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	U·S·DEPARTMENT OF THE INTERIOR OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT DIRECTIVES SYSTEM	Subject Number: AML-14 Transmittal Number: 446 Date: 6/2/88

Subject: Abandoned Mine Land Fee Liability Associated with Material Recovered from Abandoned Coal Mine Refuse Piles

Approval: Title: Acting Director

1. Purpose. This directive provides policy guidance on the imposition of abandoned mine land reclamation (AML) fees on coal recovered from an abandoned coal mine refuse pile.

2. Definitions.

a. Abandoned mine refuse pile. A surface deposit of coal mine waste as defined in 30 CFR 701.5 which does not meet the definition of coal as defined in 30 CFR 700.5 or for which the ash content as a whole exceeds 50 percent on a dry basis.

3. Policy.

a. Concept. Regulatory authorities determine whether the transportation and handling of abandoned coal mine refuse piles is a surface coal mining operation.

In instances where the regulatory authority has made a determination that a coal mine refuse pile is not a surface coal mining operation, no AML fee liability exists.

Further, for purposes of fee determination, anthracite culm bank material produced before August 3, 1977 has no value. No AML reclamation fees are therefore owed on such material or on material derived therefrom by processing.

b. Responsibilities. Regulatory authorities are responsible for determining whether the transportation and handling of abandoned coal mine refuse piles is a surface coal mining operation.

4. Reporting Requirements. The determination of whether the extraction of material from an abandoned coal mine refuse pile is a surface coal mining operation and, if so, the basis for any AML fee liability must be fully documented in the audit report.

5. References.

a. OSMRE Directive entitled Transportation and Handling of Abandoned Coal Mine Refuse Piles.

b. United States v. Tri-No Enterprises, Inc., 819 F.2d 154 (7th Cir. 1987)

c. United States v. Devil's Hole, Inc., 747 F.2d 895 (3rd Cir. 1984)

d. United States v. Kennedy, 806 F.2d 111 (7th Cir. 1985)

e. United States v. H.G.D.& J. Mining Co. Inc., 561 F. Supp. 315 (S.D. W. Va. 1983)

f. Public Response to Federal Register Notice entitled Abandoned Mine Land Reclamation Fee Liability for Culm Combustion Projects; Public Meeting, dated Monday, July 20, 1987/VOL. 52, No. 138/ PAGES: 27265-27266, OSMRE Administrative Record.

6. Effect on Other Documents. None

7. Contact. Division of Compliance Management, (202) 343-2853.