

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[REG-116099-98]

RIN 1545-AB43, 1545-AF52

**Withdrawal of Proposed Regulations**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Withdrawal of proposed regulations.

**SUMMARY:** This document withdraws proposed regulations amending the income tax regulations. This action is taken to remove from the IRS' inventory of regulations projects those proposed regulations that are in an inactive status and would remain in an inactive status for the foreseeable future.

**DATES:** These proposed regulations are withdrawn December 23, 1998.

**FOR FURTHER INFORMATION CONTACT:** George Bradley of the Office of the Assistant Chief Counsel (Income Tax & Accounting), Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224. Telephone (202) 622-4920, not a toll-free number.

**SUPPLEMENTARY INFORMATION:**

**Background**

This document withdraws certain proposed regulations previously published in the **Federal Register** by the IRS. These proposed regulations are being withdrawn because they are part of regulations projects that will not be pursued in the foreseeable future, and there are no current plans to adopt the proposed regulations as final regulations.

**Drafting Information**

The principal author of this withdrawal notice is George H. Bradley, Office of the Assistant Chief Counsel (Income Tax & Accounting) within the Office of the Chief Counsel, Internal Revenue Service. Other personnel from the Internal Revenue Service and the Treasury Department participated in developing the withdrawal notice.

**List of Subjects 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Withdrawal of Proposed Amendments to the Regulations**

Accordingly, under the authority of 26 U.S.C. 7805, the following proposed amendments to 26 CFR part 1 are withdrawn:

Amendments Relating to Proposed Regulations Section:	FR Citation and Project Number	Subject
1.162, 1.162-16, 1.461-1(a)(3)(iii), 1.1016, 1.1253, 1.1253-1, 1.1253-2, 1.1253-3.	FR Doc. 71-9954 Published 7/15/71 36 FR 13148.	Transfer of Franchises, Trademarks, and Trade Names.
1.381(c)(4)-1(c)(1), 1.381(c)(4)-1(c)(3) Example (5), 1.381(c)(4)-1(d)(1)(iii), 1.381(c)(5), 1.381(c)(5)-1.	FR Doc. 72-14187 Published 8/23/72 37 FR 16947.	Carryover of Inventories and Accounting Methods in Certain Corporate Acquisitions.
1.351-1(c)(1)(ii), 1.351-1(c)(4), 1.351-1(c)(5)(i), 1.351-1(c)(5)(ii), 1.351-1(c)(6) Examples (3) & (4), 1.368-4.	FR Doc. 80-40833 Published 1/7/81 46 FR 1744 (LR-135-76).	Limitations on Reorganization Treatment for Investment Companies.
1.278-2, 1.464-1, 1.464-2 .....	FR Doc. 83-30789 Published 11/15/83 48 FR 51936 (LR-144-76).	Farming Syndicate Expenditures.
1.453-2 .....	FR Doc. 84-891 Published 1/13/84 49 FR 1742 (LR-184-80).	Installment Obligations Received From Liquidating Corporations.
1.6050J-2 .....	FR Doc. 84-23131 Published 8/31/84 49 FR 34518 (LR-182-84).	Returns Relating to Transfers of Security to Persons Other Than the Lender.
1.131-1 .....	FR Doc. 85-2718 Published 2/1/85 50 FR 4702 (LR-83-83).	Exclusion From Gross Income for Certain Foster Care Payments.

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*  
[FR Doc. 98-33868 Filed 12-22-98; 8:45 am]  
BILLING CODE 4830-01-P

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 946**

[VA-113-FOR]

**Virginia Regulatory Program**

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

**ACTION:** Proposed rule; public comment period and opportunity for public hearing.

**SUMMARY:** OSM is announcing receipt of a proposed amendment to the Virginia regulatory program (hereinafter referred

to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment provides clarification of an existing State directive concerning permit revisions. The amendment is intended to improve the operational efficiency of the State program.

**DATES:** Written comments must be received by 4:00 p.m., on January 22, 1999. If requested, a public hearing on the proposed amendment will be held on January 19, 1999. Requests to speak at the hearing must be received by 4:00 p.m., on January 7, 1999.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Mr. Robert A. Penn, Director, Big Stone Gap Field Office at the first address listed below.

Copies of the Virginia program, the proposed amendment, a listing of any scheduled public hearings, and all

written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requestor may receive one free copy of the proposed amendment by contacting OSM's Big Stone Gap Field Office.

Office of Surface Mining Reclamation and Enforcement, Big Stone Gap Field Office, 1941 Neeley Road, Suite 201, Compartment 116, Big Stone Gap, Virginia 24219, Telephone: (703) 523-4303

or

Virginia Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, Virginia 24219, Telephone: (703) 523-8100

**FOR FURTHER INFORMATION CONTACT:**

Mr. Robert A. Penn, Director, Big Stone Gap Field Office, Telephone: (703) 523-4303.

**SUPPLEMENTARY INFORMATION:****I. Background on the Virginia Program**

On December 15, 1981, the Secretary of the Interior conditionally approved the Virginia program. Background information on the Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the December 15, 1981, **Federal Register** (46 FR 61085-61115). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 946.12, 946.13, 946.15, and 946.16.

**II. Discussion of the Proposed Amendment**

By letter dated November 17, 1998 (Administrative Record No. VA-959), the Virginia Department of Mines, Minerals and Energy (DMME) submitted a clarification dated September 18, 1998, to its existing policy for implementing its regulations at 4VAC 25-130-774.13(b)(2) concerning permit revisions. The clarification informs permittees of the informational and procedural requirements for revisions that propose to change an existing permit boundary.

The proposed clarification is as follows:

The following information provides guidance to improve consistency and to enable you to properly plan for any addition of acreage to your permit. The Virginia law and regulation dealing with such additions conform to the federal definitions.

