

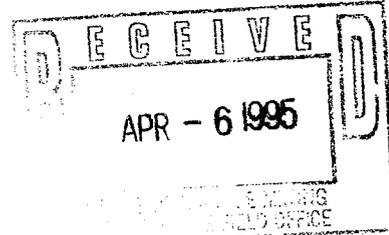
U. S. Department of Labor

Mine Safety and Health Administration
P.O. Box 25367
Denver, Colorado 80225-0367
Coal Mine Safety and Health
District 9

Ut-1040



APR 3 1995



Robert H. Hagen, Director
Office of Surface Mining Reclamation and Enforcement
Albuquerque Field Office
505 Marquette Avenue, N.W., Suite 1200
Albuquerque, NM 87102

RE: Formal Amendment to
Utah's Coal Mining Rules (UT-1019)
SPAT No. (UT-031-FOR)
General Comments

Dear Mr. Hagen:

This is in response to your letter dated February 28, 1995, requesting general comments concerning the referenced Utah rules being changed for surface mining. The information was reviewed by MSHA personnel, for possible conflicts with MSHA regulations, no conflict between the proposed changes and current MSHA regulations could be found.

MSHA appreciates the opportunity to comment on matters of such importance. If you have any questions, concerning this matter, please contact this office at (303) 231-5462.

Sincerely,

William S. Denning
for John A. Kuzar
District Manager

MESSAGE	
T. ENHART	
L. MEADORS	
S. MARTINEZ	
D. MARTINEZ	
S. RATHBUN	

*Done
y/n 4-14-95*

disturbances from surface mining have ceased; (5) require that the permit shall terminate on all areas where all bonds have been released; and (6) require at Phase III release that the operator provide evidence that an affidavit has been recorded at the county lands affected by underground mining, augering, covered slurry ponds, or other underground activities that could impact future land use for lands where Phase I reclamation was completed on or after September 1, 1992.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Missouri program.

1. Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under DATES or at locations other than the Kansas City Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under FOR FURTHER INFORMATION CONTACT by 4:00 p.m., c.s.t. on April 11, 1995. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listing under FOR FURTHER INFORMATION CONTACT. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the

audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may 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, notices of meetings will be posted at the locations listed under ADDRESSES. A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that

require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 925

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 16, 1995.

Charles E. Sandberg,
Acting Assistant Director, Western Support
Center.

[FR Doc. 95-7437 Filed 3-24-95; 8:45 am]
BILLING CODE 4310-05-M

30 CFR Part 944

Utah Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Withdrawal of proposed amendment.

SUMMARY: OSM is announcing the withdrawal of a proposed amendment to the Utah permanent regulatory program (hereinafter, the "Utah program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA, 30 U.S.C. 1201 *et seq.*). The amendment consisted of revisions that Utah proposed to its liability self-insurance rule.

EFFECTIVE DATE: This withdrawal is effective March 27, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas E. Ehmet, Telephone: (505) 766-1486.

SUPPLEMENTARY INFORMATION: By letter dated October 4, 1994, Utah submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. UT-979). Utah submitted the

SPAT UT-030

UT-1037

proposed amendment at its own initiative with the intention of allowing companies in the coal industry, if they so desired, to provide a certain amount of their liability insurance through self-insurance. The provision of the Utah Coal Mining Rules that Utah proposed to revise was Utah Administrative Rule (Utah Admin. R.) 645-301-890.400, Terms and Conditions for Liability Insurance.

OSM announced receipt of the proposed amendment in the October 21, 1994, *Federal Register* (59 FR 53123), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. UT-982). Because no one requested a public hearing or meeting, none was held. The public comment period ended on November 21, 1994.

During its review of the amendment, OSM identified concerns relating to Utah's proposed rule and notified Utah of the concerns by letter dated November 30, 1994 (administrative record No. UT-992).

In response to OSM's concerns, Utah by letter dated December 16, 1994, submitted copies of the Utah Interlocal Cooperation Act and Utah Governmental Immunity Act that were intended to clarify Utah's proposed rule revisions (administrative record No. UT-999).

OSM announced receipt of the additional explanatory information in the January 10, 1995, *Federal Register* (60 FR 2520), and reopened and extended the comment period (administrative record No. UT-1005). The public comment period ended on January 25, 1995.

During its review of the amendment, OSM identified concerns relating to the additional explanatory information as it applied to Utah's proposed rule and notified Utah of the concerns by letter dated February 14, 1995 (administrative record No. UT-1020).

By letter dated February 24, 1995, Utah requested that the proposed amendment be withdrawn (administrative record No. UT-1026). Utah indicated that it intends to conduct additional research on the issues before resubmitting the amendment at a later date for approval as part of the Utah program.

Therefore, the proposed amendment announced in the October 21, 1994, and January 10, 1995, publications of the *Federal Register* is withdrawn.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 10, 1995.

Charles E. Sandberg,
Acting Assistant Director, Western Support
Center.

[FR Doc. 95-7438 Filed 3-24-95; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

31 CFR Part 1

[No. 94-260]

Privacy Act of 1974; Implementation

AGENCY: Office of Thrift Supervision,
Treasury.

ACTION: Proposed rule.

SUMMARY: The Office of Thrift Supervision (OTS) is proposing to exempt a system of records from certain provisions of the Privacy Act of 1974, 5 U.S.C. 552a (Privacy Act), to the extent the system contains investigatory material pertaining to the enforcement of laws or compiled for law enforcement purposes. The OTS is also proposing to add a Privacy Act exemption to an existing exempt system.

DATES: Comments must be received no later than April 26, 1995.

ADDRESSES: Send comments to: Director, Information Services Division, Public Affairs, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention Docket No. 94-260. These submissions may be hand delivered to 1700 G Street, NW., from 9 a.m. to 5 p.m. on business days; they may be sent by facsimile transmission to FAX number (202) 906-7753 or (202) 906-7755. Submissions must be received by 5 p.m. on the day that they are due in order to be considered by the OTS. Comments will be available for inspection at 1700 G Street, NW., from 1 p.m. until 4 p.m. on business days. Visitors will be escorted to and from the Public Reading Room at established intervals.

FOR FURTHER INFORMATION CONTACT: Mary Ann Reinhart, Chief, Disclosure Branch, (202) 906-5895, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The OTS is proposing to exempt the Criminal Referral Database system of records from specified provisions of the Privacy Act and to add an exemption to the Confidential Individual Information System. Subsection (j)(2) of the Privacy Act provides that an agency may promulgate rules to exempt any system of records within the agency from any section of part 552a except subsections

(b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i), provided that the system of records is maintained by "the agency or component thereof which performs as its principal function any activity pertaining to enforcement of criminal laws" and includes: "(A) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision." Section 552a(k) of the Privacy Act provides that an agency may promulgate rules to exempt any system of records within the agency from sections 552a (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f) of the Act, pursuant to 5 U.S.C. 552a(k)(2), if the system of records is "investigatory material compiled for the law enforcement purposes, other than material within the scope of subsection (j)(2) * * *"

If a system of records is not exempted from these sections, the Privacy Act generally requires the agency to: Make an accounting of disclosures to the individual named in the record of their request; permit individuals access to their records; permit individuals to request amendment to their records; maintain only relevant or necessary information in its system of records; publish certain information in the *Federal Register*; and promulgate rules that establish procedures for notice and disclosure of records. The exemptions that may be asserted with respect to investigatory systems of record permit an agency to protect information when disclosure would interfere with the conduct of the agency's investigations.

Exemptions under subsections 552a(j)(2) and (k)(2) are necessary to maintain the integrity and confidentiality of these investigative files. These systems contain information on possible criminal investigations and may indicate current administrative investigations by OTS. The disclosure of this information would significantly impair the enforcement activities and coordinated proceedings of OTS; other financial institution regulatory agencies, and the Justice Department. Disclosure from these systems would give

conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

1. Executive Order 12866

This final rule is exempted from review by the Office of Management and Budget under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h) (10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of a small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a

significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 21, 1995.
Charles E. Sandberg,
Acting Assistant Director, Western Support Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T, of the Code of Federal Regulations is amended as set forth below:

PART 943—TEXAS

1. The authority citation for part 943 continues to read as follows:

- Authority: 30 U.S.C. 1201 *et seq.*
- 2. Section 943.15 is amended by adding a new paragraph (j) as follows:

§ 943.15 Approval of amendments to the Texas regulatory program.

* * * * *

(j) The revisions to 16 Texas Administrative Code 11.221, the Coal Mining Regulations of the Railroad Commission of Texas, as submitted on May 24, 1994, and as further revised on October 6, 1994, are approved effective March 27, 1995.

Revisions to the following regulations are approved:

- TCMR 778.116(m), identification of interests and compliance information.
- TCMR 786.215(e)(1), review of violations.
- TCMR 786.215(f), patterns of willful violations.
- TCMR 786.216(i), existing paragraph deleted.
- TCMR 786.216(j) through (o), recodified as (i) through (n).
- TCMR 786.225(f)(3) and (4), Commission review of outstanding permits: remedial measures.
- TCMR 786.225(g), (g)(1), (g)(1) (i) through (iv), rescission procedures.
- TCMR 786.225(g)(2), cessation of operations.
- TCMR 786.225(h), recodification.

3. Section 943.16 is amended by removing and reserving paragraphs (c), (d), (f), (j), and (s), and adding paragraphs (t) and (u) to read as follows:

§ 943.16 Required program amendments.

* * * * *

(a)-(j) [Reserved]

* * * * *

(s) [Reserved]

(t) By September 25, 1995, Texas shall formally propose an amendment to OSM for TCMR 778.116(m) to require a permit application to include information on all violations of any State law, rule, or regulation that pertains to air or water environmental protection, not just those violations that were enacted pursuant to Federal law, rule, or regulation.

(u) By September 25, 1995, Texas shall formally propose an amendment to OSM for TCMR 788.225(g)(1) or otherwise revise the Texas program to require that the Commission's findings with regard to the permittee's challenge of the Commission's decision to suspend and rescind an improvidently issued permit must be consistent with the provisions of the Federal requirements at 30 CFR 773.25.

[FR Doc. 95-7440 Filed 3-24-95; 8:45 am]
BILLING CODE 4310-05-M

30 CFR Part 944 SPAT UT-029

Utah Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Utah permanent regulatory program (hereinafter referred to as the "Utah program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA, 30 U.S.C. 1201 *et seq.*). Utah proposed revisions to its rules pertaining to the confidentiality of coal exploration information. The amendment is intended to revise the Utah program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: March 27, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas E. Ehmet, Telephone: (505) 766-1486.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program for the regulation of coal exploration and coal mining and reclamation operations on non-Federal and non-Indian lands. General background information on the Utah program, including the Secretary's findings, the disposition of comments, and an explanation of the conditions of approval of the Utah program can be found in the January 21, 1981, Federal

Register (46 FR 5899). Actions taken subsequent to approval of the Utah program are codified at 30 CFR 944.15, 944.16, and 944.30.

II. Submission of Proposed Amendment

By letter dated September 9, 1994, Utah submitted a proposed amendment to its program pursuant to SMCRA and the Federal regulations at 30 CFR chapter VII (administrative record No. UT-971). Utah submitted the proposed amendment in response to the required program amendment at 30 CFR 944.16(a) (59 FR 35255, 35258-9, July 11, 1994). The provisions of the Utah Coal Mining Rules that Utah proposed to revise were at Utah Administrative Rule (Utah Admin. R.) 645-203-200 and pertain to the public availability and confidentiality of coal exploration information.

OSM announced receipt of the proposed amendment in the September 27, 1994, *Federal Register* (59 FR 49227), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (Administrative Record No. UT-976). Because no one requested a public hearing or meeting, none was held. The public comment period ended on October 27, 1994.

During its review of the amendment, OSM identified concerns relating to the proposed provisions of Utah's rule. OSM notified Utah of the concerns by letter dated November 15, 1994 (administrative record No. UT-991). Utah responded in a letter dated January 5, 1995, by submitting a revised amendment and additional explanatory information (Administrative Record No. UT-1003).

Based upon the revisions of and the additional explanatory information for the proposed amendment submitted by Utah, OSM reopened the public comment period in the January 24, 1995, *Federal Register* (60 FR 4581, Administrative Record No. UT-1009). The public comment period ended February 8, 1995.

III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds that the proposed program amendment submitted by Utah on September 9, 1994, and as revised by it and supplemented with additional explanatory information on January 5, 1995, is no less effective than the corresponding Federal regulations. Accordingly, the Director approves the proposed amendment.

Utah Admin. R. 645-203-200, Public Availability and Confidentiality of Coal Exploration Information

In response to the required amendment at 30 CFR 944.16(a) Utah proposed to revise its coal exploration rule at Utah Admin. R. 645-203-200 concerning the obligation of the State to keep information submitted with a coal exploration permit application confidential. As proposed, the rule would provide that—

[T]he Division [of Oil, Gas and Mining] will not make information available for public inspection, if the person submitting it requests in writing, at the time of submission, that it not be disclosed and the information concerns trade secrets or is privileged commercial or financial information relating to the competitive rights of the persons intending to conduct coal exploration. (emphasis added).

Proposed Utah Admin. R. 645-203-200 includes two confidentiality criteria that are joined by the word "and." The first criteria is that the person submitting the information request that the information be kept confidential. The second criterion is that the information concern trade secrets or other privileged commercial or financial information relating to the competitive rights of the person intending to conduct coal exploration operations. Both criteria must be satisfied before Utah would keep coal exploration confidential. Proposed Utah Admin. R. 645-203-200 contains the same confidentiality requirements as are contained in the counterpart Federal regulation at 30 CFR 772.15(b).

However, the second criterion of proposed Utah Admin. R. 645-203-200, which requires that the information the applicant wishes to remain confidential must concern trade secrets or other privileged commercial information, is already present in the Utah program at existing Utah Admin. R. 645-203-210. This provision of the Utah program provides that—

[T]he Division will keep information confidential if it concerns trade secrets or is privileged commercial or financial information which relates to the competitive rights of the person intending to conduct coal exploration.

By letter dated November 15, 1994, OSM asked Utah to clarify what effect, if any, the similarity between these two provisions would have on the implementation of Utah's coal exploration rules. By letter dated January 5, 1995, Utah responded that the existing rule at Utah Admin. R. 645-203-210 would only apply in situations where the first criterion of Utah Admin. R. 645-203-200 also applied. Under this

interpretation, the existing provision at Utah Admin. R. 645-203-210 is simply extra regulatory language that is redundant with the second criterion in proposed Utah Admin. R. 645-203-200. This redundant language does not render proposed Utah Admin. R. 645-203-200 less effective than the corresponding Federal regulation at 30 CFR 772.15(b).

Because proposed Utah Admin. R. 645-203-200 and existing Utah Admin. R. 645-203-210, concerning the public availability and confidentiality of coal exploration information, require the same criteria in determining whether coal exploration information is to be kept confidential and provide for the same responsibility in keeping such information confidential as does 30 CFR 772.15(b), the Director finds that proposed Utah Admin. R. 645-203-200 is no less effective than 30 CFR 772.15(b). The Director approves the proposed rule and removes the required amendment at 30 CFR 944.16(a).

IV. Summary and Disposition of Comments

Following are summaries of all oral and written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

1. Public Comments

OSM invited public comments on the proposed amendment, but none were received.

2. Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from the various Federal agencies with an actual or potential interest in the Utah program.

The U.S. Army Corps of Engineers responded on October 12, 1994, and January 31, 1995, that it found the changes to be satisfactory (administrative record Nos. UT-981 and UT-1018).

By memorandum dated October 26, 1994, the U.S. Fish and Wildlife Service stated that it had reviewed the changes and had found nothing that would be detrimental to fish and wildlife resources (administrative record No. UT-986).

By letter dated January 6, 1995, the Mine Safety and Health Administration (MSHA) stated that MSHA personnel had reviewed the amendment and that there appeared to be no conflicts with the requirements of 30 CFR pertaining to coal mine safety and health (administrative record No. UT-1004).

The Bureau of Mines responded in a telephone conversation on January 18, 1995, that it had no comments on the

proposed amendment (administrative record No. UT-1007).

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Utah proposed to make in its amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 30 CFR 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (administrative record Nos. UT-972 and UT-1008). It responded on September 29, 1994, and February 1, 1995 (administrative record Nos. UT-975 and UT-1017), that it had no comments on the amendment and that it believed there would be no impacts to water quality standards promulgated under authority of the Clean Water Act, as amended (33 U.S.C. 1251 *et seq.*).

4. State Historic Preservation Officer (SHPO)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO (administrative record Nos. UT-972 and UT-1008). The SHPO did not respond to OSM's requests.

V. Director's Decision

Based on the above finding, the Director approves Utah's proposed amendment as submitted on September 9, 1994, and as revised by it and supplemented with additional explanatory information on January 5, 1995.

The Director approves Utah Admin. R. 645-203-200, concerning the confidentiality of coal exploration information, and removes 30 CFR 944.16(a), which required Utah to revise this rule. The Director approves the rule as proposed by Utah with the provision that it be fully promulgated in identical form to the rule submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR part 944, codifying decisions concerning the Utah program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay.

Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

1. Executive Order 12866

This final rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a

significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 20, 1995.

Charles E. Sandberg,

Acting Assistant Director, Western Support Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 944—UTAH

1. The authority citation for part 944 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 944.15 is amended by adding paragraph (cc) to read as follows:

§ 944.15 Approval of amendments to State regulatory program.

* * * * *

(cc) Revisions to Utah Admin. R. 645-203-200, confidentiality of coal exploration information, as submitted to OSM on September 9, 1994, and as revised and supplemented with additional explanatory information on January 5, 1995, are approved effective March 27, 1995.

§ 944.16 [Amended]

3. Section 944.16 is amended by removing and reserving paragraph (a).

[FR Doc. 95-7436 Filed 3-24-95; 8:45 am]

BILLING CODE 4310-05-M

SELECTIVE SERVICE SYSTEM

32 CFR Part 1690

Selective Service Regulations; Post Employment Conflict of Interest

AGENCY: Selective Service System.

ACTION: Final rule.

SUMMARY: 32 CFR part 1690—Post Employment Conflict of Interest is being removed from the Code of Federal Regulations because it has been made obsolete by the revocation of 5 CFR part 737 and the issuance by the United States Office of Government Ethics of 5

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APPEARANCES:

OFFICE OF SURFACE MINING
RECLAMATION & ENFORCEMENT: CHARLES E. SANDBERG, P.E.
TOM EHMETT

FOR THE STATE OF UTAH: JAMES W. CARTER
DIRECTOR OF OIL, GAS & MINING

1 Salt Lake City, Utah, March 14, 1995, 10:00 AM.

2 MR. SANDBERG: If you would, we'll take our seats
3 and get started.

4 I'd like to introduce myself; I'm Charles Sandberg,
5 the Acting Regional Director for the Office of Surface
6 Mining in Denver. With me is Tom Ehmett, the field
7 Office Director from the Albuquerque field office.

8 This morning we're here to conduct an informal
9 conference with the State of Utah pursuant to 30 CFR 733
10 12 C.

11 I'd like to read that section, and then some
12 portions of the Federal Register which announced this
13 informal conference. 30 CFR 733 12 C reads, the
14 director shall provide the state regulatory authority an
15 opportunity for an informal conference, if the state
16 requests an informal conference, within 15 days after
17 the expiration of the time limit specified in paragraph
18 B3 of this section.

19 The informal conference may pertain to the facts and
20 time period for accomplishing remedial actions as
21 specified by the director's notification. In reading
22 from the Federal Register, in which announced the
23 informal conference, on February 7th, 1995, OSM notified
24 the Director of the Utah Division of Oil, Gas and Mining
25 that it had reason to believe that violations of the

1 Utah Surface Coal Mining Regulatory Program, approved
2 under SMCRA, were resulting from the failure of the
3 state to enforce all or any part of the program
4 effectively with respect to the state's regulation of
5 mine access and haul roads.

