



# United States Department of the Interior

OFFICE OF SURFACE MINING  
Reclamation and Enforcement  
Eastern Support Center  
Ten Parkway Center  
Pittsburgh, Pennsylvania 15220

JUL - 5 1994

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Memorandum

To: Director

Through: Deputy Director *A. Key* JUL 21 1994

Assistant Director, Finance and Accounting JUL 12 1994

From: *James R. ...*  
Chief, Division of Compliance Management

*File 0801  
Incariz*

Subject: Reclamation Fee Liability On Coal Refuse Piles

As agreed in our May 20, 1994, meeting, we have developed guidelines for determining the applicability of reclamation fees to material removed from coal refuse piles (see attached). When the criteria in the guidelines are met, a finding of no fee liability can be rendered, without being inconsistent with current laws and regulations. The guidelines have been coordinated with:

- Assistant Director, Field Operations
- Assistant Director, Reclamation and Regulatory Policy
- Chief, Applicant Violator System Office
- Assistant Director, Eastern Support Center
- Assistant Director, Western Support Center
- Special Assistant, AML, Office of the Deputy Associate Solicitor

With your approval, we will begin implementation of the guidelines immediately.

Approve

Disapprove

*Robert Uram*  
\_\_\_\_\_  
Robert Uram, Director

JUL 22 1994  
\_\_\_\_\_  
Date

Attachment

## Reclamation Fee Determinations On Coal Refuse Piles

Purpose: To establish guidelines for the evaluation of requests for no value determinations on coal refuse material.

Procedure: Upon receipt of requests for no value/fee determinations on coal refuse pile operations, the Assistant Director, Finance and Accounting, will forward copies of the request to:

Assistant Director, Field Operations  
Assistant Director, Reclamation and  
Regulatory Policy  
Assistant Director, ESC or WSC (based on mine  
location)  
Assistant Solicitor, Enforcement and  
Collections

Within 15 days these parties may notify the A. D., F&A, of any information they believe is pertinent in evaluating the requests. The A.D. F&A will formulate a draft decision and circulate it to the same parties for comment within 30 days after receipt of all necessary information.

Criteria: Each request for no value/fee determination will be judged individually. To be considered eligible for a no value determination, all of the following criteria must be met:

- The material was or is the waste by-product of a coal preparation process.
- The waste material is used in a small power production or cogeneration facility qualified by Federal Energy Regulatory Commission (FERC) to burn waste material. In order to grant certification, the Commission must find that the refuse material is a by-product and has little or no value.
- Except for use in the waste-coal fired small power production or cogeneration facility, there exists no relevant market for the waste material. The facility would not exist but for the fact that the refuse material is waste material and governmental incentives have been created to utilize this type of disposal.

The classification of the material as waste with no value for AML fee purposes will not be affected by sorting or screening of refuse to separate usable waste from that which is not usable in the waste-coal facility. However, reprocessing utilizing gravity separation to remove the residual coal from the refuse will subject the product to AML fees even if the product is used in a licensed waste burner.

These criteria represent the minimum standards that must be met, and other factors may necessarily be considered in reaching a final determination. In addition, adjustments may be made as more experience is gained on this topic.

Other Matters:

As in the past, a finding of no fee liability, based on value or other matters, does not release or in any way circumscribe the operator's or other responsible party's obligations under SMCRA, Title V. In addition, operators must continue to file tonnage reports with OSM, but fees would not be assessed.

Operators will be advised that a change in any of the factors on which a no value determination is made could subject the material to fee assessment, and that any such changes must be immediately reported to OSM.