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# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

Norman H. Bangerter  
Governor  
Dee C. Hansen  
Executive Director  
Dianne R. Nielson, Ph.D.  
Division Director

355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203  
801-538-5340

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TO: Title V Coal Program Staff  
FROM: Lowell P. Braxton, Associate Director, Mining *LOB*  
RE: Clarification and Definition of Small Area Exemptions (SAE's), Alternative Sediment Controls, and Best Control Technology Available (BCTA)

## BACKGROUND

Current DOGM coal regulations are unclear and contradictory regarding treatment of small acreage disturbed areas for sediment control. Office of Surface Mining personnel, in executing oversight responsibilities, have insisted that areas not treated by a sediment pond must be depicted as Alternative Sediment Control Areas (ASCA's) or Small Area Exemptions (SAE's) in the approved permit. This policy memo will clarify the definition, use and permitting requirements for ASCA's and SAE's. Additionally, the Best Control Technology Available (BCTA) for alternative sediment controls will be outlined. The regulations cited below are for underground mines although application to surface mines would be quite similar.

## ALTERNATIVE SEDIMENT CONTROLS

### Regulatory Basis

1. Current Utah and Federal (30 CFR) regulations indicate that "All surface drainage from the disturbed area shall be passed through a siltation structure (sediment pond or other treatment facility) before leaving the permit area (30 CFR 817.46(b)(2), Utah UMC 817.42(a)(1). Effluent from siltation structure is subject to NPDES and UPDES standards.
2. Since the definition of a siltation structure does not include alternative sediment control measures, this appears to negate the use of alternative sediment control measures such as silt fences, straw bale dikes, etc., as noted in UMC 817.45.

3. Based on a Round III ruling from the District Court, 30 CFR 817.46(b)(2) was suspended. This is the equivalent of the current Utah UMC 817.42(a)(1). The practical effect of this suspension is to allow discreet use of alternative sediment controls, the focus of this policy.
4. Because state statute does not allow the Utah rules to be more stringent than 30 CFR, the current Utah rule is not enforceable either (UCA 40-10-6.5).

#### DEFINITIONS

Alternative Sediment Control Areas (ASCA) Disturbed areas that cannot reasonably be treated by a siltation structure (i.e., sediment pond) due to remote geographic locations from the main mine site, small size of area not justifying a sediment pond, or other reasons deemed appropriate by the Division, but that cannot qualify as an SAE.

Small Area Exemption (SAE) Disturbed areas that have been specifically approved by the Division in a formal permitting action (usually an amendment) as exempt from the sediment control requirements of UMC 817.45 and 46. The operator has demonstrated that the drainage from this area will meet the effluent standards of 817.42 and State and Federal water quality standards for the receiving waters without siltation structures or alternative sediment control measures.

Best Control Technology Available (BCTA) As it relates to ASCA's includes but is not limited to: silt fences, berms, catch basins, straw bale dikes, gravel filter dikes, check dams, sediment traps, and mulches.

All areas not designated to drain to a sediment pond in the approved permit and not formally approved as an SAE will be considered ASCA's. These areas must have sediment control measures appropriate for the field setting and in conformance with the definition of BCTA noted above. Adequacy of BCTA for all ASCA's will be assessed and adjusted accordingly via the Division's monthly field compliance inspection program and mid-term permit reviews and five-year reviews.

POLICY

ASCA's Permitting action for ASCA's will include depiction of alternative sediment control structures on the disturbed area drainage map. The drainage area treated by the alternative control will also be depicted on a map to assess adequacy of the structure. Alternative control structures may be depicted on disturbed area maps with a generic symbol such that the particular type of structure is left up to the judgment of the Division's Field Specialist, with concurrence from the Division Hydrologist assigned to that mine, in consultation with the operator.

The operator must supply a plan stating how all ASCA's will be installed, maintained, and eventually removed following reclamation. This will include a discussion of how ASCA's will meet effluent limits and state and federal water quality standards, based on each BCTA.

ASCA's may be small areas, the sum total area of which does not exceed 15 percent of the total disturbed area, except in unique cases determined by the Division.

Failure to properly maintain these structures according to approved designs will result in enforcement action.

SAE's Any area that an operator desires to exempt from the sediment control requirements of UMC/SMC 817.45 and 46 must be specifically approved by the Division in a formal permitting action (usually an amendment). The operator must demonstrate that the drainage from this area will meet the effluent standards of UMC/SMC 817.42 and State and Federal water quality standards for the receiving waters without siltation structures or alternative sediment control measures.