

## 2. By amending Sub-part B as follows:

## §95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

| AIRWAY SEGMENT                                       |                         | CHANGEOVER POINTS |              |
|------------------------------------------------------|-------------------------|-------------------|--------------|
| FROM                                                 | TO                      | DISTANCE          | FROM         |
| V-39                                                 |                         |                   |              |
| IS AMENDED TO READ IN PART                           |                         |                   |              |
| SOUTH BOSTON, VA VORTAC                              | GORDONSVILLE, VA VORTAC | 42                | SOUTH BOSTON |
| V-140                                                |                         |                   |              |
| IS AMENDED BY ADDING                                 |                         |                   |              |
| DYERSBURG, TN VORTAC                                 | NASHVILLE, TN VORTAC    | 92                | DYERSBURG    |
| V-283                                                |                         |                   |              |
| IS AMENDED BY ADDING                                 |                         |                   |              |
| DAWNA, CA FIX<br># COP MEASURED FROM PARADISE VORTAC | HECTOR, CA VORTAC       | #44               | DAWNA        |
| V-327                                                |                         |                   |              |
| IS AMENDED BY ADDING                                 |                         |                   |              |
| HOT SPRINGS, AR VOR                                  | RAZORBACK, AR VORTAC    | 42                | HOT SPRINGS  |

[PR Doc. 83-386 Filed 2-11-83; 8:45 am]  
BILLING CODE 4910-13-C

## §95.8005 JET ROUTES CHANGEOVER POINTS

| AIRWAY SEGMENT       |                         | CHANGEOVER POINTS |         |
|----------------------|-------------------------|-------------------|---------|
| FROM                 | TO                      | DISTANCE          | FROM    |
| J-58                 |                         |                   |         |
| IS AMENDED BY ADDING |                         |                   |         |
| MILFORD, UT VORTAC   | FARMINGTON, NM VORTAC   | 77                | MILFORD |
| J-107                |                         |                   |         |
| IS AMENDED BY ADDING |                         |                   |         |
| MILFORD, UT VORTAC   | ROCK SPRINGS, WY VORTAC | 120               | MILFORD |

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 290

## Extension of Filing Date Under Section 133 of PURPA

[Docket No. RM83-49-000; Order No. 281]

Issued: February 7, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is amending its regulations that implement section 133 of the Public Utility Regulatory Policies Act of 1978 (PURPA). Section 133 of PURPA requires electric utilities to file cost and load data with the Commission and the states, at specified time intervals. This amendment extends from June 30, 1983, until June 30, 1984, the date by which electric utilities with total annual electric energy sales, for purposes other than resale, of less than one billion kilowatt hours must make an initial filing of information under section 133 of PURPA. This extension of time will relieve these small utilities of a data collection and filing burden pending the Commission's reevaluation of its requirements under section 133 of PURPA.

EFFECTIVE DATE: February 7, 1983.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Long, Federal Energy Regulatory Commission, Office of General Counsel, 825 N. Capitol Street NE., Washington, D.C. 20426, (202) 357-8033.

## SUPPLEMENTARY INFORMATION:

In the matter of an extension of filing date under section 133 of PURPA. Docket No. RM83-49-000; Order No. 281, final rule.

The Federal Energy Regulatory Commission (Commission) is amending its regulations (18 CFR Part 290) that implement section 133 of the Public Utility Regulatory Policies Act of 1978 (PURPA).<sup>1</sup> Section 133 requires electric utilities to file with the Commission and the states, at specified intervals, electric power cost and load data. This amendment extends until June 30, 1984, the date by which electric utilities that have total annual electric energy sales, for purposes other than resale, of less than one billion kilowatt-hours must

make an initial filing of information under section 133.

## I. Background

Section 133 requires electric utilities<sup>2</sup> to file a variety of electric power cost of service and load data. Section 133 requires that this information be filed every two years according to methods, procedures, and a format prescribed by the Commission.

The Commission's regulations<sup>3</sup> that implement section 133 require electric utilities to gather and submit a wide variety of cost of service and load data. These regulations require most utilities to report this cost of service information to the Commission and the states for the first time on November 1, 1980. Thereafter, these utilities are required to refile biennially.

