

**Surface Mining Reclamation and Enforcement, Interior**

**§ 948.15**

(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, .....	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.
October 29, 1982, .....	November 16, 1983 .....	Technical Handbook of Standards and Specifications for Mining Operations; applicability; bond release procedures for interim program permits; incidental mining.
February 16, 1983, .....	September 20, 1984 .....	Chapter 22-4 Series—blaster certification program.
April 29, 1983, .....	April 23, 1985 .....	Chapter 22-4 Series, § 6.01(B), 9—blaster certification program.
June 15, 1983, .....	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.
September 13, 1983, .....	March 20, 1986 .....	Financial analysis and supporting documentation demonstrating sufficient money in the special reclamation fund; withdrawals from the fund; noncoal administrative expenses.
January 12, 1984 .....	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.
November 20, 1984 .....	October 4, 1991 .....	CSR 38-2 §§ 2, 3, 5, 6, 9, 11 through 14, 17, 20, 22.
March 30, 1984, .....	November 19, 1991 .....	CSR 38-2-20.5, .6, .7.
October 30, 1984, .....	August 16, 1995 .....	CSR 38-2-14.14(b)(4), (g)(1)(B), (g)(8), (11), (12).
May 20, 1985, .....	October 4, 1995, .....	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).
June 14, 1985, .....	February 21, 1996 .....	
November 11, 1985 .....	July 24, 1996 .....	CSR 38-2-4.12, -5.4(c), -12.2(e), -14.3(c), .14(e)(4), .15(m).
June 30, 1986, April 26, 1986, .....	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.
June 29, 1990 .....	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; 9.2.1.2; 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
July 12, 1991 .....	May 14, 1999 .....	W.Va. Code 22-3 Section 13(c)(3) [not approved].
July 30, 1993 .....	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.
June 28, 1993 .....	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.
April 2, 1996 .....	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).
February 23, 1998 .....		
April 28, 1997 .....		
April 28, 1997 .....		
May 5, 1999 .....		
March 25, 1999 .....		
May 11, 1998 .....		

[62 FR 9957, Mar. 5, 1997, as amended at 63 FR 37777, July 14, 1998; 64 FR 6217, Feb. 9, 1999; 64 FR 26295, May 14, 1999; 64 FR 53203, Oct. 1, 1999; 64 FR 61507, Nov. 12, 1999; 64 FR 61518, Nov. 12, 1999; 65 FR 10390, Feb. 28, 2000; 65 FR 26135, May 5, 2000]

**§ 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) By November 26, 1985, West Virginia must submit copies of proposed regulations or otherwise propose to amend its program to provide that all surface blasting operations (including those using less than five pounds and those involving surface activities at underground mining operations) shall be conducted under the direction of a certified blaster.

(b)-(cc) [Reserved]

(dd) By April 30, 1991, West Virginia shall submit proposed revisions to Subsection 38-2-9.3 of its surface mining reclamation regulations or otherwise propose to amend its program to establish productivity success standards for grazing land, pasture land and cropland; require use of the 90 percent statistical confidence interval with a one-sided test using a 0.10 alpha error in data analysis and in the design of sampling techniques; and require that revegetation success be judged on the basis of the vegetation's effectiveness for the postmining land use and in meeting the general revegetation and reclamation plan requirements of Subsections 9.1 and 9.2. Furthermore, by that date, West Virginia shall submit for OSM approval its selected productivity and revegetation sampling techniques to be used when evaluating the success of ground cover, stocking or production as required by 30 CFR 816.116 and 817.116.

(ee) By April 30, 1991, West Virginia shall submit documentation that the U.S. Soil Conservation Service (SCS) has been consulted with respect to the nature and extent of the prime farmland reconnaissance inspection required under Subsection 38-2-10.1 of the State's surface mining reclamation regulations. In addition, the State shall either delete paragraphs (a)(2) and (a)(3) of Subsection 38-2-10.2 or submit documentation that the SCS

State Conservationist concurs with the negative determination criteria set forth in these paragraphs.

(ff)-(nn) [Reserved]

(oo) By June 1, 1992, West Virginia shall submit proposed revisions to subsection 38-2-5.4(b)(8) of its surface mining reclamation regulations to require that excavated sediment control structures which are at ground level and which have an open exit channel constructed of non-erodible material be designed to pass the peak discharge of a 25-year, 24-hour precipitation event.

(pp)-(ss) [Reserved]

(tt) By June 1, 1992, West Virginia shall submit proposed revisions to subsections 38-2-5.4(b)(1) and 5.4(d)(1) to require that all structures be certified as having been built in accordance with the detailed designs submitted and approved pursuant to subsection 3.6(h)(4), and to require that as-built plans be reviewed and approved by the regulatory authority as permit revisions.

(uu)-(ww) [Reserved]

(xx) By August 1, 1996, West Virginia shall submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise subsection CSR 38-2-14.8(a) to specify design requirements for constructed outcrop barriers that will be the equivalent of natural barriers and will assure the protection of water quality and insure the long-term stability of the backfill.

(yy)-(iii) [Reserved]

(jjj) By December 1, 1995, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise §22-3-11(g) of the Code of West Virginia and §38-2-12.5(d) of the West Virginia Code of State Regulations to remove the limitation on the expenditure of funds for water treatment or to otherwise provide for the treatment of polluted water discharged from all bond forfeiture sites.

(kkk) By December 1, 1995, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together