

affixed to the real estate security as a replacement for a home which existed on the security property when the Shared Appreciation Agreement was originally executed, or, the square footage of the original dwelling was expanded, only the value added to the real property by the new or expanded portion of the original dwelling (if it added value) will be deducted from the current market value.

(B) The item is an improvement to the real estate with a useful life of over 1 year and is affixed to the property. The item must have been capitalized and not taken as an annual operating expense on the borrower's Federal income tax records. The borrower must provide copies of appropriate tax documentation to verify that capital improvements claimed for shared appreciation recapture reduction are capitalized on borrower income taxes.

(2) In the event of a partial sale, an appraisal of the property being sold may be required to determine the market value at the time the Shared Appreciation Agreement was signed if such value cannot be obtained through another method.

* * * * *

(e) * * *

(6) The interest rate will be the Farm Loan Program Homestead Protection rate contained in RD Instruction 440.1 (available in any FSA office).

* * * * *

(11) If the borrower has no outstanding Farm Loan Program loans and becomes delinquent on the Shared Appreciation loan, the Shared Appreciation loan will be serviced in accordance with subpart J of this part. If the borrower has outstanding Farm Loan Programs loans, and becomes delinquent or financially distressed in accordance with § 1951.906, the Shared Appreciation loan will be considered for reamortization in accordance with § 1951.909(e).

* * * * *

(h) * * *

(8) If the real estate that is the subject of the Shared Appreciation Agreement during the suspension period is conveyed, the suspended amount, plus any accrued interest shall be come immediately due and payable by the borrower in accordance with paragraph (c) of this section.

* * * * *

(11) Capital improvement deductions are available to a borrower on any unpaid recapture amount under an existing Suspension Agreement in accordance with 1951.914(c).

* * * * *

4. Exhibit A—Attachments 2, 3, 4, 5, 5-A, 6, 6-A, 9, 9-A, 10, 10-A, Exhibit B, Exhibit B—Attachment 1, Exhibit C, Exhibit C-1, Exhibit E, Exhibit E, Attachments 1 and 2, Exhibit F, Exhibit F—Attachments 1 and 2, Exhibit I, Exhibit J, Exhibit J—Attachment 1, Exhibit J-1, Exhibit J-1, Attachment 1, Exhibit K, Exhibit K—Attachment 1, Exhibit L and Exhibit M of 7 CFR part 1951, subpart S are removed.

Signed in Washington, D.C., on August 8, 2000.

August Schumacher, Jr.,

Under Secretary for Farm and Foreign Agricultural Service.

[FR Doc. 00-20679 Filed 8-17-00; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00-ASO-12]

Establishment of Class D Airspace; Stuart, FL; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule correction.

SUMMARY: This action corrects an error in the preamble of a final rule that was published in the **Federal Register** on June 30, 2000, (65 FR 40492), Airspace Docket No. 00-ASO-12. The final rule establishes Class D airspace at Stuart, FL.

EFFECTIVE DATE: 0901 utc, October 5, 2000.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320; telephone (404) 305-5627.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 00-16660, Airspace Docket No. 00-ASO-12, published on June 30, 2000 (65 FR 40492), established Class D airspace at Stuart, FL. In the preamble, the first paragraph under the heading "The Rule" inadvertently referred to Key West NAS instead of Stuart, FL. This action corrects the error.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the location of the Class D airspace in the preamble under the heading "The Rule"

published in the **Federal Register** on June 30, 2000 (65 FR 40492), is corrected as follows:

1. On page 40492, column 2, in the preamble under the heading "The Rule", in line 4 of the first paragraph, correct the location "Key West NAS" to read "Stuart, FL".