In promulgating Part 290 to implement section 133, the Commission expressed concern about "the effect of immediately imposing this new reporting requirement on small utilities." "The Commission, therefore, delayed the financial impact of the section 133 reporting requirements by postponing until June 30, 1982, the initial filing deadline for small electric utilities "having total sales of electric energy for purposes other than resale of less than 1 billion kilowatt-hours in each of the calendar years 1976, 1977 and 1978."

In a September 14, 1981, report to Congress,<sup>4</sup> the General Accounting Office (GAO) found that the use of section 133 data was generally very limited and that compliance with section 133 had proved to be both expensive and burdensome. The GAO recommended that the Commission "review and, as appropriate, revise its regulations for implementing section 133 in order to reduce the cost and burden on utilities." Subsequently, on January 29, 1982, the Commission issued a Notice of Inquiry (NOI)<sup>5</sup> in an effort to obtain

information concerning the usefulness of the data required to be submitted under Part 290.

In response to the recommendations from the GAO and the comments submitted in response to the NOI, the Commission has issued a Notice of Proposed Rulemaking<sup>7</sup> that presents alternative proposals, including a blanket exemption, for amending the regulations implementing section 133 in order to reduce or eliminate the collection of unnecessary information from electric utilities under Part 290.

## II. Extension of Filing Date for Small Electric Utilities

Section 133(c) permits the Commission to extend the date by which an electric utility initially must file information under section 133. The Commission may grant such an extension "for a reasonable additional period in the case of any electric utility for good cause shown." Pursuant to this authority, the Commission, after finding good cause, extended the deadline for an initial filing by small electric utilities from June 30, 1982, until June 30, 1983.<sup>8</sup> However, the time is approaching when small electric utilities must start collecting information in order to meet the June 30, 1983, reporting deadline.

Compliance with the existing requirements of Part 290 of the Commission's regulations necessarily requires the expenditure of considerable time and money, particularly for the initial filing under section 133. In light of the pendency of the rulemaking in Docket No. RM83-9-000, that might significantly change Part 290, the Commission believes it to be inadvisable to require that small electric utilities gather and report any data under existing Part 290 by June 30, 1983. Therefore, the Commission finds good cause to extend until June 30, 1984, the initial filing date provided for small electric utilities under § 290.102(d).

## III. Comment Procedure and Effective Date

The Commission finds, pursuant to 5 U.S.C. 553(b)(3)(B), that notice and comment procedure is, at this time,

Regulatory Policies Act of 1978." (Docket No. RM82-13), issued January 29, 1982, 47 FR 5437 (February 5, 1982).

<sup>7</sup> Notice of Proposed Rulemaking, "Exemption From, and Revisions to, Procedures Governing Collection and Reporting of Information Concerning Cost of Providing Retail Electric Service," (Docket No. RM83-9-000), issued January 19, 1983, 48 FR 3770, (January 27, 1983).

<sup>8</sup> Final Rule, "Extension of Filing Date Under Section 133 of PURPA," Order No. 331 (Docket No. RM82-28-000) issued May 19, 1982, 47 FR 22947 (May 26, 1982).

<sup>2</sup> Section 133 of PURPA is applicable only to electric utilities that have annual electric energy sales, for purposes other than resale, in excess of 500 million kilowatt-hours. Section 102(a) of PURPA.

<sup>3</sup> Final Regulations, "Collection of Cost of Service Information Under Section 133 of the Public Utility Regulatory Policies Act of 1978" (Docket No. RM79-6), issued June 5, 1979, 44 FR 33847 (June 13, 1979), codified at 18 CFR Part 290 [Final Regulations]. These rules were revised substantially by the following orders: Order No. 46, (Docket No. RM79-6), issued September 28, 1979, 44 FR 58687 (October 11, 1979); Order No. 46-A (Docket No. RM79-6), issued January 4, 1980, 45 FR 2023 (January 10, 1980); Order No. 48-B (Docket No. RM79-6), issued August 7, 1980, 45 FR 54033 (August 14, 1980).

<sup>4</sup> 44 FR at 33851.

<sup>5</sup> "Burdenome and Unnecessary Reporting Requirements of the Public Utility Regulatory Policies Act Need to be Changed," September 14, 1981, EMD-81-105.

