half-year convention. Thus, the depreciation allowance for the computers for 2004 is $10,000, which is equal to the unadjusted depreciable basis of $100,000 multiplied by the annual depreciation rate of .10 in table 8 for recovery year 1 for a 5-year recovery period. Because the computers are required to be depreciated under the alternative depreciation system in their placed-in-service year, pursuant to section 168(k)(2)(C)(i) and § 1.168(k)–1T(b)(2)(ii), the computers are not eligible for the additional first year depreciation deduction provided by section 168(k).

(f) *No change in accounting method.* A change in computing the depreciation allowance in the year of change for property subject to this section is not a change in method of accounting under section 446(e). *See* § 1.446–1T(e)(2)(ii)(*d*)(*3*)(*ii*).

(g) *Effective dates*—(1) *In general.* This section applies to any change in the use of MACRS property in a taxable year ending on or after June 17, 2004. For any change in the use of MACRS property after December 31, 1986, in a taxable year ending before June 17, 2004, the Internal Revenue Service will allow any reasonable method of depreciating the property under section 168 in the year of change and the subsequent taxable years that is consistently applied to any property for which the use changes in the hands of the same taxpayer or the taxpayer may choose, on a property-by-property basis, to apply the provisions of this section.

(2) *Change in method of accounting*—(i) *In general.* If a taxpayer adopted a method of accounting for depreciation due to a change in the use of MACRS property in a taxable year ending on or after December 30, 2003, and the method adopted is not in accordance with the method of accounting for depreciation provided in this section, a change to the method of accounting for depreciation provided in this section is a change in the method of accounting to which the provisions of sections 446(e) and 481 and the regulations under sections 446(e) and 481 apply. Also, a revocation of the election provided in paragraph (d)(3)(ii) of this section to disregard a change in the use is a change in method of accounting to which the provisions of sections 446(e) and 481 and the regulations under sections 446(e) and 481 apply. However, if a taxpayer adopted a method of accounting for depreciation due to a change in the use of MACRS property after December 31, 1986, in a taxable year ending before December 30, 2003, and the method adopted is not in accordance with the method of accounting for depreciation provided in this section, the taxpayer may treat the change to the method of accounting for depreciation provided in this section as a change in method of accounting to which the provisions of sections 446(e) and 481 and the regulations under sections 446(e) and 481 apply.

(ii) *Automatic consent to change method of accounting.* A taxpayer changing its method of accounting in accordance with this paragraph (g)(2) must follow the applicable administrative procedures issued under § 1.446–1(e)(3)(ii) for obtaining the Commissioner's automatic consent to a change in method of accounting (for further guidance, for example, *see* Rev. Proc. 2002–9 (2002–1 C.B. 327), as modified by Rev. Proc. 2004–11 (2004–3 I.R.B. 311) (*see* § 601.601(d)(2)(ii)(*b*) of this chapter)). Any change in method of accounting made under this paragraph (g)(2) must be made using an adjustment under section 481(a). For purposes of Form 3115, *Application for Change in Accounting Method,* the designated number for the automatic accounting method change authorized by this paragraph (g)(2) is ''88.'' If Form 3115 is revised or renumbered, any reference in this section to that form is treated as a reference to the revised or renumbered form.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: June 7, 2004.

Gregory F. Jenner,

Acting Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 04–13723 Filed 6–16–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

[MD–053–FOR]

Maryland Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: We are approving an amendment to the Maryland regulatory program (the Maryland program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The program amendment consists of changes to the Annotated Code of Maryland as contained in House Bill 893. The amendment requires the Department of the Environment to take action for permit applications, permit revisions, and revised applications within certain time periods. The amendment is intended to require the timely review of applications for open-pit mining permits.

DATES: *Effective Date:* June 17, 2004.

FOR FURTHER INFORMATION CONTACT: George Rieger, Telephone: (412) 937–2153. Internet: *grieger@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Maryland Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Maryland program on December 1, 1980. You can find background information on the Maryland program, including the Secretary's findings, the disposition of comments, and conditions of approval in the December 1, 1980, **Federal Register** (45 FR 79430). You can also find later actions concerning Maryland's program and program amendments at 30 CFR 920.12, 920.15 and 920.16.