The Virginia Regulation at 4 VAC 25-130-774.13 (d) requires: Request to change permit boundary. Any extension to the area covered by the permit, except incidental boundary revisions, shall be made by application for a new permit.

Consistent with this regulation, any request for a non-incidental extension to the area covered by an existing permit shall be made by application for a new permit using the Division's permit application forms DMLR-PT-034e, DMLR-PT-034p, DMLR-PT-034o. It should be noted that these new forms are the same forms that the Division will use to implement Electronic Permitting in a few months. Implementing usage of these forms at this time will be a precursor to Electronic Permitting and will allow permittees to become familiar with the format of what will be required for Electronic Permitting. Permittees may use one of two options in submitting the application for a new permit:

1. The application may be for a completely new permit for the proposed area, with a new permit number issues and new issuance, expiration and anniversary dates assigned; or
2. The application may combine the existing permit area with the proposed additional area. The permit number would remain the same, as well as the permit issuance, expiration and anniversary date. This application may reference any

applicable parts of the previously approved permit plans (with copies of the relevant sections included), but it shall provide all the information necessary for a new permit on the proposed additional area. This new information shall also include any portions of the plans for the previously approved permit area, if they are affected by the addition of the new area and shall be revised. The application will be processed as a new permit application.

With these two options, the applicant retains the discretion to apply for a separate and distinct permit for the new area, resulting in two separate permits with different permit numbers or to retain the existing permit number. However, when DMLR finds the new area is not a functional extension of the existing permit, but rather a separate operation, the Division may require an application for a separate permit.

Incidental boundary revisions (IBR) include only minor changes to permit boundaries that are incidental to the approved operations; such as road alignment, drainage alignment, parking areas, additional entries/punch-outs for underground operations, or other non-coal removal functions necessary for the orderly and continuous conduct of the approved operation.

A proposal to increase the area available for coal removal will not be treated as an IBR unless the coal removal is incidental to the primary purpose of the revision. For example, if the realignment of a road also involved mining a small amount of coal in the road cut, and/or the increase in area is minor then it may be deemed an IBR. The Division may also approve small adjustments to the permit boundary as an IBR when there is no net increase in the permitted area.

**III. Public Comment Procedures**

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendment proposed by Virginia satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Virginia program.

**Written Comments**

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Big Stone Gap Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

**Public Hearing**

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by close of business on January 7, 1999. If no one requests an opportunity to comment at

a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

**Public Hearing**

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Big Stone Gap Field Office by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance at the locations listed under **ADDRESSES**. A written summary of each public meeting will be made part of the Administrative Record.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

**IV. Procedural Determinations****Executive Order 12866**

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

**Executive Order 12988**

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory

programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

#### *National Environmental Policy Act*

No environmental impact statement is required for this rule since section 702(d) of SMCRA [30 U.S.C. 1292(d)] provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

#### *Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

#### *Regulatory Flexibility Act*

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

#### *Unfunded Mandates*

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

#### **List of Subjects in 30 CFR Part 946**

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 16, 1998.

**Allen D. Klein,**

*Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 98-33920 Filed 12-22-98; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 946

[VA-114-FOR]

#### Virginia Regulatory Program

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

**ACTION:** Proposed rule; public comment period and opportunity for public hearing.

**SUMMARY:** OSM is announcing receipt of a proposed amendment to the Virginia regulatory program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment clarifies the State's interpretation of its regulations concerning the disposal of excess spoil. The amendment is intended to improve the operational efficiency of the Virginia program.

**DATES:** Written comments must be received by 4:00 p.m., on January 22, 1999. If requested, a public hearing on the proposed amendment will be held on January 19, 1999. Requests to speak at the hearing must be received by 4:00 p.m., on January 7, 1999.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Mr. Robert A. Penn, Director, Big Stone Gap Field Office at the first address listed below.

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## SUPPLEMENTARY INFORMATION:

### I. Background on the Virginia Program

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### II. Discussion of the Proposed Amendment

By letter dated November 24, 1998 (Administrative Record No. VA-961), the Virginia Department of Mines, Minerals and Energy (DMME) submitted a clarification to its interpretation of its regulations at 4 VAC 25-130-816/817.76 concerning the disposal of excess spoil.

The proposed amendment is as follows:

The Division of Mined Land Reclamation proposed to clarify the interpretation of 4 VAC 25-130-816.76. The regulation states that excess spoil may be placed on "another area under a permit issued pursuant to the Act, or on abandoned mine lands under contract for reclamation according to the Abandoned Mine Land (AML) Guidelines and approved by the Division of Mines Land Reclamation." The Virginia Division of Mined Land Reclamation interprets this regulation to mean excess spoil from a permitted coal mining operation may be used by the Division of Mined Land Reclamation to reclaim a bond forfeiture site or an AML project site. Through any of the contracting procedures available to the agency, including negotiated, non-cost, or competitively bid contracts, the agency may cause the placement of excess spoil on the forfeiture or AML site in accordance with the provisions of a contract executed between the Division and a contractor. The spoil material removed from the permitted area will be demonstrated to be excess spoil and unnecessary for the achievement of approximate original contour within the permitted area.

The forfeiture or AML project must be:

1. Located in general proximity to the permit area;
2. On the AML inventory list or bond forfeiture list; and
3. Referenced in the permit plans, along with the demonstration that the spoil is excess and identified on the permit map.

However, the forfeiture or AML site will not be included in the permit acreage; will not be subject to the requirements for permits, performance bonds; and will not delay or otherwise affect bond release on the permitted area.

In the event the contractor fails to perform the work specified in the "no-cost contract," the Division will invoke the appropriate