<sup>6</sup> Notice of Inquiry, "Collection of Cost of Service Information Under Section 133 of the Public Utility

<sup>1</sup> 16 U.S.C. 2643 (1978).

impracticable and contrary to the public interest. Small electric utilities are required to make initial filings under section 133 of PURPA and Part 290 of the Commission's regulations by June 30, 1983. To comply with the Commission's regulations, small electric utilities are now, or shortly will be, expending resources to gather and prepare the data for filing. Since the Commission has proposed in a pending rulemaking to exempt electric utilities from some or all of the reporting requirements of section 133 of PURPA, or, alternatively, to reduce or eliminate various specific requirements, it would unduly burden small electric utilities to require them to collect data under requirements that may later be amended.

The Commission nevertheless invites interested persons to comment on this final rule. An original and 14 copies of all comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should reference Docket No. RM83-49-000. All written submissions will be placed in the public file that will be established in this docket and made available for public inspection during regular business hours in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

The Commission, under 5 U.S.C. 553(d), also waives the 30-day delay in the effective date of this rule since the rule relieves a regulatory obligation by providing a temporary exemption from a filing requirement for a class of utilities. In addition, the Commission finds, for the above mentioned reasons, that good cause exists for making this amendment effective immediately.

(Department of Energy Organization Act, 42 U.S.C. 7101-7352; E. O. 12009, 3 CFR Part 142 (1978); and the Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601-2645 (1978))

#### List of Subjects in 18 CFR Part 290

Electric utilities, Penalties, Reporting and recordkeeping requirements, Uniform System of Accounts.

#### PART 290—[AMENDED]

In consideration of the foregoing, Part 290 of Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective February 7, 1983.

By the Commission.  
Kenneth F. Plumb,  
Secretary.

#### § 290.102 [Amended]

Section 290.102(d) is amended by removing "June 30, 1983" and inserting in lieu thereof "June 30, 1984."

[FR Doc. 83-3062 Filed 2-11-83; 8:45 am]

BILLING CODE 6717-01-M

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

#### Office of the Secretary

#### 24 CFR Part 17

[Docket No. R-83-1075]

#### Claims Under the Military Personnel and Civilian Employees' Claims Act of 1964; Increase in Amount Payable

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Final rule.

**SUMMARY:** This final rule raises the dollar limit on the amount of a claim payable under the Military Personnel and Civilian Employees' Claim Act to \$25,000 pursuant to a recent legislative amendment. The rule also changes the place of filing a claim under the Act from the General Counsel to the appropriate Regional Counsel.

**EFFECTIVE DATE:** March 21, 1983.

**FOR FURTHER INFORMATION CONTACT:** Burton Bloomberg, Associate General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, Room 10244, 451 Seventh Street, S.W., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Military Personnel and Civilian Employees' Claim Act of 1964, 31 U.S.C. 241 (hereinafter referred to as "The Act"), authorizes the head of an agency, with certain exceptions, to pay the claim made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency, for damage to, or loss of, personal property incident to his service. Current HUD regulations (24 CFR 17.40) set a limit on the amount payable at \$6,500. The Act has been amended several times since its original enactment. The most recent amendment, Public Law 97-226, approved July 28, 1982, raised the dollar limit to \$25,000. The rule would implement this statutory change.

This rule also directs that claims by, or on behalf of, field employees should be filed in writing with the appropriate Regional Counsel. Current regulations

(24 CFR 17.50(a)) direct that claims should be filed with the General Counsel in the central office. The Regional Counsel has been redelegated authority to dispose of claims up to a specified limit. Therefore, it is more expedient for field claims to be filed with the Regional Counsel. Those claims above the specified limit of his or her authority will then be forwarded to the General Counsel.

The subject matter of this rulemaking action relates to departmental procedure and is therefore exempt from the notice and public comment requirements of Section 553 of the Administrative Procedure Act.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. The rule does not; (1) Have an annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

An environmental assessment, which is made routinely in accordance with HUD regulations in 24 CFR Part 50, pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, is unnecessary because this rule is clearly unrelated to environmental concerns and is considered to have no potential for significantly affecting the quality of the human environment.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because it pertains only to administrative Departmental procedure.

This rule is not listed in the Department's Semiannual Agenda of Regulations published on October 28, 1982 (47 FR 48422) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

#### List of Subjects in 24 CFR Part 17

Administrative claims.

