

**§ 948.13**

**30 CFR Ch. VII (7–1–10 Edition)**

(2) At CSR 38–2–7.7.e.1, the word “excessive.”

(i) We are not approving the following provisions of the proposed program amendment that West Virginia submitted on June 13, 2005, and modified on August 23, 2005:

(1) At CSR 38–2–5.4.e.1, the words “Impoundments meeting.”

(2) At CSR 38–2–7.4.b.1.J.1(c), the deletion of the words “surface material shall be composed of soil and the materials described in subparagraph 7.4.b.1.D.”

[48 FR 52053, Nov. 16, 1983, as amended at 50 FR 28323 and 28342, July 11, 1985; 55 FR 21337, May 23, 1990; 61 FR 6535, Feb. 21, 1996; 65 FR 26135, May 5, 2000; 65 FR 50430, Aug. 18, 2000; 65 FR 80328, Dec. 21, 2000; 68 FR 40167, July 7, 2003; 68 FR 68738, Dec. 10, 2003; 70 FR 6590, Feb. 8, 2005; 71 FR 10790, Mar. 2, 2006]

**§ 948.13 State statutory and regulatory provisions set aside.**

(a)–(b) [Reserved]

(c) The following wording in section 22A–3–23(c)(3) of the Code of West Virginia is inconsistent with section 519(c)(3) of the Surface Mining Control and Reclamation Act of 1977 and is hereby set aside:

Provided, however, That such a release may be made where the quality of the un-

treated postmining water discharged is better than or equal to the premining water quality discharged from the mining site.

(d) Section 22A–3–12(e) of the Code of West Virginia is inconsistent with section 515(e) of the Surface Mining Control and Reclamation Act of 1977 and is hereby set aside in its entirety.

(e)–(f) [Reserved]

[50 FR 35084, Aug. 29, 1985, as amended at 61 FR 6535, Feb. 21, 1996]

**§ 948.15 Approval of West Virginia regulatory program amendments.**

The following table lists the dates that West Virginia submitted proposed amendments to OSM, the dates when OSM published final rules approving all or portions of those amendments in the FEDERAL REGISTER, and the State statutory or regulatory citations for those amendments (or a brief description of the amendment). The amendments appear in order of the date of publication of the final rules announcing OSM’s decisions on the amendments. The preambles to those final rules identify and discuss any assumptions underlying approval, any conditions placed on the approval, and any exceptions to the approval.

Original amendment submission date	Date of publication of final rule	Citation/description of approved provisions
October 29, 1981 .....	May 11, 1982 .....	§ 10.
June 17, 1982 .....	September 10, 1982 .....	§ E.03 of the State’s coal refuse disposal regulations.
September 14, 1982, October 29, 1982.	March 1, 1983 .....	§§ 4D.04h; 6A.02a.6; 6B.02, .07c.2, f; 7A.02a.6; 12B.07; 15A.01; Part H concerning alternative bonding system.
February 16, 1983, April 29, 1983, June 15, 1983, September 13, 1983.	November 16, 1983	Technical Handbook of Standards and Specifications for Mining Operations; applicability; bond release procedures for interim program permits; incidental mining.
January 12, 1984 .....	September 20, 1984	Chapter 22–4 Series—blaster certification program.
November 20, 1984 ..	April 23, 1985 .....	Chapter 22–4 Series, § 6.01(B), 9—blaster certification program.
March 30, 1984, October 30, 1984, May 20, 1985, June 14, 1985.	July 11, 1985 .....	Reclamation and coal refuse disposal; Transfer of program authority; permit addendum and Chapter 20, Revegetation, of the Technical Handbook for Surface Mining; permit or significant revision to a permit; the coal exploration approval document; civil penalty procedures; assessable and non-assessable violations.
November 11, 1985 ..	March 20, 1986 .....	Financial analysis and supporting documentation demonstrating sufficient money in the special reclamation fund; withdrawals from the fund; noncoal administrative expenses.
June 30, 1986, April 26, 1986.	May 23, 1990 .....	Code of Violations; Replacement of all regulations in chapter 20, Article 6, Series VII and VII-A (1985) with new set of Legislative Rules at title 38, Series 2.
June 29, 1990 .....	October 4, 1991 .....	CSR 38–2 §§ 2, 3, 5, 6, 9, 11 through 14, 17, 20, 22.
July 12, 1991 .....	November 19, 1991 .....	CSR 38–2–20.5, .6, .7.
July 30, 1993 .....	August 16, 1995 .....	CSR 38–2–14.14(b)(4), (g)(1)(B), (g)(8), (11), (12).

