

obtained by means of a PIN provided by the carrier, for which S's customer pays in advance of obtaining service; therefore, each card is a PTC. Because the value of each PTC is not designated in dollars and a tariff has not been filed for the minutes on the PTC, each PTC is an untariffed unit card.

(iii) The PTCs are untariffed unit cards transferred by the carrier to a transferee reseller. Thus, the face amount is determined under paragraph (c)(3)(ii) of this section, which permits D to choose from three alternative methods. Under paragraph (c)(3)(ii)(A)(1) of this section, the face amount of each PTC would be \$9, the highest amount for which D sells to holders purchasing a single PTC. Alternatively, under paragraph (c)(3)(ii)(A)(2) of this section, the face amount of each PTC would be \$8.10, computed as follows: 135% x the \$60,000 sales price x 10,000 PTCs. Finally, under paragraph (c)(3)(ii)(A)(3) of this section (assuming the PTCs are of a type that ordinarily is used entirely for domestic communications services), the face amount of each PTC would be \$9 (\$0.30 x 30 minutes).

(iv) The cards are PTCs; thus, under section 4251(d), the face amount is treated as an amount paid for communications services and that amount is treated as paid when the PTCs are transferred from D to S. Accordingly, at the time of transfer, S is liable for the 3 percent tax imposed by section 4251(a). Assuming that D chooses to determine the face amount as provided in paragraph (c)(3)(ii)(A)(2) of this section, the amount of the tax is \$2,430 (3% x the \$8.10 face amount x 10,000 PTCs). Thus, the total paid by S is \$62,430, the \$60,000 sales price plus \$2,430 tax. D is responsible for collecting the tax from S.

Example 7. Transfer of card that is not a PTC. (i) On May 1, 2000, E, a carrier, provides a telephone card to T, an individual, for T's use in making telephone calls. E provides T with a PIN. The card provides access to an unlimited amount of communications services. E charges T \$0.25 per minute of service, and bills T monthly for services used. The communications services acquired by using the card will be obtained by entering the PIN and the telephone number to be called.

(ii) Although the communications services will be obtained by means of a PIN, T does not receive a fixed amount of communications services. Also, T cannot pay in advance since the amount of T's payment obligation depends upon the number of minutes used. Therefore, the card is not a PTC.

(iii) Because the card is not a PTC, section 4251(d) does not apply. However, the 3 percent tax imposed by section 4251(a) applies to the amounts paid by T to E for the communications services. Accordingly, at the time an amount is paid for communications services, T is liable for tax. E is responsible for collecting the tax from T.

(f) *Effective date.* This section is applicable with respect to PTCs transferred by a carrier on or after the first day of the first calendar quarter beginning after January 7, 2000.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 4. In § 602.101, paragraph (b) is amended by adding an entry in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

CFR part or section where identified and described	Current OMB control No.
(b) * * *	
49.4251–(4)(d)(2)	1545–1628

John M. Dalrymple,
Acting Deputy Commissioner of Internal Revenue.

Approved: December 13, 1999.

Jonathan Talisman,
Acting Assistant Secretary of the Treasury.
[FR Doc. 00–56 Filed 1–6–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 8845]

RIN 1545–AW20

Adequate Disclosure of Gifts; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations which were published in the **Federal Register** on Friday, December 3, 1999, 64 FR 67767, relating to the valuation of prior gifts in determining estate and gift tax liability, and the period of limitations for assessing and collecting gift tax.

DATES: This correction is effective December 3, 1999.

FOR FURTHER INFORMATION CONTACT: William L. Blodgett, (202) 622–3090, (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are subject to these corrections are under section 6501 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 8845) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 8845), which were the subject of FR Doc. 99–30944, is corrected as follows:

§ 301.6501(c)–1 [Corrected]

1. On page 67772, column 3, § 301.6501(c)–1(f)(5), line 9 from the top of the column, the language “transfer will not be subject to inclusion” is corrected to read “transfer will be subject to inclusion”.

2. On page 67772, column 3, § 301.6501(c)–1(f)(5), line 11 from the top of the column, the language “purposes. On the other hand, if the” is corrected to read “purposes only to the extent that a completed gift would be so included. On the other hand, if the”.

Cynthia E. Grigsby,
Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 00–57 Filed 1–6–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN–146–FOR; State Program Amendment No. 98–3]

Indiana Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving an amendment to the Indiana regulatory program (Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Indiana proposed to add a new section to its rules. The new section requires permittees of coal mine operations to submit an annual report of affected area to the director of the Indiana Department of Natural Resources (IDNR). Indiana intends to revise its program to improve operational efficiency. We are also taking this opportunity to make a technical correction to 30 CFR 914.16(ii) and to remove the required amendments codified at 30 CFR 914.16(b) and 914.16(ii)(b).