#### PART 17—[AMENDED]

Accordingly, 24 CFR Part 17 is amended as follows:

**§ 17.40 [Amended]**

1. By amending paragraph (a) of § 17.40 to remove "\$6,500" and to add, in its stead, "\$25,000."

**§ 17.50 [Amended]**

2. By revising paragraph (a) of § 17.50 to read as follows: (a) Claims by, or on behalf of, employees of field offices shall be filed in writing with the appropriate Regional Counsel. Claims by, or on behalf of, employees of Department Headquarters shall be filed in writing with the General Counsel, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

(Sec. 3(b)(1), Military Personnel and Civilian Employees' Claims Act of 1964, 31 U.S.C. 241, sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: February 7, 1983.

Samuel R. Pierce, Jr.,

Secretary, Housing and Urban Development.

[FR Doc. 83-3873 Filed 2-11-83; 8:45 am]

BILLING CODE 4210-01-M

**DEPARTMENT OF THE INTERIOR****Office of Surface Mining Reclamation and Enforcement****30 CFR Part 950****Approval of the State of Wyoming Abandoned Mine Land Reclamation Plan Under the Surface Mining Control and Reclamation Act of 1977**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Final rule.

**SUMMARY:** On April 15, 1982, the State of Wyoming submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). On August 16, 1982, the State of Wyoming submitted revisions to its Plan. The purpose of these submissions is to demonstrate the State's intent and capability to assume responsibility for administering and conducting the Abandoned Mine Land Reclamation Program established by Title IV of SMCRA and regulations adopted by OSM (30 CFR Chapter VII, Subchapter R, 47 FR 28574-28604, June 30, 1982). After opportunity for public comment and review of the plan submission, the Assistant Secretary for Energy and Minerals of the Department of the Interior has determined that the Wyoming Reclamation Plan meets the requirements of SMCRA and the Secretary's regulations. Accordingly, the Assistant Secretary has approved the Wyoming Plan.

**EFFECTIVE DATE:** The rule is effective February 14, 1983.

**ADDRESSES:** Copies of the full text of the Wyoming Plan are available for review during regular business hours at the following locations:

State of Wyoming, Land Quality Division, 401 West 19th Street, Cheyenne, Wyoming 82020

Office of Surface Mining Reclamation and Enforcement, Casper Field Office, P.O. Box 1420, 935 Pendell Blvd., Mills, Wyoming 82644

Office of Surface Mining Reclamation and Enforcement, Administrative Record Room 5315, 1100 "L" Street, N.W., Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** James Fary, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone (202) 343-7921.

**SUPPLEMENTARY INFORMATION:****General Background of the Abandoned Mine Land Program**

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977 and for which there is no continuing reclamation responsibility under State or Federal law.

Each State, having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA, may submit to the Secretary a State reclamation plan demonstrating its capability for administering an abandoned mine reclamation program. Title IV provides that the Secretary may approve the plan once the State has an approved regulatory program under Title V of SMCRA. If the Secretary determines that a State has developed and submitted a program for reclamation and has the necessary State legislation to implement the provisions of Title IV, the Secretary shall grant the State exclusive responsibility and authority to implement the provisions of the approved plan. Section 405 of SMCRA (30 U.S.C. 1235) contains the requirements for State reclamation plans.

The Secretary has adopted regulations that specify the content requirements of a State reclamation plan and the criteria for plan approval (30 CFR Part 884, 47 FR 28600-28601, June 30, 1982). Under these regulations, the Director of the Office of Surface Mining is required to review the plan and solicit and consider comments of other Federal agencies and the public. If the State plan is disapproved, the State may resubmit a revised reclamation plan at any time.

Upon approval of the State reclamation plan, the State may submit to the Office on an annual basis an application for funds to be expended in that State on specific reclamation projects which are necessary to implement the State reclamation plan as approved. Such annual requests are reviewed and approved by OSM in compliance with the requirements of 30 CFR Part 886.

To codify information applicable to individual States under SMCRA, including decisions on State reclamation plans, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T consists of parts 900 through 953.

Provisions relating to Wyoming are found in 30 CFR Part 950.

