

**FEDERAL REGISTER: 48 FR 11098 (March 15, 1983)**

DEPARTMENT OF THE INTERIOR

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

30 CFR Part 870

Abandoned Mine Reclamation Fund; Fee Collection and Coal Production Reporting

ACTION: Final rule.

**SUMMARY:** The Office of Surface Mining (OSM) has revised the fee collection regulations establishing a different interest rate to be assessed against delinquent fee payments and requiring that all quarterly fee payments of \$100,000 or more per company be made by electronic transfer of funds to the Treasury Financial Communications System.

The previous interest rate of 12% per annum, promulgated by OSM on May 15, 1978, for reclamation fee debts, was established under an exception granted by the Department of the Treasury. That exception has now been revoked, and OSM is required to use the standard rate which varies quarterly and is required to be used by all Federal agencies. Use of the Treasury Financial Communications System for accounts of \$100,000 or more will expedite the Government's collection efforts.

EFFECTIVE DATE: April 1, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Phyllis Thompson, Chief, Division of Abandoned Mine Land Reclamation, 1951 Constitution Ave., NW., Washington, D.C. (202) 343-7951.

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND**

Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (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 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 June 30, 1982 (*47 FR 28574*), OSM published the latest revised rules to implement Section 402. On October 6, 1982, OSM published a proposed rule concerning the electronic transfer of fee payments and revised interest rates on delinquent fee payments. The previous interest rate of 12% per annum, promulgated by OSM on May 15, 1978, for reclamation fee debts (*43 FR 20795*), was established under an exception granted by the Department of the Treasury. That exception has now been revoked in the interest of applying a uniform Government-wide system. OSM is required to use the standard rate which varies quarterly. This rule establishes the interest rate on late reclamation fee payments as the same rate used for all Federal claims in applying late charges on late payments due the Federal Government. This interest rate is transmitted to Federal agencies quarterly as required under the Treasury Fiscal Requirements Manual (TFRM 6-8020.20). This percentage rate (a per annum figure) is based on the current value of funds to the Treasury and is transmitted to all Federal agencies via TFRM bulletins prior to the first day of each calendar quarter. For example, the percentage rate to be applied during the period of July 1 through September 30, 1981, was 16.19% (TFRM Bulletin No. 81-09) while the rate for this same period during 1982 was 14.26% (TFRM Bulletin No. 82-16).

Unless the Department of the Treasury grants an exception, this interest rate must be applied to all debts owed to Federal agencies (I TFRM 6-8020.20).

The revised rule also requires those companies which owe \$100,000 or more for quarterly reclamation fees to submit such payments through the use of the Treasury Financial Communications System (TFCS). Approximately 100 companies pay \$100,000 or more per quarter to OSM. In fact, payments from these companies total \$35-\$40 million per quarter. Instead of submitting checks to OSM for these amounts, these companies must have their banks wire funds through the Federal Reserve System to the account of the United States Treasury at the Federal Reserve Bank of New

York (FRBNY). Through use of the TFCS for these large accounts, the Department will be able to expedite and streamline its fee collection efforts.

The Treasury Financial Communications System is the computer-to-computer link between the U.S. Department of the Treasury and the Federal Reserve Bank of New York. This system provides the capability for: (1) Automated receipt and processing of funds transfer and (2) computer-assisted generation of funds transfer between Treasury, Federal Reserve banks, and other banks utilizing the Federal Reserve Communications System (FRCS). The TFCS also integrates such traffic 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 send funds transfers to Treasury through the FRCS for credit to the Account of the U.S. Treasury at FRBNY. Funds transfers 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.

Following are the TFCS funds transfer message format and specific instructions from the Treasury Fiscal Requirements Manual for fund transfer messages to be used in paying reclamation fees:

[See Illustration in Original]

**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 4 -- SENDING BANK CODE -- This nine-digit identifier will be provided by the sending bank.

Item 5 -- CLASS CODE -- The 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, nonvariable sequence of 11 characters defined as follows:

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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.

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The 11 characters must be left-justified on line 5 of the funds transfer message and must appear as follows: TREAS NYC/(

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 for 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, dashes, 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. "Reclamation FEES 83/1 " is an example, meaning reclamation fees for the first quarter of 1983.

These instructions will be mailed to coal-producing companies, along with Forms OSM-1's and OSM-1(a)'s, which are forms used to report quarterly coal production to OSM. Submission of OSM-1's and OSM-1(a)'s will remain the same, except that companies required to use wire transfer should indicate on the reporting form(s) that fees have been submitted via wire transfer.

