Control(s)	Country chart
AT applies to entire entry.	AT Column 1.
UN applies to 9A991.a.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

* * * * *

9D018 ''Software'' for the ''use'' of equipment controlled by 9A018.

License Requirements

Reason for Control: NS, RS, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
RS applies to 9A018.a and .b.	RS Column 2.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

* * * * *

9E018 ''Technology'' for the ''development'', ''production'', or ''use'' of equipment controlled by 9A018.

License Requirements

Reason for Control: NS, RS, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
RS applies to 9A018.a and .b.	RS Column 2.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry	Rwanda; Federal Republic of Yugoslavia (Serbia and Montenegro).

* * * * *

Dated: July 2, 1998.

Iain S. Baird,

Acting Assistant Secretary for Export Administration.

[FR Doc. 98–18417 Filed 7–13–98; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–078–FOR]

West Virginia Regulatory Program

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

ACTION: Final rule.

SUMMARY: OSM is approving the clarification of three final rule decisions, the removal of a required amendment, and the vacating of its retroactive approval of amendments to the West Virginia permanent regulatory program (hereinafter referred to as the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The clarifications concern West Virginia statutes pertaining to administrative appeals and the State Environmental Quality Board, and the required amendment pertains to termination of jurisdiction. These actions are intended to comply with a settlement agreement reached in *West Virginia Mining and Reclamation Association (WVMRA)* v. *Babbitt*, No. 2: 96–0371 (S.D. W.Va.).

EFFECTIVE DATE: July 14, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office, Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

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

I. Background on the West Virginia Program

On January 21, 1981, the Secretary of the Interior conditionally approved the West Virginia program. Background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of the approval can be found in the January 21, 1981, **Federal Register** (46 FR 5915–5956). Subsequent actions concerning the West Virginia program and previous amendments are codified at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Submission of the Amendment

In a series of three letters dated June 28, 1993, and July 30, 1993 (Administrative Record Nos. WV–888, WV–889 and WV–893), the West Virginia Division of Environmental Protection (WVDEP) submitted an amendment to its approved permanent regulatory program that included numerous revisions to the West Virginia Surface Coal Mining and Reclamation Act (referred to herein as ''the Act'', WVSCMRA § 22A–3–1 *et seq.*) and the West Virginia Surface Mining Reclamation Regulations (CSR § 38–2–1 *et seq.*). OSM approved the proposed revisions on durable rock fills on August 16, 1995, (60 FR 42437–42443) and approved, with exceptions, the proposed revisions on bonding on October 4, 1995, (60 FR 51900–51918). OSM approved, with exceptions, the remaining amendments on February 21, 1996, (61 FR 6511–6537). See 30 CFR 948.15 for the provisions that were partially approved by OSM. See 30 CFR 948.16 for required amendments.

On April 18, 1996, the WVMRA, the West Virginia Coal Association, and the Tri-State Coal Operators Association, Inc. filed an appeal, pursuant to section 526(a)(1) of SMCRA, 30 U.S.C. 1276(a)(1), challenging certain OSM decisions contained in the February 21, 1996, Federal Register Notice, including the decision to make approval of the amendment retroactive. (Administrative Record Number WV–1027). On October 29, 1997, the parties reached a settlement agreement with respect to six of the seven counts contained in the above referenced case. (Administrative Record Number WV–1077). The other count, pertaining to the use of passive treatment systems after final bond release, was decided by the United States District Court for the Southern District of West Virginia in OSM's favor. *See WVMRA* v. *Babbitt*, No. 2: 96–0371 (S.D. W.Va. July 11, 1997) (Administrative Record Number WV–1072). OSM proposed this rulemaking in order that it may fulfill its obligations with respect to five of the six counts of the appeal which are addressed by settlement agreement. The remaining count addressed in the settlement agreement, pertaining to the windrowing of materials on the downslope in steep slope areas, is the subject of another proposed rulemaking, announced in the June 10, 1997, **Federal Register**. *See* 62 FR 31543, 31545.

The proposed rulemaking was published in the February 23, 1998, **Federal Register** (63 FR 8891). No one requested an opportunity to speak at a public hearing, so none was held.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's

findings concerning the clarification of three final rule decisions, the removal of a required amendment, and the vacating of its retroactive approval of amendments to the West Virginia permanent regulatory program.