6 In the February 7th, 1995 notification, OSM
7 specified a date for the Division of Oil, Gas and Mining
8 to present a plan to correct the deficiencies in the
9 implementation of its program. On February 22, 1995,
10 the OGM responded that its position with regards to
11 OSM's wish to have the division reconsider its
12 permitting decision as set forth in the complaint filed
13 in Utah versus Luhan (sic), DOGM also responded to the
14 facts in legal arguments set forth in the complaint were
15 being incorporated as its response to OSM's February
16 7th, 1995 letter.

17 Housekeeping rules pertaining to the informal
18 conference: The informal conference may pertain to the
19 facts of deficiencies or the time periods for
20 accomplishing remedial actions. The rules for informal
21 conference is it's an opportunity for OSM to discuss the
22 status of the implementation of Utah's program with Utah
23 officials. No testimony from the public will be taken,
24 but a verbatim transcript of the meeting will be kept.

25 We do provide public notice, but this informal

1 conference is just that, it's an opportunity for the
2 State of Utah to respond to our director's letter, and
3 that will be the extent of the testimony that's offered
4 this morning.

5 I'll talk a little bit, after Utah's presentation,
6 of what happens next. And with that, I understand Mr.
7 Carter, you are presenting Utah's view?

8 MR. CARTER: I am. Thank you very much and thank
9 you for the opportunity to address you in this somewhat
10 less formal forum, although it's more formal than I
11 anticipated. I have prepared a written statement which
12 will make available to you and to the recorder and those
13 who are interested, because -- well, in order to amplify
14 and more clearly explain the state's position with
15 regard to the 733 letter in its response, referring to
16 the old federal litigation and incorporated that.

17 We are here today because the federal Office of
18 Surface Mining believes that the Utah Division of Oil,
19 Gas and Mining has failed to enforce the Utah Coal
20 Mining and Reclamation Act by not requiring publicly
21 owned and operated roads within the State of Utah --
22 roads often many miles from any coal mining operation --
23 to be permitted under the act. Contrary to the
24 allegations of OSM, the State of Utah is in fact
25 regulating mine access and haul roads in a manner

1 consistent with both the federal Surface Mining Control
2 and Reclamation Act, SMCRA, and the Utah Coal Mining and
3 Reclamation Act. The only failure in this situation has
4 been that of the Office of Surface Mining, not the State
5 of Utah. The initiation of this section 733 process is
6 only the latest of many chapters in the Office of
7 Surface Mining's own failure to come to grips with the
8 issue of public roads. This failure, which continues
9 today, has been at the expense of the State of Utah, the
10 coal industry, coal field citizens, local governments
11 and not least, the spirit of federalism that the Surface
12 Mining Act is supposed to embody.

13 While I will address the history of OSM's flawed
14 position in a moment, it's important that we are clear
15 about the larger issues involved here, the roads in
16 dispute are public roads outside of the mining areas,
17 and are neither owned nor controlled by a coal
18 permittee. They are owned by public entities, including
19 the counties of the State of Utah, the State of Utah
20 itself, and other government agencies, such as the
21 United States Forest Service. They extend miles beyond
22 the actual mining locations which they serve, and are
23 not directly part of any one mining operation. In most
24 instances they are fully regulated under applicable
25 highway regulations, including federal regulations

1 governing safety and maintenance. Yet now, OSM seeks to
2 intrude in this traditional area of state and local
3 authority, attempting to enforce requirements which may
4 be entirely inconsistent with other state and federal
5 regulation, which ignore state and local priorities, and
6 which may impose large financial burdens on local
7 governments, all with no legal need to do so.

8 OSM cannot say that it is attempting to require
9 enforcement of a uniform national policy. As I will
10 describe in a moment, OSM has been utterly unable to
11 reach a coherent internal policy on this issue. It has
12 in the past, and continues in the present to take
13 inconsistent policy positions on the public roads issue
14 nationally, as a review of OSM practices in other states
15 as would quickly reveal. The citizens of Utah can
16 legitimately feel that this dispute and the Utah tax
17 payer funds being expended to deal with it, are the
18 result of internal disarray in OSM, not any failure on
19 the part of the state to enforce the law.

20 The history of the public roads dispute turns, in
21 large part, upon OSM's failure to adequately define the
22 term "affected area". On March 13th, 1979, OSM
23 published its final permanent rules for the
24 implementation of SMCRA. At that time, OSM defined the
25 term "affected areas" to include in relevant part, "any

1 land upon which surface mining or underground mining
2 activities are conducted or located." On April 5th,
3 1983, OSM modified the definition of the term "affected
4 area". The revised definition of "affected areas"
5 specifically excluded any road, and I'm quoting now, (a)
6 which has been designated as a public road pursuant to
7 the laws of the jurisdiction of which it is located."
8 That should be in which it is located. "(b) which is
9 maintained with public funds in a manner similar to
10 other public roads of the same classification within the
11 jurisdiction; and (c), for which there is substantial
12 (more than incidental) public use." This definition was
13 proposed because of what OSM characterized as, and I'm
14 quoting again, "difficulties and ambiguity concerning
15 its application to roads." This was in the 47 Federal
16 Register, 3424, 33430. On May 16th, 1983, OSM
17 promulgated final rules defining the term "road", which
18 "limited its application to routes within the 'affected
19 area'."

20 On March 23, 1984, Utah was first affected by OSM's
21 problems with the inherent ambiguity of the definition
22 of "affected area". OSM served the state with a section
23 32, 732 letter requiring the state to amend its
24 regulatory program, asserting that Utah's program and
25 "public roads criteria for coal haulage and access

1 roads" were less effective than OSM's new definition of
2 roads in 30 CFR 701.5."

3 In response, on April 27th, 1984, the Utah Board of
4 Oil, Gas and Mining adopted, verbatim, by emergency
5 rulemaking, the latest federal definition of "affected
6 area". These rules were submitted to OSM and approved
7 as the adoption of OSM's definition of "affected area".

8 On January 29th, 1985, OSM informed the State of
9 Utah and a permit applicant, Utah Power and Light
10 Company, that the road leading to the Deer Creek Mine,
11 need not be regulated because it "substantively meets
12 the definition of public road as outlined in 30 CFR
13 761.5, and the state roads policy adopted January 7th,
14 1984." That should be 701.5. In addition, OSM based
15 its decision to exclude Deer Creek Mine road from
16 regulation based on the December 30th, 1983, opinion of
17 the Administrative Law Judge Torbett in South Atlantic
18 Coal Company vs OSMRE.

19 The OSM definition (and therefore the identical Utah
20 definition) of "affected area" was challenged in In Re:
21 Permanent Surface Mining Regulation Litigation. On July
22 15th, 1985, Judge Flannery upheld the Secretary of
23 Interior's conclusion that Congress "intended the SMCRA
24 to cover public roads used for coal haulage and access
25 only when they are directly, rather than incidentally,

1 part of the mining operation." The court then remanded
2 that portion of the revised "affected area" definition,
3 which he found to be inconsistent with the Secretary's
4 interpretation of the Act. That is, subsection (c),
5 which provides, "substantial (more than incidental)
6 public use."

7 On December 3, 1985, OSM, in response to Utah's
8 August 13th, 1984, program submission, found that the
9 state had replaced its previous definition of "affected
10 area" with a definition virtually identical to the
11 federal definition of that term at 30 CFR 701.5. Based
12 on Judge Flannery's decision in In Re: Permanent, Utah
13 was informed that OSM was approving only those portions
14 of the Utah definition that do not conflict with the
15 Court's decision.

16 In its partial approval and partial disapproval of
17 the Utah program, the Office of Surface Mining stated
18 that, "following promulgation of a revised federal
19 definition for 'affected area', which reflects the
20 Court's decision, OSM will review the Utah definition
21 and Utah may be required to amend its definition."

22 On November 20th, 1986, in response to the remand
23 ordered by Judge Flannery, OSM suspended the definition
24 of "affected area", to the extent it excludes public
25 roads which are included in the definition of surface

1 coal mining operations in the Act.

2 OSM acknowledged that this suspension provided
3 imperfect guidance in a difficult area. To quote OSM,
4 "Thus, OSMRE intends to develop and propose at a later
5 date a new rule to clarify the relationship between
6 public roads, and the "affected area". Two years later,
7 on November 8th, 1988, OSM published final rules to
8 replace previously suspended rules, defining the term
9 "road", establishing a "road classification system",
10 and "performance standards". Three defined terms.

11 In response to a request by a commentor for a
12 revision of the definition of "affected area", and
13 permit area in 30 CFR 701.5, OSM stated, and this is a
14 quotation from the Federal Register, .

15 "The definition of "affected area" is not a part of
16 this rulemaking, nor is there any reference to "affected
17 area" in the definition of road. On the specific
18 concern relative to federal lands roads, neither this
19 definition or the definition of "affected area" as
20 partially suspended, citing a previous CFR, is intended
21 to expand or limit the jurisdictional reach of
22 definition of surface coal mining operations, contained
23 in Section 701, (28) (B) of the Act, relative to roads.
24 That jurisdictional reach must be determined on a case
25 by case basis by the regulatory authority."

1 Continuing in the quotation. "The definition of
2 affected area was modified in 1983, as it related to
3 public roads in order to address the practice in some
4 states of operators constructing new access roads and
5 then deeding them to a public entity in order to keep
6 the operation less than two acres in an area, and thus
7 avoid applicability of the act for the entire mining
8 operation.

9 "The litigation on this definition" referring to
10 "In Re: Permanent, also concerned the two acres
11 exemption and the definition of "affected area" was
12 suspended insofar as it might limit jurisdiction over
13 roads covered by the definition of 'surface coal mining
14 operation'. Since the definition of "affected area" as
15 partially suspended no longer provides additional
16 guidance as to which roads are included in the
17 definition of 'surface coal mining operation', no
18 reference to "affected area" is included in the
19 definition of road."

20 That was 53 Federal Register 45190.

21 From 1986 to July 6th of 1989, the Office of Surface
22 Mining not only expressed no displeasure, but approved
23 Utah's definitions of "affected area" and "road". On
24 July 6th, 1989, OSM informally approved Utah's May 5th,
25 1989 proposed amendment, deleting all mention of "public

1 roads" from its definition of "affected area". After
2 Utah's self initiated response, to the In Re: Permanent
3 decision, OSM for the first time acknowledged that it
4 had no intention of promulgating a rule clarifying the
5 relationship between public roads and "affected area",
6 instead, OSM suggested that Utah should adopt rules to
7 determine its jurisdictional reach on a case by case
8 basis after an evaluation of the extent of mining
9 related uses of the road to the public uses of the
10 road. This was in 53 Federal Register 45191, and
11 45193.

12 This request was made of the State of Utah, despite
13 the fact that this criterion appeared nowhere in the
14 Federal Rules, and despite the fact that OSM found there
15 was no need for a change in the Federal rules. Thus
16 began a series of Section 732 letters from the Office of
17 Surface Mining, and what proved to be futile attempts on
18 the part of the State of Utah to respond to a constantly
19 changing target.

20 For example, on November 9th, 1989, Albuquerque
21 field office of the Office of Surface Mining, wrote to
22 the State of Utah, "After further agency review it has
23 been determined the approach I had suggested on July
24 6th, 1989, would not satisfy the concerns raised by the
25 1985 U.S. District Court for the District of

1 Columbia."

2 The Albuquerque office of OSM found that Utah's
3 definition of roads, which included "language similar to
4 the federal regulation, except that Utah's definition
5 includes the additional phrase, 'the term does not
6 include public roads when an evaluation of the extent of
7 the mining related uses of the road to the public uses
8 of the road has been made by the division..." did not
9 conform to the remanded federal definitions of the
10 "affected area". In other words, OSM now took the
11 position that mining-related use of a road was an
12 improper criterion.

13 In a letter dated June 28th, 1990, the Albuquerque
14 field office developed its own internal policy and rule
15 for formal adoption by Utah, which created five criteria
16 for evaluating the need for permitting a public road.
17 OSM's position was that the failure to meet any one of
18 the five should subject a public road in Utah, (although
19 apparently not in any other portion of the country) to
20 regulation.

21 The Office of Surface Mining at this time then
22 described 38 public roads in Utah, 35 of which it
23 believed should be permitted, using these five
24 criteria. On August 31, 1990, the assistant director
25 for program policy, of the Office of Surface Mining,

1 informed the deputy director of the Office of Surface
2 Mining's office of Technical Services that the
3 Albuquerque field office criteria were inappropriate for
4 use in oversight, because of an absence of an explicit
5 basis in either the approved Utah program, or in the
6 current federal regulations. Nevertheless, OSM
7 persisted in attempting to require Utah to adopt this
8 approach. Despite the internal disagreement within the
9 Office of Surface Mining, the quixotic desire on the
10 part of OSM to establish a rule in Utah which it would
11 not adopt for itself resulted in two federal actions of
12 note.

13 First, on March 20th, 1991, the OSM issued three
14 10-day notices, (TDN's) to the State of Utah alleging
15 three different public roads were required to be
16 permitted. One of these was State Highway 57 which
17 services the Deer Creek Mine, which I have previously
18 identified as one which OSM had specifically determined
19 not to regulate. The others were a county road and
20 forest service road which the Office of Surface Mining
21 had also previously determined, in response to a
22 citizen's complaint, was not subject to regulation under
23 the definition of "affected area", or "surface coal
24 mining operations".

25 Because the State of Utah declined to take

1 enforcement action in response to these TDN's, federal
2 notices of violation were written. Second, in response
3 to the secretary's disapproval of Utah's rulemaking
4 definitions of "affected area", "road" and "public
5 road", the State of Utah filed a complaint with the
6 Federal District Court of Utah January 17th, 1992.
7 Utah's complaint alleged the failure of OSM to clarify
8 the definition of "affected area", so as to allow Utah
9 to determine which public roads in Utah were subject to
10 regulation under the coal regulatory program, and that
11 the Office of Surface Mining was therefore precluded
12 from finding that the Utah regulatory program was less
13 effective than the federal rules and statute. What was
14 at issue in this litigation was whether or not the
15 state's interpretation of its own statute and SMCRA was
16 entitled to deference by the secretary where the
17 secretary had failed to provide, through rulemaking, any
18 guidance which could provide a basis for judging the
19 Utah program to be less effective.

20 This federal litigation and the state's position
21 with regard to the three Federal NOV's regarding public
22 roads were settled by an agreement between Utah and OSM
23 dated September 4th, 1992.

24 OSM essentially admitted that its rules lacked
25 sufficient clarity either for the purpose of enforcement

1 action, or for judging state program amendments, and
2 withdrew the three Federal NOV's.

3 The state of Utah agreed to adopt the federal
4 definitions of "public road", "road" and "affected area"
5 as found in the Code of Federal Regulations. The office
6 of Surface Mining acknowledged there was no basis in
7 existing law for revisiting prior permitting decisions
8 on public road within the State of Utah. September,
9 1992. No basis. In reliance on this settlement of a
10 long-standing dispute and substantial litigation, the
11 State of Utah dismissed its action in Federal District
12 Court, with prejudice, and submitted program amendments
13 adopting federal definitions of "road", "public road".
14 And "affected area" verbatim, including the footnote.
15 The Office of Surface Mining agreed that all roads not
16 previously determined to be part of an existing surface
17 coal mining operation would not be subject to review
18 without a change of the then current federal statute and
19 regulations, and corresponding Utah statute and rules.

20 It was understood that, with respect to new permit
21 applications, the state would apply statute and rules
22 existing on the date of permit approval. Because the
23 decision to not reexamine previous decisions was based
24 upon then-current federal law and regulations, it was
25 also understood that when Federal rulemaking was finally

1 implemented, all earlier permitting decisions would then
2 be reevaluated in light of the new rules. The state of
3 Utah and the Utah coal operators believe that final
4 chapter in the continuing battle to require Utah to
5 attempt regulation of public roads in the absence of
6 rules was over.

7 Unfortunately, the long history of OSM flip-flops,
8 changes of heart, and absence of any coherent basis for
9 oversight or enforcement had not yet played out.

10 On May 19th, 1993, I received a letter from the then
11 acting director of the Office of Surface Mining, Hord
12 Tipton, purporting to disavow the entire settlement
13 Agreement with the exception, of course, of the
14 commitments made by the State of Utah. This letter
15 characterized the agreement as invalid in respect to a
16 fundamental mutual understanding. Attached to the
17 letter was a document entitled, this is a quote,
18 "Analysis of the September 4th, 1992, the Office of
19 Surface Mining and Reclamation and the Division of Oil,
20 Gas, and Mining settlement agreement concerning the
21 regulation of roads." By this letter and attachment, the
22 Office of Surface Mining unveiled the novel, and
23 somewhat surprising, theory that the state and federal
24 governments had entered into an invalid and illegal
25 agreement for the purpose of avoiding the requirements

1 of SMCRA and for thwarting the intent of congress.

2 For the first time, OSM announced that paragraph
3 II.1 of the Agreement was intended to be a permanent
4 blanket exemption from regulation of all roads existing
5 on September 4th, 1992, notwithstanding future statutory
6 or regulatory changes. This unfounded, and frankly
7 disingenuous interpretation of the Agreement was raised
8 for the first time after Utah, in reliance upon the
9 clear and lawful intent of the parties, had acted to its
10 detriment. OSM's new position brought federal and state
11 relations to a new low. The state of Utah had given up
12 its litigation, not because it had any doubts as to the
13 outcome of that litigation, or because it had any doubts
14 as to the validity of its position, but instead because
15 it believed it finally reached a binding agreement with
16 the Office of Surface Mining which would result in
17 additional rulemaking and clarification before
18 revisiting the public roads question.

19 In an attempt to provide OSM with an opportunity to
20 reaffirm the legal and valid binding commitments it made
21 under the agreement, I addressed a letter dated July
22 27th, 1993, to Mr. Hord Tipton of the Office of Surface
23 Mining explaining the basis for the State of Utah's
24 interpretation of the agreement. I told the Office of
25 Surface Mining that the division took the position that

1 the letter of May 19th, 1993, was not a repudiation of
2 the September 4th, 1992 agreement, but instead a
3 clarification which sought to uphold the validity and
4 legality of the document. In response to my letter, I
5 received a letter dated July 27th, 1993, from Mr.
6 Tipton, which reaffirmed the intent and spirit of the
7 agreement as set forth in my letter. With the long
8 history of this issue clearly in mind, Acting Director
9 Tipton said, "in connection with the exercise of our
10 statutory responsibilities, OSM may, from time to time,
11 discover a road that has not been, but in our opinion
12 needs to be, permitted under the Utah program. In such
13 a case we will bring the situation to DOGM's attention
14 for an appropriate response, consistent with essential
15 federal statutory and regulatory provisions cited in my
16 May 19th letter."

17 Mr. Tipton not only did not repudiate the State of
18 Utah's position concerning the enforceability of the
19 September 4th, 1992 agreement, but with the entire
20 history of the proceeding 12 years in mind, allowed that
21 if somehow there existed a road out there, that no one
22 had previously been aware of, it would be called to
23 Utah's attention. Since the July 27th, 1993,
24 communication with Acting Director Tipton, the State of
25 Utah has received no information from OSM concerning any

1 road which has not previously been discussed and
2 permitted or not permitted under the existing federal or
3 state law.

4 Although there have been discussions with OSM,
5 concerning the long awaited promised federal rulemaking
6 in this area, no road has been discovered by OSM that
7 has not been acted upon under the current Utah
8 regulatory program. Instead, what Utah has received is
9 a Section 733 letter, dated February 7th, 1995, which
10 alleges that the office of Surface Mining has reason to
11 believe that violations of the Utah Surface Coal Mining
12 and regulatory program are resulting from the failure of
13 the State of Utah to enforce all or any part of its
14 program effectively.