**Background on the Wyoming Reclamation Plan Submission**

OSM published a notice of proposed rulemaking on the original submission and requested public comment on May 10, 1982 (47 FR 20002). A public hearing was held on May 25, 1982, in Casper, Wyoming. OSM met with Wyoming officials on June 30, 1982, in Cheyenne, Wyoming, at which time Wyoming agreed to submit a revised Plan. OSM published a notice of proposed rulemaking on the revised Wyoming Plan and requested public comment on September 27, 1982 (47 FR 42380). A public hearing was held in Casper, Wyoming on October 15, 1982. On January 11, 1983, and January 26, 1983, Wyoming submitted additional modifications and revisions to the Plan. These modifications and revisions are contained in letters of W. C. Ackerman, Administrator, Wyoming Department of Environmental Quality to Jim Fary, Abandoned Mine Land Reclamation Division, Office of Surface Mining. OSM has determined that these additions and revisions are insignificant in nature and, accordingly, require no further public comment.

All of the documents mentioned above are available for public inspection at the offices of OSM and at the Wyoming Land Quality Division listed above under "Addresses."

On February 2, 1983, OSM's Field Office Director and on February 3, 1983, the Assistant Director for Program Operations and Inspection recommended to the Director that the Assistant Secretary approve the Wyoming Reclamation Plan.

The administrative record on the Wyoming Plan is available for review during regular business hours at the Office of Surface Mining Reclamation and Enforcement, at the Mills, Wyoming, address listed above under "addresses".

#### Assistant Secretary's Findings

1. In accordance with Section 405 of SMCRA, the Assistant Secretary finds that Wyoming has submitted a Plan for reclamation of abandoned mine lands and has determined, pursuant to 30 CFR 884.14, that:

(a) The public has been given adequate notice and opportunity to comment and the record does not reflect any unresolved controversies;

(b) The views of other Federal agencies have been solicited and considered;

(c) The State has the legal authority, policies, and administrative structure to implement the Plan;

(d) The Plan meets all requirements of the OSM, AMLR Program Provisions;

(e) The State has an approved Surface Mining Regulatory Program under Title V of the SMCRA; and

(f) The Plan is in compliance with all applicable State and Federal laws and regulations.

2. The Assistant Secretary has solicited and considered the views of other Federal agencies having an interest in the Plan as required by 30 CFR 884.14. These agencies include: the U.S. Forest Service (USFS), U.S. Fish and Wildlife Service (USFWS), the U.S. Bureau of Mines (USBOM), the U.S. Geological Survey (USGS), the U.S. Environmental Protection Agency (EPA), the U.S. Army Corps of Engineers (COE), and the Soil Conservation Service (SCS).

#### Disposition of Comments

The following comments received on the Wyoming Abandoned Mine Land Reclamation Plan during the public comment period were considered in the Assistant Secretary's evaluation of the Wyoming Plan as indicated.

1. The City of Rock Springs, Wyoming commented that the Wyoming Plan "skims over" coal mine reclamation and goes "directly to assisting noncoal mines (reclamation) and the construction of public facilities." The City contends that Pub. L. 95-87 "states that States shall identify the areas to be reclaimed and

the purposes for which reclamation is proposed." Moreover, the City contends that OSM's letter of September 23, 1982, to Wyoming on the deficiencies of the original Wyoming submission of April 15, 1982 supports its position that the State has failed to meet the requirements of 30 CFR Subchapter R for a general description of reclamation activities to be conducted, a description of the problems occurring on eligible lands and water, and how the plan proposes to address each of the problems occurring on eligible lands and waters. OSM disagrees and finds that the description on pp. 44-49 of the revised Wyoming AMLR Plan submission of August 16, 1982, meets the requirements of the June 30, 1982, revision of 30 CFR 884.13(e) concerning general reclamation requirements. Under the Federal and State statutes, all coal reclamation projects must be addressed prior to most noncoal projects.