II. Submission of the Proposed Amendment

By letter dated January 7, 2004 (Administrative Record Number MD–586–00), Maryland sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Maryland sent the amendment to include changes made at its own initiative. The amendment consists of Maryland House Bill 893, which was enacted to require the Department of the Environment to review an application for an open-pit mining permit in a timely manner. The bill revises the Annotated Code of Maryland, and requires the Department of the Environment to take action for permit applications, permit revisions, and revised applications within certain time periods.

We announced receipt of the proposed amendment in the March 11, 2004, **Federal Register** (69 FR 11562). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on April 12, 2004. We received responses from two Federal agencies.

III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment.

At section 15–505(d)(6), the words ''in a timely manner'' are added to the end of the provision as follows:

(6) The Department shall review all aspects of the application, including information pertaining to any other permit required from the Department for the proposed strip mining operation in a timely manner.

Section 15–505(d)(7) is amended by adding new (7)(i)1., (7)(i)2., (7)(i)2.A., (7)(i)2.B., and (7)(iii). As amended, section 15–505(d)(7) provides as follows:

(7)(i) Upon completion of the review required by paragraph (6) of this subsection, the Department shall grant, require modification of, or deny the application for a permit and notify the applicant and any participant to a public informational hearing, in writing, of its decision:

1. Within 90 days after the date the Department determines that an application for a new permit or an application for permit revision that proposes significant alterations in the permit is complete; or

2. Within 45 days after receiving:

A. A revised application for a new permit; or

B. An application for a permit revision that does not propose significant alterations in the permit.

(ii) The applicant for a permit shall have the burden of establishing that the application is in compliance with all of the requirements of this subtitle and the rules and regulations issued under this subtitle.

(iii) The Department may provide for one extension of the deadlines in subparagraph (i) of this paragraph for up to 30 days by notifying the applicant in writing prior to the expiration of the original deadlines.

We find that these amendments are no less stringent than SMCRA section 510(a). SMCRA section 510(a) provides that, on the basis of a complete mining application and reclamation plan or a revision or renewal thereof, the regulatory authority shall grant, require modification of, or deny the application for a permit in a reasonable time set by the regulatory authority. We find the proposed amendment at 15–505(d)(6), which requires the timely review of all aspects of the application, to be in accordance with and no less stringent than SMCRA section 510(a) and can be approved. In addition, we find that the time limits and requirements at paragraphs 15–505(d)(7)(i)1. and 2., and the possible extension of up to 30 days identified at 15–505(d)(7)(iii) are reasonable and not inconsistent with section 510(a) of SMCRA and can be approved.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (Administrative Record Number MD–586–04), but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Maryland program (Administrative Record No. MD–586–01). We received a response from the Natural Resources Conservation Service (NRCS) (Administrative Record Number MD–586–03). The NRCS stated that it had no comments.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(i) and (ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the amendments that Maryland proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

Under 30 CFR 732.17(h)(11)(ii), we requested comments on the amendment from EPA (Administrative Record Number MD–586–01). By letter dated February 25, 2004, EPA stated that there are no apparent inconsistencies with the Clean Water Act or other statutes under the jurisdiction of EPA (Administrative Record No. MD–586–02).

V. OSM's Decision

Based on the above findings, we are approving the amendment that Maryland forwarded to us on January 7, 2004.

To implement this decision, we are amending the Federal regulations at 30 CFR part 920, which codify decisions concerning the Maryland program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that Maryland's program demonstrate that it has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of Maryland and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that 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 because each 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 the Federal regulations at 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.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations''. Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with''

regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. The basis for this determination is that our decision is on a State regulatory program and does not involve a Federal program involving Indian tribes.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because 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 certifies 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. 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.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 920

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 20, 2004.

Brent Wahlquist,

Regional Director, Appalachian Regional Coordinating Center.

■ For the reasons set out in the preamble, 30 CFR part 920 is amended as set forth below:

PART 920—MARYLAND

■ 1. The authority citation for part 920 continues to read as follows:

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

■ 2. Section 920.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 920.15 Approval of Maryland regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* *	* * *	* *
January 7, 2004	June 17, 2004	M.C.A. Section 15–505(d)(6), (d)(7)(i)1., (d)(7)(i)2., (d)(7)(i)2.A., (d)(7)(i)2.B., and (d)(7)(iii).

[FR Doc. 04–13674 Filed 6–16–04; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–101–FOR]

West Virginia Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: We are removing a required program amendment from the West Virginia regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The required program amendment concerns tree stocking standards for mountaintop removal mining operations with a variance from the requirement to restore the site after mining to approximate original contour (AOC) and with an approved postmining land use of commercial forestry and forestry. The removal of the required amendment is intended to acknowledge actions taken by the State to render the West Virginia program no less effective than the Federal regulations.