15 It is alleged that a situation now exists with
16 respect to the State's failure to regulate mine access
17 and haul roads included within the Utah program
18 definition of coal mining and reclamation operations.
19 The situation which now exists, as it has always
20 existed, is that the state has taken all actions
21 necessary to effectively implement its program on all
22 lands properly within the jurisdiction of SMCRA and the
23 Utah Act. Utah enforces its program regarding roads,
24 both public and private, no differently than any only
25 state, or, for that matter, the Office of Surface Mining

1 in those states where a federal program is implemented.

2 Why the State of Utah has been singled out as a
3 proxy for OSM's new attempt to make federal rules
4 without the burden of the required legal process is not
5 clear. Rather than attempting to force the State of
6 Utah to regulate public roads without a proper legal
7 basis for doing so, the Office of Surface Mining should
8 do what it has committed to do by both Federal Register
9 notice and legal agreement, and what it has been ordered
10 to do by the District of Columbia Federal District
11 Court. That is to undertake federal rulemaking to
12 clarify the relationship between "affected area" and
13 public roads. OSM cannot argue that Utah is not
14 implementing its state program to permit public roads,
15 when OSM knows that there exists no such federal
16 program. Utah should not be forced to act, by
17 administrative fiat, as a surrogate for OSM's legal duty
18 to promulgate and implement rules to give affect to
19 Congress's act.

20 In closing, great strides have been made in recent
21 months in improving the working relationship between the
22 Office of Surface Mining and the State of Utah. Close
23 examination will reveal that the roads issue in Utah is
24 a remnant of an earlier, less cooperative and more
25 acrimonious relationship. If the Office of Surface

1 Mining perpetuates this unnecessary feud, the State of
2 Utah will have no recourse other than to exercise all
3 legal remedies available to it to resist this
4 unwarranted and illegal invasion of its program and
5 sovereign rights as a state. With the clearly defined,
6 and legal, option of federal rulemaking before it, the
7 continuation of this attack on the State of Utah and its
8 coal regulatory program can only appear to the state to
9 be malicious and in bad faith.

10 I ask that the Office of Surface Mining address the
11 public roads issue as a matter of national public
12 policy, rather than as an internecine intrigue. The
13 citizens deserve better. Thank you.

14 MR. SANDBERG: Thank you, sir. Any other further
15 comments?

16 MR. CARTER: I think not. Thank you very much.

17 MR. SANDBERG: I'd like to read and then discuss
18 briefly what happens next in this process of an informal
19 conference, and I'm reading from 30 CFR 733 12 (d). If
20 an informal conference is not held under paragraph C of
21 the section or if following such a conference the
22 director still has reason to believe that the state is
23 failing to adequately implement, administer, maintain or
24 enforce in part or all of the state program, the
25 director shall give notice to the state and to the

1 public, specifying the basis for that belief and shall
2 hold a public hearing in the state within 30 days of the
3 expiration of the time period specified in paragraph B3
4 of this section, or as modified at the informal
5 conference held under paragraph C of this section.

6 I'd also like to read a paragraph out of the
7 original, what we would classify as the 733 letter dated
8 February 7th, 1995. After the conclusion of the
9 conference or the expiration of the time allowed to
10 request a conference, whichever is later, I will
11 reevaluate whether I still have reason to believe that
12 Utah will not be able to adequately implement or enforce
13 its approved program with regard to roads.

14 If such basis still exists, I will notify both you,
15 Utah, and the public, and schedule a public hearing to
16 obtain input from other parties. Following the hearing,
17 I will forward a recommendation to the Secretary of
18 Interior, setting forth the actions that I believe to be
19 appropriate and necessary to insure that the Surface
20 Coal Mining and Reclamation operations in Utah are
21 regulated in a fashion consistent with SMCRA and its
22 implementing regulations.

23 So this is just a step in a process initiated by
24 the Director's letter of February 7th. The informal
25 conference is an opportunity for the State of Utah to

1 present its discussion on the 733 letter. Our director,
2 Bob Uram, then has a period of time to evaluate the
3 situation, and Mr. Carter's brought up some points that
4 will be considered as part of that process.

5 From a broader perspective, Director Uram is a
6 strong believer in primacy and wants to make the program
7 work the way it was supposed to work, and that is, the
8 states have the lead and OSM has an oversight role. We
9 have that role in 23 other states, and in all 23 of
10 those states, believe it or not, there are haul roads
11 and public roads, and we have been able to come to an
12 agreement in most of those cases. There's been some
13 feuds nationwide. And I think that's the direction that
14 Bob Uram would like to go. We don't like 733's. We
15 want the program to work. We have been able to agree in
16 other states over a period of time, and even the State
17 of Utah on some roads. And so I think the period that
18 will follow now is a period for the federal government,
19 OSM, and the State of Utah, to evaluate the testimony
20 that's been offered here today in this informal
21 conference, to see where we have common points and where
22 the uncommon points may be, and try to arrive at a
23 solution in everybody's best interest, to the operators
24 of the State of Utah and for the federal government.

25 We've got a responsibility as OSM to insure

1 consistency as best we can among all the states so the
2 operators are all treated fairly in terms of what is
3 permitted and what is not. We have a responsibility to
4 protect the public in terms of what happens to these
5 roads through the states. And this is the balance that
6 OSM always has to play, consistency and the primacy
7 issue, and Bob Uram wants to insure that happens in the
8 State of Utah.

9 So we will move forward. OSM probably will involve
10 some people from some other states where these decisions
11 have been made to assure that we are doing things
12 consistently. We will be discussing this with the State
13 of Utah, and if we can come to some agreement, there
14 won't be a public hearing.

15 I realize it's frustrating to you, for those in the
16 room, to come to a meeting and not be able to say
17 anything, but that's the nature of the informal
18 conference. If the process should move forward and
19 there is a public hearing, you'll have your
20 opportunity. We're here today to listen to what the
21 State of Utah has to say, and so Mr. Carter presented
22 some points for us to consider.

23 And with that, unless, Mr. Ehmett, you have anything
24 to say, I'd like to close the informal conference.
25 Thank you for attending. Like I say, I understand the

1 frustration, but this is the process that we go forward
2 with, and I'm sure you'll be talking to Mr. Carter in
3 making your particular interests known. We'll talk to
4 the state of Utah.

5 Thank you.

6 MR. CARTER: Thank you.

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STATE OF UTAH)

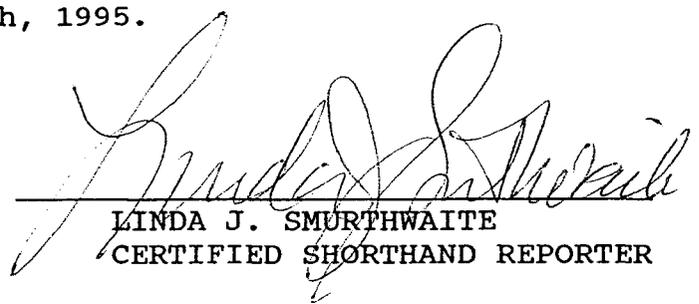
COUNTY OF SALT LAKE)

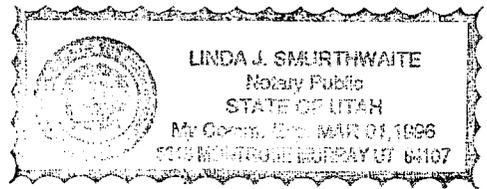
I, Linda J. Smurthwaite, Certified Shorthand Reporter, Registered Professional Reporter, and notary public within and for the county of Salt Lake, State of Utah do hereby certify:

That the foregoing proceedings were taken before me at the time and place set forth herein, and was taken down by me in shorthand and thereafter transcribed into typewriting under my direction and supervision.

That the foregoing pages contain a true and correct transcription of my said shorthand notes so taken.

In Witness Whereof, I have subscribed my name this 14th day of March, 1995.


LINDA J. SMURTHWAITE
CERTIFIED SHORTHAND REPORTER



to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may 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, notices of meetings will be posted at the locations listed under ADDRESSES. A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 7, 1995.

Charles E. Sandberg,

Acting Assistant Director, Western Support Center.

[FR Doc. 95-6301 Filed 3-14-95; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 311

Privacy Program

AGENCY: Office of the Secretary, DOD.
ACTION: Proposed rule.

SUMMARY: The Office of the Secretary of Defense proposes to exempt a system of records identified as DGC 16, entitled Political Appointment Vetting Files.

The DoD General Counsel performs suitability screening of individuals seeking, or who have been recommended for, non-career positions within the DoD.

EFFECTIVE DATE: Comments must be received no later than May 15, 1995, to be considered by the agency.

ADDRESSES: Send comments to the OSD Privacy Act Officer, Washington Headquarter Services, Correspondence and Directives Division, Records

Management Division, 1155 Defense Pentagon, Washington, DC 20301-1155.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Cragg at (703) 695-0970.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Director, Administration and Management, Office of the Secretary of Defense has determined that this proposed Privacy Act rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of \$100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866 (1993).

Regulatory Flexibility Act of 1980

The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act

The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act proposed rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

The DoD General Counsel performs suitability screening of individuals seeking, or who have been recommended for, non-career positions within the DoD. Confidentiality is needed to maintain the Government's continued access to information from persons who otherwise might refuse to give it. During the screening process, investigatory material is compiled for the purpose of determining the suitability of candidates for Schedule 'C' positions, taking character, security and other personal suitability factors into account. This exemption is limited to disclosures that would reveal the identity of a confidential source.



DEPARTMENT OF THE ARMY
 U.S. Army Corps of Engineers
 WASHINGTON, D.C. 20314-1000

UT-1032

March 14, 1995

REPLY TO
 ATTENTION OF:

Engineering Division

Mr. Thomas E. Ehmett, Acting Director
 Albuquerque Field Office
 Office of Surface Mining
 Reclamation and Enforcement
 505 Marquette Avenue, NW, Suite 1200
 Albuquerque, New Mexico 87102

Dear Mr. Ehmett:

This is in response to your letter of February 28, 1995,
 concerning Administrative Record No. UT-1019.

Our review of the amendment to Utah's Coal Mining and
 Reclamation Regulatory Program, found the changes to be
 satisfactory to our agency.

Sincerely,

Douglas J. Kamien, P.E.
 Deputy Chief, Engineering Division
 Directorate of Civil Works

TO		MESSAGE
T. EHMETT		DONNA y/m 3/23/95
L. TRAFORS		
S. MARTINEZ		
S. MARTINEZ	3/21	
S. BATHAM		

SPAT UT-031

Rules and Regulations

Federal Register

Vol. 60, No. 48

Monday, March 13, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Utah Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of informal conference.

SUMMARY: On January 21, 1981, the Secretary of the Interior conditionally approved Utah's program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) (see 46 FR 5899). On February 7, 1995, OSM notified the Director of the Utah Division of Oil, Gas and Mining (DOGM) that it had reason to believe that violations of the Utah surface coal mining regulatory program approved under SMCRA were resulting from the failure of the State to enforce all or any part of the program effectively with respect to the State's regulation of mine access and haul roads (see "Supplementary Information" below).

Under the provisions of OSM's regulations at 30 CFR 733.12(c), OSM will hold an informal conference to discuss the facts surrounding such a notification if an informal conference is requested by the State. By letter dated February 22, 1995, DOGM requested an informal conference. Accordingly, OSM hereby notifies Utah and the public that it will hold an informal conference. All interested persons may attend the informal conference.

DATES: OSM has scheduled an informal conference on Tuesday, March 14, 1995, beginning at 10:00 a.m. m.s.t.

ADDRESSES: The conference will be held in the Red Butte Room on the second floor of the Double Tree Hotel, 215 West South Temple, Salt Lake City, Utah 84180.

Copies of the Administrative Record documents referenced in this notice are available for public inspection and copying during normal business hours at: Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 505 Marquette Avenue NW., Suite 1200, Albuquerque, New Mexico 87102.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas E. Ehmet, Acting Assistant Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue NW., Suite 1200, Albuquerque, New Mexico 87102. Telephone: (505) 766-1486.

SUPPLEMENTARY INFORMATION: On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program (46 FR 5899).

On February 7, 1995, OSM notified the Director of the Utah Division of Oil, Gas and Mining (DOGM) that it had reason to believe that violations of the Utah surface coal mining regulatory program approved under SMCRA were resulting from the failure of the State to enforce all or any part of the program effectively with respect to the State's regulation of mine access and haul roads (administrative record No. UT-1023).

Since the approval of Utah's program, and in keeping with its policy of working closely with the State, OSM has had numerous discussions with DOGM officials about the State's performance. Recent discussions and investigations have centered on inadequacies of DOGM's implementation of the approved program in areas set forth below.

1. *Mine Access and Haul Roads:* Failure to regulate mine access and haul roads included within the Utah program definition of "coal mining and reclamation operations" at Utah Administrative Rule (Utah Admin. R.) 645-100-200 and the virtually identical Federal definition of "surface coal mining and reclamation operations" at 30 CFR 700.5.

2. *Exclusion of Public Roads From Regulation:* Both the State and Federal definitions include all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of mining-related activities and for haulage or excavation purposes. Contrary to the manner in which Utah is implementing its

program, the corresponding Federal definition of "surface coal mining operations" in section 701(28) of SMCRA does not exclude, as asserted by Utah, all roads designated as public roads or open to public use except when deeded by mine operators to public entities to avoid compliance with SMCRA.

In the February 7, 1995, notification, OSM specified a date for DOGM to present a plan to correct the deficiencies in the implementation of its program. On February 22, 1995, DOGM responded that its position with regard to OSM's wish to have the Division reconsider its permitting decisions is set forth in the complaint filed in *Utah v. Lujan*, 92-C-063-G (D. Utah). DOGM also responded that the facts and legal argument set forth in the complaint were being incorporated as its response to OSM's February 7, 1995, letter. Lastly, DOGM requested that OSM hold an informal conference to discuss the facts supporting the assertions of the February 7, 1995, letter (administrative record No. UT-1024).

Section 733.12(c) of 30 CFR requires OSM to provide the State regulatory authority an opportunity for an informal conference.

The informal conference may pertain to the facts of the deficiencies or the time period for accomplishing remedial actions.

Conference Rules

The informal conference is an opportunity for OSM to discuss the status of the implementation of Utah's program with Utah officials.

No testimony from the public will be taken but a verbatim transcript of the meeting will be kept.

Dated: March 2, 1995.

Peter A. Rutledge,

Acting Assistant Director, Western Support Center.

[FR Doc. 95-5923 Filed 3-10-95; 8:45 am]

BILLING CODE 4310-05-M

47-1023

47-1024

UT-1035

Toni - This is the
rwd file copy
For the
"Admin Record"
of the coal
program.
Please enter
computer spread
sheet
for me.
Ron
3/13

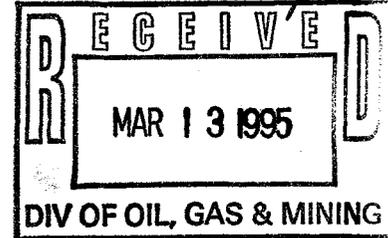


United States Department of the Interior

OFFICE OF SURFACE MINING

Reclamation and Enforcement
Suite 1200
505 Marquette Avenue N.W.
Albuquerque, New Mexico 87102

March 8, 1995



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:

Enclosed are the latest entries to the Utah Administrative Record, UT-998 through UT-1027, and the corresponding pages of the log reflecting these entries. I have also enclosed a current copy of the State Program Amendment Tracking (SPAT) report for your information and reference.

Please call me at (505) 766-1486 if you have any questions.

Sincerely,

Thomas E. Ehmett, Acting Director
Albuquerque Field Office

Enclosures

Administrative Record Log: UTAH

Originator	Organization	Description of Document	no. pgs	Date of Corres Date Received	ID No.	By
Douglas J. Kamien	Army COE	<u>SPAT UT-025</u> No comment letter regarding amendment UT-990	1	12-09-94	UT-998	VEM
				12-15-94		
Carter	DOGM	<u>SPAT UT-030-FOR</u> Copy of Utah's Interlocal Cooperation Act and its Governmental Immunity ACT submitted in response to UT-992	75	12-16-94	UT-999	DJG
				12-22-94		
Robert E. Walline	EPA	<u>SPAT UT-025-FOR</u> No comment letter for UT-990	1	12-22-94	UT-1000	VEM
				12-23-94		
Thomas E. Ehmett	OSM	Letter notifying Utah of the Energy Policy Act of 1992 and of OSM's intent to publish final regulations to implement the new provisions of SMCRA at section 720. Also the letter requests pertinent information regarding the State program requirements and actions taken with regard to the subject requirements.	4	12-14-94	UT-1001	VEM
59 FR 64636	OSM	<u>SPAT UT-024</u> Proposed rule reopening the comment period for amendment UT-997	3	12-15-94	UT-1002	VEM
				01-08-94		
James W. Carter	Utah - DOGM	<u>SPAT UT-029</u> Amendment revision submitted in response to UT-991	2	01-05-95	UT-1003	VEM
				01-09-95		
John A. Kuzar	MSHA	<u>SPAT UT-029</u> No comment letter for UT-971	1	01-06-95	UT-1004	VEM
				01-09-95		
60 FR 2520	OSM	<u>SPAT UT-030</u> Proposed rule reopening the comment period for amendment UT-999	3	01-10-95	UT-1005	VEM
				01-17-95		
John A. Kuzar	MSHA	<u>SPAT UT-025 & UT-027</u> No comment letter regarding amendments UT-941 and UT-950	1	01-12-95	UT-1006	VEM
				01-17-95		

Administrative Record Log: UTAH

Originator	Organization	Description of Document	no. pgs	Date of Corres Date Received	ID No.	By
(not recorded)	BOM	<u>SPAT UT-029</u> To record that there are no comments for amendment UT-1003	1	01-18-95 01-30-95	UT-1007	VEM
Thomas E. Ehmett	OSM	<u>SPAT UT-029-FOR</u> Distribution letters for amendment No. UT-1003	10	01-12-95 ---	UT-1008	VEM
60 FR 4581	OSM	<u>SPAT UT-029</u> Proposed rule reopening the comment period for amendment UT-003	2	01-24-95 01-31-95	UT-1009	VEM
Vernon E. Maldonado	OSM	<u>SPAT UT-025</u> Reconstructed telephone conversation record regarding issue number 11 of UT-967	1	08-30-94 02-01-95	UT-1010	VEM
Robert J. Uram	OSM	Letter to Utah pursuant to 30 CFR 884.15(b) and (d) telling Utah of the need to amend its reclamation plan	4	09-26-94 10-03-94	UT-1011	VEM
Mary Ann Wright	Utah - DOGM	Letter responding to UT-1011 by confirming to work with OSM to develop a timetable to amend the AML Plan	1	11-14-94 11-16-94	UT-1012	VEM
Daniel N. Martinez	OSM	Response to Ut-1012 and request for information regarding how DOGM can perform AML Contractor responsibility provisions/AVS checks until its AML plan is amended		11-30-94 ---	UT-1013	VEM
Mary Ann Wright	Utah - DOGM	Draft schedule for amending the Rules and Plan for the Utah AMR Program	2	01-12-95 01-17-95	UT-1014	VEM
James W. Carter	Utah - DOGM	Response to UT-1001 regarding the status of regulatory & statutory changes mandated by Energy Policy Act (EPACT)	2	01-20-95 01-30-95	UT-1015	VEM
Daniel N. Martinez	OSM	Response to schedule proposed in UT-1014	1	02-02-95 ---	UT-1016	VEM

