

**Proposed Effective Dates**

Prop. Treas. Reg. § 1.482-7(g)(2)(v)(B)(2), (4)(vi)(F)(2) and (viii), *Example 8* are proposed to be applied to taxable years beginning on or after *December 19, 2011*.

Prop. Treas. Reg. § 1.482-7(g)(4)(v) and (viii), *Example 9* are proposed to apply to taxable years beginning on or after the date of publication of a Treasury decision adopting such rules as final regulations in the **Federal Register**.

**Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration (CCASBA) for comment on their impact on small businesses. CCASBA had no comments.

**Comments and Requests for Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. Treasury and the IRS request comments on all aspects of the proposed rules. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

**Drafting Information**

The principal authors of these proposed regulations are Joseph L. Tobin and Mumal R. Hemrajani, Office of the Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

**PART 1—INCOME TAXES**

**Authority:** 26 U.S.C. 7805 \* \* \*.  
Section 1.482-7 is also issued under 26 U.S.C. 482. \* \* \*

**Par. 2.** Section 1.482-7 is amended by adding paragraphs (g)(2)(v)(B)(2), (g)(4)(v), and (g)(4)(vi)(F)(2), and *Examples 8* and *9* to paragraph (g)(4)(viii).

The additions read as follows:

**§ 1.482-7 Methods to determine taxable income in connection with a cost sharing arrangement.**

\* \* \* \* \*

- (g) \* \* \*
- (2) \* \* \*
- (v) \* \* \*
- (B) \* \* \*

(2) [The text of the proposed amendment to § 1.482-7(g)(2)(v)(B)(2) is the same as the text of § 1.482-7T(g)(2)(v)(B)(2) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

- (4) \* \* \*

(v) *Application of income method using differential income stream.* In some cases, the present value of an arm's length PCT Payment may be determined as the present value, discounted at the appropriate rate, of the PCT Payor's reasonably anticipated stream of additional positive or negative income over the duration of the CSA Activity that would result (before PCT Payments) from undertaking the cost sharing alternative rather than the licensing alternative (differential income stream). See *Example 9* of paragraph (g)(4)(viii) of this section.

\* \* \* \* \*

- (vi) \* \* \*
- (F) \* \* \*

(2) [The text of the proposed amendment to § 1.482-7(g)(4)(vi)(F)(2) is the same as the text of § 1.482-7T(g)(4)(vi)(F)(2) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

- (viii) \* \* \*

*Example 8.* [The text of the proposed amendment to § 1.482-7(g)(4)(viii) (*Example 8*) is the same as the text of § 1.482-7T(g)(4)(viii) (*Example 8*) published elsewhere in this issue of the **Federal Register**.]

*Example 9.* The facts are the same as in *Example 1*, except that additional data on discount rates are available that were not available in *Example 1*. The Commissioner determines the arm's length charge for the PCT Payment by discounting at an

appropriate rate the differential income stream associated with the rights contributed by USP in the PCT (that is, the stream of income in column (11) of *Example 1*). Based on an analysis of a set of public companies whose resources, capabilities, and rights consist primarily of resources, capabilities, and rights similar to those contributed by USP in the PCT, the Commissioner determines that 15% to 17% is an appropriate range of discount rates to use to assess the value of the differential income stream associated with the rights contributed by USP in the PCT. The Commissioner determines that applying a discount rate of 17% to the differential income stream associated with the rights contributed by USP in the PCT yields a present value of \$446 million, while applying a discount rate of 15% to the differential income stream associated with the rights contributed by USP in the PCT yields a present value of \$510 million. Because the taxpayer's result, \$464 million, is within the interquartile range determined by the Commissioner, no adjustments are warranted. See paragraphs (g)(2)(v)(B)(2), (g)(4)(v), and (g)(4)(vi)(F)(1) of this section.