Issued in College Park, GA, on August 7, 2000.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00-20944 Filed 8-17-00; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 31, and 301

[TD 8895]

RIN 1545-AX31

Extension of Due Date for Electronically Filed Information Returns; Limitation of Failure To Pay Penalty for Individuals During Period of Installment Agreement

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This document contains final regulations implementing section 6071(b) relating to the extension of the due date for certain electronically filed information returns. The final regulations also provide rules under section 6651(h) relating to a penalty reduction for certain individuals who have agreed with the IRS to make installment payments in satisfaction of their tax liability. The regulations relating to extension of filing dates affect payors required to file information returns after December 31, 1999. The regulations relating to penalty reduction affect individual taxpayers with installment agreements in effect during months beginning after December 31, 1999.

DATES: *Effective Date:* These regulations are effective August 18, 2000.

Applicability Date: The provisions of these regulations under section 6071(b) apply for returns required to be filed after December 31, 1999. The provisions of these regulations under section 6651(h) apply for determining the addition to tax for months beginning after December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Marilyn E. Brookens, (202) 622-4920 (for information relating to the

extension of due dates under section 6071(b)); or Robert B. Taylor, (202) 622-4920 (for information relating to the reduction in the penalty under section 6651(h)) (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains amendments to the Income Tax Regulations, Employment Tax Regulations, and Procedure and Administration Regulations (26 CFR Parts 1, 31, and 301), and implements sections 6071(b) and 6651(h), which were added to the Internal Revenue Code (Code) by the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105-206 (112 Stat. 685, 724 (1998 Act)). Section 6071(b) was added to the Code by section 2002 of the 1998 Act and extends the due date for information returns required by chapter 61, subchapter A, part III, subparts B and C (sections 6041 through 6053) that are filed electronically. The information returns affected include the Form W-2 series, Form W-2G, the Form 1098 series, the Form 1099 series, and Form 8027. Under section 6071(b) such information returns are due on or before March 31 of the year following the calendar year to which the returns relate. Section 6071(b) applies to information returns required to be filed with the IRS or the Social Security Administration after December 31, 1999.

Section 6651(h) was added to the Code by section 3303 of the 1998 Act and provides that, for individuals, the failure to pay penalty is reduced from 0.5 percent per month to 0.25 percent per month during the period an installment agreement under section 6159 is in effect with regard to a timely filed return. Section 6651(h) applies to any Federal tax liability of an individual (including a liability under subtitle C) and is effective for determining the addition to tax for months beginning after December 31, 1999.

On January 27, 2000, a notice of proposed rulemaking (REG-105279-99, 2000-8 I.R.B. 707) under sections 6071(b) and 6651(h) was published in the **Federal Register** (65 FR 4396). Although written or electronic comments and requests for a public hearing were solicited, no comments were received and no public hearing was requested or held. The proposed regulations under sections 6071(b) and 6651(h) are adopted by this Treasury decision.

Special Analyses

It has been determined that this Treasury decision is not a significant

regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because the regulations do not impose a collection of information on small entities, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking that preceded these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of the regulations relating to the extension of due dates under section 6071(b) is Marilyn E. Brookens, Office of Assistant Chief Counsel (Income Tax & Accounting). The principal author of the regulations relating to the reduction in the penalty under section 6651(h) is Robert B. Taylor, Office of Assistant Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 31, and 301 are amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. In § 1.6041-2, paragraph (a)(3)(ii) is revised to read as follows:

§ 1.6041-2 Return of information as to payments to employees.

- (a) * * *
- (3) * * *

(ii) *Exception.* In a case where an employer is not required to file Forms W-3 and W-2 under § 31.6011(a)-4 or § 31.6011(a)-5 of this chapter, returns on Forms W-3 and W-2 required under this paragraph (a) for any calendar year shall be filed on or before February 28 (March 31 if filed electronically) of the following year.

* * * * *

Par. 3. In § 1.6041-6, the first sentence is revised to read as follows:

§ 1.6041-6 Returns made on Forms 1096 and 1099 under section 6041; contents and time and place for filing.

