



United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
P. O. Box 46667
Denver, Colorado 80201-6667

cc: Steve Schneider
Dann Haddock

IN REPLY REFER TO:

02 OCT 2009

John R. Baza
Division of Oil, Gas and Mining
1594 West North Temple
P.O. Box 145801
Salt Lake City, Utah, 84114-5801

RECEIVED
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DIV. OF OIL, GAS & MINING

Dear Mr. Baza:

On October 28, 1994, December 19, 2000 and December 3, 2007, the Office of Surface Mining Reclamation and Enforcement (OSM) promulgated final rules that adopted or revised certain regulatory definitions and provisions pertaining to review of applications; permit eligibility; application information; applicant, operator, and permittee information; automated information entry and maintenance; permit suspension and rescission; ownership and control findings and challenge procedures; transfer, assignment, or sale of permit rights; and alternative enforcement. The effects of these final rules are found at 30 CFR Parts 701, 773, 774, 778, 840, 843 and 847.

Under 30 CFR 732.17(d), OSM must notify States of all changes in the Act and the Federal regulations that may require a State to modify its regulatory program to remain consistent with all Federal requirements. Pursuant to 30 CFR 732.17(c), OSM also must notify States whenever it determines that such amendments are in fact required.

In compliance with these regulations, OSM has determined that States must amend their programs as necessary to be no less effective than the changes and additions which resulted from promulgation of the Federal regulations pertaining to the above-listed regulatory subject matter. The enclosed Narrative of Major Rule Changes provides a description of potentially required Utah amendments; the full *Federal Register* text and preamble should be consulted when developing the precise language of the State amendments. The enclosed Narrative also identifies the counterpart State rule citation, if one exists. Following your review of the Narrative, we will be glad to discuss how these rule changes affect your program.

Also enclosed are the following published final *Federal Register* notices for the three Federal final rulemaking actions pertinent to these regulatory subjects.

- (1) Ownership and Control; Permit and Application Information; Transfer, Assignment, or Sale of Permit rights – published December 3, 2007 (72 FR 68000) and referred to hereafter as the 2007 rule.

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- (2) Application and Permit Information Requirements; Permit Eligibility; Definitions of Ownership and Control; the AVS; Alternative Enforcement – published December 19, 2000 (65 FR 79582) and referred to hereafter as the 2000 rule.
- (3) Use of the AVS in Surface Coal Mining and Reclamation Permit Approval; Standards and Procedures for Ownership and Control Determinations – published on October 28, 1994 (59 FR 54306) and referred to hereafter as the 1994 Procedures rule.

Previously we provided your staff a detailed side-by-side comparison of the Utah and Federal regulations pertaining to ownership and control.

In accordance with 30 CFR 732.17(f)(1), I am requesting that, within 60 days of this letter, you submit either proposed written amendments or a description of amendments to be proposed in response to the revised Federal regulations, and a timetable for enactment. The timetable should include the dates by which you intend to submit the amendments and a schedule for the State legislative and rule making procedures. As always, if you believe no amendment is necessary in a specific instance, please so advise and OSM will consider any rationale you wish to submit.

Utah's program revisions will supersede the March 21, 1991 Memorandum of Understanding between OSM and Utah concerning Utah's use of OSM's nationwide applicant/violator computerized data system.

Please note that OSM sent Utah two 30 CFR Part 732 letters concerning ownership and control dated May 11, 1989, and January 13, 1997. Because of ongoing litigation, OSM advised States to delay their response to these letters until all litigation was completed. DOGM responded to OSM's May 11, 1989 732 letter on July 3, 1990. Changes proposed at that time were approved on August 23, 1991 (56 FR 41795). Additional changes have been made to the Federal Program since that time. This letter concerning ownership and control amendments replaces those earlier 30 CFR Part 732 letters.

DOGM does not have any other outstanding required amendments pertaining to Ownership and Control at this time. Such required amendments would be codified under 30 CFR 944.16.

Please address all submittals to James F. Fulton. Any questions or requests for assistance also should be directed to James F. Fulton at (303) 293-5015 or jfulton@OSMRE.gov.

We look forward to working with you on this effort.

Sincerely,



Allen D. Klein
Regional Director
Western Region

Enclosures

cc: James F. Fulton, Chief, DFD, WR
Matthew McKeown, Regional Solicitor, Rocky Mountain Region