Surface Mining Reclamation and Enforcement, Interior

§ 948.15

Original amendment submission date	Date of publication of final rule	Citation/description of approved provisions
June 28, 1993 .....	October 4, 1995, February 21, 1996.	WV Code 22-1-4 through -8; 22-2; 22-3-3, -5, -7, -8, -9, a, -11(a), (g), -12, -13, -15, -17, -18, -19, -22, -26, -28, -40; 22B-1-4 through -12; 22B-3-4; 22B-4; CSR 38-2-1.2, -2, -3.1(o), .4, .6, .7, .8, .12, .14, .15, .16, .25, .26, .27(a), .28, .29, .30, .31(a), .32, .33, .34, -4, .1(a), .2 through .12, -5.2, .4, .5, -6, .3(b), .6, .8, -8.1,-9, -11.1 through .7, -12.2, .3, .4(a), (2)(B), (c) through (e) except the words "other responsible party" at (e) are not approved, .5, -13, -14.5, .8, .11, .12, .14, .15, .17, .18, .19, -15.2, -16.2, -17, -18.3, -20.1, .2, .4 through .7, -22; 38-2C-4, -5, -8.2, -10.1, -11.1; 38-2D-4.4(b), -6.3(a), -8.7(a).
April 2, 1996 .....	July 24, 1996 .....	CSR 38-2-4.12, -5.4(c), -12.2(e), -14.3(c), .14(e)(4), .15(m).
February 23, 1998 .....	July 14, 1998 .....	WV Code Sections 22B-1-7(d), 7(h); 22B-3-4. WV Regulations CSR 38-2-1.2(c)(1). Vacating of retroactive approval published on February 21, 1996.
April 28, 1997 .....	February 9, 1999 .....	W.Va. Code 22-3 Sections 3(u)(2)(1) (decision deferred), (2)(not approved), (3); 3(x), (y) (partial approval), (z) (partial approval); 13(b)(20), (22), (c)(3) (decision deferred); 15(h); 17(b); 18(c), (f); 28 (a-c) (not approved), (d), (e) (decision deferred), (f). WV Regulations CSR 38-2 Sections 2.4, 2.43 (not approved), 2.95 (not approved), 2.108, 2.120; 3.2.e; 3.12.a.1 (partial approval), .2 (partial approval); 3.14.b.7 & .8 deleted, .12.E, .15.B deleted, .13.B; 3.29.a (partial approval); 3.35; 5.5.c; 6.5.a; 8.2.e; 9.2.i.2; 9.3.h.1, .2; 14.11.e, f, g, .h; 14.15.b.6.A, c, .d; 16.2.c (partial approval), .2, .3, .4 (partial approval for .4); 20.1.e
April 28, 1997 .....	May 14, 1999 .....	W.Va. Code 22-3 Section 13(c)(3) [not approved].
May 11, 1998 .....	May 5, 2000 .....	West Virginia regulations at CSR 38-2-2.25; 2.102; 3.32.d.12; 14.16 through 14.19; 22.5.1; 24 (except 24.4).
May 5, 1999 .....	October 1, 1999 .....	CSR 38-2-2.11; 2.78; 3.12.a.2, and .2.B; 3.32.b; 3.35; 14.12.a.1; 16.2.c, and .c.3; and 22.4.g.
March 25, 1999 .....	November 12, 1999	W.Va. Code 22-1-7(a)(7); 22-3-13(a), (b)(3) and (15), (e), and (f); 22-3-13a, in 13a(g) the words "upon request" are not approved, in 13a(j)(2) the phrase "or the surface impacts of the underground mining methods" is not approved; 22-3-22a; 22-3-23(c)(3) decision is deferred; 22-3-24(c), (d), (e), and (f); 22-3-30a, in 30a(a) the phrase "of overburden and coal" is not approved, 30a(c) and (f) are not approved; and 22-3A.