Returns made under section 6041 on Forms 1096 and 1099 for any calendar year shall be filed on or before February 28 (March 31 if filed electronically) of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for such forms. * * *

Par. 4. In § 1.6042-2, the first sentence of paragraph (c) is revised to read as follows:

§ 1.6042-2 Returns of information as to dividends paid in calendar years after 1962.

* * * * *

(c) *Time and place for filing.* The returns required under this section for any calendar year shall be filed after September 30 of such year, but not before the payer's final payment for the year, and on or before February 28 (March 31 if filed electronically) of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096. * * *

* * * * *

Par. 5. In § 1.6043-2, paragraph (a) is revised to read as follows:

§ 1.6043-2 Return of information respecting distributions in liquidation.

(a) Unless the distribution is one in respect of which information is required to be filed pursuant to § 1.332-6(b), 1.368-3(a), or 1.1081-11, every corporation making any distribution of \$600 or more during a calendar year to any shareholder in liquidation of the whole or any part of its capital stock shall file a return of information on Forms 1096 and 1099, giving all the information required by such form and by the regulations in this part. A separate Form 1099 must be prepared for each shareholder to whom such distribution was made, showing the name and address of such shareholder, the number and class of shares owned by him in liquidation of which such distribution was made, and the total amount distributed to him on each class of stock. If the amount distributed to

such shareholder on any class of stock consisted in whole or in part of property other than money, the return on such form shall in addition show the amount of money distributed, if any, and shall list separately each class of property other than money distributed, giving a description of the property in each such class and a statement of its fair market value at the time of the distribution. Such forms, accompanied by transmittal Form 1096 showing the number of Forms 1099 filed therewith, shall be filed on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which such distribution was made with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096.

* * * * *

Par. 6. In § 1.6044-2, the first sentence of paragraph (d) is revised to read as follows:

§ 1.6044-2 Returns of information as to payments of patronage dividends with respect to patronage occurring in taxable years beginning after 1962.

* * * * *

(d) *Time and place for filing.* The return required under this section on Forms 1096 and 1099 for any calendar year shall be filed after September 30 of such year, but not before the payer's final payment for the year, and on or before February 28 (March 31 if filed electronically) of the following year, with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for such forms. * * *

* * * * *

Par. 7. Section § 1.6045-1 is amended by adding paragraph (r) to read as follows:

§ 1.6045-1 Returns of information of brokers and barter exchanges.

* * * * *

(r) *Electronic filing.* Notwithstanding the time prescribed for filing in paragraph (j) of this section, Forms 1096 and 1099 required under this section for reporting periods ending during a calendar year shall, if filed electronically, be filed after the last calendar day of the reporting period elected by the broker or barter exchange and on or before March 31 of the following calendar year.

Par. 8. In § 1.6045-2, paragraph (g)(3) is revised to read as follows:

§ 1.6045-2 Furnishing statement required with respect to certain substitute payments.

* * * * *

(g) * * *

(3) *Time and place of filing.* The returns required under this paragraph (g) for any calendar year shall be filed after September 30 of such year, but not before the final substitute payment for the year is received by the broker, and on or before February 28 (March 31 if filed electronically) of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096.

* * * * *

Par. 9. In § 1.6045-4, the first sentence of paragraph (j) is revised to read as follows:

§ 1.6045-4 Information reporting on real estate transactions with dates of closing on or after January 1, 1991.

* * * * *

(j) *Time and place for filing.* A reporting person shall file the information returns required by this section with respect to a real estate transaction after December 31 of the calendar year that includes the date of closing (as determined under paragraph (h)(2)(ii) of this section) and on or before February 28 (March 31 if filed electronically) of the following calendar year. * * *

* * * * *

Par. 10. In § 1.6047-1, the first sentence of paragraph (a)(6) is revised to read as follows:

§ 1.6047-1 Information to be furnished with regard to employee retirement plan covering an owner-employee.