2. The City of Rock Springs contends (letter of Mayor West dated October 5, 1982, and testimony of Mr. Ray Lovato at the October 15, 1982, Casper public hearing) that Wyoming's reclamation project ranking places "emphasis on a county or community's indebtedness". The City contends that this ranking system "is rewarding communities who are not using the optional one cent sales tax or might have had poor financial management". Moreover, the City contends that Wyoming's ranking system "punishes those who manage their finances well by giving them less points if they are not indebted." OSM's response is that it has raised this issue with Wyoming and Wyoming's position is that its ranking system for public facilities projects is designed to help communities most in need. For Wyoming, communities which have not used the optional one percent sales tax have not helped themselves to the extent that they legally can. Therefore, these communities should receive a lesser rating in the public facilities selection process. Wyoming believes that its selection system is equitable and no changes are needed. OSM accepts Wyoming's position because under Title IV of the Act the State has the primary responsibility for project selection. OSM will, under its oversight responsibility, monitor the implementation of Wyoming's project selection procedure to ensure that the purposes of Title IV of the Act are achieved.

3. The City of Rock Springs contends that the Plan "should list and rank (project) areas which have problems as a result of past coal mining activities". For the City, the State should "by now have an idea what specific projects it is

going to pursue". OSM's response is that neither the Act nor 30 CFR Subchapter R requires a State to list or rank areas or projects in its State Reclamation Plan. Project ranking and selection will occur after Plan approval and with public participation. For information on any given project, the public should contact the Wyoming Land Quality Division (see address above).

4. The City of Rock Springs expressed concern on the method of treating an emergency situation. The City notes that the State "expects OSM to use their emergency powers" and that the Federal emergency power is limited to abating the cause of the emergency and does not extend to repairing the damage caused by the emergency. The City gives the example of a house partially collapsing as a result of subsidence and notes that the Federal government will "only stabilize the ground" and "all other costs and problems are in the hands of the homeowner". The City recommended that a homeowner's insurance program administered by the State is "one possible solution". OSM's response is that the City of Rock Springs' description of the Federal emergency power is correct. However, once an emergency project is stabilized, if further reclamation work is needed, the project will come under the State reclamation program. Moreover, OSM notes that it has published a "Notice of Opportunity to Amend State/Tribal Reclamation Plans to Include Provision for Emergency Reclamation Activities" (47 FR 42729-30). This Notice allows the States to undertake their own emergency programs. OSM believes that the City's recommendation of a homeowner's insurance program is within the prerogative of the State of Wyoming. OSM has forwarded to Wyoming descriptions of subsidence insurance programs used in other States. Wyoming has indicated that "legislation has been introduced to establish an insurance program for subsidence." Moreover, Wyoming further indicated that "if the legislation is not passed, we will establish a reserve fund" (letter dated January 26, 1983 of W. C. Ackerman, Administrator, Wyoming Department of Environmental Quality to Jim Fary, Abandoned Mine Land Reclamation Division, Office of Surface Mining).

5. The USFWS commented that p. 25, paragraph 6 of the Wyoming Plan indicates that development of adversely affected public land for recreation, conservation, or similar benefits will not be feasible in most cases because of the abundance of public lands in most coal mining areas in Wyoming. The USFWS

contends that in the Powder River Basin Coal Area public lands are relatively scarce and are heavily used because of the difficulty in obtaining access to other lands. The USFWS recommends that high priority be given to restoration of lands degraded by mining to their former productivity and useful condition for conservation and other values. OSM's response is that it has discussed the USFWS's recommendation with Wyoming. Wyoming's position is that all sites in the Powder River Basin Coal Area requiring reclamation are on private lands and so it is unlikely that there will be an opportunity to acquire such lands for recreation, conservation or similar benefits. If such an opportunity arises, Wyoming has not ruled out acquisition for recreation, conservation or similar benefits.

6. The USFWS commented that it should be consulted not only when endangered species are involved, but also on the adequacy of reclamation for wildlife, especially when it involves riparian, wetlands, or aquatic areas and migratory birds included on the list of "Migratory Birds of High Federal Interest." OSM's response is that it has discussed this issue with Wyoming. Wyoming's position is that it will consult the USFWS whenever such consultation will advance the goals of its reclamation program. OSM agrees that this is appropriate.

