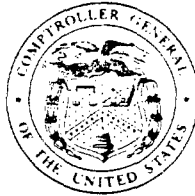


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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

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FILE: B-190462

DATE: March 29, 1979

MATTER OF: Department of the Interior - [Disposition of Reclamation Fee] Under- and Overpayments of \$1 or less

DIGEST: Under Federal Claims Collection Act of 1966, 31 U.S.C. §§ 951-953, Department of the Interior need not pursue collection action in cases of underpayments of \$1 or less of reclamation fees paid by coal mine operators pursuant to Surface Mining Control and Reclamation Act of 1977. Further, it is General Accounting Office policy that refunds of overpayments of \$1 or less should not be made unless specifically claimed.

The Department of the Interior (Department) has requested our decision concerning the treatment of under- and overpayments of \$1 or less of reclamation fees which coal mine operators are required to pay quarterly to the Secretary of the Interior (Secretary) under section 402 of the Surface Mining Control and Reclamation Act of 1977 (Act), Pub. L. No. 95-87 (August 3, 1977), 91 Stat. 445. The Department asks whether it may forego both the collecting of underpayments and the refunding of overpayments on these small amounts. The Department seeks to establish these minimum amounts because the costs of collection activity or refund processing significantly exceed the sums to be collected or refunded in cases of \$1 or less. For the reasons that follow, we conclude that the Department (1) need not initiate collection activity for underpayments of \$1 or less, and (2) need not refund overpayments of \$1 or less unless a specific claim is made therefor.

The fees collected under section 402 of the Act are for deposit into the Abandoned Mine Reclamation Fund (Fund), a trust fund established on the books of the Treasury by section 401. The Fund is available, upon appropriation, for a number of purposes as specified in section 401. The amount of a reclamation fee is determined by multiplying the tonnage of coal produced by a coal mine operator times the applicable fee per ton of the type of coal produced. Section 402(a). Coal mine operators must complete a Coal Production Reclamation Fee Report (Form OSM 837-1) on which the operator must list the number of tons of each type of coal produced and calculate the applicable fee. The operators then return the form along with their remittance to the Department, which deposits the remittance directly into the Fund. Among other checks, the fee collection system provides for automated verification of these calculations which has disclosed a large number of under- and overpayments of \$1 or less as summarized below:

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Underpayments of \$1.00 or less by Mine Operators	Number
4th Qtr CY* 1977	243
1st Qtr CY 1978	142
2nd Qtr CY 1978	280
Total, (3 quarters)	665

Overpayments of \$1.00 or less by Mine Operators	Number
4th Qtr CY 1977	119
1st Qtr CY 1978	66
2nd Qtr CY 1978	95
Total	280

* Qtr CY - Calendar Year Quarter.

Pending our decision, the Department has withheld action on underpayments and refunds of overpayments of \$1 or less.

The under- and overpayments of \$1 or less have virtually no effect on the reclamation program which has collected \$105 million for the three quarters listed above and may also be presumed insignificant to the operators. As stated previously, the cost of collecting underpayments or refunding overpayments of \$1 or less significantly exceeds the sums involved.

The Federal Claims Collection Act of 1966, 31 U.S.C. §§ 951-953 (1976), places the responsibility in the administrative agencies for collecting debts determined to be due the United States which arise as a result of their activities. This includes the authority to compromise, terminate or suspend collection action in specified circumstances. Regulations implementing the Federal Claims Collection Act, in particular 4 C.F.R. § 104.3(c) (1976), provide that the head of an agency or his designee may terminate collection activity and consider the agency's file closed when it is likely that the cost of further collection action will exceed the amount recoverable.

As the Department notes, the question at hand involves the determination not to initiate collection action at all, whereas the termination and suspension provisions of the Federal Claims Collection Act and regulations,

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strictly speaking, would seem to imply situations where collection action has already begun. Nevertheless, we believe the Department's proposal is within the scope of the authority conferred by that Act. Under the Federal Claims Collection Act and regulations, it is clear that the Secretary could terminate collection action on underpayments of \$1 or less on a case-by-case basis on the grounds of diminishing returns. The purpose of the termination provision was to permit an agency to avoid spending more money to collect a debt than the debt itself is worth. In our opinion, a reasonable application of the statute should further permit a categorical determination that collection costs will always exceed the amount recoverable in cases of \$1 or less. Certainly construing the statute in light of its purpose supports this result.

In B-188000, October 12, 1977, we concluded that, by virtue of the termination authority in the Federal Claims Collection Act, collection action "need not be pursued" on overpayments of tropical differentials to "unknown individuals" employed by the Justice Department where that department had determined that the costs of identifying and locating the employees and determining the amounts of overpayments might well exceed the ultimate recovery. See also B-184947, March 21, 1978. Thus, the actual commencement of collection action has not always been considered a prerequisite to the exercise of termination authority.


We have stated in the past that we would not object to the establishment by an agency of any reasonable minimum amount for the pursuit of debt claims of a given type "where cost studies indicate that such action is warranted." The minimum amount so established would be subject to review by this Office under our regular audit authority, e.g., 31 U.S.C. § 67. 55 Comp. Gen. 1438 (1976); B-115800/B-117604, August 17, 1976. We think it may safely be presumed, without cost studies, that in cases of \$1 or less collection costs will always exceed the amount recoverable. Accordingly, we concur with the Department that there is no need to pursue collection action with respect to underpayments of reclamation fees in amounts of \$1 or less.

In the case of reclamation fee overpayments, the Federal Claims Collection Act, of course, has no application. However, we are not aware of any law which requires the Department, on its own initiative, to refund such overpayments. Rather, the practice of making refunds in the absence of a specific claim is based on public policy. As a general proposition, we believe that the concept of diminishing returns is relevant in the case of refunds also. In A-12900, February 11, 1942, we said:

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"The General Accounting Office has long advocated that credit balances less than \$1 should not be refunded unless claim is made by the remitters, for the reason that the cost of issuing the checks drawn in payment and the handling * * * [is] not commensurate with the amounts involved."

Accordingly, it is our view that refunds in amounts of \$1 or less should not be made, unless a specific claim is made by the operator. It may be desirable to include a statement to this effect in the Form OSM 837-1 instructions or in appropriate regulations.


Deputy Comptroller General
of the United States