AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

(b) The Governor of the State, the Head of the State Regulatory Authority, or such other State official designated by State law, is authorized to expand the provisions in this part in order to meet the particular needs within the State.

(c) The Office of Inspector General, U.S. Department of the Interior, is authorized to conduct on behalf of the Secretary periodic audits related to the provisions contained in section 517(g) of the Act and related to the provisions in this part. These audits will be conducted on a cyclical basis or upon request of the Secretary or the Director.

[42 FR 56060, Oct. 20, 1977, as amended at 56 FR 46987, Sept. 17, 1991]

§705.4 Responsibility.

(a) The Head of each State Regulatory Authority shall;

(1) Provide advice, assistance, and guidance to all State employees required to file statements pursuant to §705.11;

(2) Promptly review the statement of employment and financial interests and supplements, if any, filed by each employee, to determine if the employee has correctly identified those listed employment and financial interests which constitute a direct or indirect financial interest in an underground or surface coal mining operation;

(3) Resolve prohibited financial interest situations by ordering or initiating remedial action or by reporting the violations to the Director who is responsible for initiating action to impose the penalties of the Act;

(4) Certify on each statement that review has been made, that prohibited financial interests, if any, have been resolved, and that no other prohibited interests have been identified from the statement;

(5) Submit to the Director such Statistics and information as he or she may request to enable preparation of the required annual report to Congress;

(6) Submit to the Director the initial listing and the subsequent annual listings of positions as required by §705.11 (b), (c), and (d);

(7) Furnish a blank statement 45 days in advance of the filing date established by §705.13(a) to each State employee required to file a statement; and

(8) Inform annually each State employee required to file a statement with the Head of the State Regulatory Authority, or such other official designated by State law or regulation, of the name, address, and telephone number of the person whom they may contact for advice and counseling.

(b) The Director, Office of Surface Mining Reclamation and Enforcement, shall:

(1) Provide advice, assistance, and counseling to the Heads of all State Regulatory Authorities concerning implementation of these regulations;

(2) Promptly review the statement of employment and financial interests and supplements, if any, filed by each Head of the State Regulatory Authority. The Director will review the statement to determine if the Head of the State Regulatory Authority has correctly identified those listed employment and financial interests which constitute a direct or indirect financial interest in an underground or surface coal mining operation;

(3) Recommend to the State Attorney General, or such other State official designated by State law or the Governor of the State, the remedial action to be ordered or initiated, recommend to the Secretary that action be taken to impose the penalties of the Act, or recommend to the Secretary that other appropriate action be taken with respect to reimbursements, grants, or State programs;

(4) Certify on each statement filed by the Head of the State Regulatory Authority that the State has completed the review of the statement, that prohibited financial interests have been resolved, and that no other prohibited interests have been identified from the statement;

(5) Monitor the program by using reports requested from Heads of State Regulatory Authorities and by using periodic audits performed by the Office of Inspector General, U.S. Department of the Interior;

(6) Prepare for the Secretary of the Interior a consolidated report to the Congress as part of the annual report submitted under section 706 of the Act, on the actions taken and not taken during the preceding calendar year under section 517(g);

(7) Designate if so desired other qualified Office of Surface Mining Reclamation and Enforcement employees as assistant counselors to assist with the operational duties associated with filing and reviewing the statements from the Heads of each State Regulatory Authority;

(8) Furnish a blank statement by December 15 of each year, to the Head of each State Regulatory Authority; and

(9) Inform annually, the head of each State Regulatory Authority of the requirement to file his or her statement with the Director and supply the name, address, and telephone number of the person whom they may contact for advice and counseling.

(c) State Regulatory Authority employees performing any duties or functions under the Act shall:

(1) Have no direct or indirect financial interest in coal mining operations;

(2) File a fully completed statement of employment and financial interest 120 days after these regulations become effective or upon entrance to duty, and annually thereafter on the specified filing date; and

(3) Comply with directives issued by persons responsible for approving each statement and comply with directives issued by those persons responsible for ordering remedial action.

(d) Members of advisory boards and commissions established in accordance with State laws or regulations to represent multiple interests, who perform a function or duty under the Act, shall recuse themselves from proceedings which may affect their direct or indirect financial interests.

[42 FR 56060, Oct. 20, 1977, as amended at 51 FR 37122, Oct. 17, 1986; 56 FR 46987, Sept. 17, 1991]

§ 705.5 Definitions.

Act. Means the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95–87.

Coal mining operation. Means the business of developing, producing, preparing or loading bituminous coal, subbituminous coal, anthracite, or lignite, or of reclaiming the areas upon which such activities occur.

Direct financial interest. Means ownership or part ownership by an employee of lands, stocks, bonds, debentures, warrants, partnership shares, or other holdings and also means any other arrangement where the employee may benefit from his or her holding in or salary from coal mining operations. Direct financial interests include employment, pensions, creditor, real property and other financial relationships.

Director. Means the Director or Acting Director of the Office of Surface Mining Reclamation and Enforcement within the U.S. Department of the Interior.

Employee. Means (a) any person employed by the State Regulatory Authority who performs any function or duty under the Act, and (b) advisory board or commission members and consultants who perform any function or duty under the Act, if they perform decisionmaking functions for the State Regulatory Authority under the authority of State law or regulations. However, members of advisory boards or commissions established in accordance with State law or regulations to represent multiple interests are not considered to be employees. State officials may through State law or regulations expand this definition to meet their program needs.

Indirect financial interest. Means the same financial relationships as for direct ownership, but where the employee reaps the benefits of such interests, including interests held by his or her spouse, minor child and other relatives, including in-laws, residing in the employee's home. The employee will not be deemed to have an indirect financial interest if there is no relationship between the employee's functions or duties and the coal mining operation in which the spouse, minor children or other resident relatives hold a financial interest.

Office. Means the Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

Performing any function or duty under this Act. Means those decisions or actions, which if performed or not performed by an employee, affect the programs under the Act.

Prohibited financial interest. Means any direct or indirect financial interest in any coal mining operation.

Secretary. Means the Secretary of the Interior.