EFFECTIVE DATE: January 7, 2000.

FOR FURTHER INFORMATION CONTACT:

Andrew R. Gilmore, Director,
Indianapolis Field Office, Office of
Surface Mining, Minton-Capehart
Federal Building, 575 North
Pennsylvania Street, Room 301,
Indianapolis, Indiana 46204-1521.
Telephone (317) 226-6700. Internet:
INFOMAIL@indgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Indiana Program
- II. Submission of the Proposed Amendment
- III. Director's Findings
- IV. Summary and Disposition of Comments
- V. Director's Decision
- VI. Procedural Determinations

I. Background on the Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. You can find background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the July 26, 1982, **Federal Register** (47 FR 32107). You can find later actions on the Indiana program at 30 CFR 914.10, 914.15, 914.16, and 914.17.

II. Submission of the Proposed Amendment

By letter dated August 31, 1999 (Administrative Record No. IND-1668), Indiana sent us an amendment to its program under SMCRA. Indiana sent the amendment at its own initiative. Indiana proposed to amend the Indiana Administrative Code (IAC) by adding 310 IAC 12-5-159, which requires permittees to submit an annual report of affected area to the director of IDNR.

We announced receipt of the amendment in the September 15, 1999, **Federal Register** (64 FR 50026). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment period closed on October 15, 1999. Because no one requested a public hearing or meeting, we did not hold one.

III. Director's Findings

Following, under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are our findings concerning the amendment.

A. 310 IAC 12-5-159 Annual Report

Indiana added 310 IAC 12-5-159 to require permittees of surface coal mining and reclamation operations to submit an annual report of affected area to the director of IDNR. The permittees must include information on mined

land as well as surface disturbed land. Indiana defined the term "mined land" at subsection (a) and defined the term "surface disturbed land" at subsection (b). Mined land includes land from which coal has been extracted, land from which overburden has been removed, and land upon which overburden or spoil has been deposited. Mined land does not include land where only auger mining has occurred. Surface disturbed land is land, other than mined land, that is disturbed by surface coal mining and reclamation operations. It includes areas where only topsoil is removed. When the surface disturbance will be reaffected by future overburden removal or deposition, the permittee need not report surface disturbed land in advance of the highwall. Subsection (c) requires permittees to submit an annual report of affected areas for each permit for surface coal mining and reclamation operations. The permittee must report acres mined and disturbed during the period from November 1 through October 31 of each year. The permittee must submit the report to the Director of IDNR no later than 90 days after October 31 of each year. The report must include the name and address of the permittee and, if different from the permittee, the name and address of the person or persons conducting the mining. It must also include the permit number and a summary of acres mined and disturbed during the reporting period. The acreage summary must include acres of mined land, acres of surface disturbed land, and total permit acres. It must also include acres of coal extraction by surface, auger, and highwall mining. Subsection (d) requires the permittee to submit with the report a dated aerial photograph of the surface coal mining and reclamation operation taken between September 1 and December 31 of the reporting year. The photograph must be of the same scale as the permit maps. The photograph or a certified map must show the location of the permit boundary; acres reported; section, township, and range lines; all public roads within the permit area that are not permanently closed; all areas where coal has been removed by surface, auger, or highwall mining methods; and the highwall face as of November 1 of the reporting year. After all mining has been completed, subsection (e) requires that when the acres are available on a computer-aided design (CAD) or other digital data format, the permittee must submit a report that includes a summary of pre-mining land use acreage for the mined and surface disturbed area. Subsection

(f), requires maps, whether separate from or created upon the photograph, to be prepared by or under the direction of and certified by a qualified registered professional engineer or certified professional geologist with assistance from experts in related fields such as land surveying or landscape architecture. At subsection (g), permits issued and land affected before the effective date of 310 IAC 12-5-159 and for which a report of affected area has not been filed, the initial photograph must show all areas disturbed since permit issuance. The permittee does not have to distinguish between mined land and surface disturbed land on the initial report form, photograph, or map. When available, the extent of auger areas must be shown. At subsection (h), the permittee does not have to submit an annual report if no additional acres have been disturbed during the reporting year.

There are no direct counterpart Federal regulations concerning an annual report of affected acreage. However, section 517(b)(1) of SMCRA requires the regulatory authority, for the purpose of administration and enforcement of a State program or permit, to require a permittee to establish and maintain appropriate records and to provide any information about surface coal mining and reclamation operations that is considered reasonable and necessary. Therefore, we find that Indiana's new section at 310 IAC 12-5-159 will not make Indiana's rules less stringent than SMCRA or less effective than the Federal regulations.

