

paragraph and adding “; and” in its place.

■ c. Paragraph (b)(1)(iii) is added to read as follows:

**§ 375.307 Delegations to the Director of the Office of Energy Market Regulation.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(iii) Filings for administrative revisions to electronic filed tariffs.

\* \* \* \* \*

**PART 385—RULES OF PRACTICE AND PROCEDURE**

■ 76. The authority citation for part 385 continues to read as follows:

**Authority:** 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 791a–825v, 2601–2645; 28 U.S.C. 2461; 31 U.S.C. 3701, 9701; 42 U.S.C. 7101–7352, 16441, 16451–16463; 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988).

**§ 385.203 [Amended]**

■ 77. In § 385.203, paragraph (a)(4), the reference to “sheets” is removed and “sheets or sections” is added in its place.

■ 78. In § 385.215, paragraph (a)(2) is amended by adding a new first sentence to read as follows:

**§ 385.215 Amendment of pleadings and tariff or rate filings (Rule 215).**

(a) \* \* \*

(2) A tariff or rate filing may be amended or modified only as provided in the regulations under this chapter.

\* \* \*

\* \* \* \* \*

■ 79. In § 385.216, the heading and paragraph (a) are revised to read as follows:

**§ 385.216 Withdrawal of pleadings and tariff or rate filings (Rule 216).**

(a) *Filing.* Any participant, or any person who has filed a timely motion to intervene which has not been denied, may seek to withdraw a pleading by filing a notice of withdrawal. The procedures provided in this section do not apply to withdrawals of tariff or rate filings, which may be withdrawn only as provided in the regulations under this chapter.

\* \* \* \* \*

**§ 385.217 [Amended]**

■ 80. In § 385.217, paragraph (d)(1)(iii), the reference to “sheets” is removed and “sheets or sections” is added in its place.

**§ 385.2011 [Amended]**

■ 81. In § 385.2011, paragraph (b)(1) is removed and reserved, and paragraphs (b)(4) and (b)(5) are removed.

**Note:** The following appendix will not appear in the Code of Federal Regulations.

**Appendix**

**Commenters and Abbreviations**

American Gas Association (AGA)  
Arizona Public Service Company (APS)  
Association of Oil Pipe Lines (AOPL)  
Bonneville Power Administration (Bonneville)  
California Independent System Operator Corporation (CAISO)  
Duke Energy Corporation (Duke Energy)  
Edison Electric Institute (EEI)  
Entergy Services, Inc. (Entergy)  
FirstEnergy Service Company (FirstEnergy)  
Interstate Natural Gas Association of America (INGAA)  
ISO New England, Inc. (ISO New England)  
Midwest Independent Transmission System Operator, Inc. (Midwest ISO)  
Nevada Power Company and Sierra Pacific Power Company (Nevada Power)  
New England Participating Transmission Owners Administrative Committee (New England PTOs)  
Public Service Electric and Gas Company and PSEG Energy Resources & Trade LLC (PSEG)  
Southern California Edison Company (Southern California Edison)  
TransCanada Corporation (TransCanada)  
UNICON, Inc. (UNICON)

[FR Doc. E8–22500 Filed 10–2–08; 8:45 am]

BILLING CODE 6717–01–P

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 950**

[SATS No. WY–036–FOR; Docket ID OSM–2008–0008]

**Wyoming Abandoned Mine Land Reclamation Plan**

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

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We are approving an amendment to the Wyoming abandoned mine land reclamation (AMLR) plan (hereinafter referred to as the “Wyoming plan”) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Wyoming intended to revise its plan by submitting a revision to W.S. 35–11–1210 to correct an inadvertent error in the statute that was enacted during the 2007 Legislative Session. Specifically, the amendment

clarifies that W.S. § 35–11–1210 only applies to SMCRA section 411(h)(1) funds.

**DATES:** *Effective Date:* October 3, 2008.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Fleischman, Casper Field Office Director. Telephone: (307) 261–6550. Internet address: [jfleischman@osmre.gov](mailto:jfleischman@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Wyoming Plan
- II. Submission of the Proposed Amendment
- III. Office of Surface Mining Reclamation and Enforcement’s (OSM’s) Findings
- IV. Summary and Disposition of Comments
- V. OSM’s Decision
- VI. Procedural Determinations

**I. Background on the Wyoming Plan**

The Abandoned Mine Land Reclamation Program was established by Title IV of the Act (30 U.S.C. 1201 *et seq.*) in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded by a reclamation fee collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal mines and for other authorized activities. Section 405 of the Act allows States and Indian tribes to assume exclusive responsibility for reclamation activity within the State or on Indian lands if they develop and submit to the Secretary of the Interior for approval, a program (often referred to as a plan) for the reclamation of abandoned coal mines.