March 14, 2000, March 28, 2000, and April 6, 2000.	August 18, 2000 .....	W.Va. Code 22-3- at 3(e), (u)(2); (y); 13(c)(3) (qualified approval), (c)(3)(B)(iii); 23(c)(1), (2) (partial approval). CSR 38-2- at 2.31, 2.45, 2.98, 2.123, 2.136; 3.8c; 3.25; 7.2.i; 7.3; 7.4.a (qualified approval); 7.4.b.1; 7.4.b.1.A. (qualified approval), 7.4.b.1.B., C. (partial approval), D. (partial approval), E. (qualified approval), F., G. (partial approval), H., I. (partial approval), J. (qualified approval), K.; 14.15.f.
March 14, 2000, March 28, 2000, and April 6, 2000.	12/21/00 .....	CSR 38-2-7.5.(qualified approval), 7.5.a., b., c., d., e. (qualified approval), f. (qualified approval), g. (qualified approval), h. (h.2.B. is a qualified approval), i. (i.1.B., i.3.H., i.3.Q. and i.7.A., and i.10. are qualified approvals), j. (j.2.C. and j.2.E. are qualified approvals; j.3.B. partial approval; j.4. qualified approval, j.6.A. partial approval, j.6.B. qualified approval, j.7. qualified approval), k. (qualified approval), l., m., n., o. (qualified approval; o.2. is a partial approval).
September 24, 2001	December 28, 2001	W. Va. Code 22-1-17; 22-3-11(a), (c), (d), (g) through (n); 22-3-12(a) through (f).
November 30, 2000; May 2, 2001; November 28, 2001; February 26, 2002; March 8, 2002.	May 1, 2002 .....	Emergency rule provisions: CSR 38-2-3.12.a.1, a.2, a.2.B; 5.4.b.8, d.3; 16.2.c.4.  Policy/guidance documents submitted February 26, 2002: Attachments 1A; 2P; 3P and the updated listing (Administrative Record Number WV-1278); 4 except examples 1 and 3 through 8; 6; and 9.  Policy/guidance documents submitted March 8, 2002: Attachments 1; 3A; and 8.  In House Bill 2663: CSR 38-2-3.12.a.1; 3.14.a; 12.2.e; 12.4.e; 14.8.a.6; 16.2.c.4; and 24.4.  In Senate Bill 689: W. Va. Code 22-3-13a(g), (j); 30a(a).
September 24, 2001	May 29, 2002 .....	CSR 38-2-12.5.d.
April 9, 2002 .....	December 3, 2002 ..	CSR 38-2-14.15.a.1, a.2; b.5; b.6.A, b.6.B.1; c, c.1, c.4; d, d.1, d.2, d.3; e, e.1, e.2, e.3; g (partial approval), g.2; i (qualified approval).
April 9, 2002 .....	May 7, 2003 .....	W. Va. Code 22-3-10(b).
June 19, 2002 .....	June 27, 2003 .....	CSR 38-2: 2.31.b.1; 2.43; 2.108; 3.1.i.2; 3.25.a.4; 3.30.d.8; 3.32.e; 5.4.e.2; 7.4.a.1; 7.4.b.1.C.5; 7.4.b.1.D.1; 7.4.b.1.G.1; 7.4.b.1.G.3; 7.4.b.1.H.2; 7.4.b.1.I.2; 7.4.b.1.I.3; 7.5.i.1.B; 7.5.i.3.Q; 7.5.i.10; 7.5.j.3.A; 7.5.j.6.A; 7.5.j.6.B; 7.5.o.2; 8.2.b.3; 10.4.a.1.D; 10.6.b.3; 11.2.b; 11.4.a.1; 11.4.a.4; 11.5. (deletion of former); 11.5.a; 12.5.e; 14.12.a.1; 17.3.b.2; 17.4; 17.6; and 22.7.a.