B. IC 14-34-2-6(b) and (c) Conflict of Interest; 30 CFR 914.16(b)

By letter dated March 18, 1988 (Administrative Record No. IND-0559A), Indiana submitted an amendment under 30 CFR 732.17. The amendment included Senate Enrolled Act No. 45 that revised Indiana Code (IC) 14-34-2-6(b) and (c) [formerly IC 13-4.1-2-3]. IC 14-34-2-6(b) requires that in addition to the filings required under IC 35-44-1, each member of the Indiana Natural Resources Commission (commission) must file annually with the director of the Indiana Department of Natural Resources (department) a statement of employment and financial interest on a form prescribed by the department.

IC 14-34-2-6(c) contains a recusal provision that does not allow a member of the commission to participate in a proceeding that may affect the member's direct or indirect financial interests.

In the December 15, 1989, **Federal Register** (54 FR 51388), we did not

approve the language in IC 14-34-2-6(b) because it implied that commission members may not be employees of the department. The department is the designated State regulatory authority for Indiana. We did not approve the language in IC 14-34-2-6(c) because it implied that members of the commission may have direct or indirect financial interests in coal mining operations. Section 517(g) of SMCRA states that "[n]o employee of the State regulatory authority performing any function or duty under this Act shall have a direct or indirect financial interest in any underground or surface coal mining operation." Based on the information we had available, we found that members of the commission must be considered employees of the department. Therefore, we codified the following required amendment at 30 CFR 914.16(b):

By May 15, 1990, Indiana shall submit revisions to IC 13-4.1-2-3 [IC 14-34-2-6(b) and (c)] or otherwise propose to amend its program to be in accordance with SMCRA at section 517(g) and consistent with the Federal regulations at 30 CFR Part 705 which require that no employee of the State regulatory authority performing any function or duty under SMCRA shall have a direct or indirect financial interest in any underground or surface coal mining operation.

By letter dated June 4, 1999 (Administrative Record No. IND-1657), Indiana provided additional justification for its provisions at IC 14-34-2-6(b) and (c). Indiana stated that there is a legal and statutory distinction between the department and the commission. Indiana referenced IC 14-10, which established the commission as a separate legal entity from the department and lists the commission's powers and duties. Indiana indicated that the function of the commission is somewhat analogous to that of the Indiana General Assembly, although each is part of a different branch of government. Indiana maintained that under IC 14-34-2-6(a), an employee of the "department" cannot have a direct or indirect financial interest in a surface coal mining operation. Further, the term "department" is specifically defined in IC 14-8-2-67 to mean the Indiana Department of Natural Resources. IC 14-8-2-6(b) applies to the commission, whose members are required to file a financial statement. Indiana stated that the procedure followed for commission members complies with section 517(g) of SMCRA and the implementing regulations at 30 CFR Part 705.

The underlying issue is whether members of the commission must be considered "employees" for purposes of

conflict of interest reporting. Primarily, Indiana's justification statements indicate that the financial disclosure requirements under section 517(g) of SMCRA for employees of the State regulatory authority do not apply to members of the commission who are not employed by the department. Those members of the commission who are not employees would be categorized as members of a multi-interest commission under the Federal definition of "employee" at 30 CFR 705.5. The Federal regulations at 30 CFR Part 705 provide separate conflict of interest requirements for members of commissions who are not deemed employees of the State regulatory authority.

After reviewing the Indiana Code and the October 17, 1986, preamble for changes made to 30 CFR Part 705 (51 FR 37118), we agree that there is a legal and statutory distinction between the department and the commission. We also agree that the commission represents multiple interests. IC 14-10-1 established the commission. The commission consists of 12 members, including five citizen members appointed by the Governor. At least two of the five citizens must have knowledge, experience, or education in the environment or in natural resource conservation. The remaining seven members are specified in the statute to include: the Commissioner of the Indiana Department of Transportation, Commissioner of the Indiana Department of Environmental Management, Director of the Department of Commerce, Director of the Indiana Department of Natural Resources, Chairman of the Advisory Council for the Bureau of Water and Resource Regulation, Chairman of the Advisory Council for the Bureau of Lands and Cultural Resources, and the President of the Indiana Academy of Science. The powers and duties of the commission are defined in IC 14-10-2 to include the authority to create a division of hearings, appoint administrative law judges, and adopt rules. The commission assumes these powers and duties for most of the natural resource bureaus and divisions within the State, including reclamation, fish and wildlife, forestry, state parks, and historic preservation and archeology. IC 14-9-1 created the department. Under IC 14-9-2 the governor must appoint the director of the department. The director may appoint deputy directors. However, under IC 14-9-7 other employees of the department are employed by the

director through the state personnel department.