These rules changes -- the new interest rate and the requirement for electronic transfer of payments totalling \$100,000 or more per quarter per company -- become effective for all reclamation fees due or overdue on April 1, 1983.

## **DISPOSITION OF COMMENTS**

Comments from representatives of industry and various organizations were received and considered in the rulemaking process. All substantive comments received are addressed in the following preamble.

All comments received are available for inspection in the Administrative Record, Room 5315, 1100 L St., N.W., Washington, D.C.

One commenter objected to the proposed rule because it allegedly goes beyond the intent of Congress. This commenter states that the proper interpretation of the "payment by" language in Subsection 402(b) of the Act is "post marked by". This commenter believes that unless a statute requires receipt of documents or money by a certain date, legal compliance with the date only requires the deposit of the document or payment in the U.S. mail, properly addressed with postage prepaid.

OSM's response is that Congress has specifically granted the Secretary broad discretionary authority to do all things necessary or expedient, including the promulgation of rules and regulations, to implement and administer the provisions of Title IV. Since payment is due by the 30th day after the end of the calendar quarter, this rule is merely designed to more efficiently collect monies owed the United States. The operator has no specific legal right under SMCRA to define the manner of payment. The mode and manner of payment is an administrative decision and as such properly comes within the authority granted to the Secretary under Section 412(a) of the Act.

Another commenter pointed out that since the AML fund earns no interest, the Government has no legitimate need for receiving the money quicker, and it is better to let the operator enjoy the use of his monies for the four or five extra days. OSM's response is that the present rule results from an effort to improve the management process and administrative system of the Federal Government. As part of this reform effort initiated by the President, agencies were asked to improve their cash management procedures including the acceleration of collection procedures and the electronic transfer of funds. This rule is in furtherance of this objective and is reasonably designed to collect the debt owed the Government as efficiently as possible. Accordingly, no change has been made to the rule.

One commenter noted that the proposed rule would establish a selective rate structure which favors those who produce at a lesser volume. As an alternative this commenter suggested that equal treatment be given to all affected companies regardless of the amount of payment. OSM's response is that this is a reasonable classification which does not violate the equal protection clause of United States Constitution. This rule establishes an administrative procedure designed to more efficiently collect large fees owed to the Government and is therefore in furtherance of the trust fund responsibilities placed on the Secretary in Title IV of the Act.

Determination Under Executive Order 12291, the Regulatory Flexibility Act and the National Environmental Policy Act

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (*5 U.S.C. 601 et seq.*)

OSM has been granted a categorical exclusion from the procedures of the National Environmental Policy Act for the subject of reclamation fees imposed by Pub. L. 95-87 (*46 FR 7487 January 23, 1981*).

The information collection requirements contained in Sections 870.15 (c) and (d) were approved by OMB under *44 U.S.C. 3507* and assigned clearance number 1029-0063.

#### **LIST OF SUBJECTS IN 30 CFR PART 870**

Coal mining, Reporting and recordkeeping requirements, Surface mining, Underground mining.

Dated: February 18, 1983.

Daniel N. Miller, Jr., Assistant Secretary for Energy and Minerals.

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

30 CFR 870.15 (c) and (d) are revised to read as follow:

##### **SECTION 870.15 - RECLAMATION FEE PAYMENT**

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(c) As of April 1, 1983, delinquent reclamation fee payments are subject to interest at the rate established quarterly by the U.S. Department of the Treasury for use in applying late charges on late payments to the Federal Government, pursuant to I Treasury Fiscal Requirements Manual 6-8020.20. The Treasury current value of funds rate is published by the Fiscal Service in the Notices section of the Federal Register. Interest shall begin to accrue on the 31st 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 at law to compel payment of debts. OSM will bill delinquent operators on a monthly basis and initiate whatever action is necessary to secure full payment of all fees and interest. All operators, including those with zero production, will receive Form OSM-1 or Form OSM-1(a) must submit a completed form, as well as any fee payment due.

(d) An operator who owes total quarterly reclamation fees of \$100,000 or more for one or more mines must use the Treasury Financial Communications System, forward its payments by electronic transfer, and use OSM's approved form(s) to report production to the Denver address below. An operator who owes less than \$100,000 quarterly reclamation fees for one or more mines may forward payments by electric transfer, or must submit a check or money order payable to Office of Surface Mining, in the same envelope with OSM's approved form(s) to: Office of Surface Mining Reclamation and Enforcement, U.S. Department of Interior, P.O. Box 25065 -- DFC, Denver, Colorado 80225.

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