1. The Clarifications

§ 22B–1–7(d) Administrative Appeals

As announced in the **Federal Register** on February 21, 1996 (61 FR at 6516, 6536), OSM did not approve a language at § 22B–1–7(d) concerning allowing temporary relief where the appellant demonstrates that the executed decision appealed from will result in the appellant suffering an ''unjust hardship.'' OSM stated that the provision was disapproved because the exception is inconsistent with SMCRA section 514(d) and 525(c). Further, OSM required, at 30 CFR 948.16(nnn), that § 22B–1–7(d) be amended to be consistent with SMCRA sections 514(d) and 525(c). In accordance with the settlement agreement in *WVMRA* v. *Babbitt, supra,* OSM proposed to clarify its February 21, 1996, decision by stating that § 22B–1–7(d) is not approved only to the extent that it includes unjust hardship as a criterion to support the granting of temporary relief from an order or other decision issued under Chapter 22, Article 3 of the West Virginia Code, which is the West Virginia counterpart to SMCRA. OSM also proposed to revise the required amendment at 30 CFR 948.16(nnn) to require West Virginia to amend its program to remove unjust hardship as a criterion to support the granting of temporary relief from an order or other decision issued under Chapter 22, Article 3 of the West Virginia Code. The Director now adopts this proposal, and is, therefore, not approving § 22B–1–7(d) only to the extent that it includes unjust hardship as a criterion to support the granting of temporary relief from an order or other decision issued under Chapter 22, Article 3 of the West Virginia Code, which is the West Virginia counterpart to SMCRA. The Director is also revising the required amendment at 30 CFR 948.16(nnn) to require West Virginia to amend its program to remove unjust hardship as a criterion to support the granting of temporary relief from an order or other decision issued under Chapter 22, Article 3 of the West Virginia Code.

§ 22B–1–7(h) Administrative Appeals

As announced in the **Federal Register** on February 21, 1996 (61 FR at 6516, 6536), OSM did not approve language at § 22B–1–7(h) to the extent that the provisions would allow the West Virginia Surface Mining Board to decline to order an operator to treat or control discharges due to economic considerations. In addition, OSM required, at 30 CFR 948.16(ooo), that the State further amend § 22B–1–7(h) to be no less stringent than SMCRA section 515(b)(10) and no less effective than the Federal regulations at 30 CFR 816.42 by requiring that discharges be controlled or treated without regard to economic feasibility. In accordance with the settlement agreement in *WVMR* v. *Babbitt, supra.* OSM proposed to clarify that § 22B–1–7(h) is not approved only to the extent that it references Article 3, Chapter 22 of the West Virginia Code. OSM also proposed to revise the required amendment at 30 CFR 948.16(ooo) to require West Virginia to mend its program by removing the reference, in § 22B–1–7(h), to Article 3, Chapter 22. The Director is now adopting this proposal and is, therefore, not approving § 22B–1–7(h) only to the extent that it references Article 3, Chapter 22 of the West Virginia Code. The Director is also revising the required amendment at 30 CFR 948.16(ooo)—to require West Virginia to amend its program by removing the reference, in § 22B–1–7(h), to Article 3, Chapter 22.

§ 22B–3–4 Environmental Quality Board

As announced in the **Federal Register** on February 21, 1996 (61 FR at 6517), OSM approved the provisions at § 22B–3–4 concerning the Environmental Quality Board's rulemaking authority. Under the State's S.B. 287, the Board is authorized, with certain restrictions, to promulgate procedural rules granting site-specific variances for water quality standards for coal remining operations. In approving the provision, OSM also stated that any such procedural rules that grant variances must be submitted to OMS for approval prior to their implementation.

In accordance with the settlement agreement in *WVMRA* v. *Babbitt, supra,* OSM proposed to clarify that it does not have approval authority over rules developed by the Environmental Quality Board under the authority of the Clean Water Act. The Director is now adopting this proposal and finds, therefore, that the Environmental Quality Board is not required to submit to OSM for approval procedural rules for the implementation of site specific variances for water quality standards for remining operations.

2. Amendment Findings Revisions

CSR 38–2–1.2(c)(1) Termination of Jurisdiction

As announced in the **Federal Register** on February 21, 1996 (61 FR at 6517, 6536), OSM found § 38–2–1.2(c)(1) to be less effective than the Federal regulations at 30 CFR 700.11(d)(1)(i) to the extent that subsection (c)(1) does not require compliance with the Federal initial program regulations at Subchapter B or the West Virginia permanent regulatory program as a prerequisite to the termination of jurisdiction over an initial program site. In addition, OSM required, at 30 CFR 948.16(ppp), that the State further amend subsection (c)(1) to require compliance with the Federal initial program regulations at Subchapter B or the West Virginia permanent regulatory program regulations as a prerequisite to the termination of jurisdiction over an initial program site.