As discussed in the preamble for changes made to 30 CFR Part 705 on October 17, 1986:

The definition of employee consistently has been construed to exclude members of multi-interest boards and commissions even if those members perform decision-making functions in accordance with state law. . . . Such groups are not covered by Section 517(g), which generally prohibits decision makers from having any interest in coal mining operations. Under the definition of employee, members of a board established in accordance with State law or regulations to represent various interests such as the coal mining industry, forestry, conservation, agriculture, environmentalists, or landowners, would be considered multi-interest board members.

Based on our review of the State statutes and the October 17, 1986, preamble discussion, we find that the members of the commission are not employees of the department, and we are removing the required amendment at 30 CFR 914.16(b).

Indiana's statute at IC 14-34-2-6(b) requires each member of the commission to file an annual statement of employment and financial interest with the director of the Indiana Department of Natural Resources. This is consistent with the Federal regulation requirements at 30 CFR 705.11(a) for members of commissions established in accordance with State law to represent multiple interests. Indiana's statute at IC 14-34-2-6(c) stipulates that a member of the commission may not participate in a proceeding that may affect the member's direct or indirect financial interests. This is consistent with the Federal regulation at 30 CFR 705.4(d), which requires multi-interest commission members to recuse themselves from any proceeding which may affect their direct or indirect financial interests. Therefore, we are approving IC 14-34-2-6(b) and (c).

C. 310 IAC 12-3-127(c)(4) Permit Reviews; Approval for Transfer, Assignment, or Sale of Permit Rights; 30 CFR 914.16(ii)(b)

By letter dated September 26, 1994 (Administrative Record No. IND-1401), Indiana submitted an amendment under 30 CFR 732.17. The amendment included revisions to 310 IAC 12-3-127(c)(4) that required the director of IDNR to not grant approval for a transfer, sale, or assignment of rights under a permit except upon a written finding that a "surface coal mining and reclamation operation owned or control by the applicant is not currently in violation of a federal or state statute, rule, or regulation." In the October 29,

1996, **Federal Register** (61 FR 55743), we approved Indiana's revisions with the requirement, codified at 30 CFR 914.16(ii)(b), that the State amend the introductory paragraph of 310 IAC 12-3-127(c)(4) to include the phrase "or by any person who owns or controls the applicant" after the word "applicant" in line 3, and the phrase "or person who owns or controls the applicant" after the word "applicant" in line 7. In the April 21, 1997, **Federal Register** (62 FR 19450), we amended our criteria for permit issuance at 30 CFR 773.15(b) that addressed ownership and control information and compliance review requirements. This action was taken in response to a decision by the U.S. Court of Appeals for the District of Columbia Circuit that invalidated the previous rules as inconsistent with SMCRA. The court held that SMCRA authorizes the regulatory authority to block issuance of a permit only for unabated violations incurred by the applicant or entities owned or controlled by the applicant, not for violations incurred by a person who owns or controls the permittee. Based on this court decision, we are removing the required amendment codified at 30 CFR 914.16(ii)(b).

At the request of the Office of the Federal Register, we are also making corrections to the subparagraph numbering under 30 CFR 914.16(ii). We are changing subparagraphs (a) through (b) to subparagraphs (1) through (3).

IV. Summary and Disposition of Comments

Public Comments

OSM requested public comments on the proposed amendment, but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Indiana program (Administrative Record No. IND-1669). By letter dated September 20, 1999, the Mine Safety and Health Administration commented that the proposed regulation did not conflict with its regulations or policies (Administrative Record No. IND-1674).

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written agreement from the EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Indiana proposed to make

in this amendment pertain to air or water quality standards. Therefore, we did not ask the EPA to agree on the amendment.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record No. IND-1669). The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On September 9, 1999, we requested comments on Indiana's amendment (Administrative Record No. IND-1669), but neither responded to our request.

V. Director's Decision

Based on the above findings, we approve the amendment as sent to us by Indiana on August 31, 1999. We approve the rules that Indiana proposed with the provision that they be published in identical form to the rules submitted to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 914, which codify decisions concerning the Indiana program. We are making this final rule effective immediately to expedite the State program amendment process and to encourage Indiana to bring its program into conformity with the Federal standards. SMCRA requires consistency of State and Federal standards.

We are also making some editorial corrections to 30 CFR Part 914.16(ii) and removing the required amendments at 30 CFR Part 914.16(b) and 914.16(ii)(b).