Administrative Record Log: UTAH

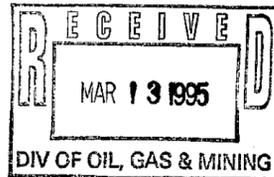
Originator	Organization	Description of Document	no. pgs	Date of Corres Date Received	ID No.	By
Robert E. Walline	EPA	<u>SPAT UT-029-FOR</u> Letter indicating that EPA has no comments regarding amendment UT-1003	1	02-01-95	UT-1017	VEM
				02-03-95		
Charles L. Baldi	Army COE	<u>SPAT UT-029</u> No comment letter for amendment UT-1003	1	01-31-95	UT-1018	VEM
				02-06-95		
James W. Carter	Utah - DOGM	<u>SPAT UT-031</u> Formal amendment in response to an issue letter for a previous informal amendment	40	02-10-95	UT-1019	VEM
				02-16-95		
Thomas E. Ehmett	OSM	<u>SPAT UT-030</u> Issue letter for formal amendment UT-979 and clarifying information UT-999	5	02-14-95	UT-1020	VEM

Thomas E. Ehmett	OSM	<u>SPAT UT-031</u> Distribution letters for amendment UT-1019	10	02-28-95	UT-1021	VEM

Mary Ann Wright	Utah - DOGM	<u>SPAT UT-032-INF</u> Informal amendment to Utah's Abandoned Mine Reclamation Program rules	22	02-24-95	UT-1022	VEM
				02-27-95		
Robert J. Uram	OSM	Part 733 Notification of 733 action against Utah on roads	2	02-7-95	UT-1023	MP
				02-13-95		
James W. Carter	DOGM	Response to UT-1023	1	02-22-95	UT-1024	MP
				03-07-95		
James W. Carter	DOGM	<u>UT-028-FOR</u> Formal Amendment regarding husbandry practices, to incorporate also some pages from the informal amendment submission of April 25, 1994 (UT-920)	11 plus 6 add'l docs	02-06-95	UT-1025	VEM
				02-08-95		

STATE PROGRAM AMENDMENT TRACKING SYSTEM
ACTIVE DATABASE REPORT
Report date: 02/06/95

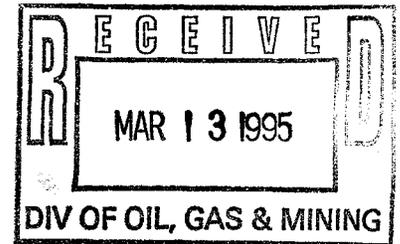
Report parameters:		Field office: AFO		State: UT		Service Center: WSC		Period covered: up thru 02/06/95				Include Archive: N														
ID NO	FIELD OFFICE	STATE SUBMIT DATE	FLD OFC RECVD	REQUEST AGENCY COMMENTS	AMENDMENT SENT TO ESC/WSC/HQ	PROPOSED RULE TO ESC/WSC	PROPOSED RULE SIGNED	PROPOSED RULE PUBLISHED	COMMENTS SENT FRM FOD	COMMENTS SENT FRM HQ	CLOSE COMMENT PERIOD	FOD TEL NOTIFY STATE	ISSUE LTR	LETTER TO STATE	STATE RESPONSE TO LETTER	EXTEND NOTICE TO ESC/WSC	EXTEND NOTICE SIGNED	EXTEND NOTICE PUBLISHED	END EXT COMMENT PERIOD	EPA CONCURR. SENT	FINAL FED REG NOTICE TO SOLICITOR	FINAL FED REG NOTICE FR SOLICITOR	FOD CONCUR	FINAL FED REG SIGNED	FINAL FED REG PUBLISHED	STATE PROMULGATED DATE
UT-010-FOR	AFO	04/30/92	05/04/92	05/14/92	05/04/92	05/05/92	05/07/92	06/02/92	06/19/92	05/22/92	07/02/92	//	Y	09/10/92	10/07/92	10/21/92	10/23/92	12/09/92	12/24/92	11/17/92	12/24/92	09/02/93	09/07/93	09/10/93	09/17/93	//
SUBJECT:		1. 732R 1/1 OK 2. OK 3. OK 4. OK 5. OK AMEND. (AR NO. UT-756) CONCERNING HIGHWALLS. I.L. WAS WRITTEN IN COOP. WITH HQ, SOL, AND AFO. UT RESUBMITTED AMEND. ON 09/30/92 (AR NO. UT-788). COMP. W/ PRES. MORATOR. ON FED REGS DELAYED REOP. PUB. FINAL RULE FR ADDED 4 RA'S DUE 11/16/93 (UT-025-FOR). ACT. ELAPSED TIME FOR OFS TO REV. FINAL RULE WAS 78 DAYS																								
UT-017-FOR	AFO	09/17/92	09/21/92	10/16/92	10/01/92	10/07/92	10/09/92	11/16/92	11/16/92	12/30/92	12/16/92	01/19/93	Y	01/21/93	03/25/93	03/25/93	03/31/93	04/08/93	04/23/93	02/17/93	07/07/93	03/22/94	03/29/94	03/31/94	04/07/94	07/01/94
SUBJECT:		1. 900R 2/2 OK 2. OK 3. OK 4. OK 5. OK AMEND. RE: ROADS DEFINITIONS (A.R. UT-782), RESPONDING TO REG. AMENDS. "N" AND "O" & IN RESP. TO THE SETTLEMENT AGREEMENT OF 09/04/92. PER UT'S LTR OF 06/10/92, ROAD POL. W/DRAWN EFFECTIVE 12/05/92. COMPL. W/PRES. MORATORIUM AFTER 9-MO. DELAY W/ OFS. ACT. ELAPSED TIME FOR OFS TO REVIEW FINAL RULE WAS 187 DAYS.																								
UT-021-FOR	AFO	03/07/94	03/14/94	03/21/94	03/18/94	03/21/94	03/23/94	03/29/94	//	05/20/94	04/28/94	06/10/94	Y	06/10/94	07/08/94	07/22/94	07/25/94	07/29/94	08/15/94	03/31/94	08/22/94	09/14/94	09/15/94	09/16/94	09/27/94	05/05/93
SUBJECT:		1. STIN OK 2. OK 3. OK 4. OK 5. OK UCA 40-10-14 (PERMIT REVIEW)-H.B.394 (NOT SEEN BY DSM); 40-10-20 (CIV. PENALTY), 40-10-28 (RECL. COSTS-TITLE IV), & 40-10-28.1 (CERT.-COMPL. OF COAL RECL.-TITLE IV)-S.B. 22. NOT ALL OF UT-021-INF INCL. IN THIS AMDT.																								
UT-022-FOR	AFO	08/02/93	08/10/93	08/18/93	08/18/93	08/18/93	08/19/93	08/27/93	//	09/30/93	09/27/93	12/09/93	Y	12/09/93	01/10/94	01/12/94	01/14/94	01/24/94	02/08/94	08/27/93	03/25/94	06/08/94	06/29/94	06/30/94	07/11/94	//
SUBJECT:		1. STIN N/A OK 2. OK 3. OK 4. OK 5. OK ADMIN RECORD #UT-851; CONSISTS OF REVISIONS TO R641 & R645 RULES-CONSIDERED BY UT TO BE NONSUBSTANTIVE & PER UT RULES REVIEW COMMITTEE. ACTUAL ELAPSED TIME FOR OFS REVIEW OF FINAL RULE WAS 75 DAYS.																								
UT-023-INF	AFO	08/06/93	08/13/93	//	08/20/93	//	//	//	//	09/30/93	//	09/01/93	Y	09/03/93	//	//	//	//	//	//	//	//	//	//	//	//
SUBJECT:		1. EPA OK 2. OK 3. OK 4. OK 5. OK RESPONSE TO DSM'S 3/93 LTR TO UT RE: ENERGY POLICY ACT REQMTS FOR SUBSIDENCE-INDUCED MATERIAL DAMAGE. NOT PROMULGATED YET - UT PLANS TO GET NR SUPPORT FOR THESE CHANGES IN SEPT. SO THEY CAN BE PASSED IN THE '94 LEG. SESSION. DRAFT IL TO AFO ON 09/01/93. ANOTHER INF AMDMT SUBMITTED (SEE UT-024-INFO).																								
UT-024-FOR	AFO	04/14/94	04/19/94	04/28/94	04/25/94	04/26/94	05/06/94	05/12/94	//	08/05/94	06/13/94	10/20/94	Y	10/24/94	12/12/94	//	12/09/94	12/15/94	12/30/94	05/09/94	//	//	//	//	//	//
SUBJECT:		1. STIN OK 2. OK 3. OK 4. OK 5. OK FORMAL SUBMITTAL OF UT-024-INF; COMBINES PREVIOUS INF'S (UT-018, 021, 023). STIN TO ADDRESS AMR ACT OF 90 & ENERGY POLICY ACT OF 92. DOES NOT INCLUDE WATER REPLACEMENT PROVISION. HQS AML COMMENTS RECD 06/07/94.																								
UT-025-FOR	AFO	11/12/93	11/15/93	11/24/93	11/17/93	11/24/93	12/01/93	12/08/93	//	01/28/94	01/07/94	//	Y	03/31/94	07/05/94	//	07/07/94	07/14/94	07/29/94	07/19/94	//	//	//	//	//	//
SUBJECT:		1. 900R 4/4 OK 2. OK 3. OK 4. OK 5. OK RESPONSE TO REQUIRED AMENDMENTS FOR UT-010. ADMIN. RECORD NO. UT-875. HIGHWALL RETENTION AND RECLAMATION. MEETING WITH DSM TO DISCUSS THE 03/31/94 ISSUE LETTER WAS HELD ON 05/12/94 AT WSC. PER 09/07/94 MEETING WITH DSM AND DEADLINE EXTENSION REQUEST OF 9/26/94, DSM RESPONDED TO 2ND ISS. LTR. ON 11/14/94.																								
UT-026-FOR	AFO	03/07/94	03/10/94	03/18/94	03/15/94	03/17/94	03/18/94	03/28/94	//	03/24/94	04/28/94	//	N	//	//	//	//	//	//	//	05/11/94	05/16/94	05/16/94	05/17/94	05/24/94	//
SUBJECT:		1. STIN OK 2. OK 3. OK 4. OK 5. OK PROPOSED REVISION TO RULE SO THAT UTAH WOULD NOT HAVE TO PROCESS ALL DSM-ORDERED PERMIT CHANGES AS SIGNIFICANT PERMIT REVISIONS. ACTUAL ELAPSED TIME FOR OFS TO REVIEW FINAL RULE WAS 1 DAY.																								
UT-027-FOR	AFO	01/27/94	01/31/94	02/08/94	02/08/94	//	02/18/94	02/25/94	//	03/25/94	03/28/94	04/15/94	Y	04/15/94	05/10/94	05/23/94	05/17/94	05/24/94	06/08/94	02/15/94	08/22/94	09/16/94	08/25/94	09/19/94	09/27/94	//
SUBJECT:		1. STIN OK 2. OK 3. OK 4. OK 5. OK COAL EXPL SUBJ TO 43 CFR 3480-3487; REMOVE INSIDE/OUTSIDE PERMIT AREA TIE; CHANGE COMPLIANCE REGS FOR REMOVAL OF <250T; PR FR PUBL DELAYED DUE TO DECISION THAT ASLM WOULD SIGN-FINAL DEC WAS TO EXEMPT STATE PROGRAM AMDTS.																								
UT-028-INF	AFO	04/25/94	04/28/94	//	04/28/94	//	//	//	//	//	//	//	Y	07/07/94	//	//	//	//	//	//	//	//	//	//	//	//
SUBJECT:		1. STIN OK 2. OK 3. OK 4. OK 5. OK INFORMAL SUBMITTAL OF REVISED RULES ADDRESSING NORMAL HUSBANDRY PRACTICES AND A FEW MISC RULE CHANGES TO INCORPORATE REFERENCES TO BOTH "SURFACE" AND "UNDERGROUND MINING ACTIVITIES."																								
UT-029-FOR	AFO	09/09/94	09/12/94	09/19/94	09/13/94	09/16/94	09/19/94	09/27/94	//	10/28/94	10/27/94	11/14/94	Y	11/15/94	01/11/95	01/11/95	01/13/95	01/24/95	02/08/95	09/29/94	//	//	//	//	//	//
SUBJECT:		1. 944 1 OK 2. OK 3. OK 4. OK 5. OK RESPONSE TO REQD AMMDT @ 944.16(A) FROM UT-022-FOR PERTAINING TO CONFIDENTIALITY OF COAL EXPLORATION INFORMATION.																								
UT-030-FOR	AFO	10/04/94	10/06/94	10/26/94	10/26/94	//	10/14/94	10/21/94	//	11/18/94	11/21/94	12/01/94	Y	11/30/94	12/22/94	//	01/04/95	01/10/95	01/25/95	//	//	//	//	//	//	//
SUBJECT:		1. STIN 1 OK 2. OK 3. OK 4. OK 5. OK AMEND. REVISES UT RULES BY REFERENCING U.C.A. STAT. PROVISION WITH INTENT OF ALLOWING COAL COMPANIES TO PROVIDE A CERTAIN AMT. OF LIABILITY INS. THROUGH SELF-S. WSC PREPARED PROP. RULE FR NOTICE AND PROP. RULE FR REOPENING NOTICE. R. D																								
UT-031-INF	AFO	10/28/94	10/31/94	//	11/09/94	//	//	//	//	//	//	//	Y	11/30/94	//	//	//	//	//	//	//	//	//	//	//	//
SUBJECT:		1. STIN OK 2. OK 3. OK 4. OK 5. OK RE: CIVIL PENALTIES																								
UT-032-EXP	AFO	07/15/95	//	//	//	//	//	//	//	//	//	//	//	//	//	//	//	//	//	//	//	//	//	//	//	//
SUBJECT:		1. OK 2. OK 3. OK 4. OK 5. OK UTAH AML AMENDMENT IN RESPONSE TO DIR. URAM'S 09-26-94 LTR. (UT-011), SEE UT'S																								



UT-1027
FILE COPY

March 7, 1995

Mr. Max J. Evan, Director
State Historical Society
300 Rio Grande
Salt Lake City, Utah 84101



Re: Solicitation of Comments on a Formal Amendment to Utah's Coal Mining Rules (UT-1025, SPAT No. UT-028-FOR)

Dear Mr. Evan:

On February 6, 1995, the State of Utah submitted an amendment to its permanent regulatory program for surface coal mining and reclamation operations as approved under Section 503 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1253). The proposed amendment was submitted as a State initiative. Except for the publication titled "Weed Control Handbook," copies of the additional documentation items listed on the first page of Utah's transmittal letter are available upon request. A copy of the "Weed Control Handbook" is available for review at the Albuquerque Field Office and at the Utah Division of Oil, Gas and Mining in Salt Lake City, Utah.

The Office of Surface Mining Reclamation and Enforcement (OSM) did not identify any aspects of the amendment that pertain to cultural or historic resources. Unless comments are received to the contrary, OSM will proceed as if a determination of no effect is in place with respect to the consultation requirements of 36 CFR Part 800.

Please restrict your comments to those rules being changed or directly impacted by the changes, because all other aspects of the Utah program are already approved and are not subject to challenge through this amendment action. The subject changes are identified by interlining of all text deletions and by underlining all text additions.

Your comments are requested by April 4, 1995. However, because a proposed rule is being prepared for publication in the Federal Register to officially reopen the comment period for this amendment, additional time may be available for review, depending on the date of publication and the date established for the close of the comment period.

To facilitate our processing of your comments, please refer to Administrative Record No. UT-1025 in your response.

Comments should be submitted to:

Office of Surface Mining Reclamation and Enforcement
505 Marquette, NW, Suite 1200
Albuquerque, NM 87102

Please contact Vernon E. Maldonado at 505-766-1486 with any questions.

Sincerely,

Thomas E. Ehmett, Acting Director
Albuquerque Field Office

Enclosure

FILE COPY

March 7, 1995

Memorandum

To: Galen C. Knutsen, Chief
Intermountain Field Operations Center

From: Thomas E. Ehmett, Acting Director
Albuquerque Field Office

Subject: Solicitation of Comments on a Formal Amendment to Utah's Coal
Mining Rules (UT-1025, SPAT No. UT-028-FOR)

On February 6, 1995, the State of Utah submitted the attached amendment (UT-1025) to its permanent regulatory program for surface coal mining and reclamation operations as approved under Section 503 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1253). The proposed amendment was submitted as a State initiative. Except for the publication titled "Weed Control Handbook," copies of the additional documentation items listed on the first page of Utah's transmittal letter are available upon request. A copy of the "Weed Control Handbook" is available for review at the Albuquerque Field Office and at the Utah Division of Oil, Gas and Mining in Salt Lake City, Utah.

Please restrict your comments to those rules being changed or directly impacted by the changes, because all other aspects of the Utah program are already approved and are not subject to challenge through this amendment action. The subject changes are identified by the interlining of all text deletions and by the underlining of all text additions.

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To facilitate our processing of your comments, please refer to Administrative Record No. UT-1025 in your response.

Comments should be submitted to:

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505 Marquette, NW, Suite 1200
Albuquerque, NM 87102

Please contact Vernon E. Maldonado at 505-766-1486 with any questions.

Attachment

Galen C. Knutsen, Chief
Intermountain Field Operations Center

Sandra Humphrey, Acting Director
Policy and Regulations Section
Mining and Minerals Branch
National Park Service

Robert Williams, Field Supervisor
U.S. Fish and Wildlife Service

G. William Lamb, Acting Director
Bureau of Land Management

March 7, 1995

Mr. Max H. Dodson, Director
Water Management Division
U. S. EPA , Region 8, Suite 500
One Denver Place, 999 18th Street
Denver, Colorado 80202

Re: Solicitation of Comments on a Formal Amendment to Utah's Coal Mining Rules (UT-1025, SPAT No. UT-028-FOR)

Dear Mr. Dodson:

On February 6, 1995, the State of Utah submitted the enclosed amendment (UT-1025) to its permanent regulatory program for surface coal mining and reclamation operations as approved under Section 503 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1253). The proposed amendment, regarding husbandry practices, was submitted as a State initiative. Except for the publication titled "Weed Control Handbook", copies of the additional documentation items listed on the first page of Utah's transmittal letter are available upon request. A copy of the "Weed Control Handbook" is available for review at the Albuquerque Field Office and at the Utah Division of Oil, Gas and Mining in Salt Lake City, Utah.

The Office of Surface Mining Reclamation and Enforcement did not identify any sections of the amendment that pertain to air and water quality standards or discharge limitations established under the Clean Air Act or Clean Water Act. Consequently, although your written concurrence is not necessary for these proposed revisions to be approved, your comments are welcome.

Please restrict your comments to those rules being changed or directly impacted by the changes, because all other aspects of the Utah program are already approved and are not subject to challenge through this amendment action. The subject changes are identified by the interlining of text proposed for deletion and by the underlining of text that is proposed for insertion.

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To facilitate our processing of your comments, please refer to Administrative Record No. UT-1025 in your response.

Comments should be submitted to:

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505 Marquette, NW, Suite 1200
Albuquerque, NM 87102

Please contact Vernon E. Maldonado at 505-766-1486 with any questions.

Sincerely,

Thomas E. Ehmett, Acting Director
Albuquerque Field Office

Enclosure

FILE COPY

March 7, 1995

Mr. Charles L. Baldi, Chief
Engineering Div., Directorate of Civil Works
U. S. Army Corp of Engineers
20 Massachusetts Avenue, NW
Washington, DC 20314

Re: Solicitation of Comments on a Formal Amendment to Utah's Coal Mining
Rules (UT-1025, SPAT No. UT-028-FOR)

Dear Mr. Baldi:

On February 6, 1995, the State of Utah submitted the enclosed amendment to its permanent regulatory program for surface coal mining and reclamation operations as approved under Section 503 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1253). The proposed amendment was submitted as a State initiative. Except for the publication titled "Weed Control Handbook," copies of the additional documentation items listed on the first page of Utah's transmittal letter are available upon request. A copy of the "Weed Control Handbook" is available for review at the Albuquerque Field Office and at the Utah Division of Oil, Gas and Mining in Salt Lake City, Utah.