DATES: *Effective Date:* June 17, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office, 1027 Virginia Street East, Charleston, West Virginia 25301. Telephone: (304) 347–7158, Internet address: *chfo@osmre.gov.*

SUPPLEMENTARY INFORMATION

I. Background on the West Virginia Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the West Virginia program on January 21, 1981. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval of the West Virginia program in the January 21, 1981, **Federal Register** (46 FR 5915). You can also find later actions concerning West Virginia's program and program amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Submission of the Amendment

By letters dated March 14, 2000, and March 28, 2000, and electronic mail dated April 5, 2000 (Administrative Record Numbers WV–1147, WV–1148, and WV–1149, respectively), the West Virginia Department of Environmental Protection (WVDEP) submitted an amendment to its surface coal mining regulatory program. Among other things, the amendment added new Code of State Regulations (CSR) 38–2–7.4 concerning standards applicable to AOC variance operations with a postmining land use of commercial forestry and forestry. CSR 38–2–7.4.b.1.I sets forth the standards of success for the commercial forestry postmining land use. We announced our approval of CSR 38–2–7.4, with an exception noted below, on August 18, 2000 (65 FR 50409) (Administrative Record Number WV–1174).

In our August 18, 2000, **Federal Register** notice, we did not approve the new tree stocking standards for commercial forestry and forestry postmining land use, because there was no evidence that the West Virginia Division of Forestry had reviewed and approved the proposed standards as is required by the Federal regulations at 30 CFR 816.116(b)(3)(i) (65 FR at 50422). Therefore, we required that the WVDEP consult with and obtain the approval of the Division of Forestry on the new stocking standards for commercial forestry and forestry at CSR 38–2–7.4.b.1.I. We codified this requirement in the Federal regulations at 30 CFR 948.16(aaaaa).

Under the Federal regulations at 30 CFR 816.116(b)(3)(i), the approval of the stocking standards may be on a program-wide or permit-specific basis. Since a program-wide approval had not yet been granted by the Division of Forestry at the time of our August 18, 2000, decision, we determined that the WVDEP must obtain approval on a permit-specific basis until such time that it received program-wide approval by the Division of Forestry.

By letter dated February 26, 2002, (Administrative Record Number WV–1276), the WVDEP, Division of Mining and Reclamation submitted, among other materials, a letter dated November 17, 2000, from the Division of Forestry to the WVDEP. In that letter, the Division of Forestry approved, on a statewide basis, the stocking rates at CSR 38–2–7.4, concerning standards applicable to mountaintop removal mining operations with a postmining land use of commercial forestry and forestry.

The November 17, 2000, letter from the Division of Forestry to the WVDEP appeared to satisfy the required program amendment codified in the Federal regulations at 30 CFR 948.16(aaaaa). Therefore, in the March 25, 2004, **Federal Register**, we proposed to remove the required program amendment at 30 CFR 948.16(aaaaa) from the West Virginia program (69 FR 15275). In the same document, we opened the public comment and provided an opportunity for a public hearing or meeting on the adequacy of the proposed removal of the required program amendment (Administrative Record Number WV–1387). We did not hold a hearing or a meeting because no one requested one. The public comment period closed on April 26, 2004. We received comments from one individual that are discussed below.

III. OSM's Findings

The required program amendment at 30 CFR 948.16(aaaaa) provides that the WVDEP must ''consult with and obtain the approval of the West Virginia Division of Forestry on the new stocking standards for commercial forestry and forestry at CSR 38–2–7.4.b.1.I.'' As we noted above, by letter dated February 26, 2002, the WVDEP, Division of Mining and Reclamation submitted, among other materials, a letter dated November 17, 2000, from the Division of Forestry to the WVDEP. In that letter, the Division of Forestry approved, on a statewide basis, the stocking rates at CSR 38–2–7.4, concerning success standards applicable to mountaintop removal mining operations with a postmining land use of commercial forestry and forestry.

As required by the Federal regulations at 30 CFR 948.116(b)(3)(i), the WVDEP has established minimum statewide stocking rates at CSR 38–2–7.4.b.1.I on the basis of local and regional conditions and after consultation with and the approval by the West Virginia Division of Forestry. Therefore, we find that the November 17, 2000, letter from the Division of Forestry to the WVDEP, Division of Mining and Reclamation