7. The USFWS commented that it is especially concerned by the statement (p. 47, paragraph 4 of the Plan) that "wildlife habitat will be returned if requested by the landowner." The USFWS believes that, especially when Federal funds are spent, "maximum value should be returned when lands are reclaimed" to include the restoration of wildlife habitat. The USFWS is doubtful that landowners will specifically request restoration of wildlife habitat. The USFWS recommends that restoration of wildlife habitat be "an integral part of all reclamation plans unless the landowner specifically opposes it." OSM's response is that it has raised this issue with Wyoming. Wyoming's response is as follows:

Landowner rights take precedence over wishes of others including the Fish and Wildlife Service unless a specific law requires us to follow another procedure. There are specific exclusions for private lands even in our regulatory laws. Most sites requiring reclamation (except private bentonite lands) are so small as to be insignificant for wildlife anyway. Excluding bentonite, 10 sites are over 100 acres with at least 2 of these within a city or town, 12 sites are 50 to 100 acres, 21 sites are 10 to 50 acres, and the remaining 147 sites are less than 10 acres, most of them 1 acre or less (letter of

January 26, 1983 from W. C. Ackerman, Administrator, Wyoming Department of Environmental Quality, to Jim Fary, Abandoned Mine Land Reclamation Division, Office of Surface Mining).

OSM accepts Wyoming's position because under Title IV of the Act the State has the primary responsibility for deciding post-reclamation land use. OSM will, under its oversight responsibility, monitor the implementation and progress of Wyoming's Abandoned Mine Land Reclamation Program to ensure that the purposes of Title IV of the Act are achieved.

8. The USFWS commented that, in its discussion on the "economic base" (p. 49) Wyoming does not address the importance of tourism and outdoor recreation. OSM disagrees and finds that the Plan's description of Wyoming's economic base (p. 49) meets the requirements of 30 CFR 884.13.

9. The USFWS commented that, regarding p. 77 of the Wyoming Plan, the Northern Swift Fox is neither on the endangered/threatened list nor is it proposed for listing as Wyoming indicates. OSM's response is that Wyoming agrees and has corrected this oversight.

10. The USGS has submitted technical corrections to Exhibit G of the Plan. These corrections have been brought to Wyoming's attention and can be used whenever Wyoming's Plan is revised.

#### Additional Findings

The Office of Surface Mining has examined this rulemaking under Section 1(b) of Executive Order No. 12291 (February 17, 1981), and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, state, or local government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule will not have a significant economic effect on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and

recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

The Assistant Secretary has determined that the Wyoming Abandoned Mine Land Reclamation Plan will not have a significant effect on the quality of the human environment because the decision relates only to policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of Interior Manual (DM) 516.2.2(A)(1) the Assistant Secretary's decision on the Wyoming Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment (EA) or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Also, an EA or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

The good cause for making this rule effective February 14, 1983, is: (1) The Office of Surface Mining wants to minimize the time between the approval of Title V regulatory programs and Title IV State reclamation program plans; and (2) grants are pending approval of the Title IV plan and OSM wishes to expedite grant assistance to States to initiate needed reclamation work as required by the Act.

#### List of Subjects in 30 CFR Part 904

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

#### PART 950—WYOMING

Therefore, Part 950 is amended by adding § 950.30 to read as follows:

##### § 950.30 Approval of Wyoming Abandoned Mine Land Reclamation Plan.

The Wyoming Reclamation Plan, as submitted on August 16, 1982, is approved. Copies of the approved program are available at:

State of Wyoming, Land Quality Division, 401 West 19th Street, Cheyenne, Wyoming 80202

Office of Surface Mining Reclamation and Enforcement, Casper field Office, P.O. Box 1420, 935 Pendell Blvd., Mills, Wyoming 82644

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240

Dated: February 3, 1983.

J. Steven Griles,

Acting Director, Office of Surface Mining.

Dated: February 3, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

(FR Doc. 83-3850 Filed 2-11-83; 8:45 am)

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 710

[OPTS-80012A; TSH-FRL 2303-5]

#### Inventory Reporting Regulations; Release of Aggregate Production Statistics

**AGENCY:** Environmental Protection Agency.

**ACTION:** Rule related notice.

**SUMMARY:** The Environmental Protection Agency (EPA) will publicly release aggregate total production statistics for substances reported for the Toxic Substances Control Act (TSCA) Chemical Substances Inventory which have one or more confidentiality claims for production volume associated with them. This notice describes the aggregation method that will be used. The confidentiality of individual production ranges will be protected from disclosure by using broad aggregate ranges to express the total production level for each substance. Aggregate data for a substance will be released only if it would not be possible to use public Inventory information to identify any of the individual confidential reports that comprise the aggregate to closer than three Inventory reporting ranges. This notice also provides companies the opportunity to request that certain aggregate information not be released if it could cause economic harm to the company.

