11, 1985 (50 FR 2822). In this same notice, it proposed to disapprove certain other RACT II source category regulations.

No public comments were received relative to these three source categories. Other public comments relative to other RACT II source categories will be addressed when USEPA makes final rulemaking on the remaining portions of the State's stationary source VOC control strategy. The State is currently reconsidering these regulations in response to USEPA's proposed disapproval. USEPA's evaluation of these revisions is the subject of a separate notice of proposed rulemaking on the State's ozone SIP.

The State's regulations to satisfy USEPA's requirements under the petroleum refinery fugitive emissions category are contained in Illinois Pollution Control Board (IPCB) Rule 205(10)(4)-(10). Rule 205(1)(4) contains general requirements for petroleum refinery leaks. Rules 205(1)(5) and (6) impose a monitoring program and plan for refinery leaks. Rule 205(1)(7) imposes recordkeeping requirements for leaks. Rule 205(1)(8) imposes reporting requirements for refinery leaks. Rule 205(1)(9) provides for an alternative program for refinery leaks. Rule 205(1)(10) imposes a sealing device requirement.

The State's regulations to satisfy USEPA's requirements under the rubber tire manufacturing category are contained in IPCB Rule 205(t). Rule 205(t)(1) imposes requirements on the owner or operator of an undertread cementing, tread end cementing or bead dipping operations. Rule 205(t)(2) regulates green tire spraying operations. Rule 205(t)(3) provides for alternative compliance in lieu of the requirements of Rules 205(t)(1) and (2). Rule 205(t)(4) imposes testing and monitoring requirements for the manufacture of pneumatic rubber tires.

The State's regulations to satisfy USEPA's requirements under the dry cleaning perchloroethylene category are contained in IPCB Rule 205(u). Rule 205(u)(1) imposes control requirements on dry cleaning facilities using perchloroethylene. Rule 205(u)(2)

exempts coin operated facilities and dry cleaning operations consuming less than 30 gallons per month of perchloroethylene. Rule 205(u)(3) imposes testing and monitoring requirements.

USEPA is approving the State's regulations for petroleum refinery fugitive emissions, rubber tire manufacturing and perchloroethylene dry cleaning, as submitted by the State, for incorporation in the Illinois SIP on January 28, 1983.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 26, 1988. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Note:—Incorporation by reference of the State Implementation Plan for the State of Illinois was approved by the Director of the Federal Register on July 1, 1982.

Dated: October 30, 1987.

Lee M. Thomas,
Administrator.

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.720 is revised by adding new paragraph (c)(69) as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(69) On January 28, 1983, the Illinois Environmental Protection Agency submitted a December 30, 1982, Illinois Pollution Control Board Order (R80-5). Illinois Pollution Control Board Rules 205(l)(4) through (10), 205(t) and 205(u) are approved.

(i) Incorporation by reference.

(A) Illinois Pollution Control Board Rules 205(l)(4) through (10), 205(t) and

205(u) as contained in December 30, 1982, Illinois Pollution Control Board Order R80-5.

(ii) Additional material—none.

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6769]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the *Federal Register*.

EFFECTIVE DATE: The third date ("Susp.") listed in the third column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42

U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the *Federal Register*. In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended.) This prohibition against certain types of Federal assistance

becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule if promulgated will not have significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance—floodplains.

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas.
Region I—Minimal Conversions				
Massachusetts: New Salem, Town of, Franklin County	250123	Mar. 18, 1976, Emerg.; Dec. 1, 1987, Reg.; Dec. 1, 1987, Susp	Dec. 1, 1987	Dec. 1, 1987
Region II				
New York: Amsterdam, Town of, Montgomery County	360441	July 16, 1975, Emerg.; Dec. 1, 1987, Reg.; Dec. 1, 1987, Susp	do	Do.
Region III				
Virginia: Spotsylvania County, unincorporated areas	510308	Feb. 25, 1977, Emerg.; Dec. 1, 1987, Reg.; Dec. 1, 1987, Susp	do	Do.