\* \* \* \* \*

(l) *Effective/Applicability Dates.* Treas. Reg. § 1.482-7(g)(2)(v)(B)(2), (g)(4)(vi)(F)(2) and (g)(4)(viii), *Example 8* apply to taxable years beginning on or after *December 19, 2011*. Treas. Reg. § 1.482-7(g)(4)(v) and (viii), *Example 9* apply to taxable years beginning on or after the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

\* \* \* \* \*

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 2011-32730 Filed 12-19-11; 11:15 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 950**

[SATS No. WY-041-FOR; Docket ID OSM-2011-0020]

**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 both revisions of and additions to its coal rules and regulations concerning ownership and control and addresses four deficiencies that were identified by OSM during the review of a previous program amendment (WY-038-FOR; Docket ID #OSM-2009-0012). Wyoming intends to revise its program to be consistent with the corresponding Federal regulations and SMCRA, clarify ambiguities, and improve operational efficiency.

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. January 23, 2012. If requested, we will hold a public hearing on the amendment on January 17, 2012. We will accept requests to speak until 4 p.m., m.s.t. on January 9, 2012.

**ADDRESSES:** You may submit comments by either of the following two methods:

- *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). This proposed rule has been assigned Docket ID: OSM-2011-0020. If you would like to submit comments through the Federal eRulemaking Portal, go to <http://www.regulations.gov> and follow the instructions.

- *Mail/Hand Delivery/Courier:* Jeffrey Fleischman, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Dick Cheney Federal Building, POB 11018, 150 East B Street, Casper, Wyoming 82601-1018.

For detailed instructions on submitting comments and additional information on the rulemaking process, see III. Public Comment Procedures in the **SUPPLEMENTARY INFORMATION** section of this document.

In addition to viewing the docket and obtaining copies of documents at <http://www.regulations.gov>, 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, may be obtained at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may also receive one free copy of the amendment by contacting OSM's Casper Field Office.

Jeffrey Fleischman, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Dick

Cheney Federal Building, POB 11018, 150 East B Street, Casper, Wyoming 82601-1018, (307) 261-6547, [jfleischman@osmre.gov](mailto:jfleischman@osmre.gov);  
John V. Corra, Director, Wyoming Department of Environmental Quality, Herschler Building, 122 West 25th Street, Cheyenne, Wyoming 82002, (307) 777-7046, [jcorra@wyo.gov](mailto:jcorra@wyo.gov).

**FOR FURTHER INFORMATION CONTACT:**  
Jeffrey Fleischman, Telephone: (307) 261-6547. Internet: [jfleischman@osmre.gov](mailto:jfleischman@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 on 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 this Act \* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to this 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 October 24, 2011, Wyoming sent us a proposed amendment to its approved regulatory program (Administrative Record Docket ID No. OSM-2011-0020) under SMCRA (30 U.S.C. 1201 *et seq.*). Wyoming submitted the amendment to address required rule changes OSM identified in a letter to Wyoming dated October 2, 2009, under 30 CFR 732.17(c). These included changes to Wyoming's rules for ownership and control. The amendment also addresses four deficiencies that OSM identified in response to Wyoming's formally submitted revegetation rule package

(WY-038-FOR; Docket ID #OSM-2009-0012).

Specifically, Wyoming proposes to amend the Land Quality Division Coal Rules and Regulations at Chapter 1, Section 2 (definitions related to ownership and control including "Applicant violator system or AVS," "Control or controller," "Notice of violation," and "Own, owner or ownership"); Chapter 2, Section 2(a)(i) and (ii) (ownership and control permit application information including identification of interests and a complete statement of compliance); Chapter 12, Section 1(a)(viii)-(xiv) (the review process, procedures, and requirements for making permit eligibility determinations including: Review of applicant and operator information, review of permit history, review of compliance history, and related AVS entry requirements); and Chapter 16, Section 2(h) and (j) (notification requirements related to Wyoming's enforcement regulations and AVS entry requirements). Wyoming also addresses four deficiencies that OSM identified in response to Wyoming's formally submitted revegetation rule package (WY-038-FOR; Docket ID #OSM-2009-0012) including: adding the term "surface" back into Wyoming's rules where it had been deleted and reinstating the definition of "Surface coal mining and reclamation operations" at Chapter 1, Section 2(ez) that had been removed from Wyoming's rules; adding the 1:24,000 scale requirement for maps that are submitted with permit applications back into Wyoming's rules at Chapter 2, Section 1(c); adding language to clarify that wildlife enhancement is not limited to revegetation efforts at Chapter 2, Section 5(a)(viii); and correcting numerous inaccurate citations to other sections of Wyoming's rules and regulations. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

**III. Public Comment Procedures**

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Wyoming program.