By letter dated December 12, 1996 (Administrative Record Number WV–1052), the West Virginia Division of Environmental Protection (WVDEP) stated its commitment to require that initial program sites in West Virginia meet the West Virginia program's permanent program requirements as a precondition of the termination of regulatory jurisdiction over such sites.

In recognition of the acknowledgment contained in the December 12, 1996, WVDEP letter, and in accordance with the settlement agreement in *WVMRA* v. *Babbitt, supra,* OSM proposed to accept the WVDEP's December 12, 1996 letter as satisfying the requirements of 30 CFR 700.11(d)(1)(i), and proposed to delete the required amendment codified at 30 CFR 948.16(ppp). The Director is now adopting this proposal and, therefore, is accepting the WVDEP's December 12, 1996 letter as satisfying the requirements of 30 CFR 700.11(d)(1)(i). The Director is also removing the required amendment at 30 CFR 948.16(ppp).

3. Vacating Retroactive Approval of Amendments

In the February 21, 1996, **Federal Register** (61 FR 6533), OSM stated that with respect to laws and regulations being approved in the notice, the OSM was making the effective date of the approval retroactive to the date upon which each provision took effect in West Virginia for purposes of State law. However, as stated in the settlement agreement in *WVMRA* v. *Babbitt, supra,* OSM has agreed to vacate the retroactive effect of its approval of the program amendment which was the subject of the February 21, 1996, **Federal Register**

notice. Therefore, OSM announced its intention to vacate the retroactive approval of the amendments discussed and approved in the February 21, 1996, **Federal Register** notice, 61 FR 6511, 6535. In addition, OSM proposed to change the effective dates of all the amendments approved in the February 21, 1996 notice to February 21, 1996.

Accordingly, the Director is hereby vacating the retroactive approval of the amendments discussed and approved in the February 21, 1996, **Federal Register** notice 61 FR 6511, 6535. Furthermore, the Director is changing the effective dates of all the amendments approved in the February 21, 1996 notice to February 21, 1996.

The Director finds that the clarifications, amendment findings revisions, and vacation of the retroactive approval of the previously approved amendments do not render the West Virginia program less effective, and are hereby approved.

IV. Summary and Disposition of Comments

Federal Agency Comments

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i), comments were solicited from various interested Federal agencies. The Department of the Army, U.S. Army Corps of Engineers responded and stated that the proposed dispositions are satisfactory to the agency. The U.S. Department of Labor, Mine Safety and Health Administration (MSHA) responded and stated that the agency did not find any statements that would conflict with MSHA's regulations or policies.

Public Comments

The following comments were received in response to the request for public comments. The West Virginia Coal Association (WVCA) stated that events have occurred since OSM's approval of the West Virginia Code at § 22–3–8(6)(B) concerning compliance with the State's workers' compensation provisions at § 23–2–5. § 22–3–8(6)(B) states that ''[i]t is a requirement of this article [article 3, chapter 22, which is the West Virginia counterpart to SMCRA] that each operator maintain continued compliance with the provisions of section five, article two, chapter twenty-three of this code [the requirement to pay workers' compensation premiums] and provide proof of compliance to the director on an annual basis.'' Specifically, the commenter stated that interpretations of § 22–3–8(6)(B) may improperly (1) create bond forfeitures that cannot be reclaimed by the State's special reclamation fund; (2) allow reclamation bonds to be used for purposes other than reclamation of mining sites; and (3) allows citizens' suits that would affect limits imposed under the State's workers' compensation laws. Accordingly, the WVCA demanded that OSM either disapprove § 22–3–8(6)(B) or approve it expressly subject to the interpretation given to the provision by the WVDEP. That interpretation is discussed below.

The WVDEP stated that its primary concern is that implementation of § 22–3–8(6)(B) not put any additional pressure on the bonding funds available to WVDEP for completing reclamation. WVDEP stated that, while it is more than willing to screen applicants for compliance with the workers' compensation laws and thereafter take reasonable action to ensure that they subsequently maintain compliance, the WVDEP cannot in doing so jeopardize its primary purposes to ensure that the environment is protected and reclamation is accomplished.

The WVDEP further stated that to ensure that § 22–3–8(6)(B) is not interpreted or applied in such a fashion as to jeopardize environmental protection and the reclamation bonding program, WVDEP issued a policy on June 7, 1995, concerning enforcement procedures for companies in default with workers' compensation. By that policy, WVDEP interprets § 22–3–8(6)(B) to allow permittees to abate violations issued for the workers' compensation defaults of their contractors either by demonstrating that the contractor has returned to good standing or by taking action to terminate the operator approval. WVDEP stated that it recognizes that any interpretations of § 22–3–8(6)(B) which would impose obligations on permittees or operators for workers' compensation obligations incurred prior to the effective date of the statute could compromise the Special Reclamation Fund, which is used to reclaim minesites for which the proceeds for forfeited performance bonds are inadequate to achieve full reclamation.