Please restrict your comments to those rules being changed or directly impacted by the changes, because all other aspects of the Utah program are already approved and are not subject to challenge through this amendment action. The subject changes are identified by interlining text proposed for deletion and by underlining text proposed for insertion.

Your comments are requested by April 4, 1995. However, because a proposed rule is being prepared for publication in the Federal Register to officially open the comment period for this amendment, additional time may be available for review, depending on the date of publication and the date established for the close of the comment period.

To facilitate the processing of your comments, please refer to Administrative Record No. UT-1025 in your response.

Comments should be submitted to:

Office of Surface Mining Reclamation and Enforcement
505 Marquette, NW, Suite 1200
Albuquerque, NM 87102

Please contact Vernon E. Maldonado at 505-766-1486 with any questions.

Sincerely,

Thomas E. Ehmett, Acting Director
Albuquerque Field Office

Enclosure

Mr. Charles L. Baldi, Chief
Engineering Div., Directorate of Civil Works
U. S. Army Corp of Engineers
20 Massachusetts Avenue, NW
Washington, DC 20314

Mr. Baldi:
Assistant Secretary for
Environment, Safety, and Health
Department of Energy
Forrestal Building
1000 Independence Avenue, SW
Washington, DC 20585
Sir

Mr. Dale Bosworth, Regional Forester
U.S. Forest Service
Federal Building
324-25th Street
Ogden, Utah 84401
Mr. Bosworth

Mr. Phillip Nelson, State Conservationist
Soil Conservation Service
P.O. Box 11350
Salt Lake City, Utah 84147
Mr. Nelson

District Manager
U.S. Department of Labor
Mine Safety and Health Administration
P.O. Box 25367
Denver, Colorado 80225-0367
Sir

Ms. Carolyn Johnson
286 S. Gilpin Street
Denver, Colorado 80209
Ms. Johnson

Mr. Alexander Jordan, President
Utah Mining Association
825 Kearns Building
Salt Lake City, Utah 84101
Mr. Jordan

Mr. Ken Rait, Director
Southern Utah Wilderness Alliance
1471 South 1100 East
Salt Lake City, Utah 84105
Mr. Rait

Ms. Christine Osborne
Sierra Club
1536 East 3080 South
Salt Lake City, Utah 84106
Ms. Osborne

Wilderness Society
7475 Dakin St., #410
Denver, Colorado 80221-6918
Sirs

Mr. Brent Blackwelder
Friends of the Earth
Environmental Protection Agency
1025 Vermont Ave, NW, Ste.300
Washington, DC 20005
Mr. Blackwelder

Harold P. Quinn, Jr., Sr. VP
National Coal Association
Coal Bldg. - 1130-17th St, NW
Washington, DC 20036
Mr. Quinn

Stuart Sanderson, Senior Counsel
American Mining Congress
1920 N. Street, NW
Washington, DC 20036
Mr. Sanderson

FILE COPY

March 7, 1995

Memorandum

To: Peter Rutledge, Chief
Program Support Division

From: Thomas E. Ehemtt, Acting Director
Albuquerque Field Office

Subject: Formal Amendment to Utah's Coal Mining Rules (UT-1025, SPAT No.
UT-028-FOR)

Attached for your evaluation and processing is a copy of a formal amendment submitted by the Utah Division of Oil, Gas and Mining. A proposed rule was prepared by your staff for processing and publication in the Federal Register, to announce receipt of the amendment and reopen the comment period for 30 days.

Similar memoranda transmitted the amendment to the Assistant Director, Reclamation and Regulatory Policy and to the Field Solicitor, which instructed them to send their comments to you by April 4, 1995.

Please call Vernon Maldonado or me at 505-766-1486 if you have any questions.

Attachment

FILE COPY

March 7, 1995

Memorandum

To: Gina Guy
Office of the Regional Solicitor
Rocky Mountain Region

From: Thomas E. Ehmett, Acting Director
Albuquerque Field Office

Subject: Formal Amendment to Utah's Coal Mining Rules (UT-1025, SPAT No.
UT-028-FOR)

Attached for your evaluation and processing is a copy of a formal amendment submitted by the Utah Division of Oil, Gas and Mining. The Western Support Center (WSC) has prepared a Federal Register notice to announce receipt of the amendment and reopen the comment period for 30 days.

Please submit your comments by April 4, 1995, to Mr. Peter Rutledge, with a copy to me. WSC will be preparing an issue letter or final rule Federal Register notice for this amendment.

Similar memoranda transmitted copies of the amendment to Mr. Rutledge and to the Assistant Director, Reclamation and Regulatory Policy.

Please call Vernon Maldonado or me at 505-766-1486 if you have any questions.

Attachment

March 7, 1995

Memorandum

To: Mary Josie Branchard, Acting Assistant Director
Reclamation and Regulatory Policy, Headquarters

Through: Allen D. Klein, Assistant Director
Field Operations

From: Thomas E. Ehmett, Acting Director
Albuquerque Field Office

Subject: Formal Amendment to Utah's Coal Mining Rules (UT-1025, SPAT No.
UT-028-FOR)

Attached for your evaluation and processing is a copy of a formal amendment submitted by the Utah Division of Oil, Gas and Mining. The Western Support Center (WSC) has prepared a Federal Register notice to announce receipt of the amendment and reopen the comment period for 30 days.

Please submit your comments by April 4, 1995, to Mr. Peter Rutledge, with a copy to me. WSC will be preparing an issue letter or final rule Federal Register notice for this amendment.

Similar memoranda transmitted copies of the amendment to the Field Solicitor and to Mr. Rutledge.

Please call Vernon Maldonado or me at 505-766-1486 if you have any questions.

Attachment



United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
Washington, D.C. 20240

FEB - 7 1995

RECEIVED
FEB 13 1995

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

RECEIVED
MAR 13 1995
DIV OF OIL, GAS & MINING

Dear Mr. Carter:

Under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 et seq., I am obligated to notify you whenever I have reason to believe that violations of all or any part of the Utah surface coal mining regulatory program approved under SMCRA result from the failure of the State to enforce all or any part of the program effectively. This situation now exists with respect to the State's failure to regulate mine access and haul roads included within the Utah program definition of coal mining and reclamation operations at Utah Admin. R. 645-100-200 and the virtually identical Federal definition of surface coal mining and reclamation operations at 30 CFR 700.5.

Both the State and Federal definitions include all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of mining-related activities and for haulage or excavation purposes. Contrary to the manner in which Utah is implementing its program, the corresponding definition of "surface coal mining operations" in section 701(28) of SMCRA does not exclude, as Utah has asserted, all roads designated as public roads or open to public use except when deeded by mine operators to public entities to avoid compliance with SMCRA.

During our meeting on November 4, 1994, I agreed to delay any Federal action on this issue for 90 days in the hope that our agencies would reach a mutually acceptable resolution. By letter dated February 1, 1995, you provided Charles E. Sandberg, Acting Assistant Director, Western Support Center with additional information and analyses concerning the permitting of roads in Utah. While I appreciate your efforts, the material does not indicate that any significant movement toward a solution has been made. Therefore, I regret to inform you that I must fulfill my responsibility under 30 CFR 733.12(b) and section 521(b) of SMCRA to initiate actions that could result in direct Federal enforcement of those portions of the Utah program related to the regulation of roads used to gain access to the site of mining-related activities and for haulage or excavation purposes.

Mr. James W. Carter

2

Pursuant to 30 CFR 733.12(b), I request that, within 15 days of the date of this letter, you submit a plan that provides for the prompt permitting and regulation of all mine access and haul roads included within the Utah program definition of coal mining operations and the definition of surface coal mining operations in SMCRA. My staff is available to assist you in developing this plan.

I urge you to take this opportunity to resolve the issue at hand. However, if you decide not to submit a plan, or if we are unable to agree upon a mutually satisfactory timetable for resolution, you may request an informal conference in accordance with 30 CFR 733.12(c) to discuss both the facts supporting the assertions contained in this letter and the timeframe for initiating and completing the necessary remedial measures. You must request an informal conference on or before March 9, 1995. To avoid delays in scheduling such a conference should you determine a conference is advisable, it will be held on March 14, 1995, unless an alternative mutually agreeable date is established.

After the conclusion of the conference or the expiration of the time allowed to request a conference, whichever is later, I will reevaluate whether I still have reason to believe that Utah will not be able to adequately implement or enforce its approved program with regard to roads. If such basis still exists, I will notify both you and the public and schedule a public hearing to obtain input from other parties. Following the hearing, I will forward a recommendation to the Secretary of the Interior setting forth the actions that I believe to be appropriate and necessary to ensure that surface coal mining and reclamation operations in Utah are regulated in a fashion consistent with SMCRA and its implementing regulations.

This issue has been under review for many years. We have a duty to the coal miners and to Utah to clarify what obligations they have to permit haul roads. I am hopeful that this issue will be resolved in a manner that maintains State primacy in the regulation of surface coal mining and reclamation operations in Utah and our shared commitment to the implementation of SMCRA. Please contact Charles E. Sandberg, Acting Assistant Director, Western Support Center, if you need clarification of the matters raised in this letter.

Sincerely,

Robert J. Uram

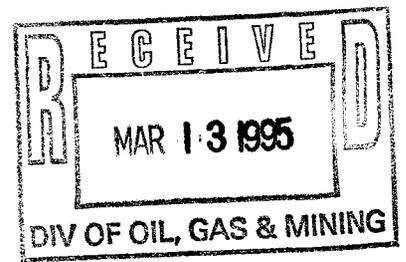
Robert J. Uram
Director

cc: Acting Assistant Director, Western Support Center
Acting Director, Albuquerque Field Office

FILE COPY

February 28, 1995

Mr. Max H. Dodson, Director
Water Management Division
U. S. EPA , Region 8, Suite 500
One Denver Place, 999 18th Street
Denver, Colorado 80202



Re: Solicitation of Comments on a Formal Amendment to Utah's Coal Mining Rules (UT-1019, SPAT No. UT-031-FOR)

Dear Mr. Dodson:

On February 10, 1995, the State of Utah submitted the enclosed amendment (UT-1019) to its permanent regulatory program for surface coal mining and reclamation operations as approved under Section 503 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1253). The proposed amendment, regarding civil penalties, was submitted as a State initiative.

The Office of Surface Mining Reclamation and Enforcement did not identify any sections of the amendment that pertain to air and water quality standards or discharge limitations established under the Clean Air Act or Clean Water Act. Consequently, although your written concurrence is not necessary for these proposed revisions to be approved, your comments are welcome.

Please restrict your comments to those rules being changed or directly impacted by the changes, because all other aspects of the Utah program are already approved and are not subject to challenge through this amendment action. The subject changes are identified by the interlining of text proposed for deletion and by the underlining of text that is proposed for insertion.

Your comments are requested by March 27, 1995. However, because a proposed rule is being prepared for publication in the Federal Register to officially open the comment period for this amendment, additional time may be available for review, depending on the date of publication and the date established for the close of the comment period.

To facilitate our processing of your comments, please refer to Administrative Record No. UT-1019 in your response.

Comments should be submitted to:

Office of Surface Mining Reclamation and Enforcement
505 Marquette, NW, Suite 1200
Albuquerque, NM 87102

Please contact Vernon E. Maldonado at 505-766-1486 with any questions.

Sincerely,

Thomas E. Ehmett, Acting Director
Albuquerque Field Office

Enclosure

FILE COPY

February 28, 1995

Mr. Max J. Evan, Director
State Historical Society
300 Rio Grande
Salt Lake City, Utah 84101

Re: Solicitation of Comments on a Formal Amendment to Utah's Coal Mining Rules (UT-1019, SPAT No. UT-031-FOR)

Dear Mr. Evan:

On February 10, 1995, the State of Utah submitted an amendment to its permanent regulatory program for surface coal mining and reclamation operations as approved under Section 503 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1253). The proposed amendment was submitted as a State initiative.

The Office of Surface Mining Reclamation and Enforcement (OSM) did not identify any aspects of the amendment that pertain to cultural or historic resources. Unless comments are received to the contrary, OSM will proceed as if a determination of no effect is in place with respect to the consultation requirements of 36 CFR Part 800.

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Comments should be submitted to:

Office of Surface Mining Reclamation and Enforcement
505 Marquette, NW, Suite 1200
Albuquerque, NM 87102

Please contact Vernon E. Maldonado at 505-766-1486 with any questions.

Sincerely,

Thomas E. Ehmett, Acting Director
Albuquerque Field Office

Enclosure

INITIALS	REG/Date	INE/Date	- AML/Date
Originator:	SEM 2/28/95		

February 28, 1995

Mr. Charles L. Baldi, Chief
Engineering Div., Directorate of Civil Works
U. S. Army Corp of Engineers
20 Massachusetts Avenue, NW
Washington, DC 20314

Re: Solicitation of Comments on a Formal Amendment to Utah's Coal Mining
Rules
(UT-1019, SPAT No. UT-031-FOR)

Dear Mr. Baldi:

On February 10, 1995, the State of Utah submitted the enclosed amendment to its permanent regulatory program for surface coal mining and reclamation operations as approved under Section 503 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1253). The proposed amendment was submitted as a State initiative.

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Albuquerque, NM 87102

Please contact Vernon E. Maldonado at 505-766-1486 with any questions.

Sincerely,

Thomas E. Ehmett, Acting Director
Albuquerque Field Office

Enclosure

Mr. Charles L. Baldi, Chief
Engineering Div., Directorate of Civil Works
U. S. Army Corp of Engineers
20 Massachusetts Avenue, NW
Washington, DC 20314

Mr. Baldi:
Assistant Secretary for
Environment, Safety, and Health
Department of Energy
Forrestal Building
1000 Independence Avenue, SW
Washington, DC 20585
Sir

Mr. Dale Bosworth, Regional Forester
U.S. Forest Service
Federal Building
324-25th Street
Ogden, Utah 84401
Mr. Bosworth

Mr. Phillip Nelson, State Conservationist
Soil Conservation Service
P.O. Box 11350
Salt Lake City, Utah 84147
Mr. Nelson

District Manager
U.S. Department of Labor
Mine Safety and Health Administration
P.O. Box 25367
Denver, Colorado 80225-0367
Sir

Ms. Carolyn Johnson
286 S. Gilpin Street
Denver, Colorado 80209
Ms. Johnson

Mr. Alexander Jordan, President
Utah Mining Association
825 Kearns Building
Salt Lake City, Utah 84101
Mr. Jordan

Mr. Ken Rait, Director
Southern Utah Wilderness Alliance
1471 South 1100 East
Salt Lake City, Utah 84105
Mr. Rait

Ms. Christine Osborne
Sierra Club
1536 East 3080 South
Salt Lake City, Utah 84106
Ms. Osborne

Wilderness Society
7475 Dakin St., #410
Denver, Colorado 80221-6918
Sirs

Mr. Brent Blackwelder
Friends of the Earth
Environmental Protection Agency
1025 Vermont Ave, NW, Ste.300
Washington, DC 20005
Mr. Blackwelder

Harold P. Quinn, Jr., Sr. VP
National Coal Association
Coal Bldg. - 1130-17th St, NW
Washington, DC 20036
Mr. Quinn

Stuart Sanderson, Senior Counsel
American Mining Congress
1920 N. Street, NW
Washington, DC 20036
Mr. Sanderson

FILE COPY

February 28, 1995

Memorandum

To: Galen C. Knutsen, Chief
Intermountain Field Operations Center

From: Thomas E. Ehmett, Acting Director
Albuquerque Field Office

Subject: Solicitation of Comments on a Formal Amendment to Utah's Coal Mining Rules (UT-1019, SPAT No. UT-031-FOR)

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Comments should be submitted to:

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505 Marquette, NW, Suite 1200
Albuquerque, NM 87102

Please contact Vernon E. Maldonado at 505-766-1486 with any questions.

Attachment

Galen C. Knutsen, Chief
Intermountain Field Operations Center

Sandra Humphrey, Acting Director
Policy and Regulations Section
Mining and Minerals Branch
National Park Service

Robert Williams, Field Supervisor
U.S. Fish and Wildlife Service

G. William Lamb, Acting Director
Bureau of Land Management

FILE COPY

February 28, 1995

Memorandum

To: Peter Rutledge, Chief
Program Support Division

From: Thomas E. Ehemtt, Acting Director
Albuquerque Field Office

Subject: Formal Amendment to Utah's Coal Mining Rules (UT-1019, SPAT No.
UT-031-FOR)

Attached for your evaluation and processing is a copy of a formal amendment submitted by the Utah Division of Oil, Gas and Mining. A proposed rule was prepared by your staff for processing and publication in the Federal Register, to announce receipt of the amendment and reopen the comment period for 30 days.

Similar memoranda transmitted the amendment to the Assistant Director, Reclamation and Regulatory Policy and to the Field Solicitor, which instructed them to send their comments to you by March 27, 1995.

Please call Vernon Maldonado or me at 505-766-1486 if you have any questions.

Attachment

FILE COPY

February 28, 1995

Memorandum

To: Gina Guy
Office of the Regional Solicitor
Rocky Mountain Region

From: Thomas E. Ehmett, Acting Director
Albuquerque Field Office

Subject: Formal Amendment to Utah's Coal Mining Rules (UT-1019, SPAT No.
UT-031-FOR)

Attached for your evaluation and processing is a copy of a formal amendment submitted by the Utah Division of Oil, Gas and Mining. The Albuquerque Field Office has prepared a Federal Register notice to announce receipt of the amendment and reopen the comment period for 30 days.

Please submit your comments by March 27, 1995, to Mr. Peter Rutledge, with a copy to me. The Western Support Center will be preparing an issue letter or final rule Federal Register notice for this amendment.

Similar memoranda transmitted copies of the amendment to Mr. Rutledge and to the Assistant Director, Reclamation and Regulatory Policy.

Please call Vernon Maldonado or me at 505-766-1486 if you have any questions.

Attachment

FILE COPY

February 28, 1995

Memorandum

MJ Blanchard
Acting

To: ~~Brent Wahlquist~~, Assistant Director
Reclamation and Regulatory Policy, Headquarters

Through: Allen D. Klein, Assistant Director
Field Operations

From: Thomas E. Ehmet, Acting Director
Albuquerque Field Office

Subject: Formal Amendment to Utah's Coal Mining Rules (UT-1019, SPAT No.
UT-031-FOR)

Attached for your evaluation and processing is a copy of a formal amendment submitted by the Utah Division of Oil, Gas and Mining. The Albuquerque Field Office prepared a Federal Register notice to announce receipt of the amendment and reopen the comment period for 30 days.

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Attachment



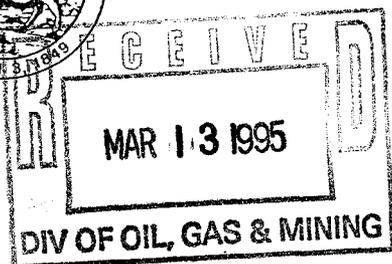
United States Department of the Interior

OFFICE OF SURFACE MINING

Reclamation and Enforcement
Suite 1200

505 Marquette Avenue N.W.
Albuquerque, New Mexico 87102

Ellyse Little



February 14, 1995

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 review of Utah's October 4, 1994, formal amendment and the December 16, 1994, submission of two Utah Statutes submitted for clarification (administrative record Nos. UT-979 and UT-999); State Program Amendment Tracking System (SPATS) No. UT-030-FOR). The amendment consists of revisions to Utah's Coal Mining Rules concerning liability self-insurance requirements for coal mining operations that qualify as government entities under the Utah Interlocal Cooperation Act and the Utah Governmental Immunity Act. OSM finds the provisions of the proposed amendment identified in the enclosure to this letter to be less effective than the Federal counterpart regulations.

