

FEDERAL REGISTER: 59 FR 14476 (March 28, 1994)

DEPARTMENT OF THE INTERIOR

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

30 CFR Part 870

Wire Transfer; Part IV

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the U.S. Department of the Interior (DOI) is amending its regulations governing abandoned mine land (AML) reclamation fee payments. The revised rule establishes a new dollar threshold of \$25,000 or more for quarterly fee payments made by electronic transfer of funds to the Treasury Financial Communications System (TICS) or other electronic fund transfer mechanisms approved by the U.S. Department of the Treasury. The increased use of the electronic transfer of funds by those making reclamation fee payments will allow the Department to expedite and streamline its fee collection efforts.

EFFECTIVE DATE: April 27, 1994.

FOR FURTHER INFORMATION CONTACT: JoAnn F. Hagan, Division of Financial Management, Office of Surface Mining Reclamation and Enforcement, Room B 2125-Building 20, P.O. Box 25065, Denver Federal Center, Denver, Colorado 80202; Telephone (303) 236-0368.

SUPPLEMENTARY INFORMATION:

- I. Background.
- II. Discussion of Final Rule and Response to Comments.
- III. Procedural Matters.

I. BACKGROUND

On August 30, 1993, OSM published a proposed rule in the Federal Register (*58 FR 45736*) which would amend its regulations at 30 CFR 870.15 to require that surface coal mine operators who owe \$25,000 or more in quarterly reclamation fees for one or more mines shall forward payments by electronic transfer. The comment period closed on October 29, 1993. The rule was proposed pursuant to the Surface Mining Control and Reclamation Act of 1977 (the Act) (*30 U.S.C. 1201* et seq., as amended).

Section 402(b) of the Act (*30 U.S.C. 1232(b)*) provides that a reclamation fee on produced coal shall be paid no later than thirty days after the end of each calendar quarter. Section 413(a) of the Act (*30 U.S.C. 1242(a)*) authorizes the Secretary of the Interior to do all things necessary or expedient, including promulgation of rules and regulations, to implement and administer the provisions of the Act relating to Abandoned Mine Land Reclamation (Title IV).

This rule amends OSM regulations at 30 CFR Part 870.15(d) by lowering the wire transfer threshold from \$100,000 to \$25,000. This rule will require those companies which owe \$25,000 or more for quarterly reclamation fees to submit such payments through the use of an electronic fund transfer mechanism approved by the U.S. Department of the Treasury. The first electronic payment for those companies which owe \$25,000 or more shall be made no later than 30 days after the end of the first complete quarter following April 27, 1994.

Approximately 100 companies currently pay via wire transfer; however, by lowering the threshold to \$25,000, OSM estimates that approximately 1,500 companies will utilize the wire transfer method of payment. Payments from these companies total approximately \$55 million per quarter. Instead of submitting checks to OSM for these amounts, these companies will be required to have their banks wire funds using an electronic fund transfer mechanism approved by the U.S. Department of the Treasury.

Through the use of electronic fund transfer mechanisms for these large accounts, the Department will be able to expedite and streamline its fee collection efforts.

The TICS is the computer-to-computer link between the U.S. Department of the Treasury and the Federal Reserve Bank of New York (FRBNY). This system provides the capability for: (1) Automated receipt and processing of funds transfer, and (2) computer-assisted generation of funds transferred between Treasury, Federal Reserve banks, and other banks utilizing the Federal Reserve Communications System (FRCS). The TICS also integrates these transactions into Treasury's Government-wide Accounting System which accounts for all Federal receipts and outlays. Treasury maintains an account at FRBNY. As a result, banks that maintain an account at a Federal Reserve bank may transfer funds to Treasury through the FRCS for credit to the Account of the U.S. Treasury at FRBNY. Funds transferred between Treasury and banks that do not maintain an account at a Federal Reserve bank are processed through correspondent banks that do maintain an account at a Federal Reserve bank,

The following are the TICS transfer message format and specific instructions from the Treasury Fiscal Requirements Manual for fund transfer message to be used in paying reclamation fees:

[See TICS Transfer Message Format in Official Publication on Page 14477.]

FUNDS TRANSFER MESSAGE FORMAT

Item 1-Priority Code-The priority code will be provided by the sending bank. (Note: Some Federal Reserve district banks may not require this item.)

Item 2-Treasury Department Code-The nine-digit identifier "021030004" is the routing symbol of the Treasury. This item is a constant and is required for all funds transfer messages sent to Treasury.

Item 3-Type Code-The code will be provided by the sending bank.

Item 3-Sending Bank Code-This nine-digit identifier will be provided by sending bank.

Item 5-Class Code-This class code may be provided by the sending bank at its option (if permitted by its Federal Reserve district bank).

Item 6-Reference Number-The reference number may be inserted by the sending bank to identify the transaction.

Item 7-Amount-The amount will include the dollar sign and the appropriate punctuation including cents digits. This item will be provided by the depositor.

Item 8-Sending Bank Name-The telegraphic abbreviation which corresponds to item 4 will be provided by the sending bank.

Item 9-Treasury Department Name-This item is of critical importance. It must appear on the funds transfer message in the precise manner as stated to allow for the automated processing and classification of the funds transfer message to the agency location code of the appropriate agency. The item is comprised of a rigidly formatted, non-variable sequence of 11 characters defined as follows:

Character #	(s) Character(s)	Definition
1-5	TREAS	First part of Treasury Department telegraphic abbreviation.
6		Space (leave blank).
7-9	NYC	Second part of Treasury Department Telegraphic abbreviation.
10	/	Slash.
11	(Left parenthesis. D

The 11 characters must be left-justified on Line 5 of the funds transfer message and must appear as follows:

TREAS NYC/(14180001)

Item 10-Agency Location Code-This item is of critical importance. It must appear on the funds transfer message in the precise manner as stated to allow the automated processing and classification of the funds transfer message to the agency location code of the appropriate agency. The agency location code refers to three-, four-, or eight-digit numeric symbols used to identify Government departments and agencies (e.g., accounting stations, disbursing and collecting offices). OSM's unique code must be specified in the funds transfer message in order for the funds to be correctly classified to the agency. The code must immediately follow the left parenthesis of item 9, must contain no spaces, dasher, or other extra characters, and must be immediately followed by a right parenthesis. This item would appear on line 5 of the funds transfer message in conjunction with item 9 as shown below:

TREAS NYC/(14180001)

Item 11-Agency Name-OSM

Item 12-Third party information-Information to identify the reason for the funds transfer should be provided here. This should include the six-digit Master Entity No.(s) from Part 1, Block 4 of the OSM-1 form, i.e., 012345, and the six-digit OSM Document No.(s) from the upper right corner of Part 1, i.e., 401234.

These instructions will be mailed to coal companies, along with the OSM-1 form which is the form used to report quarterly coal reclamation fees to OSM. Submission of the OSM-1 form will remain the same, except that companies required to use wire transfer should indicate in Part 1, Block 4 of the OSM-1 form that fees have been submitted via wire transfer.

II. DISCUSSION OF FINAL RULE AND RESPONSE TO COMMENTS

Only one comment letter was received. The comment supported the adoption of the rule as proposed. No comments were received objecting to the proposal. In view of the lack of objections, OSM is adopting the rule with only minor changes for clarity and for consistency with the existing regulations. A discussion of the rule and comments follows.

SECTION 870.15(d) - RECLAMATION FEE PAYMENT

Under revised Section 870.15(d), an operator who owes total quarterly reclamation fees of \$25,000 or more for one or more mines will be required to: Use an electronic fund transfer mechanism approved by the U.S. Department of the Treasury; forward its payments by electronic transfer, include the applicable Master Entity Number (Part 1, Block 4, on the OSM-1 form) and OSM Document No. (Part 1, upper right corner on the OSM-1 form) on the wire message; and use OSM's approved form to report coal tonnage sold, used, or for which ownership was transferred to the address indicated in the Instructions for Completing the OSM-1 Form.

Operators who owe less than \$25,000 in quarterly reclamation fees for one or more mines may either forward payments by an electronic fund transfer mechanism in accordance with the procedures specified in amended paragraph 870.15(d)(1); or submit a check or money order payable to the Office of Surface Mining Reclamation and Enforcement, in the same envelope with OSM's approved form to: Office of Surface Mining Reclamation and Enforcement, P.O. Box 360095M, Pittsburgh, Pennsylvania 15251.

A new paragraph has been added to the rule at (d)(3) clarifying that operators who submit a payment of more than \$25,000 by a method other than an electronic fund transfer mechanism approved by the U.S. Department of the Treasury would be in violation of the requirements of the Act, as amended.

CHANGES TO THE PROPOSED RULE

Certain changes have been made to the rule as originally proposed in the Federal Register on August 30, 1993. The changes were made to ensure consistency and accuracy with the existing regulations, and to provide flexibility in the mechanism used to transfer funds. OSM is adopting the language contained in the proposed rule with the following modifications.

(1) The proposed rule at Section 870.15(d)(1)(i) would have required that any person transferring funds electronically use TICS. OSM has replaced "TICS" with the phrase "an electronic fund transfer mechanism approved by the U.S. Department of the Treasury" in order to allow for future developments and changes in the field of electronic communications.

(2) At Section 870.15(d)(1)(iii), the language has been revised to clarify the identifying information (OSM Document No. from the OSM-1 form) that must be included on the wire message in order to insure that credit is given to the person making the payment. This revision will help insure accurate processing of quarterly coal reclamation fees.

(3) In Section 870.15(d)(1)(iv), the word "production" has been changed to "tonnage of coal sold, used, or for which ownership was transferred." The revised language has been added for clarity and accuracy.

RESPONSE TO COMMENT

One comment letter was received during the comment period. The commenter was in favor of lowering the mandatory threshold for electronic transfer of reclamation fee payments in order to reduce transaction costs. The commenter stated that he opposed the electronic filing of the OSM-1 form without receipt of a hard copy because of the importance of signed certifications contained on hard copies. Neither the proposed rule, nor this final rule contain any provisions that would allow the electronic filing of the OSM-1 form.

III. PROCEDURAL MATTERS

Federal Paperwork Reduction Act

This rule does not contain collections of information which require approval by the Office of Management and Budget under *44 U.S.C. 3501* et seq.

Executive Order 12866

This rule has been reviewed under Executive Order 12866.

Regulatory Flexibility Act

The Department of the Interior has determined, pursuant to the Regulatory Flexibility Act, *5 U.S.C. 601* et seq., that the final rule will not have a significant economic impact on a substantial number of small entities. The final rule merely specifies the manner in which reclamation fee payments are to be made to OSM. It does not alter the amount or frequency of payment. The rule does not distinguish between small and large entities.

Executive Order 12778; Civil Justice Reform Certification

This wire transfer rule has been reviewed under the applicable standards of section 2(b)(2) of Executive Order 12778, Civil Justice Reform. In general, the requirements of section 2(b)(2) of Executive Order 12778 are covered by the preamble discussion of this wire transfer rule.

Additional remarks follow concerning individual elements of the Executive Order:

A. What is the preemptive effect, if any, to be given to the regulation?

The wire transfer rule will not have any preemptive effect on any state law. This relates only to Federal obligations.

B. What is the effect on existing Federal law or regulation, if any, including all provisions repealed or modified?

This rule modifies the implementation of the Act as described herein, and is not intended to modify the implementation of any other Federal statute. The preceding discussion of this rule specifies the Federal regulatory provisions that are affected by this rule.

C. Does the rule provide a clear and certain legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction?

The standards established by this rule are as clear and certain as practicable, given the complexity of the topics covered and the mandates of the Act.

D. What is the retroactive effect, if any, to be given to the regulation?

This rule is not intended to have retroactive effect.

E. Are administrative proceedings required before parties may file suit in court? Which proceedings apply? Is the exhaustion of administrative remedies required?

No administrative proceedings are required before parties may file suit in court challenging the provisions of this rule under section 526(a) of the Act, *30 U.S.C. 1276(a)*.

F. Does the rule define key terms, either explicitly or by reference to other regulations or statutes that explicitly define those items?

Terms which are important to the understanding of this rule are set forth in 30 CFR 700.5, 701.5, and 870.5.

G. Does the rule address other important issues affecting clarity and general draftsmanship of regulations set forth by the Attorney General, with the concurrence of the Director of the Office of Management and Budget, that are determined to be in accordance with the purpose of the Executive Order?

The Attorney General and the Director of the Office of Management and Budget have not issued any guidance on this requirement.

National Environmental Policy Act (NEPA)

This rule has been reviewed by OSM and it has been determined to be categorically excluded from the National Environmental Policy Act (NEPA) process in accordance with the Departmental Manual (516 DM 2, Appendix 1.10) and the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR 1507.3).

Authors

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LIST OF SUBJECTS IN 30 CFR PART 870

Reporting and recordkeeping requirements, Surface mining, Underground mining.

Dated: February 25, 1994.

Bob Armstrong, Assistant Secretary, Land and Minerals Management.

For the reasons set out in the preamble, 30 CFR part 870 is amended as set forth below:

PART 870 - ABANDONED MINE RECLAMATION FUND-FEE COLLECTION AND COAL PRODUCTION REPORTING

1. The authority citation for part 870 continues to read as follows:

Authority: *30 U.S.C. 1201* et seq. as amended; and Pub. L. 100-34.

2. Section 870.15(d) is revised to read as follows:

SECTION 870.15 -- RECLAMATION FEE PAYMENT.

* * * * *

(d)(1) An operator who owes total quarterly reclamation fees of \$25,000 or more for one or more mines shall:

- (i) Use an electronic fund transfer mechanism approved by the U.S. Department of the Treasury;
- (ii) Forward its payments by electronic transfer;
- (iii) Include the applicable Master Entity No.(s) (Part 1-Block 4 on the OSM-1 form), and OSM Document No.(s) (Part 1-upper right corner of the OSM-1 form) on the wire message; and
- (iv) Use OSM's approved form to report coal tonnage sold, used, or for which ownership was transferred, to the address indicated in the Instructions for Completing the OSM-1 Form.

(2) An operator who owes less than \$25,000 in quarterly reclamation fees for one or more mines may:

- (i) Forward payments by electronic transfer in accordance with the procedures specified in paragraph (d)(1) of this section; or
- (ii) Submit a check or money order payable to the Office of Surface Mining Reclamation and Enforcement, in the same envelope with OSM's approved form to: Office of Surface Mining Reclamation and Enforcement, P.O. Box 360095M, Pittsburgh, Pennsylvania 15251.

(3) An operator who submits a payment of more than \$25,000 by a method other than an electronic fund transfer mechanism approved by the U.S. Department of the Treasury shall be in violation of the Surface Mining Control and Reclamation Act of 1977, as amended.

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