

§ 1.168(i)–(3) Treatment of excess deferred income tax reserve upon disposition of regulated generation assets.

(a) *Scope.* This section provides rules for the application of section 203(e) of the Tax Reform Act of 1986, Public Law 99–514 (100 Stat. 2146) with respect to public utility property that is used in electric generation and ceases, whether by disposition, deregulation, or otherwise, to be public utility property (deregulated generation property).

(b) *Amount of reduction.* If public utility property of a taxpayer becomes deregulated generation property to which this section applies, the reduction in the taxpayer's excess tax reserve permitted under section 203(e) of the Tax Reform Act of 1986 is equal to the amount by which the reserve could be reduced under that provision if all such property had remained public utility property of the taxpayer and the taxpayer had continued use of its normalization method of accounting with respect to such property.

(c) *Cross reference.* See § 1.46–6(k) for rules relating to the treatment of accumulated deferred investment tax credits when utilities dispose of regulated generation assets.

(d) *Effective date—(1) General rule.* This section applies to property that becomes deregulated generation property after March 4, 2003.

(2) *Election for retroactive application.* A taxpayer may elect to apply this section to property that becomes deregulated generation property on or before March 4, 2003. The election is made by attaching the statement “ELECTION UNDER § 1.168(i)–3” to the taxpayer's return for the tax year in which this section is published as a final regulation.

David A. Mader,

Assistant Deputy Commissioner of Internal Revenue.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

[WY–031–FOR]

Wyoming Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We are announcing receipt of a proposed amendment to the Wyoming regulatory program (hereinafter, the “Wyoming program”) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Wyoming proposes revisions to its coal rules about roads, mine facilities, and excess spoil. Wyoming intends to revise its program to be consistent with the corresponding Federal regulations and clarify ambiguities.

This document gives the times and locations that the Wyoming program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., m.s.t., April 3, 2003. If requested, we will hold a public hearing on the amendment on March 31, 2003. We will accept requests to speak until 4 p.m., m.s.t., on March 19, 2003.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Guy Padgett at the address listed below.

You may review copies of the Wyoming program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting the Office of Surface Mining Reclamation and Enforcement's (OSM) Casper Field Office.

Guy Padgett, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East “B” Street, Federal Building, Room 2128, Casper, Wyoming 82601–1918, 307/261–6550, Internet: GPadgett@osmre.gov.

Dennis Hemmer, Department of Environmental Quality, Herschler Building, 4th Floor West, Cheyenne, Wyoming 82002, 307/777–7682, Internet: dhemmer@state.wy.us.

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: 307/261–6550. Internet: GPadgett@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Wyoming Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

I. Background of the Wyoming Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and

reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, “a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of [the] Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to [the] Act.” See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Wyoming program on November 26, 1980. You can find background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Wyoming program in the November 26, 1980, **Federal Register** (45 FR 78637). You can also find later actions concerning Wyoming's program and program amendments at 30 CFR 950.12, 950.15, 950.16, and 950.20.

II. Description of the Proposed Amendment

By letter dated November 28, 2002, Wyoming sent us a proposed amendment to its program, (administrative record number WY–36–1) under SMCRA (30 U.S.C. 1201 *et seq.*). Wyoming sent the amendment in response to a 30 CFR part 732 letter dated February 21, 1990, and an October 3, 1990, follow-up letter (administrative record numbers WY–36–6 and WY–36–7) that we sent to Wyoming, and to include changes made at its own initiative. The full text of the program amendment is available for you to read at the locations listed above under

ADDRESSES.

Specifically, Wyoming proposes to revise the following Coal Rules:

- (1) Chapter 1, Section 2, and Chapter 2, Section 2(a) and (b), miscellaneous revisions regarding use of the terms, “primary” and “ancillary” roads and “mine facilities;”
- (2) Chapter 1, Section 2(bu), definition of public road;
- (3) Chapter 1, Section 2(bz), definition of road;
- (4) Chapter 2, Section 2(b)(i)(D)(V), maps and plans;
- (5) Chapter 2, Section 2(a) and (b), permit applications;
- (6) Chapter 2, Section 2(b)(xix), road systems;
- (7) Chapter 4, Section 2(j), road classification system;
- (8) Chapter 4, Section 2(j)(v), performance standards;
- (9) Chapter 4, Section 2(j)(v), reclamation;
- (10) Chapter 4, Section 2(j)(i)(A), and 2(j)(ii), roads and other transportation facilities;
- (11) Chapter 4, Section 1(a)(v), access roads and haulage roads;
- (12) Chapter 4, Section 2(j)(vii), primary roads;
- (13) Chapter 4, Section 2(j), exemptions concerning