



United States Department of the Interior

OFFICE OF SURFACE MINING

Reclamation and Enforcement.

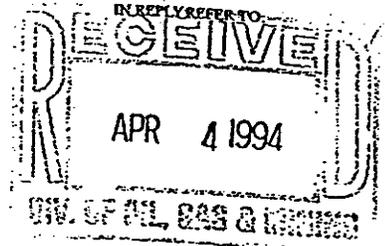
Suite 1200

505 Marquette Avenue N.W.

Albuquerque, New Mexico 87102

March 31, 1994

Mycc
 TAKE
 PRIDE IN
 AMERICA



Mr. James W. Carter, Director
 Division of Oil, Gas and Mining
 3 Triad Center, Suite 350
 355 West North Temple
 Salt Lake City, Utah 84180-1203

Dear Mr. Carter:

The Office of Surface Mining Reclamation and Enforcement (OSM) has completed a review of Utah's November 12, 1993, formally-proposed amendment (Administrative Record No. UT-875; State Program Amendment Tracking System (SPATS) No. UT-025-FOR). The amendment consists of changes to provisions of the Utah backfilling and grading rules pertaining to spoil and waste, refuse piles, previously mined areas, continuously mined areas, and areas subject to approximate original contour (AOC) requirements, and AOC. OSM finds those provisions of the proposed amendment identified in the enclosure to this letter to be less effective than the Federal counterpart regulations and less stringent than the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The Director of OSM is prepared to delay final rulemaking on the proposed amendment to allow Utah an opportunity to submit draft proposed rule changes, policy statements, clarifying opinions or other evidence that the proposed rules are no less effective than the Federal regulations and no less stringent than SMCRA. Utah must submit such additional information no later than 30 days from the date of this letter. Upon submission by Utah of new material to address the deficiencies, OSM would, as appropriate, reopen the comment period on the new information for 15 days. After the close of the reopened comment period, OSM would then publish a final rule announcing the Director's decision on the amendment. The Director's approval of the rules in proposed form is contingent upon Utah's adoption of the rules in the form in which they were reviewed by OSM and the public. Should Utah indicate that it does not wish to or is unable to submit further modifications to address the identified deficiencies, the Director would not approve those provisions which contain identified deficiencies.

Mr. James W. Carter

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Please advise me, at your earliest convenience, whether Utah wishes to submit materials to address OSM's concerns within the next 30 days. If Utah does not intend to submit additional material, OSM will proceed directly with the publication in the Federal Register of the Director's decision.

We are available to meet with you to discuss our review findings or any matters of concern regarding the proposed rules. Please call me or Vernon Maldonado, Program Analyst, at (505) 766-1486 if you have any questions.

Sincerely,



for
Robert H. Hagen
Albuquerque Field Office

Enclosure

cc: PSD, WSC
BSP, HQ
Field Solicitor, Denver

be interpreted and implemented in a manner that Utah intends, OSM recommends that Utah consider reorganizing its rules at 645-301-553.500 and .600 so that (1) provisions applying to all retained highwalls (all three types of highwalls) are in one group, (2) provisions applying to highwalls retained in previously mined areas and continuously mined areas are in another group, and (3) provisions applying to highwalls retained pursuant to the AOC alternative are in another group.

3. General Backfilling and Grading Requirements.

Utah Admin. R. 645-301-553.510	30 CFR 816.106(a)
	30 CFR 817.106(a)
Utah Admin. R. 645-301-553.522	30 CFR 816.106(b)(2)
	30 CFR 817.106(b)(2)

As proposed, Utah Admin. R. 645-301-553.510 requires that highwalls retained pursuant to the exceptions to the requirement to completely eliminate highwalls for previously mined or continuously mined areas must meet certain other cross-referenced performance standards regarding general backfilling and grading requirements. However, Utah Admin. R. 645-301-553.510 does not apply the cross-referenced provisions to highwall remnants and retained highwalls left pursuant to the Utah AOC alternative. To be no less effective than the Federal regulations at 30 CFR 816.106(a) and 817.106(a), Utah must revise Utah Admin. R. 645-301-553.510 to apply the referenced requirements to any and all highwall remnants and retained highwalls left pursuant to the AOC alternative. In addition, Utah must revise Utah Admin. R. 645-301-553.510 to specify that the referenced rules are applicable, "[e]xcept as provided in Utah Admin. R. 645-301-553.500 and .650."

4. Slope Stability and Drainage.

Utah Admin. R. 645-301-553.522	30 CFR 816.106(b)(2)
	30 CFR 817.106(b)(2)

It is not clear that the provisions of Utah Admin. R. 645-301-553.522 apply to any and all highwall remnants and retained highwalls, whether they are retained pursuant to the exceptions to the requirement for complete elimination of all highwalls for previously mined areas, continuously mined areas, or the AOC alternative. To be no less effective than 30 CFR 816.106(b)(2) and 817.106(b)(2), these provisions must apply to all three types of retained highwalls.