On February 14, 1983, the Secretary of the Interior approved Wyoming’s AMLR Plan. You can find general background information on the Wyoming Plan, including the Secretary’s findings and the disposition of comments, in the February 14, 1983, **Federal Register** (48 FR 6536). OSM announced in the May 25, 1984, **Federal Register** (49 FR 22139), the Director’s decision accepting certification by Wyoming that it had addressed all known coal-related impacts in the State that were eligible for funding under the Wyoming Plan. Wyoming could then proceed in reclaiming low priority non-coal projects. The Director accepted Wyoming’s proposal that it would seek immediate funding for reclamation of any additional coal-related problems that occur during the life of the Wyoming Plan. You can find later actions concerning Wyoming’s Plan and plan amendments at 30 CFR 950.35.

**II. Submission of the Proposed Amendment**

By letter dated March 21, 2008, Wyoming submitted a proposed

amendment to the Wyoming Reclamation Plan (Administrative Record Document ID OSM-2008-0008-0005). Wyoming submitted the amendment in response to a letter sent to the State dated January 18, 2008, from the Regional Director, Western Region of OSM (Administrative Record Document ID OSM-2008-0008-0007). Pursuant to 30 CFR 884.15(d), OSM directed Wyoming to resolve a statutory conflict regarding two accounts established to receive funds from the Federal government under the SMCRA program.

Specifically, OSM stated it appears that Wyoming's new statute at W.S. § 35-11-1210 conflicts with existing statute W.S. § 35-11-1203, which was established to receive funds to carry out the Reclamation Plan including coal reclamation. W.S. § 35-11-1210 was passed in 2007 and established an account to receive funding under new Section 411(h) of SMCRA. These funds are not required to be spent on reclamation projects.

Wyoming's proposed amendment clarifies that the account established by W.S. § 35-11-1210 is solely for the purpose of receiving funds from the Federal government pursuant to SMCRA Section 411(h)(1) and that these funds are separate and in addition to funds distributed to the account established by W.S. § 35-11-1203.

We announced receipt of the proposed amendment in the June 2, 2008, **Federal Register** (73 FR 31392). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy (Administrative Record Document ID No. OSM-2008-0008-0001). We did not hold a public hearing or meeting because no one requested one. The public comment period ended on July 2, 2008. We received comments from two Federal agencies and one State entity.

### III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 884.14 and 884.15. We are approving the amendment.

#### A. Minor Revisions to Wyoming's Statutes and Plan Provisions

In response to a letter dated January 18, 2008, from the Regional Director, Western Region of OSM and pursuant to 30 CFR 884.15(d), Wyoming proposes a minor editorial change to subparagraph (b) of newly-created W.S. § 35-11-1210 and its Reclamation Plan that is intended to provide clarification and correct an inadvertent error in the statutory amendment that was enacted

during the 2007 Wyoming Legislative Session. Specifically, new statute W.S. § 35-11-1210 was passed in 2007 and established the Abandoned Mine Land Funds Reserve Account pursuant to Section 411(h) of the SMCRA Amendments of 2006 that is not required to be spent on reclamation projects. Conversely, existing statute W.S. § 35-11-1203 established an account to receive funds to carry out the State Reclamation Plan, including coal reclamation. OSM's concern, as stated in the January 18, 2008 letter, was that establishment of these two funds creates a statutory conflict wherein funding of Wyoming's Reclamation Plan is not assured. Accordingly, OSM is seeking assurance that Wyoming will reclaim its remaining coal abandoned mine land problems.

Wyoming's proposed amendment to subparagraph (b) clarifies that the account established by W.S. § 35-11-1210 is established solely to receive funds from the Federal government pursuant to SMCRA amendments of 2006 to Section 411(h)(1) and that these funds are separate and in addition to funds distributed to the account established by W.S. § 35-11-1203, which remains in place to receive funds to carry out the State Reclamation Plan including coal reclamation. Wyoming had previously committed to spend a minimum of \$30 million dollars per year on coal reclamation work until coal work is completed as a condition of OSM's payment to the State under SMCRA Section 411(h) in a letter dated February 4, 2007 (Administrative Record Document ID OSM-2008-0008-0006).

Wyoming's clarification and assurance that funds received through establishment of the Abandoned Mine Land Funds Reserve Account will not be commingled with monies received to carry out coal reclamation under the State Reclamation Plan is in accordance with section 405(h) of SMCRA, and addresses the programmatic concerns raised by OSM under 30 CFR 884.15(d). For these reasons, we are approving Wyoming's proposed statutory amendment.