To ensure an appropriate application of § 22–3–8(6)(B) while maintaining the consistency of the State surface mining program with SMCRA, and in accordance with its June 7, 1995, policy, the WVDEP interprets § 22–3–8(6)(B) as:

(1) Prohibiting the issuance of both new permits and operator approvals (known as operator reassignments in West Virginia) to those applicants for which the Workers' Compensation Division advises have not complied with § 23–2–5;

(2) In cases involving permittees that utilize contractors, enabling DEP to issue a notice of violation to a permittee for its contractors' failure to comply with the workers' compensation provisions of W. Va. Code § 23–2–5, and allowing the permittee to abate the violation *either* by demonstrating that the contractor has returned a status of good standing with the Workers' Compensation Division *or* by submitting the paperwork necessary to allow DEP to rescind or terminate the operator approval (operator reassignment); and

(3) To the extent it imposes obligations on permittees and operators to maintain compliance with W. Va. Code § 23–2–5, it does so only to the extent that the obligation to pay premiums, submit reports, etc. first arose after the effective date of W. Va. Code § 22–3–8(6)(B).

The Director does not believe that the WVCA's comments are germane to this rulemaking, since approval of § 22–3–8(6)(A) and (B) was previously announced in the February 21, 1996, **Federal Register**. 61 FR 6511. In his approval, the Director noted that ''as provided in paragraph (h) [§ 22–3–8(6)], the State proposes to make compliance with the Workers' Compensation Program a requirement of permit approval.'' 61 FR at 6514. The basis for the Director's approval is not changed in this rulemaking, since the substance of § 22–3–8(6) is not at issue here. The Director notes, however, that the effective date of his approval of § 22–3–8(6) is now changed to February 21, 1996.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated 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.*). OSM has determined that the proposed provision does not pertain to air and water quality standards. Therefore, EPA concurrence is not required.

Pursuant to 30 CFR 732.17(h)(11)(i), OSM solicited comments from the EPA on the proposed amendment. EPA did not provide any comments in response to the request.

V. Director's Decision

Based on the findings above the Director is approving the clarification of the three final rule decisions, the removal of the required amendment, and the vacating of its February 21, 1996, retroactive approval of

amendments to the West Virginia program.

The Federal regulations at 30 CFR 948 codifying decisions concerning the West Virginia program are being amended to implement this decision.

VI. 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 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. 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 for assumptions for the corresponding Federal regulations.

Unfunded Mandates

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

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 28, 1998.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 948—WEST VIRGINIA

1. The authority citation for part 948 continues to read as follows:

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

2. Section 948.15 is amended in the table by adding a new entry in chronological order by ''Date of Final Publication'' to read as follows:

§ 948.15 Approval of West Virginia regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	*
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.

3. Section 948.16 is amended by removing and reserving paragraph (ppp), and by revising paragraphs (nnn) and (ooo) to read as follows:

§ 948.16 Required regulatory program amendments.

* * * * *

(nnn) By September 14, 1998, 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 Section 22B–1–7(d) to remove unjust hardship as a criterion to support the granting of temporary relief from an order or other decision issued under Chapter 22, Article 3 of the West Virginia Code.

(ooo) By September 14, 1998, 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 Section 22B–1–7(h) by removing reference to Article 3, Chapter 22.

* * * * *

[FR Doc. 98–18738 Filed 7–13–98; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 103

RIN 1506–AA18

Amendments to the Bank Secrecy Act Regulations Regarding Reporting and Recordkeeping by Card Clubs; Correction

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Final rule; correction.

SUMMARY: The Financial Crimes Enforcement Network (''FinCEN'') published in the **Federal Register** of January 13, 1998, a final rule amending the regulations implementing the statute generally referred to as the Bank Secrecy Act, to include certain gaming establishments, commonly called ''card clubs,'' ''card rooms,'' ''gaming clubs,'' or ''gaming rooms'' within the definition of financial institution subject to the Bank Secrecy Act. This document contains a correction to the preamble to the final rule.

DATES: Effective on August 1, 1998.

FOR FURTHER INFORMATION CONTACT: Leonard C. Senia, Senior Financial Enforcement Officer, Office of Program Development, Financial Crimes Enforcement Network, (703) 905–3931, or Cynthia L. Clark, Deputy Chief Counsel, Financial Crimes Enforcement Network, (703) 905–3758.

SUPPLEMENTARY INFORMATION: In FR Doc. 98–743, published in the **Federal**