(a) * * *

(6) *Time and place for filing.* The return required under this section for any calendar year shall be filed after the close of that year and on or before February 28 (March 31 if filed electronically) of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096. * * *

* * * * *

Par. 11. Section 1.6049-4 is amended by:

1. Revising the first sentence of paragraph (g)(1).

2. Revising the first sentence of paragraph (g)(2).

The revisions read as follows:

§ 1.6049-4 Return of information as to interest paid and original issue discount includible in gross income after December 31, 1982.

* * * * *

(g) * * * (1) *Annual return.* Except as provided in paragraph (g)(2) of this section, the returns required under this section for any calendar year for the

payment of interest shall be filed after September 30 of such year, but not before the payor's final payment to the payee for the year, and on or before February 28 (March 31 if filed electronically) of the following year. * * *

(2) *Transactional return.* In the case of a return under paragraph (e) of this section, relating to returns on a transactional basis, such return shall be filed at any time but in no event later than February 28 (March 31 if filed electronically) of the year following the calendar year in which the interest was paid. * * *

* * * * *

Par. 12. In § 1.6049-7, the first sentence of paragraph (b)(2)(iv) is revised to read as follows:

§ 1.6049-7 Returns of information with respect to REMIC regular interests and collateralized debt obligations.

* * * * *

(b) * * *

(2) * * *

(iv) *Time and place for filing a return with respect to amounts includible as interest.* The returns required under this paragraph (b)(2) for any calendar year must be filed after September 30 of that year, but not before the payor's final payment to the payee for the year, and on or before February 28 (March 31 if filed electronically) of the following year. * * *

* * * * *

Par. 13. In § 1.6050A-1, paragraph (b) is revised to read as follows:

§ 1.6050A-1 Reporting requirements of certain fishing boat operators.

* * * * *

(b) *Time and place for filing.* Returns required to be made under this section on Form 1099-MISC shall be filed with the Internal Revenue Service Center, designated in the instructions for Form 1099-MISC, on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the relevant services were performed. * * *

* * * * *

Par. 14. In § 1.6050D-1, paragraph (b) is revised to read as follows:

§ 1.6050D-1 Information returns relating to energy grants and financing.

* * * * *

(b) *Time and place for filing.* Returns required to be made under this section shall be filed with the Internal Revenue Service Center designated in the instructions for Form 6497 or 1099-G on or before the last day of February (March 31 if filed electronically) of the

year following the calendar year for which the return is made.

Par. 15. In § 1.6050E-1, the first sentence of paragraph (h) is revised to read as follows:

§ 1.6050E-1 Reporting of State and local income tax refunds.

* * * * *

(h) *Time and place for filing.* The returns required under this section for any calendar year shall be filed after September 30 of that calendar year, but not before the refund officer's final payment (or allowance of credit or offset) for the year, and on or before February 28 (March 31 if filed electronically) of the following year.

* * *

* * * * *

Par. 16. In § 1.6050H-2, the first and second sentences of paragraph (a)(4) are revised to read as follows:

§ 1.6050H-2 Time, form, and manner of reporting interest received on qualified mortgage.

(a) * * *

(4) *Time and place for filing return.* An interest recipient must file a return required by this paragraph (a) on or before February 28 (March 31 if filed electronically) of the year following the calendar year for which it receives the mortgage interest. If no interest is required to be reported for the calendar year, but a reimbursement of interest on a qualified mortgage is required to be reported for the calendar year, then a return required by this paragraph (a) must be filed on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the reimbursement was made.

* * *

* * * * *

Par. 17. In § 1.6050J-1T, A-33 is revised to read as follows:

§ 1.6050J-1T Questions and answers concerning information returns relating to foreclosures and abandonments of security (temporary).

* * * * *

A-33: The return or returns must be filed on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the acquisition of an interest in the property occurs or in which the lender knows or has reason to know of the abandonment of the property.

* * * * *

Par. 18. In § 1.6050P-1, paragraph (a)(4)(i) is revised to read as follows:

§ 1.6050P-1 Information reporting for discharges of indebtedness by certain financial entities.