### IV. Summary and Disposition of Comments

#### Public Comments

We asked for public comments on the amendment (Administrative Record Document ID No. OSM-2008-0008-0008) and one comment was received.

Specifically, the University of Wyoming submitted a comment in support of the amendment by stating that it is in agreement with the proposed

change to Wyoming Statute W.S. 35-11-1210 (Administrative Record Document ID No. OSM-2008-0008-0004).

#### Federal Agency Comments

Under 30 CFR 884.14(a)(2) and 884.15(a), we requested comments on the amendment from various Federal agencies with an actual or potential interest in the State plan (Administrative Record Document ID No. OSM-2008-0008-0008). We received comments from two Federal Agencies.

The Bureau of Reclamation (BOR) commented in an April 17, 2008 letter (Administrative Record Document ID No. OSM-2008-0008-0003), and the Bureau of Land Management (BLM) commented in a May 2, 2008 letter (Administrative Record Document ID No. OSM-2008-0008-0002).

The BOR indicated that it did not have comments on the proposed amendment.

The BLM commented that although it recognizes that OSM's priority under the 2006 Amendments [to SMCRA] is to fund reclamation of coal mines, it also wants to ensure that enough money is available to fund reclamation of non-coal abandoned mines on BLM lands. The BLM goes on to explain that work on many of these projects may be mothballed due to the requirements to finish the coal sites first, and notes that it is unclear whether these non-coal sites will be able to obtain SMCRA funding in the future. Lastly, the BLM states its wish to ensure that the State Legislature and OSM consider its needs when fund requests for grants to use monies in the Abandoned Mine Reclamation Fund are submitted.

In response, OSM agrees that there are hard rock abandoned mine land problems in Wyoming and we acknowledge that they present both health and safety concerns.

Unfortunately, OSM can't provide assurance to the BLM that the Wyoming AML Program will continue to reclaim abandoned hard rock mine problems with funds the State receives under the 2006 Amendments to SMCRA. Specifically, it is solely up to the Wyoming Legislature to determine if it wants to fund reclamation of abandoned hard rock mine problems as part of giving priority to addressing impacts of mineral development with funds the State receives under Section 411(h)(1) of SMCRA.

### V. OSM's Decision

Based on the above finding, we approve Wyoming's proposed amendment submitted on March 21, 2008.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 950, which codify decisions concerning the State plan. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 405(d) of SMCRA requires that the State have a program that is in compliance with the procedures, guidelines, and requirements established under the Act. Making this regulation effectively immediately will expedite that process. SMCRA requires consistency of Wyoming and Federal standards.

## VI. Procedural Determinations

### *Executive Order 12630—Takings*

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

### *Executive Order 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

### *Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowable by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of Wyoming's AMLR plans and revisions thereof because each plan is drafted and promulgated by a specific State, not by OSM. Decisions on proposed State AMLR plans and revisions thereof submitted by a State are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and the applicable Federal regulations at 30 CFR part 884.

### *Executive Order 13132—Federalism*

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to “establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.” Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be “in accordance with” the requirements of SMCRA, and section 503(a)(7) requires

that State programs contain rules and regulations “consistent with” regulations issued by the Secretary pursuant to SMCRA.

### *Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally recognized Indian Tribes and have determined that the rule does not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes. The rule does not involve or affect Indian Tribes in any way.

### *Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

### *National Environmental Policy Act*

No environmental impact statement is required for this rule because agency decisions on proposed State AMLR plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) by the Manual of the Department of the Interior (516 DM 13.5(B)(29)).

### *Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

### *Regulatory Flexibility Act*

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that

such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

### *Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), of the Small Business Regulatory Enforcement Fairness Act. This rule:

- a. Does not have an annual effect on the economy of \$100 million.
  - b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
  - c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.
- This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

### *Unfunded Mandates*

This rule will not impose an unfunded Mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the federal regulation did not impose an unfunded mandate.

### **List of Subjects in 30 CFR Part 950**

Abandoned mine reclamation programs, Intergovernmental relations, Surface mining, Underground mining.

Dated: September 11, 2008.