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 rule is no less effective than the Federal regulations. 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 deficiency, 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 rule in proposed form is contingent upon Utah's adoption of the rule in the form in which it was 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 deficiency, the Director would not approve the provision which contains the identified deficiency.

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

Mr. James W. Carter

2

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 at (505) 766-1486 or Vernon Maldonado, Program Analyst, at (505) 766-1486 if you have any questions.

Sincerely,



Thomas E. Ehmett, Acting Director
Albuquerque Field Office

Enclosure

cc: PSD, WSC
BSP, HQ
Regional Solicitor
Rocky Mountain Region

**ISSUES IDENTIFIED BY OSM FOR UTAH'S
DECEMBER 16, 1994, REVISED AMENDMENT
(ADMINISTRATIVE RECORD NO. UT-979, SPATS NO. UT-030-FOR)**

Utah Administrative Rule	30 CFR 800.60(a)
(Admin. R.) 645-301-890.400	30 CFR 800.60(d)

Applicability.

Utah proposes to revise existing Utah Admin. R. 645-301-890.400 with the intention of allowing certain coal mining companies in Utah to provide required liability insurance through self-insurance. Specifically, Utah proposes to revise Utah Admin. R. 645-301-890.400 to reference the provisions of the Utah Governmental Immunity Act at Utah Code Annotated (UCA) §63-30-28, which allows "any governmental entity within the State" to purchase commercial insurance, self-insure, or self-insure and purchase excess commercial insurance in excess of the statutory limits of the Governmental Immunity Act against "any risk created or recognized by this chapter or any action for which a governmental entity or its employee may be held liable." In its transmittal letter for its revised amendment, Utah stated that certain coal mining companies in Utah qualify as governmental entities under the provisions of the Interlocal Cooperation Act at UCA 11-13-5.5(2)(a).

In reviewing UCA 11-13-5.5(2)(a), OSM notes that it applies to contracts by "public agencies" to generate electricity. In citing this provision, Utah apparently asserts that certain coal mining operations associated with electrical generation facilities qualify as "governmental entities" under the Governmental Immunity Act and "public agencies" under the Interlocal Cooperation Act, which then allows them to self-insure for the liability coverage required by the Federal regulations at 800.60(d).

OSM requests confirmation from the Office of the Attorney General that it interprets these Utah statutes in the same manner as the Division of Oil, Gas and Mining. OSM further requests that, in addressing the above issue, the Office of the Attorney General specifically address the following issues:

1. The Interlocal Cooperation Act does appear to encompass electrical generation and transmission operations. It is not clear, however, that the Interlocal Cooperation Act also encompasses the surface coal mining and reclamation operations that supply coal to the electrical generation and transmission operations. OSM, accordingly, requests clarification from the State as to how the

Interlocal Cooperation Act covers surface coal mining and reclamation operations.

2. Would the provision be limited to mine-mouth operations?
3. Would the provision be limited to entities who own and control both an electrical generation and transmission operation and the surface coal mining and reclamation operations that supply coal to the electrical generation and transmission operation?
4. What methods of self-insurance will be allowed (e.g., trust account, reserve account, payment of claims out of operating income, or excess liability insurance coverage)?
5. The provision of the Governmental Immunity Act at UCA § 63-30-28(2)(a) allows the establishment of a trust account as a means of self-insuring "with respect to specified classes of claims." Would claims regarding potential liability under SMCRA or the State program be one of those "specified classes of claims"?

Limits of liability coverage.

The Federal regulations at 30 CFR 800.60(d) allow an applicant to self-insure if it meets all of the applicable State self-insurance requirements approved as part of the State regulatory program and all requirements of the Federal insurance regulations at 30 CFR 800.60.

Utah's proposed revision to Utah Admin. R. 645-301-890.400 cross-referencing UCA §63-30-28 is less effective than the Federal counterpart regulations because the limitation of judgments provision at UCA §63-30-34 of the Utah Governmental Immunity Act establishes coverage levels that are lower than the minimum levels required by the Federal regulations at 30 CFR 800.60(a). This Federal regulation specifies that minimum insurance coverage for bodily injury and property damage shall be \$300,000 for each occurrence and \$500,000 aggregate.

By comparison, UCA §63-30-34(1)(a) limits judgments to \$250,000 for each occurrence of personal (bodily) injury for one person, and \$500,000 for two or more persons. Similarly, U.C.A. §63-30-34(1)(c) limits judgments for property damage to \$100,000 in any one occurrence.

Therefore, in order to be no less effective than the Federal regulations at 30 CFR 800.60(d) and (a), Utah must revise its

provision at Utah Admin. R. 645-301-890.400 to require that any governmental entity who self-insures pursuant to the Interlocal Cooperation Act and the Governmental Immunity Act must supplement the self-insurance with additional commercial liability insurance to make up for the shortfall between the insurance amounts provided by the Utah Governmental Immunity Act and the insurance amounts required by 30 CFR 800.60(a).

1. How much lead-time is necessary for market participants to be able to comply with such a new regulation? Treasury staff consulted with staff of the SEC, Federal Reserve Board, FRBNY and CFTC in developing the questions that are contained in this ANPR. As the rulemaking process continues in the months ahead, we will continue to solicit the views of these agencies, share information with them and include them in the deliberative process.

The preliminary views expressed in this notice may change in light of comments received. In any case, the Treasury will publish proposed large position reporting rules for public comment after we have had an opportunity to review the comments that we receive in response to this ANPR.

List of Subjects

17 CFR Part 404

Banks, banking, Brokers, Government securities, Reporting and recordkeeping requirements.

17 CFR Part 405

Brokers, Government securities, Reporting and recordkeeping requirements.

Authority: Sec. 101, Pub.L. 99-571 100 Stat. 3209; Sec. 4(b), Pub.L. 101-432, 104 Stat. 963; Sec. 102, Sec. 106, Pub.L. 103-202, 107 Stat. 2344 (15 U.S.C. 78o-5 (b)(1)(B), (b)(1)(C), (b)(4)).

Dated: January 17, 1995

Frank N. Newman,
Deputy Secretary

[FR Doc. 95-1082 Filed 1-23-95; 8:45 am]

BILLING CODE 4810-99-P

SPAT UT-029

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Utah Regulatory Program

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: OSM is announcing receipt of revisions and additional explanatory information pertaining to a previously proposed amendment to the Utah regulatory program (hereinafter, the "Utah program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revision and additional explanatory information for Utah's proposed rules pertain to the confidentiality of coal exploration information. The amendment is

intended to revise the Utah program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4:00 p.m., m.s.t., February 8, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Thomas E. Ehmett at the address listed below

Copies of the Utah program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Thomas E. Ehmett, Acting Director,
Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue NW., Suite 1200, Albuquerque, New Mexico 87102

Utah Coal Regulatory Program, Division of Oil, Gas and Mining, 355 West North Temple, 3 Triad Center, Suite 350, Salt Lake City, Utah 84180-1203. Telephone: (801) 538-5340.

FOR FURTHER INFORMATION CONTACT: Thomas E. Ehmett, Telephone: (505) 766-1486.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program. General background information on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program can be found in the January 21, 1981, *Federal Register* (46 FR 5899). Subsequent actions concerning Utah's program and program amendments can be found at 30 CFR 944.15, 944.16, and 944.30.

II. Proposed Amendment

By letter dated September 9, 1994, Utah submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. UT-971). Utah submitted the proposed amendment in response to the required program amendment at 30 CFR 944.16(a). The provisions of the Utah Coal Mining Rules that Utah proposed to revise were at Utah Administrative Rule (Utah Admin. R.) 645-203-200, Confidentiality.

OSM announced receipt of the proposed amendment in the September 27, 1994, *Federal Register* (59 FR 49227). It provided an opportunity for a

public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. UT-976). Because no one requested a public hearing or meeting, none was held. The public comment period ended on October 27, 1994.

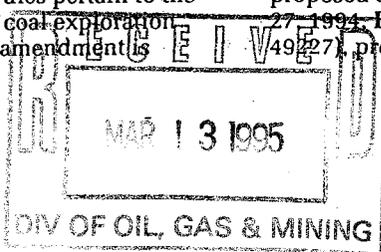
During its review of the amendment, OSM identified concerns relating to the provisions of Utah's rules at Utah Admin. R. 645-203-200 and 645-203-210, confidentiality of coal exploration information. OSM notified Utah of the concerns by letter dated November 15, 1994 (administrative record No. UT-991). Utah responded in a letter dated January 5, 1994, by submitting a revised amendment and additional explanatory information (administrative record No. UT-1003).

Utah proposes revisions to Utah Admin. R. 645-203-200, by deleting the phrase "or that the information is confidential under the standards of the Federal Act." In addition, Utah provides additional explanatory information pertaining to Utah Admin. R. 645-203-210, by stating that there is some question as to the repetitious aspects of Utah Admin. R. 645-203-210. Utah states that Utah Admin. R. 654-203-210 requires the Division of Oil, Gas and Mining (Division) to "keep" information confidential while Utah Admin. R. 645-203-200 directs the Division to "not make" information available.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Utah program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Utah program.

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.



IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that

existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 13, 1995.

Charles E. Sandberg,

Acting Assistant Director, Western Support Center.

[FR Doc. 95-1708 Filed 1-23-95; 8:45 am]

BILLING CODE 4310-05-14

DEPARTMENT OF DEFENSE

Corps of Engineers

33 CFR Part 334

Danger Zone and Restricted Area Regulations

AGENCY: Army Corps of Engineers, DoD.
ACTION: Proposed rule.

SUMMARY: The U.S. Army Corps of Engineers is proposing to amend the regulations in 33 CFR part 334 to add a clause that alerts mariners that potential navigation and charting errors may occur in the boundaries of some danger zones and restricted areas as a result of the updating and replacement of the North American Datum of 1927 with the North American Datum of 1983. The promulgation of these regulations will notify mariners that geographic coordinates establishing danger zone and restricted area boundaries, promulgated in 33 CFR part 334 are not to be used for plotting on maps and charts where NAD 83 is referenced unless the geographic coordinates in the regulations are expressly labeled "NAD 83". Geographic coordinates without the NAD 83 reference may be plotted on charts or maps which are referenced to NAD 83 only after applying the correct formula that is published on the map or chart being used.

DATES: Comments must be submitted in writing on or before February 23, 1995.

ADDRESSES: HQUSACE, CECW-OR, Washington, D.C. 20314-1000.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Eppard at (202) 272-1783.

SUPPLEMENTARY INFORMATION: A datum is a reference point, line or surface used as a reference in surveying and mapping. Through the use of satellites

and other modern surveying techniques, it is now possible to establish global reference systems. The North American Datum of 1983 (NAD 83), a new adjustment of the U.S. network of horizontal control, has been adopted as a standard reference datum by the United States and Canada. In March 1988, the National Ocean Service, National Oceanic and Atmospheric Administration, commenced publishing charts in NAD 83. The parameters of the Ellipsoid of reference used with NAD 83 are very close to those used for the World Geodetic System of 1984 (WGS 84). The ellipsoid used for NAD 83, Geodetic Reference System 1980 (GRS 80), is earth-centered or geocentric as opposed to the nongeo-centric ellipsoids previously employed. This means that the center of the ellipsoid coincides with the center of the mass of the earth. Any inquiries and requests for further information regarding NAD 83 and National Ocean Service nautical charts should be addressed to: Director, Coast Survey (NCG2), National Ocean Service, NOAA, 1315 East-West Highway, Station 6147, Silver Spring, Maryland 20910-3282.

Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps of Engineers is proposing to amend the regulations in 33 CFR part 334 by inserting the following clause that alerts mariners to the potential for navigation and charting errors in consequence of the NAD 83.

"Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose reference horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used".

Notes

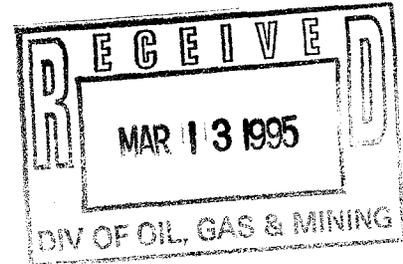
1. The U.S. Army Corps of Engineers has determined that this proposed rule is not a major rule within the meaning of Executive Order 12866 and is in accordance with the exemption provided military functions.

2. This proposed rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96-354) which requires preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small

FILE COPY

January 12, 1995

Mr. Max H. Dodson, Director
Water Management Division
U. S. EPA , Region 8, Suite 500
One Denver Place, 999 18th Street
Denver, CO 80202



Re: Solicitation of Comments on a Formal Amendment to Utah's Coal Mining Rules (UT-1003, SPAT No. UT-029-FOR)

Dear Mr. Dodson:

On January 5, 1995, the State of Utah submitted the enclosed amendment (UT-1003) to its permanent regulatory program for surface coal mining and reclamation operations as approved under Section 503 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1253). The proposed amendment was submitted to address required amendment 944.16(a) that the Office of Surface Mining Reclamation and Enforcement (OSM) placed on the Utah program on July 11, 1994, (59 FR 35255).

OSM did not identify any sections of the amendment that pertain to air and water quality standards or discharge limitations established under the Clean Air Act or Clean Water Act. Consequently, although your written concurrence is not necessary for these proposed revisions to be approved, your comments are welcome.

Please restrict your comments to those rules being changed or directly impacted by the changes, because all other aspects of the Utah program are already approved and are not subject to challenge through this amendment action. The subject changes are identified by the interlining of text proposed for deletion and by the underlining of text that is proposed for insertion.

Your comments are requested by January 30, 1995. However, because a proposed rule is being prepared for publication in the Federal Register to officially open the comment period for this amendment, additional time may be available for review, depending on the date of publication and the date established for the close of the comment period.

To facilitate our processing of your comments, please refer to Administrative Record No. UT-1003 in your response.

Comments should be submitted to:

Office of Surface Mining Reclamation and Enforcement
505 Marquette, NW, Suite 1200
Albuquerque, NM 87102

Please contact Vernon E. Maldonado at 505-766-1486 with any questions.

Sincerely,

Thomas E. Ehmett, Acting Director
Albuquerque Field Office

Enclosure

FILE COPY

January 12, 1995

Stuart Sanderson, Senior Counsel
American Mining Congress
1920 N. Street, NW
Washington, DC 20036

Re: Solicitation of Comments on a Formal Amendment to Utah's Coal Mining
Rules (UT-1003, SPAT No. UT-029-FOR)

Dear Mr. Sanderson:

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Office of Surface Mining Reclamation and Enforcement
505 Marquette, NW, Suite 1200
Albuquerque, NM 87102

Please contact Vernon E. Maldonado at 505-766-1486 with any questions.

Sincerely,

Thomas E. Ehmett, Acting Director
Albuquerque Field Office

Enclosure

Mr. Charles L. Baldi, Chief
Engineering Div., Directorate of Civil Works
U. S. Army Corp of Engineers
20 Massachusetts Avenue, NW
Washington, DC 20314

Mr. Baldi:
Assistant Secretary for
Environment, Safety, and Health
Department of Energy
Forrestal Building
1000 Independence Avenue, SW
Washington, DC 20585
Sir

Mr. Dale Bosworth, Regional Forester
U.S. Forest Service
Federal Building
324-25th Street
Ogden, Utah 84401
Mr. Bosworth

Mr. Phillip Nelson, State Conservationist
Soil Conservation Service
P.O. Box 11350
Salt Lake City, Utah 84147
Mr. Nelson

District Manager
U.S. Department of Labor
Mine Safety and Health Administration
P.O. Box 25367
Denver, Colorado 80225-0367
Sir

Ms. Carolyn Johnson
286 S. Gilpin Street
Denver, Colorado 80209
Ms. Johnson

Mr. Alexander Jordan, President
Utah Mining Association
825 Kearns Building
Salt Lake City, Utah 84101
Mr. Jordan

Mr. Ken Rait, Director
Southern Utah Wilderness Alliance
1471 South 1100 East
Salt Lake City, Utah 84105
Mr. Rait

Ms. Christine Osborne
Sierra Club
1536 East 3080 South
Salt Lake City, Utah 84106
Ms. Osborne

Wilderness Society
7475 Dakin St., #410
Denver, Colorado 80221-6918
Sirs

Mr. Brent Blackwelder
Friends of the Earth
Environmental Protection Agency
1025 Vermont Ave, NW, Ste.300
Washington, DC 20005
Mr. Blackwelder

Harold P. Quinn, Jr., Sr. VP
National Coal Association
Coal Bldg. - 1130-17th St, NW
Washington, DC 20036
Mr. Quinn

Stuart Sanderson, Senior Counsel
American Mining Congress
1920 N. Street, NW
Washington, DC 20036
Mr. Sanderson

FILE COPY

January 12, 1995

Memorandum

To: Galen C. Knutsen, Chief
Intermountain Field Operations Center

From: Thomas E. Ehmett, Acting Director
Albuquerque Field Office

Subject: Solicitation of Comments on a Formal Amendment to Utah's Coal Mining Rules (UT-1003, SPAT No. UT-029-FOR)

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Please restrict your comments to those rules being changed or directly impacted by the changes, because all other aspects of the Utah program are already approved and are not subject to challenge through this amendment action. The subject changes are identified by the interlining of all text deletions and by the underlining of all text additions.

Your comments are requested by January 30, 1995. However, because a proposed rule is being prepared for publication in the Federal Register to officially open the comment period for this amendment, additional time may be available for review, depending on the date of publication and the date established for the close of the comment period.

To facilitate our processing of your comments, please refer to Administrative Record No. UT-1003 in your response.

Comments should be submitted to:

Office of Surface Mining Reclamation and Enforcement
505 Marquette, NW, Suite 1200
Albuquerque, NM 87102

Please contact Vernon E. Maldonado at 505-766-1486 with any questions.

Attachment

Galen C. Knutsen, Chief
Intermountain Field Operations Center

Sandra Humphrey, Acting Director
Policy and Regulations Section
Mining and Minerals Branch
National Park Service

Robert Williams, Field Supervisor
U.S. Fish and Wildlife Service

G. William Lamb, Acting Director
Bureau of Land Management

FILE COPY

January 12, 1995

Mr. Max J. Evan, Director
State Historical Society
300 Rio Grande
Salt Lake City, Utah 84101

Re: Solicitation of Comments on a Formal Amendment to Utah's Coal Mining Rules (UT-1003, SPAT No. UT-029-FOR)

Dear Mr. Evan:

On January 5, 1995, the State of Utah submitted an amendment to its permanent regulatory program for surface coal mining and reclamation operations as approved under Section 503 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1253). The proposed amendment was submitted to address required amendment 944.16(a) that the Office of Surface Mining Reclamation and Enforcement (OSM) placed on the Utah program on July 11, 1994, (59 FR 35255).

OSM did not identify any aspects of the amendment that pertain to cultural or historic resources. Unless comments are received to the contrary, OSM will proceed as if a determination of no effect is in place with respect to the consultation requirements of 36 CFR Part 800.

Please restrict your comments to those rules being changed or directly impacted by the changes, because all other aspects of the Utah program are already approved and are not subject to challenge through this amendment action. The subject changes are identified by interlining of all text deletions and by underlining all text additions.

Your comments are requested by January 30, 1995. However, because a proposed rule is being prepared for publication in the Federal Register to officially reopen the comment period for this amendment, additional time may be available for review, depending on the date of publication and the date established for the close of the comment period.

To facilitate our processing of your comments, please refer to Administrative Record No. UT-1003 in your response.