*Electronic or Written Comments*

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions

on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed above (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

#### Public Availability of Comments:

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available in the electronic docket for this rulemaking at [HTTP://www.regulations.gov](http://www.regulations.gov). While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., m.s.t. on January 9, 2012. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

#### Public Meeting

If there is limited interest in participation in a public hearing, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER**

**INFORMATION CONTACT**. All such meetings will be open to the public and, if possible we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the Administrative Record.

#### IV. Procedural Determinations

##### *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.

##### *Other Laws and Executive Orders Affecting Rulemaking*

When a State submits a program amendment to OSM for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

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

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 1, 2011.

**Kenneth Walker,**

*Acting Director, Western Region.*

[FR Doc. 2011-32978 Filed 12-22-11; 8:45 am]

**BILLING CODE 4310-05-P**

## POSTAL REGULATORY COMMISSION

### 39 CFR Part 3050

[Docket No. RM2012-2; Order No. 1053]

#### Periodic Reporting

**AGENCY:** Postal Regulatory Commission.  
**ACTION:** Proposed rulemaking.

**SUMMARY:** The Commission is establishing a docket to consider new measurement of Flats Sequencing Systems operations, a change in the definition of certain MODS operations, modifications to flats cost models, modification of the mail processing cost model applicable to First-Class Mail presort letters, and modification of the Business Reply Mail cost model in periodic reporting of service

performance measurement. Establishing this docket will allow the Commission to consider the Postal Service's proposal and comments from the public.

**DATES:** *Comments are due:* December 30, 2011. *Reply comments are due:* January 9, 2012.

**ADDRESSES:** Submit comments electronically by accessing the "Filing Online" link in the banner at the top of the Commission's Web site (<http://www.prc.gov>) or by directly accessing the Commission's Filing Online system at <https://www.prc.gov/prc-pages/filing-online/login.aspx>. Commenters who cannot submit their views electronically should contact the person identified in **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, at (202) 789-6820 (case-related information) or [DocketAdmins@prc.gov](mailto:DocketAdmins@prc.gov) (electronic filing assistance).

**SUPPLEMENTARY INFORMATION:** On November 30, 2011, the Postal Service filed a petition pursuant to 39 CFR 3050.11 requesting that the Commission initiate an informal rulemaking proceeding to consider changes in the analytical methods approved for use in periodic reporting.<sup>1</sup> On December 9, 2011<sup>2</sup> and on December 12, 2011<sup>3</sup> it filed errata to the attachments to the petition.

On December 7, 2011, GameFly, Inc. moved to strike from the Postal Service's petition a sentence that references GameFly and the sentence's accompanying footnote, which also references GameFly, on the ground that the references violated certain statutory privacy protections for mailers, and disclosed proprietary information.<sup>4</sup> On December 13, 2011, the Postal Service filed a response to the GameFly Motion.<sup>5</sup> In it, the Postal Service denies the substantive allegations made by GameFly, Inc. It also explains that in order to prevent delay in the processing of the original November 30, 2011

<sup>1</sup> Petition of the United States Postal Service Requesting Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposals Sixteen through Twenty), November 30, 2011.

<sup>2</sup> United States Postal Service Notice of Filing of Errata to Attachments to Petition, December 9, 2011.

<sup>3</sup> United States Postal Service Notice of Filing of Errata to Attachments to Petition, December 12, 2011.

<sup>4</sup> Motion of GameFly, Inc., to Strike Portions of USPS Petition for Rulemaking, Docket No. RM2012-2, filed Dec. 7, 2011 (Motion).

<sup>5</sup> Response of the United States Postal Service to Motion of GameFly, Inc. to Strike Portions of USPS Petition for Rulemaking, December 13, 2011.