**DATES:** Requests that aggregate production information for individual substances not be released must be received by EPA by March 31, 1983. Aggregate information will be made available on April 15, 1983.

**ADDRESS:** See paragraph V. "Requests For Exemption From Release of Data" in Supplementary Information.

**FOR FURTHER INFORMATION CONTACT:** Chris Tirpak, Acting Director, Industry Assistance Office (TS-799), Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460; toll free: (800-424-9065), in Washington, D.C.: (554-1404), outside the USA: (Operator-202-554-1404).

## SUPPLEMENTARY INFORMATION:

### I. Background

In the Federal Register of June 23, 1982 (47 FR 27075), EPA announced proposed procedures for releasing aggregate production statistics for substances listed on the Toxic Substances Control Act (TSCA) Chemical Substances Inventory and requested comments from interested parties. This notice describes the modifications that have been made to the proposed procedures in response to public comments. It also announces the Agency's intent to make the aggregate production data available to the public on April 15, 1983.

EPA's commitment to produce these procedures arises from the Final Inventory Reporting Regulations, published in the Federal Register of December 23, 1977 (42 FR 64592), and the Notice of Availability of the TSCA Initial Inventory, published in the Federal Register of May 15, 1979 (44 FR 28561), in which the Agency stated that it would develop aggregation rules for releasing Inventory data. EPA has received numerous inquiries about Inventory production information from State governments and different sectors of the public. The Agency believes that it is strongly in the public interest that this aggregate data be released.

### II. Characteristics of the Inventory

Companies that reported for the Inventory were required to indicate that their 1977 production for each substance fell into one of the following eleven ranges:

- N—None
- 0—0 to 1000 lbs.
- 1—1000 to 10,000 lbs.
- 2—10,000 to 100,000 lbs.
- 3—100,000 to 1 million lbs.
- 4—1 million to 10 million lbs.
- 5—10 million to 50 million lbs.
- 6—50 million to 100 million lbs.
- 7—100 million to 500 million lbs.
- 8—500 million to 1 billion lbs.
- 9—Over 1 billion lbs.

Reports were received for almost 60,000 substances. One or more of the submitters of about 30 percent of the substances exercised their option to claim production volume as confidential. Inventory production information which was not claimed as confidential has already been made public.

### III. Aggregation Methodology

After investigating alternative techniques for aggregating Inventory production information, EPA selected a "roll up" method. The Agency believes that this method provides sufficient protection to individual pieces of confidential information while allowing

EPA to release aggregate production data for the vast majority of Inventory substances.

Using the roll up method, the Agency will be able to indicate that the total production level for Inventory substances with one or more confidential production claims falls into one of the following broad aggregate ranges:

- Range 1—0 to 1 million lbs.
- Range 2—1 million to 100 million lbs.
- Range 3—100 million to 1 billion lbs.
- Range 4—1 billion lbs. and above.

To determine in which of the four intervals each substance's actual total production range lies, the upper and lower bounds of all production ranges reported (both confidential and non-confidential) were added together for each substance. (The upper bound value for reporting range 9 was presumed to be 4 billion lbs.)

Further protection is afforded to individual pieces of confidential information. Before releasing aggregate information about any substance the Agency requires that the aggregate production range information cannot be combined with whatever nonconfidential production information is available from the public Inventory on the substance to reveal individual pieces of confidential production information to closer than three reporting ranges. In other words, no aggregate information will be released for a substance unless the Agency has determined that each submitter's confidential production volume report is masked to the extent that it cannot be identified to closer than three reporting ranges based on the public Inventory.

### IV. Releasing Aggregate Data

The information released will not include data that are withheld under the constraints described above. In addition, it will not include aggregate information for substances that are exempted from release under the provisions of unit V of this notice.

Aggregate reports will be generated in response to requests made on a substance-by-substance basis. A person requesting reports should provide EPA with the CAS number or chemical identity for each substance for which an aggregate report is desired. Other Federal agencies or State governments may request aggregate data for groups of substances.

### V. Requests for Exemption From Release of Data

Two of the commenters on the June 23 notice indicated that, in some relatively unique circumstances, the release of