(a) * * *

(4) * * * (i) *In general.* Except as provided in paragraph (a)(4)(ii) of this section, returns required by this section must be filed with the Internal Revenue Service office designated in the instructions for Form 1099-C on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the identifiable event occurs.

* * * * *

Par. 19. In § 1.6052-1, paragraph (b)(1)(ii) is revised to read as follows:

§ 1.6052-1 Information returns regarding payment of wages in the form of group-term life insurance.

* * * * *

(b) * * * (1) * * *

(ii) *Exception.* In a case where an employer is not required to file Forms W-3 and W-2 under § 31.6011(a)-4 or § 31.6011(a)-5 of this chapter, returns on Forms W-3 and W-2 required under paragraph (a) of this section for any calendar year shall be filed on or before February 28 (March 31 if filed electronically) of the following year.

* * * * *

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Par. 20. The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 21. In § 31.3402(q)-1, the first sentence of paragraph (f)(1) introductory text is revised to read as follows:

§ 31.3402(q)-1 Extension of withholding to certain gambling winnings.

* * * * *

(f) * * * (1) *In general.* Every person making payment of winnings for which a statement is required under paragraph (e) of this section shall file a return on Form W-2G with the Internal Revenue Service Center serving the district in which is located the principal place of business of the person making the return on or before February 28 (March 31 if filed electronically) of the calendar year following the calendar year in which the payment of winnings is made.

* * * * *

Par. 22. In § 31.6053-3, the first sentence of paragraph (a)(4) is revised to read as follows:

§ 31.6053-3 Reporting by certain large food or beverage establishments with respect to tips.

(a) * * *

(4) *Time and place for filing.* The information return required by this

paragraph (a) shall be filed on or before the last day of February (March 31 if filed electronically) of the year following the calendar year for which the return is made with the Internal Revenue Service Center specified by the Form 8027 or its instructions. * * *

* * * * *

Par. 23. In § 31.6071(a)-1, paragraph (a)(3)(i) is revised to read as follows:

§ 31.6071(a)-1 Time for filing returns and other documents.

(a) * * *

(3) * * * (i) *General rule.* Each information return in respect of wages as defined in the Federal Insurance Contributions Act or of income tax withheld from wages which is required to be made under § 31.6051-2 shall be filed on or before the last day of February (March 31 if filed electronically) of the year following the calendar year for which it is made, except that, if a tax return under § 31.6011(a)-5(a) is filed as a final return for a period ending prior to December 31, the information statement shall be filed on or before the last day of the second calendar month following the period for which the tax return is filed.

* * * * *

PART 301—PROCEDURE AND ADMINISTRATION

Par. 24. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 25. Section 301.6651-1 is amended by:

1. Revising the last sentence in paragraph (a)(2).
2. Revising the second sentence in paragraph (a)(3).
3. Adding paragraph (a)(4).

The revisions and additions read as follows:

§ 301.6651-1 Failure to file tax return or to pay tax.

(a) * * *

(2) * * * Except as provided in paragraph (a)(4) of this section, the amount to be added to the tax is 0.5 percent of the amount of tax shown on the return if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which the failure continues, but not to exceed 25 percent in the aggregate.

(3) * * * Except as provided in paragraph (a)(4) of this section, the amount to be added to the tax is 0.5 percent of the amount stated in the notice and demand if the failure is for not more than 1 month, with an

additional 0.5 percent for each additional month or fraction thereof during which the failure continues, but not to exceed 25 percent in the aggregate. * * *

(4) *Reduction of failure to pay penalty during the period an installment agreement is in effect*—(i) *In general.* In the case of a return filed by an individual on or before the due date for the return (including extensions)—

(A) The amount added to tax for a month or fraction thereof is determined by using 0.25 percent instead of 0.5 percent under paragraph (a)(2) of this section if at any time during the month an installment agreement under section 6159 is in effect for the payment of such tax; and

(B) The amount added to tax for a month or fraction thereof is determined by using 0.25 percent instead of 0.5 percent under paragraph (a)(3) of this section if at any time during the month an installment agreement under section 6159 is in effect for the payment of such tax.