Comments should be submitted to:

Office of Surface Mining Reclamation and Enforcement
505 Marquette, NW, Suite 1200
Albuquerque, NM 87102

Please contact Vernon E. Maldonado at 505-766-1486 with any questions.

Sincerely,

Thomas E. Ehmett, Acting Director
Albuquerque Field Office

Enclosure

FILE COPY

January 12, 1995

Memorandum

To: Peter Rutledge, Chief
Program Support Division

From: Thomas E. Ehemtt, Acting Director
Albuquerque Field Office

Subject: Formal Amendment to Utah's Coal Mining Rules (UT-1003, SPAT No. UT-029-FOR)

Attached for your evaluation and processing is a copy of a formal amendment submitted by the Utah Division of Oil, Gas and Mining. A proposed rule was prepared and transmitted to your staff for processing and publication in the Federal Register, to announce receipt of the amendment and reopen the comment period for 15 days.

Similar memoranda transmitted the amendment to the Assistant Director, Reclamation and Regulatory Policy and to the Field Solicitor, which instructed them to send their comments to you by January 30, 1995.

Please call Vernon Maldonado or me at 505-766-1486 if you have any questions.

Attachment

January 12, 1995

Memorandum

To: Gina Guy
Office of the Regional Solicitor
Rocky Mountain Region

From: Thomas E. Ehmett, Acting Director
Albuquerque Field Office

Subject: Formal Amendment to Utah's Coal Mining Rules (UT-1003, SPAT No. UT-029-FOR)

Attached for your evaluation and processing is a copy of a formal amendment submitted by the Utah Division of Oil, Gas and Mining. The Albuquerque Field Office has prepared a Federal Register notice to announce receipt of the amendment and reopen the comment period for 15 days.

Please submit your comments by January 30, 1995, to Mr. Peter Rutledge, with a copy to me. The Western Support Center will be preparing an issue letter or final rule Federal Register notice for this amendment.

Similar memoranda transmitted copies of the amendment to Mr. Rutledge and to the Assistant Director, Reclamation and Regulatory Policy.

Please call Vernon Maldonado or me at 505-766-1486 if you have any questions.

Attachment

FILE COPY

January 12, 1995

Memorandum

To: Brent Wahlquist, Assistant Director
Reclamation and Regulatory Policy, Headquarters

Through: Allen D. Klein, Assistant Director
Field Operations

From: Thomas E. Ehmet, Acting Director
Albuquerque Field Office

Subject: Formal Amendment to Utah's Coal Mining Rules (UT-1003, SPAT No. UT-029-FOR)

Attached for your evaluation and processing is a copy of a formal amendment submitted by the Utah Division of Oil, Gas and Mining. The Albuquerque Field Office prepared a Federal Register notice to announce receipt of the amendment and reopen the comment period for 15 days.

Please submit your comments by January 30, 1995, to Mr. Peter Rutledge, with a copy to me. The Western Support Center will be preparing an issue letter or final rule Federal Register notice for this amendment.

Similar memoranda transmitted copies of the amendment to the Field Solicitor and to Mr. Rutledge.

Please call Vernon Maldonado or me at 505-766-1486 if you have any questions.

Attachment

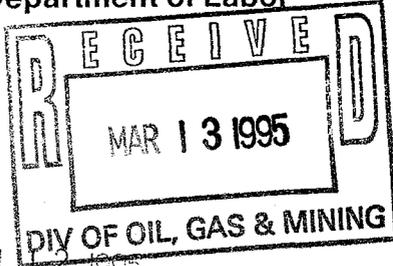
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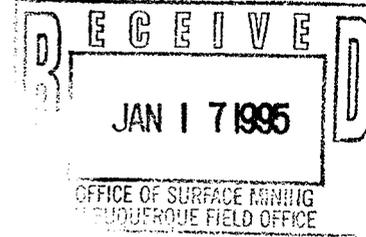
U. S. Department of Labor

Mine Safety and Health Administration
P.O. Box 25367
Denver, Colorado 80225-0367

Coal Mine Safety and Health
District 9



JAN 12 1995



Thomas E. Ehmett, Acting Director
Office of Surface Mining Reclamation and Enforcement
Albuquerque Field Office
505 Marquette Avenue, N.W., Suite 1200
Albuquerque, NM 87102

RE: Formal Amendments
Utah's Coal Mining and
Reclamation Regulatory Program
(UT-941 and UT-950) General Comments

Dear Mr. Ehmett:

This is in response to your letters, dated July 12, and July 25, 1994, respectively, requesting general comments on the referenced proposed formal amendments to Utah's mining and reclamation regulatory program. The amendments have been reviewed by MSHA personnel, and it appears there are no conflicts with the requirements of 30 CFR.

MSHA appreciates the opportunity to comment on matters of such importance. If you have any questions, concerning this matter, please contact this office at (303) 231-5462.

Sincerely,

John A. Kuzar
John A. Kuzar
District Manager

Late Comments for
SPAT UT-025 FOR
and
UT-027 FOR

UT-1005

30 CFR Part 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(c)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 et seq.).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 29, 1994.

Charles E. Sandberg, Acting Assistant Director, Western Support Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 936—OKLAHOMA

1. The authority citation for Part 936 continues to read as follows:

Authority: 30 U.S.C. 1201 et seq.

2. Section 936.15 is amended by adding paragraph (h) to read as follows:

§ 936.15 Approval of regulatory program amendments.

(n) Revisions to the following provisions of the Bond Release Guidelines, which include revegetation success standards and statistically valid sampling techniques, and guidelines for phase I, II, and III bond release, as submitted to OSM on February 17, 1994, and as revised and supplemented with explanatory information on July 21 and September 2, 1994, are approved effective January 10, 1995:

Subsection I.E.3.b, concerning requirements for ground cover on land reclaimed for commercial or industrial use;

Subsection I.F.3.d, concerning requirements for ground cover on previously mined areas;

Subsection I.F.5.b, concerning the requirements for water discharged from permanent impoundments, ponds, diversions, and treatment facilities;

Subsections I.B.2.d, III.B.2.d, and V.B.2.c, concerning the method for calculating a technical productivity standard on pastureland, grazingland, and prime farmland;

Subsections IV.A.1.a and b, and sections VII.A and B, concerning revegetation success standards for diversity, seasonality, permanence, and regeneration;

Subsections V.B.2.d and V.B.2.e, concerning the use of test plots as a statistically valid sampling technique for demonstrating success of productivity on prime farmlands;

Subsections V.B.2.f and VI.B.2.e, concerning the method for calculating a technical productivity standard for grain or hay crops on prime and nonprime farmland;

Subsection VI.B.2.e, concerning the method for measuring row crop production on nonprime farmland;

Appendix A, concerning the definitions of "initial establishment of permanent vegetative cover" and "productivity;"

Appendix F, concerning the method of sampling for productivity;

Appendices J and V, concerning editorial revisions; and

Appendix R, concerning the repair of rills and gullies as a normal husbandry practice;

Appendix O, concerning the methods for calculating technical productivity standards on lands reclaimed for use as pastureland and grazingland.

3. Section 936.16 is revised to read as follows:

§ 936.16 Required regulatory program amendments.

Oklahoma is required to submit to OSM

by the specified date the following written, proposed program amendment, or a description of an amendment to be proposed that meets the requirements of SMCRA and 30 CFR Chapter VII and a timetable for enactment that is consistent with Oklahoma's established administrative or legislative procedures.

(a) Reserved.

(b) Reserved.

(c) By March 13, 1995, Oklahoma shall revise sections II.B and III.B in the Bond Release Guidelines to identify the method it will use in developing a phase III revegetation success standard for diversity on lands reclaimed for use as pastureland and grazingland.

(d) Reserved.

(e) Reserved.

(f) Reserved.

(g) By March 13, 1995, Oklahoma must submit, before Oklahoma allows the use of test plots as proposed at subsections B.2.d and V.B.2.e in the Bond Release Guidelines, evidence of consultation with the U.S. Soil Conservation Service regarding the use of test plots as a statistically valid sampling technique for demonstrating success of productivity on prime farmlands.

[FR Doc. 95-568 Filed 1/9-95; 8:45 am]

BILLING CODE 4310-05-M

SPAT UT-030

30 CFR Part 944

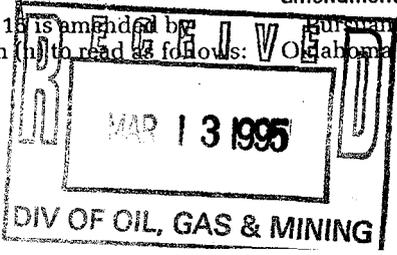
Utah Regulatory Program

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: OSM is announcing receipt of additional explanatory information pertaining to a previously proposed amendment to the Utah regulatory program (hereinafter, the "Utah program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The additional explanatory information for Utah's proposed rule pertains to liability self-insurance requirements for coal mining operations. The amendment is intended to allow coal mining operators who qualify as government entities under the Utah Interlocal Cooperation Act and the Utah Governmental Immunity Act to provide a certain amount of their liability insurance through self-insurance.

DATES: Written comments must be received by 4:00 p.m., m.s.t., January 25, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Thomas E. Ehmett at the address listed below.



Copies of the Utah program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Thomas E. Ehmet, Acting Director,
Albuquerque Field Office, Office of
Surface Mining Reclamation and
Enforcement, 505 Marquette Avenue,
NW., Suite 1200, Albuquerque, New
Mexico 87102

Utah Coal Regulatory Program, Division
of Oil, Gas and Mining, 355 West
North Temple, 3 Triad Center, Suite
350, Salt Lake City, Utah 84180-1203,
Telephone: (801) 538-5340.

FOR FURTHER INFORMATION CONTACT:
Thomas E. Ehmet, Telephone: (505)
766-1486.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program. General background information, on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program can be found in the January 21, 1981, *Federal Register* (46 FR 5899). Subsequent actions concerning Utah's program and program amendments can be found at 30 CFR 944.15, 944.16, and 944.30.

II. Proposed Amendment

By letter dated October 4, 1994, Utah submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. UT-979). Utah submitted the proposed amendment at its own initiative with the intention of allowing companies in the coal industry, if they so desire, to provide a certain amount of their liability insurance through self-insurance. The provision of the Utah Coal Mining Rules that Utah proposes to revise is Utah Administrative Rule (Utah Admin. R.) 645-301-890.400, Terms and Conditions for Liability Insurance.

OSM announced receipt of the proposed amendment in the October 21, 1994, *Federal Register* (59 FR 53123), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. UT-982). Because no one requested a public hearing or meeting, none was

held. The public comment period ended on November 21, 1994.

During its review of the amendment, OSM identified concerns relating to the provision of Utah's Coal Mining Rules at Utah Admin. R. 645-301-890.400. OSM notified Utah of the concerns by letter dated November 30, 1994 (administrative record No. UT-992). Utah responded in a letter dated December 16, 1994, by submitting additional explanatory information (administrative record No. UT-999).

In response to the issue letter, Utah proposes additional explanatory information with the intention of clarifying that Utah's proposed revision to Utah Admin. R. 645-301-890.400 will allow companies in the coal industry to provide a certain amount of their liability insurance through self-insurance only if they qualify as government entities under (1) a Utah statutory provision allowing for the creation by two or more public agencies of a separate legal or administrative entity at Utah Code Annotated (U.C.A.) § 11-13-5.5(2)(a) of the Utah Interlocal Cooperation Act and (2) a Utah self-insurance statutory provision at U.C.A. § 63-30-28 of the Utah Governmental Immunity Act.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Utah program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Utah program.

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under DATES or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under-sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

V. List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 3, 1995.

Charles E. Sandberg,

Acting Assistant Director, Western Support Center.

[FR Doc. 95-569 Filed 1-9-95; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF VETERANS AFFAIRS

**38 CFR Part 3
RIN 2900-AH12**

Exclusions from Income (RECA Payments)

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations concerning income and net worth exclusions. The purpose of the rule is to implement legislation excluding from consideration as countable income and net worth amounts paid to claimants under the Radiation Exposure Compensation Act (RECA). The intended effect of this amendment is to have VA regulations conform to the requirements of that statute.

EFFECTIVE DATE: This amendment is effective October 15, 1990, the date specified in Pub. L. 101-426.

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, telephone (202) 273-7210.

SUPPLEMENTARY INFORMATION: Public Law 101-426, the Radiation Exposure Compensation Act (RECA), was enacted by Congress to compensate individuals who may have suffered adverse health effects from working in uranium mines or living downwind of above-ground nuclear tests. Section 6(h) of that law provides that RECA payments shall not be included as income or resources for

purposes of determining eligibility for benefits described in section 3803(c)(2)(C) of Title 31, United States Code. Title 31 U.S.C. 3803(c)(2)(C)(viii) lists benefits under chapters 11, 13 and 15 of Title 38, United States Code, which governs payment of VA benefits.

VA administers several income-based benefit programs under which a claimant's countable income determines the rate of VA benefits payable. Net worth may also affect eligibility. Those affected by RECA are death compensation (38 U.S.C. chapter 11), Parents' Dependency and Indemnity Compensation (38 U.S.C. chapter 13) and the Improved Pension program (38 U.S.C. chapter 15). Other VA benefits which are income-based, notably the prior pension programs known as the Section 306 and Old Law pension programs, are no longer authorized under those chapters of 38 U.S.C. listed in Public Law 101-426.

VA regulations at 38 CFR 3.271 state that payments of any kind from any source shall be counted as income for purposes of the Improved Pension program unless specifically excluded under 38 CFR 3.272. 38 CFR 3.261(a) indicates whether various categories of income are included or excluded when determining eligibility for Parents' Dependency and Indemnity Compensation or pension programs which were in effect prior to January 1, 1979. It also indicates whether various categories of income are included or excluded when determining whether a parent qualifies as a dependent parent for purposes of 38 U.S.C. chapter 11. 38 CFR 3.274 states that Improved Pension shall be denied or discontinued when the corpus of a claimant's estate is such that it is reasonable that some of the estate be used for the claimant's maintenance.

We are amending 38 CFR 3.261, 3.262, and 3.272 to show that RECA payments are excludable from countable income for Parents' Dependency and Indemnity Compensation, the Improved Pension program, and in determining whether a parent is dependent for purposes of 38 U.S.C. chapter 11. We are amending 38 CFR 3.275 to show that

RECA payments are not to be included in computing an Improved Pension claimant's net worth. Net worth is not a factor for Parents' Dependency and Indemnity Compensation. The purpose of this rule is to amend the regulations to be consistent with the provisions of section 6 of Public Law 101-426.

This final rule is made effective without notice and comment since it makes changes merely to reflect statutory requirements.

The Secretary certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. This rule will directly affect VA beneficiaries but will not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this final regulation is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The catalog of Federal Domestic Assistance program numbers are 64.104, 64.105, 64.109, and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Health care, Individuals with disabilities, Pensions, Veterans.

Approved: December 22, 1994.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR Part 3 is amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.261, a new paragraph (a)(38) is added to read as follows:

§ 3.261 Character of income; exclusions and estates.

(a) *Income*

(38) Income received under Section 6 of the Radiation Exposure Compensation Act (Pub. L. 101-426)

Excluded	Excluded	Included	Included	3.262(w)
----------	----------	----------	----------	----------

3. In § 3.262, paragraph (w) and its authority citation are added to read as follows:

§ 3.262 Evaluation of income.

* * * * *

(w) *Radiation Exposure Compensation Act.* For the purposes of parents' dependency and indemnity compensation, there shall be excluded from income computation payments

under Section 6 of the Radiation Exposure Compensation Act of 1990. (Authority: 42 U.S.C. 2210 note)

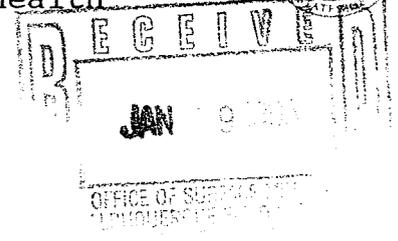
UT-1004

U. S. Department of Labor

Mine Safety and Health Administration
P.O. Box 25367
Denver, Colorado 80225-0367



Coal Mine Safety and Health
District 9



JAN - 6 1995

Thomas E. Ehmett, Acting Director
Office of Surface Mining Reclamation and Enforcement
Albuquerque Field Office
505 Marquette Avenue, N.W., Suite 1200
Albuquerque, NM 87102

RE: Formal Amendment
Utah's Coal Mining and Reclamation
Regulatory Program
(UT-971) General Comments

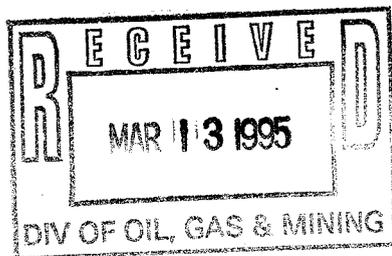
Dear Mr. Ehmett:

This is in response to your letter, dated September 19, 1994, requesting general comments for the referenced proposed formal amendment to Utah's mining and reclamation regulatory program. The amendment has been reviewed by MSHA personnel, and it appears that there are no conflicts with the requirements of 30 CFR.

MSHA appreciates the opportunity to comment on matters of such importance. If you have any questions, concerning this matter, please contact this office at (303) 231-5462.

Sincerely,

J. P. Krepp
John A. Kuzar
District Manager

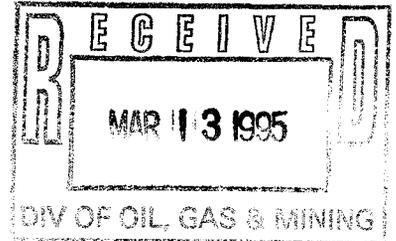


SPAT UT-029-FOR



FILE COPY

December 14, 1994



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:

On October 24, 1992, the President signed the Energy Policy Act of 1992 (EPACT) into law. Among other things, this law added a new section 720 to the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This section, a copy of which is enclosed, provides that all underground coal mining operations conducted after that date must:

- Promptly repair material damage to noncommercial buildings and occupied residential dwellings and related structures if the damage occurs as a result of subsidence caused by the underground mining activities. Alternatively, the operator or permittee may compensate the owner of the damaged structure for the diminution in value resulting from the subsidence damage.
- Promptly replace any drinking, domestic, or residential water supply adversely impacted by underground mining operations. This requirement applies only if the supply consists of a well or spring in existence prior to the date of application for the operation's mining permit.

In the near future, the Office of Surface Mining Reclamation and Enforcement (OSM) expects to publish final regulations implementing these new provisions. Following publication, OSM will notify States of the changes needed to ensure that State regulatory programs remain no less effective than the new regulations.

Because EPACT's structural repair and water supply replacement requirements took effect immediately upon enactment, the final rule will address the enforcement of these requirements between October 24, 1992, and the date the State program is amended to include provisions consistent with EPACT. Two documents previously published in the Federal Register (an April 13, 1993, notice of intent and a September 24, 1993, proposed rule) provided prior public notice of OSM's intent to ensure enforcement of the statutory requirements after October 24, 1992.

However, OSM recognizes that many States have relied upon existing program provisions or subsequent amendments to implement the two statutory requirements discussed above as of their October 24, 1992, effective date. If this situation exists in your State, please provide the following information:

- A copy of or citations to the applicable State program provisions.
- An explanation of the enforcement procedures.
- Number of underground coal mines in operation after October 24, 1992.
- Number of complaints received alleging subsidence-related structural damage or water supply loss or contamination as a result of underground mining operations conducted after October 24, 1992.
- A summary of the disposition of those complaints.

