



# United States Department of the Interior

## OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Washington, D.C. 20240



JUL 27 1999

Dear Anthracite Coal Operator:

We would like to clarify our position regarding the application of abandoned mine reclamation fees to anthracite culm bank material. The clarification outlined in this letter will be effective and apply to all anthracite culm bank material recovered and sold, used, or transferred on or after October 1, 1999.

### BACKGROUND

The Surface Mining Control and Reclamation Act sets the reclamation fee rate at \$0.35 per ton for surface-mined coal, \$0.15 per ton for underground coal, and \$0.10 per ton for lignite coal. In no case is the fee to exceed 10 percent of the coal value, as determined by the Secretary. The implementing regulations define value as the gross value at the time of initial bona fide sale, transfer of ownership, or use by the operator.

### DETERMINING VALUE

In 1988, the Office of Surface Mining Reclamation and Enforcement (OSM) prepared an internal directive, known as AML-14, that addressed the applicability of fees to material recovered from abandoned coal mine refuse piles. The Directive contained the statement that, for purposes of fee determination, anthracite culm bank material produced before August 3, 1977, has no value. Information available at that time indicated that this material had existed for decades with no conventional market value or use, other than as a waste fuel. That would appear to still be the case for the majority of the anthracite culm bank operations still in existence.

More recently, however, some anthracite operators have been found to reprocess the material and sell the recovered coal at substantial prices to non-waste burning operations. Meanwhile, operators of conventional anthracite mining operations must pay fees on their tonnage, even though it may sell at a lower price.

To ensure consistency and fairness in the application of fees, OSM has rescinded Directive AML-14 and will determine the value of material extracted from anthracite culm banks on a case-by-case basis. This is consistent with OSM's authority under the law, and the approach that has been taken successfully for bituminous operations.

### RECORDKEEPING

If you remove culm bank material, keep records showing the source, amount, and destination, as well as all other information on any transactions after the material is removed. It is equally important that you be able to distinguish these tonnages from coal that is conventionally mined and sold. If you fail to keep the necessary records, we may have no choice but to assess fees on all tonnages, including those which otherwise might be considered to have no value for fee purposes.

### REPORTING

Permitted anthracite culm banks that receive the Form OSM-1, Coal Reclamation Fee Report, must report the tonnage that is removed. If you believe it has no value, please annotate that ("no value for reclamation fee purposes") on the Form OSM-1.

If you have any questions on any of these matters, please write or call our Division of Compliance Management staff at:

Office of Surface Mining  
3 Parkway Center  
Pittsburgh, PA 15220  
(412) 937-2901

Respectfully yours,



Kathy Karpan  
Director