**Allen D. Klein,**

*Director, Western Region.*

■ For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

### **PART 950—STATE ABANDONED MINE LAND RECLAMATION PROGRAMS**

■ 1. The authority citation for part 950 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

■ 2. Section 950.35 is amended in the table by adding a new entry in

chronological order by “Date of Final Publication” to read as follows:

**§ 950.35 Approval of Wyoming abandoned mine land reclamation plan amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
March 21, 2008	October 3, 2008	Wyoming Statute (W.S.) § 35–11–1210(b)

[FR Doc. E8–23368 Filed 10–2–08; 8:45 am]  
BILLING CODE 4310–05–P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare & Medicaid Services**

**42 CFR Parts 411, 412, 413, 422, and 489**

[CMS–1390–CN; CMS–1531–CN; CMS–1385–CN2]

RIN 0938–AP15; RIN 0938–AO35; RIN 0938–AO65

**Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates; Payments for Graduate Medical Education in Certain Emergency Situations; Changes to Disclosure of Physician Ownership in Hospitals and Physician Self-Referral Rules; Updates to the Long-Term Care Prospective Payment System; Updates to Certain IPPS-Excluded Hospitals; and Collection of Information Regarding Financial Relationships Between Hospitals; Correction**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.  
**ACTION:** Correction of final rules.

**SUMMARY:** This document corrects technical and typographical errors that appeared in the final rule published in the *Federal Register* on August 19, 2008, entitled “Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates; Payments for Graduate Medical Education in Certain Emergency Situations; Changes to Disclosure of Physician Ownership in Hospitals and Physician Self-Referral Rules; Updates to the Long-Term Care Prospective Payment System; Updates to Certain IPPS-Excluded Hospitals; and Collection of Information Regarding Financial Relationships Between Hospitals.”

**DATES:** *Effective Date:* Except for the items listed in section IV.B.3.a. through e. of this notice, the items listed in this

correction notice are effective on October 1, 2008. The items listed in section IV.B.3.a. through e. of this notice are effective on October 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Tzvi Heftler (410) 786–4487, Corrections to the preamble and addendum. Donald Romano, (410) 786–1401 or Lisa Ohrin, (410) 786–4565, Corrections to the regulations text for part 411.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

In FR Doc. E8–17914 of August 19, 2008 (73 FR 48434), the final rule entitled Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates; Payments for Graduate Medical Education in Certain Emergency Situations; Changes to Disclosure of Physician Ownership in Hospitals and Physician Self-Referral Rules; Updates to the Long-Term Care Prospective Payment System; Updates to Certain IPPS-Excluded Hospitals; and Collection of Information Regarding Financial Relationships Between Hospitals” (hereinafter referred to as the FY 2009 IPPS final rule) there were a number of technical and typographical errors that are identified and corrected in the Correction of Errors section below. We note that the FY 2009 IPPS final rule had several effective dates (see 73 FR 48343); and therefore, we are conforming the effective dates of the items listed in this notice with the effective dates specified in the FY 2009 IPPS final rule.

**II. Summary of Errors**

*A. Errors in the Preamble*

On page 48434, in the effective dates section of the final rule, we specified that § 411.357(p)(1)(i)(A) and (B) are effective on October 1, 2009. However, we made a technical error in codifying these paragraphs (see sections II.B. and IV.B.3.e.(B). of this notice). To ensure that the cross-reference is consistent with the regulations in § 411.357(p), we are correcting the cross-reference in section IV.A.1 of this notice.

On pages 48491, 48497, and 48773, we made inadvertent typographical errors in two figures and a date. We

correct these errors in section IV.A.2, 3, and 8 of this notice.

On page 48509, we stated that we were finalizing several codes and that these codes will be added to the MCE edit for males only. However, through an inadvertent error the codes were not included in the final FY 2009 MCE edits. Therefore, in section IV.A.4. of this notice, we correct this discussion by adding language to note that the codes for MCE edit for males only will be added to the MCE codes for FY 2010.

On page 48566, we discuss the analysis conducted by Acumen comparing MedPAC’s recommended wage indices to the current CMS wage index. In section IV.A.5 of this notice, we correct this discussion by adding a parenthetical statement to clarify that the wage index data that we provided did not include the effects of sections 505 and 508 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA).

On page 48646, we discuss the deadline for submission of emergency Medicare graduate medical education (GME) affiliation agreements. In our example, we incorrectly stated the date by which hospitals are permitted to submit an emergency Medicare GME Affiliation agreement for the period from March 1, 2009, to June 30, 2009, and the period from July 1, 2009, to June 30, 2010. The dates referenced were August 28, 2009, and August 28, 2010, respectively. In section IV.A.6 of this correction notice, we corrected these inadvertent errors.

On page 48648, we discuss the rolling average and cap adjustments for FTE residents. In this discussion, we incorrectly stated that FTE residents training in new teaching hospitals and in new residency programs at existing teaching hospitals are excluded from the rolling average for the minimum accredited length of the program. In section IV.A.7. of this notice, we have corrected this error by revising this sentence to clarify that, in accordance with the regulations at § 413.79(d)(5), the exclusion from the rolling average applies for new programs that qualify for the cap adjustment under § 413.79(e).