VI. Procedural Determinations

Executive Order 12866

The Office of Management and Budget (OMB) exempts this rule from review 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 State regulatory programs and program amendments 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

This rule does not require an environmental impact statement since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on 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 corresponding 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. Therefore, this rule will ensure that existing requirements previously published 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 corresponding Federal regulations.

Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 17, 1999.

Charles E. Sandberg,
Acting Regional Director, Mid-Continent
Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR Part 914 is amended as set forth below:

PART 914—INDIANA

1. The authority citation for Part 914 continues to read as follows:

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

2. Section 914.15 is amended in the table by adding a new entry in

chronological order by “Date of final publication” to read as follows:

§ 914.15 Approval of Indiana regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * * * *	* * * * *	* * * * *
August 31, 1999	January 7, 2000	310 12–5–159; IC 14–34–2–6(b) and (c).

3. Section 914.16 is amended by removing and reserving paragraph (b) and revising paragraph (ii) to read as follows:

§ 914.16 Required program amendments.

* * * * *

(ii) By April 28, 1997, Indiana shall submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to address the following:

(1) Amend the Indiana program at 310 IAC 12–3–49/83(e)(3) to add the requirement concerning stability analysis of each structure as is required by 30 CFR 780.25(f) and 784.16(f).

(2) [Reserved]

(3) The Director is requiring that Indiana further amend 310 IAC 12–5–24/90(a)(9)(E) to clarify that the term “subsection” should be “clause.”

[FR Doc. 00–420 Filed 1–6–00; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

[VA–115–FOR]

Virginia Abandoned Mine Land Reclamation Plan

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing the approval of an amendment to the Virginia Abandoned Mine Land Reclamation (AMLR) Program (hereinafter referred to as the Virginia Program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.*, as amended. The amendment makes changes to the Ranking and Selection section by adding a subsection

concerning reclamation projects receiving less than 50 percent government funding. The amendment is intended to incorporate the additional flexibility afforded by the revised Federal regulations.

EFFECTIVE DATE: January 7, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Penn, Director, Big Stone Gap Field Office, Telephone: (540) 523–4303.

SUPPLEMENTARY INFORMATION:

- I. Background on the Virginia Plan
- II. Submission of the Proposed Amendment
- III. Director’s Findings
- IV. Summary and Disposition of Comments
- V. Director’s Decision
- VI. Procedural Determinations

I. Background on the Virginia Plan

On December 15, 1981, the Secretary of the Interior conditionally approved the Virginia program. Background 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 AMLR program amendments are identified at 30 CFR 946.20 and 946.25.

II. Submission of the Proposed Amendment

By letter dated September 10, 1999 (Administrative Record No. VA–981), the Virginia Division of Mined Land Reclamation (DMLR) submitted a proposed Program Amendment to the Virginia Program. The proposed amendment revises the “Ranking and Selection 884.13(c)(2)” section by adding a subsection entitled “Reclamation Projects Receiving Less Than 50% Government Funding.” This amendment is intended to revise the Virginia program to incorporate the additional flexibility afforded by the revised Federal regulations.

OSM announced receipt of the proposed amendment in the October 8, 1999, **Federal Register** (64 FR 54843), and in the same document opened the

public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on November 8, 1999. No public hearing was requested, so none was held. On October 22, 1999 (Administrative Record No. VA–997), the State submitted a correction to a typographical error in a citation on Page 15 of the amendment.

III. Director’s Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 884.14 and 884.15, finds that the proposed plan amendment submitted by Virginia on September 10, 1999, and amended on October 22, 1999, meets the requirements of the corresponding Federal regulations and is consistent with SMCRA.

Ranking and Selection 884.13(c)(2)

In this section, Virginia added a new subsection titled “Reclamation Projects Receiving Less Than 50% Government Funding.” The new language is as follows:

Reclamation Projects Receiving Less Than 50% Government Funding

An abandoned mine land reclamation project may be considered for government-financed construction under Virginia program § 4 VAC 25–130 Part 707. If the level of government funding for the construction will be less than fifty percent of the total cost because of planned coal extraction, the procedures of this section apply. Such coal removal will be conducted in conformity with Virginia program § 4 VAC 25–130 Part 707 and the regulatory definitions for the terms “extraction of coal as an incidental part,” “government financing agency,” and “government-financed construction” contained within the Virginia regulatory program regulations at 4–VAC–25–700.5.

In considering such AML construction, the DMLR AML Section (Title IV authority) will consult with the DMLR Reclamation Services Section (Title V authority) to make the following determinations: