

FEDERAL REGISTER: 43 FR 7305 (February 21, 1978)

DEPARTMENT OF THE INTERIOR

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

30 CFR Part 837

Abandoned Mine Reclamation Fund Fee Collection and Coal Production Reporting; Establishment of an Interest Rate for Delinquent Reclamation Fee Payments and Method of Interest Computation

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the reclamation fee payment regulations to establish an interest rate to be assessed against delinquent fee payments and to provide a method for computing interest on late payments.

DATES: Comments must be received by March 23, 1978.

ADDRESSES: Comments should be addressed to: Director, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. George Williams, 202-343-5034.

SUPPLEMENTARY INFORMATION:

Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) provides that the reclamation fee shall be paid no later than thirty days after the end of each calendar quarter. Section 412(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 Reclamation (Title IV). On December 13, 1977, the Department of the Interior promulgated final rules implementing section 402 of the Act.

Notice is hereby given that the Director, Office of Surface Mining Reclamation and Enforcement, under the authority delegated to him by the Secretary, proposes to amend 30 CFR Part 837 entitled "Abandoned Mine Reclamation Fund - Fee Collection and Coal Production Reporting" by establishing an interest rate of one percent per month, or any part thereof, on late reclamation fee payments. In addition, proposed Section 837.15(d) prescribes the time when interest shall accrue and the method by which delinquent operators will be assessed for interest on late payments. An established interest rate for late payments will add a financial inducement for operators to comply with the statutory requirement to make timely payments.

The proposed amendment includes the deletion of references to "statutory interest" and "an interest charge at the statutory rate" contained in Sections 837.14(b) and 837.15(d), respectively. The deletion of these references is not intended to affect in any way the rate of interest which may be imposed on judgments in accordance with 28 U.S.C. 1961 in an action to compel payment of reclamation fees pursuant to Section 402(e) of the Act (30 U.S.C. 1232(e)).

The proposed rate was determined by surveying current late payment charge policies within the Department of the Interior and by selecting a rate based upon commercial practice for the assessment of interest on late payments for short term debt. Although in some instances the commercial rate is higher, the Office of Surface Mining Reclamation and Enforcement is satisfied that this proposed rate would provide the Secretary with a method to adequately administer the provisions of the Act relating to the collection of reclamation fees.

It is proposed to make this rule effective beginning with reclamation fee payments due on coal produced from October 1, 1977 through March 31, 1978 (the first and second calendar quarters under the Act) for which payments have not been received by April 30, 1978. Interest shall then begin to accrue on May 1, 1978 on delinquent first and second calendar quarter payments, and thereafter on fees paid later than thirty days after the end of the calendar quarter in which they were due.

In consideration of the foregoing, it is proposed to amend 30 CFR Part 837, as follows:

PART 837 - ABANDONED MINE RECLAMATION FUND - FEE COLLECTION AND COAL PRODUCTION REPORTING

1. Paragraph (b) of Section 837.14 is revised to read as follows:

SECTION 837.14 - DETERMINATION OF PERCENTAGE BASED FEES.

(b) If the Director determines that a higher fee shall be paid, the operator shall submit the additional fee together with interest computed under Section 837.15(d).

2. In Section 837.15 paragraph (d) is revised, paragraph (e) is redesignated as paragraph (f) and a new paragraph (e) is added. Revised paragraph (d) and new paragraph (e) read as follows:

SECTION 837.15 - RECLAMATION FEE PAYMENT.

(d) The reclamation fee payment for each calendar quarter shall be paid no later than 30 calendar days after the end of the calendar quarter. Delinquent payments are subject to interest at the rate of one percent per month, or any part thereof, on any amounts due. Interest shall begin to accrue on the thirty-first day following the end of the calendar quarter and will run until the date of payment, or until judgment is rendered by a court of competent jurisdiction in an action to compel payment of debts. The Office of Surface Mining Reclamation and Enforcement will then compute the interest on late payments and bill the operator in accordance with procedures followed by the Department of the Interior for the collection of debts.

(e) Interest shall begin to accrue on May 1, 1978 on reclamation fee payments due on coal produced from October 1, 1977 through March 31, 1978 for which payments have not been received by April 30, 1978. For reclamation fee payments due on coal produced during succeeding calendar quarters beginning with the quarter commencing on April 1, 1978, interest, at the prescribed rate, shall accrue in accordance with paragraph (d) of this subsection.
(Sections 201 and 412(a), Pub.L. 95-87, 91 Stat. 445 (30 U.S.C. 1201, 1242(a)).)

NOTE. - The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: February 15, 1978.

WALTER N. HEINE, *Director, Office of Surface Mining Reclamation and Enforcement.*

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