Original amendment submission date	Date of publication of final rule	Citation/description of approved provisions
March 18, 2003 .....	July 7, 2003 .....	CSR 38–2–3.2.c, 3.7.d, 3.20 3.22.f.5.A, A.1, and A.2, 5.4.b.4, 5.4.b.11, 5.6, 8.2.e, 9.1.a, 9.3.d, 9.3.f, 10.2.a.4, 10.3.a.1, 10.4.c.1, 10.6.b.2, b.7.A, b.7.B, b.8, 14.5.h, 14.14.g.1, g.2 (partial approval; also, approved only to the extent that after removal of erosion protection zones, the stream channel will be restored), and g.3, 14.15.a.2, c, and g, 17.1, 20.6.a, c, and d, e, f, and j, 22.4.g.3.A and i.6, 24.2.a, 24.3, and 24.4. CSR 38–4–25.14.
May 2, 2001, July 1, 2003.	December 1, 2003 ..	CSR 38–2–2.39 (a deletion), 3.22.e, 3.31.a (deferral), 3.32.g, 5.2.a, and 11.3.a.3.
October 30, 2000, November 28, 2001.	December 10, 2003	W.Va. Code 22–3–13a(a)(3), (b), (c), (f)(14), (g); 22a(a), (b), (e), (f), (g); 30a(b), (b)(3), (b)(3)(C), (b)(5), (c), (d), (e), (f), (h).
March 14, 2000, March 28, 2000, and April 5, 2000.	June 17, 2004 .....	Code of State Regulations CSR 199–1, except as identified at 30 CFR 948.12(d), and subdivision 3.10.d is a qualified approval. CSR 38–2–7.4.b.1.1.
March 25, 2004 .....	February 8, 2005 ....	CSR 38–2–3.12.a.1; 7.6 (except the word “excessive” at 7.6.e.1); 7.7 (except the word “excessive” at 7.7.e.1); 9.3.g; 14.15.a.1; 14.15.g; 20.1.a.6; 22.5.a; 23 (deleted); and 24. Reduced Inspection Frequency Policy dated November 3, 2004.
October 17, 2005, and amended November 4, 2005.	December 30, 2005	CSR 38–2–11.3.a.3.
June 13, 2005, and modified on August 23, 2005.	March 2, 2006 .....	W.Va. Code 22–3–11(h)(2)(B); 11a; 32a; 22–27–1 through 12. CSR 38–2–2.92; 3.29.a; 5.4.a, b.9, b.10, b.12, c.7, d.3, d.4, e.1, f; 7.4.b.1.A.1, A.3, A.3(b), A.4, B.1, C.1, C.2, C.3, C.4, C.5, D.6, D.8, D.9, D.11, H.1, H.2, H.6, I.1, I.2, I.3, I.4, J.1; 7.5.a, b.3, i.10, j.3.A, j.3.B, j.3.E, I.4.A, o.2; 9.3.d, 9.3.e; 14.5.h, 14.14.g.2.A.6; 14.15.c.3; 20.6.d, 20.6.j. CSR 199–1–2.36a, 2.36b, 2.37; 3.3.b, 3.7; 4.8, 4.8.c, 4.8.f, 4.8.g, 4.9; Water Rights and Replacement Policy (August 1995); September 2003 MOA between WVDEP, DMR and WVDNR, Wild Resources Section; Permittee’s Request for Release form, Item 11, dated March 2005.
April 17, 2006 .....	August 28, 2006 .....	W. Va. Code 22–3–24(c), (d), (e), and (h). CSR 38–2–7.2.e.1; 7.3.d; and 7.8 (qualified approval).
April 17, 2008 .....	June 16, 2008 .....	W. Va. Code 22–3–11(g) (interim approval), 11(h)(1) (interim approval).
March 22, 2007 .....	December 24, 2008	CSR 38–2–2.39 (deletion of cumulative impact definition). CSR 38–2–3.22.e (approval of material damage to the hydrologic balance definition).
May 28, 2009 .....	July 22, 2009 .....	W. Va. Code 22–3–11(h)(1) (interim approval).

[62 FR 9957, Mar. 5, 1997]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 948.15, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

**§ 948.16 Required regulatory program amendments.**

Pursuant to 30 CFR 732.17, West Virginia is required to submit the following proposed program amendments by the dates specified:

- (a)–(rrrrr) [Reserved]

[50 FR 28324, July 11, 1985 and 50 FR 38652, Sept. 24, 1985]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 948.16, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

**§ 948.20 Approval of State abandoned mine lands reclamation plan.**

The West Virginia Abandoned Mine Reclamation Plan as submitted on October 29, 1980, and as amended on December 12, 1980, is approved effective February 23, 1981. Copies of the approved plan are available at the following locations:

- (a) Office of Surface Mining, Charleston Field Office, 1027 Virginia Street East, Charleston, West Virginia 25301–2816. Telephone: (304) 347–7158.

- (b) West Virginia Department of Environmental Protection, Office of Abandoned Mine Lands and Reclamation, 601 57th Street SE., Charleston,