(ii) *Effective date.* This paragraph (a)(4) applies for purposes of determining additions to tax for months beginning after December 31, 1999.

* * * * *

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: August 1, 2000.

Jonathan Talisman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 00-20851 Filed 8-17-00; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV-085-FOR]

West Virginia Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing its approval, with certain exceptions, of an amendment to the West Virginia regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The program amendment consists of changes to the West Virginia regulations (38 CSR 2) contained in House Bill 4223, and changes to § 22-3 of the Code of West

Virginia contained in Senate Bill 614. The amendment is intended to comply with the Consent Decree that was agreed to by the plaintiffs and the West Virginia Division of Environmental Protection (WVDEP) and approved by the U.S. District Court for the Southern District of West Virginia on February 17, 2000, in the matter of *Bragg v. Robertson*, Civil Action No. 2:98-0636 (S.D.W.Va.).

EFFECTIVE DATE: August 18, 2000.

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

SUPPLEMENTARY INFORMATION:

- I. Background on the West 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. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of the approval in the January 21, 1981, **Federal Register** (46 FR 5915-5956). You can find later actions concerning the West Virginia program and previous amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Submission of the Amendment

By letter dated March 14, 2000 (Administrative Record Number WV-1147) and March 28, 2000 (Administrative Record Number WV-1148), and electronic mail dated April 6, 2000 (Administrative Record Number WV-1149), the WVDEP submitted an amendment to its program. The amendment concerns changes to the West Virginia surface mining reclamation regulations made by the State Legislature in House Bill 4223, and changes made to the Code of West Virginia in Senate Bill 614. Most of the amendment is intended to comply with the Consent Decree that was agreed to by the plaintiffs and the WVDEP and approved by the U.S. District Court for the Southern District of West Virginia on February 17, 2000, in the matter of *Bragg v. Robertson*, Civil Action No. 2:98-0636 (S.D.W.Va.).

We announced receipt of the proposed amendment in the April 25, 2000, **Federal Register** (65 FR 24158-

24162), invited public comment, and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on May 25, 2000. Since no one requested a public hearing, 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 proposed amendment. Any revisions that we do not specifically discuss below concern nonsubstantive wording changes or revised paragraph notations to reflect organizational changes that result from this amendment.

In addition, to expedite our review of the amendment, we have separated from this amendment the proposed rules at new section CSR 38-2-7.5 concerning "homesteading" as a postmining land use for permits that meet the requirements for a variance from approximate original contour (AOC). These new rules were submitted to comply with the Consent Decree mentioned above. We will render our findings on new section CSR 38-2-7.5 in a separate notice to be published in the **Federal Register**.

A. Senate Bill 614

Numerous wording and paragraph notation changes have been made.

These are nonsubstantive changes that will not be discussed. The substantive changes are identified below.

1. W.Va. Code 22-3-3. Definitions.

At § 22-3-3(e) the definition of the term "approximate original contour" (AOC) is amended. The word, "disturbed" has been deleted from the phrase, "backfilling and grading of the disturbed areas." Added in place of the deleted word is the word, "mined." As amended, AOC means: "that surface configuration achieved by the backfilling and grading of the mined areas so that * * *." We find that the amended phrase is identical to the counterpart phrase in the definition of AOC at section 701(2) of SMCRA, and at 30 CFR 701.5 of the Federal regulations. Therefore, we find the revision to be no less stringent than SMCRA and no less effective than the Federal regulations and can be approved.

At § 22-3-3(u) (2), the definition of "surface mine," "surface-mining" or "surface-mining operations" is amended by deleting the word "may" in the sentence immediately before subdivision (i), and replacing that word with the word "does." As amended, the sentence reads: "Surface-mining does