On the other hand, if your program either lacks a counterpart to section 720(a) of SMCRA or contains a counterpart with an effective date later than October 24, 1992, please submit the following information:

- The extent to which the State program does not contain or authorize enforcement of the structural damage repair and water supply replacement requirements of section 720(a) of SMCRA. For example, does the State program exclude certain classes of structures or water supplies, provide exemptions or limitations, or apply only to permits issued after a certain date?
- In the absence of enforcement authority, a statement as to whether the State has the authority to investigate complaints of structural damage or water loss caused by underground mining operations conducted after October 24, 1992.
- An explanation of the specific statutory, regulatory, or policy changes that you believe may be needed to fully implement section 720(a) of SMCRA.
- An estimate of the time required to accomplish these changes.
- Number of underground coal mines in operation after October 24, 1992.
- A list of complaints received alleging subsidence-related structural damage or water supply loss or contamination as a result of underground mining operations conducted after October 24, 1992.
- The current status of those complaints.

Mr. James W. Carter

3

To assist OSM in determining how to implement EPACT, I request that this information be submitted to me within 30 days. After receiving your response, I will consult with you further before making a final determination concerning enforcement of section 720(a) of SMCRA in your State following promulgation of the final Federal regulations.

I look forward to working with you to fully implement EPACT's requirements in a mutually acceptable manner. Please let me know if you have any questions or concerns.

Sincerely,

Original Signed By
THOMAS E. EHMETT

Thomas E. Ehmett, Acting Director
Albuquerque Field Office

Enclosure

SUBSIDENCE
[30 U. S. C. 1309a]

SEC. 720.(a) Underground coal mining operations conducted after the date of enactment of this section shall comply with each of the following requirements:

(1) Promptly repair, or compensate for, material damage resulting from subsidence caused to any occupied residential dwelling and structures related thereto, or non-commercial building due to underground coal mining operations. Repair of damage shall include rehabilitation, restoration, or replacement of the damaged occupied residential dwelling and structures related thereto, or non-commercial building. Compensation shall be provided to the owner of the damaged occupied residential dwelling and structures related thereto or non-commercial building and shall be in the full amount of the diminution in value resulting from the subsidence. Compensation may be accomplished by the purchase, prior to mining, of a noncancellable premium-prepaid insurance policy.

(2) Promptly replace any drinking, domestic, or residential water supply from a well or spring in existence prior to the application for a surface coal mining and reclamation permit, which has been affected by contamination, diminution, or interruption resulting from underground coal mining operations. Nothing in this section shall be construed to prohibit or interrupt underground coal mining operations.

(b) Regulations. Within one year after the date of enactment of this section, the Secretary shall, after providing notice and opportunity for public comment, promulgate final regulations to implement subsection (a).

Note: Section 720 added October 24, 1992

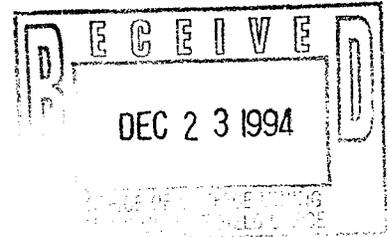


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2466

UT-1,000



Ref: 8WM

December 22, 1994

Mr. Thomas E. Ehmett, Acting Director
Albuquerque Field Office
Office of Surface Mining
505 Marquette Avenue N.W., Suite 1200
Albuquerque, NM 87102

Dear Mr. Ehmett,

This is in response to your December 1, 1994 request for comments on the proposed amendment to Utah's program for regulating surface coal mining and reclamation operations, described as Administrative Record No. UT-990 (SPATS No. UT-025-FOR), regarding amendments to Administrative Rules, R645-100-200 and R645-301-553, on highwall management.

EPA has no comments on this proposed amendment. We do not believe there would be any impacts to water quality standards promulgated under the authority of the Clean Water Act, as amended (33 U.S.C. 1251 et seq.).

Thank you for providing us the opportunity to review this material.

Sincerely,

Robert E. Walline
Robert E. Walline,
Mining Waste National Expert



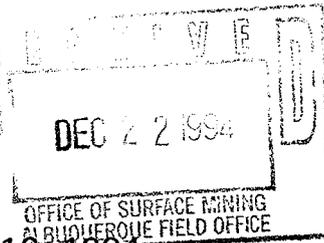
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State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

355 West North Temple
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Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)



December 16, 1994

UT. 999

Thomas E. Ehmett, Acting Director
Office of Surface Mining
Reclamation and Enforcement
505 Marquette N.W., Suite 1200
Albuquerque, New Mexico 87102

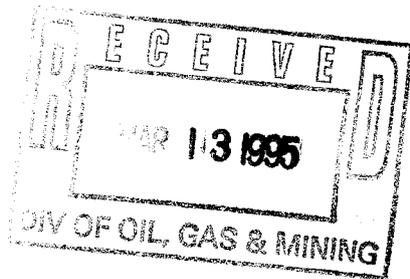
Re: UT-030-FOR, Self Liability Insurance

Dear Mr. Ehmett:

Thank you for your November 30, 1994 response to the proposed Utah program amendment which would allow certain coal mining companies to self-insure, providing they qualify under the provision of the Governmental Immunity Act, UCA § 63-30-28. The program amendment cites the Governmental Immunity Act because it is the only state statute which allows self-insurance, and its provisions allow that option for governmental entities only.

Perhaps it is necessary to point out to you that there are coal mining companies in the state of Utah which qualify as governmental entities under part of the Interlocal Cooperation Act, UCA § 11-13-5.5(2)(a) (1992). A copy of this act is enclosed for your information, as is a copy of the entire (Utah) Governmental Immunity Act, UCA 63-30-1, et seq.

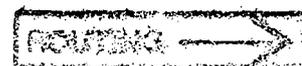
Please proceed with the processing of this program amendment considering this new information and feel free to contact me if you need additional clarification of the state's position in this regard.



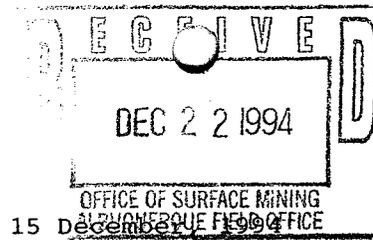
Very truly yours,

James W. Carter
Director

jbe
cc/enc: C. Sandberg, OSM, Denver
P:UT-030-F.LTR
Enclosures



CHAPTER 13
INTERLOCAL CO-OPERATION ACT



Section

- 11-13-1. Short title.
- 11-13-2. Purpose of act.
- 11-13-3. Definitions.
- 11-13-4. Joint exercise of powers, privileges or authority by public agencies authorized.
- 11-13-5. Agreements for joint or cooperative action - Resolutions by governing bodies required.
 - 11-13-5.5. Contract by public agencies to create new entities to provide services - Powers and duties of new entities - Generation of electricity.
 - 11-13-5.6. Contract by public agencies to create new entities to own sewage and wastewater facilities - Powers and duties of new entities - Validation of previously created entities.
- 11-13-6. Agreements for joint or co-operative action - Required provisions.
- 11-13-7. Agreement not establishing separate legal entity - Additional provisions required.
- 11-13-8. Agreement does not relieve public agency of legal obligation or responsibility.
- 11-13-9. Approval of agreements by authorized attorney.
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- 11-13-11. Agreements between public agencies of state and agencies of other states or United States - Status - Rights of state in actions involving agreements.
- 11-13-12. Agreements for services or facilities under control of state officer or agency - Approval by authorized attorney.
- 11-13-13. Appropriation of funds and aid to administrative joint boards authorized.
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 - 11-13-16.5. Sharing tax or other revenues.
- 11-13-17. Contracts - Term - Resolutions of governing bodies to authorize.
- 11-13-18. Control and operation of joint facility or improvement provided by contract.
- 11-13-19. Bond issues by public agencies or by legal and administrative entities authorized.
- 11-13-20. Publication of resolutions or contracts - Contesting legality of resolution or contract.
- 11-13-21. Repealed.
- 11-13-22. Qualifications of officers or employees performing services under agreements.
- 11-13-23. Compliance with act sufficient to effectuate agreements.
- 11-13-24. Privileges and immunities of public agencies extended to officers and employees performing services under agreements.
- 11-13-25. Payment of fee in lieu of ad valorem property tax by certain energy suppliers - Method of calculating - Collection - Extent of tax lien.
- 11-13-26. Liability for sales and use taxes.
- 11-13-27. Hearing - Certificate of public convenience and necessity - Effective date.
- 11-13-28. Responsibility for alleviation of direct impact of project - Requirement to contract - Source of payment.
- 11-13-29. Procedure in case of inability to formulate contract for alleviation of impact.
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- 11-13-31. Effect of failure to comply.
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- 11-13-33. Termination of impact alleviation contract.
- 11-13-34. Impact alleviation payments credit against in lieu of ad valorem property taxes - Federal or state assistance.
- 11-13-35. Exemption from privilege tax.
- 11-13-36. Arbitration of disputes.
- 11-13-37. Open and public meetings.

11-13-1. Short title.

This act may be cited as the "Interlocal Co-operation Act."

History: L. 1965, ch. 14, § 1.

Meaning of "this act". - The term "this act," as used in the section, apparently refers to Laws 1965, ch. 14, which enacted §§ 11-13-1 to 11-13-5, 11-13-6 to 11-13-11, 11-13-14 to 11-13-16, and 11-13-17 to 11-13-20.

COLLATERAL REFERENCES

Utah Law Review. - Note, Local Government Modernization: A Utah Perspective, 1971 Utah L. Rev. 78.

Journal of Energy Law and Policy. - Comment, The Only Way to Manage a Desert: Utah's Liability Immunity for Flood Control, 8 J. Energy L. & Pol'y 95 (1987).

11-13-2. Purpose of act.

It is the purpose of this act to permit local governmental units to make the most efficient use of their powers by enabling them to co-operate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities and to provide the benefit of economy of scale, economic development and utilization of natural resources for the overall promotion of the general welfare of the state.

History: L. 1965, ch. 14, § 2; 1977, ch. 47, § 1.

Meaning of "this act". - See note under § 11-13-1.

Cross-References. - Facilities and improvements necessary to accomplish purposes, § 11-13-14.

11-13-3. Definitions.

As used in this chapter:

- (1) "Board" means the Permanent Community Impact Fund Board created by Section 9-4-304, and its successors.
- (2) "Candidate" means the state of Utah and any county, municipality, school district, prosecution district, special district, or any other political subdivision of the state of Utah or its authorized agent or any one or more of them.
- (3) "Direct impacts" means an increase in the need for any public facilities or services that is attributable to the project, except impacts

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resulting from the construction or operation of any facility owned by others that is used to furnish fuel, construction, or operation materials for use in the project.

(4) (a) "Facilities," "services," or "improvements" mean facilities, services, or improvements of any kind or character provided by a candidate with respect to any one or more of the following:

- (i) flood control;
- (ii) storm drainage;
- (iii) government administration;
- (iv) planning and zoning;
- (v) buildings and grounds;
- (vi) education;
- (vii) health care;
- (viii) parks and recreation;
- (ix) police and fire protection;
- (x) prosecution of violations of state criminal statutes;
- (xi) defense of individuals prosecuted for violations of state criminal statutes;
- (xii) transportation;
- (xiii) streets and roads;
- (xiv) utilities;
- (xv) culinary water;
- (xvi) sewage disposal;
- (xvii) social services;
- (xviii) solid waste disposal; and
- (xix) economic development or new venture investment fund.

(b) "Facilities" and "improvements" includes entire facilities and improvements or interests in facilities or improvements.

(5) "Project" means an electric generating and transmission project owned by a legal or administrative entity created under this chapter and shall include any electric generating facilities, transmission facilities, fuel or fuel transportation facilities, or water facilities owned by that entity and required for that project.

(6) "Project entity" means a legal or administrative entity created under this chapter which owns a project and which sells the capacity, services, or other benefits from it.

(7) "Public agency" means:

(a) any political subdivision of this state including, but not limited to, cities, towns, counties, school districts, and special districts of various kinds;

(b) the state of Utah or any department, division, or agency of the state of Utah;

(c) any agency of the United States; and

(d) any political subdivision or agency of another state including any interlocal cooperation or joint powers agency formed under the authority of the law of another state.

(8) "State" means a state of the United States and the District of Columbia.

History: L. 1965, ch. 14, § 3; 1980, ch. 10, § 1; 1982 (2nd S.S.), ch. 2, § 1; 1985, ch. 143, § 1; 1986, ch. 206, § 1; 1989, ch. 41, § 1; 1989 (2nd S.S.), ch. 5, § 1; 1992, ch. 241, § 368; 1993, ch. 38, § 6; 1993, ch. 218, § 1.

Amendment Notes. - The 1989 amendment, effective April 24, 1989, added Subsection (6)(r) and made minor stylistic changes.

The 1989 (2nd S.S.) amendment, effective October 10, 1989, alphabetized the defined terms and redesignated the subsections accordingly; combined the two

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subsections dealing with "Facilities" as present Subsection (4) and deleted the last item in Subsection (4)(a), "Winter Games"; and made stylistic changes throughout.

The 1992 amendment, effective March 13, 1992, substituted "Section 9-4-304" for "Section 63-52-2" in Subsection (1).

The 1993 amendment by ch. 38, effective May 3, 1993, inserted "prosecution district" in Subsection (2), added Subsections (4)(a)(x) and (4)(a)(xi), and redesignated the remaining subsections accordingly.

The 1993 amendment by ch. 218, effective May 3, 1993, rewrote Subsection (7)(d), which formerly read "any political subdivision of another state."

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

11-13-4. Joint exercise of powers, privileges or authority by public agencies authorized.

Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state having the power or powers, privileges or authority, and jointly with any public agency of any other state or of the United States permit [sic] such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by this act upon a public agency.

History: L. 1965, ch. 14, § 4.

Meaning of "this act". - See note under § 11-13-1.

11-13-5. Agreements for joint or cooperative action - Resolutions by governing bodies required.

Any two or more public agencies may enter into agreements with one another for joint or co-operative action pursuant to this act. Adoption of appropriate resolutions by the governing bodies of the participating public agencies are necessary before any such agreement may enter into force.

History: L. 1965, ch. 14, § 2; 1977, ch. 47, § 2.

Meaning of "this act". - See note under § 11-13-1.

11-13-5.5. Contract by public agencies to create new entities to provide services - Powers and duties of new entities - Generation of electricity.

(1) Any two or more public agencies of Utah may agree to create a separate legal or administrative entity to accomplish the purpose of their joint or cooperative action, including the undertaking and financing of a facility or improvement to provide the service contemplated by that agreement.

(2) (a) The separate legal or administrative entity created under the authority of this section is a political subdivision of Utah with power to:

(i) own, acquire, construct, operate, maintain, and repair or cause to be constructed, operated, maintained, and repaired any facility or improvement set forth in the agreement;

(ii) borrow money, incur indebtedness, and issue revenue bonds or notes for the purposes for which it was created;

(iii) assign, pledge, or otherwise convey as security for the payment of any bonded indebtedness, the revenues, and receipts from the facility,

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improvement, or service; or

(iv) sell or contract for the sale of the product of the service or other benefits from the facility or improvement to public agencies within or without the state on whatever terms that it considers to be in the best interest of its participants.

(b) The assignment, pledge, or other conveyance specified in Subsection (2)(a)(iii) may rank prior in right to any other obligation except taxes or payments in lieu of taxes payable to the state or its political subdivisions.

(3) (a) Any entity formed to construct any electrical generation facility shall, at least 150 days before adoption of the bond resolution for financing the project, offer to enter into firm or withdrawable power sales contracts to suppliers of electric energy within Utah who are existing and furnishing services in this state at the time that the offer is made.

(b) That offer must be:

(i) accepted within 120 days from the date offered or it will be considered rejected; and

(ii) for not less than 50% of its energy output.

(c) For any electrical generation facility for which construction begins after April 21, 1987, that offer shall be for not less than 25% of its energy output.

(d) The demand by those electric energy suppliers or the amounts deliverable to any electric energy supplier or a combination of them may not exceed the amount allowable by the United States Internal Revenue Service in a way that would result in a change in or a loss of the tax exemption from federal income tax for the interest paid, or to be paid, under any bonds or indebtedness created or incurred by any entity formed under this section.

(e) In no event may the energy output available for use within this state be less than 25% of the total output.

(f) For any electrical generation facility for which construction begins after April 21, 1987, the amount of energy output available within this state may not be less than 5% of the total output.

(4) Subsection (3) applies only to the construction and operation of a facility to generate electricity.

(5) Any entity formed to construct and operate facilities for the generation of electricity and any entity formed to facilitate the transmission or supply of electrical power under this section may include within the agreement creating the entity provisions authorizing any public agency located within a contiguous state to:

(a) participate as a member of the project entity if it enters into an agreement in accordance with Section 11-13-11; and

(b) vote on any issues affecting that public agency's interests, if the public agency enters into the agreement required by Subsection (5)(a).

History: C. 1953, 11-13-5.5, enacted by L. 1977, ch. 47, § 3; 1985, ch. 143, § 2; 1987, ch. 188, § 1; 1989, ch. 41, § 2; 1989 (2nd S.S.), ch. 5, § 2; 1991, ch. 141, § 1; 1992, ch. 30, § 17.

Amendment Notes. - The 1989 amendment, effective April 24, 1989, added Subsection (4).

The 1989 (2nd S.S.) amendment, effective October 10, 1989, deleted former Subsection (4), listing the powers of an entity formed to bid for, construct, and operate facilities and manage the Winter Games, and made stylistic changes throughout the section.

The 1991 amendment, effective April 29, 1991, added the Subsection (2) designation and redesignated former Subsections (2) and (3) as Subsections (3) and (4); in Subsection (2), added the Subsection (a) and (a)(iii) designations, added Subsection (b) and redesignated former Subsections (a),

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(b), and (c) as Subsections (a)(i), (a)(ii), and (a)(iv); subdivided Subsection (3); added Subsection (5); deleted a provision from the end of Subsection (2)(a)(iii) and added substantially similar language as Subsection (2)(b); deleted a provision from the end of Subsection (3)(b)(ii) and added substantially similar language at the end of Subsection (3)(a); and made minor stylistic and punctuation changes throughout the section.

The 1992 amendment, effective April 27, 1992, substituted "(3)" for "(2)" in Subsection (4).

Cross-References. - Special elections on Winter Games, § 20-1-3(2).

NOTES TO DECISIONS

Powers of new entities.

The powers of an entity enumerated in this section are additional to the statutory powers of the individual members of the entity, and the members can invest the entity with their power to buy and sell electric power so that it can conduct the operation of its members' joint or cooperative action. *Utah Power & Light Co. v. Utah Associated Mun. Power Sys.*, 784 P.2d 137 (Utah 1989).

11-13-5.6. Contract by public agencies to create new entities to own sewage and wastewater facilities - Powers and duties of new entities - Validation of previously created entities.

(1) It is declared that the policy of the state of Utah is to assure the health, safety and welfare of its citizens, that adequate sewage and wastewater treatment plants and facilities are essential to the well-being of the citizens of the state and that the acquisition of adequate sewage and wastewater treatment plants and facilities on a regional basis in accordance with federal law and state and federal water quality standards and effluent standards in order to provide services to public agencies is a matter of statewide concern and is in the public interest. It is found and declared that there is a statewide need to provide for regional sewage and wastewater treatment plants and facilities, and as a matter of express legislative determination it is declared that the compelling need of the state for construction of regional sewage and wastewater treatment plants and facilities requires the creation of entities under the Interlocal Co-operation Act to own, construct, operate and finance sewage and wastewater treatment plants and facilities; and it is the purpose of this law to provide for the accomplishment thereof in the manner provided in this Section 11-13-5.6.

(2) Any two or more public agencies of the state of Utah may also agree to create a separate legal or administrative entity to accomplish and undertake the purpose of owning, acquiring, constructing, financing, operating, maintaining, and repairing regional sewage and wastewater treatment plants and facilities.

(3) A separate legal or administrative entity created in the manner provided herein is deemed to be a political subdivision and body politic and corporate of the state of Utah with power to carry out and effectuate its corporate powers, including, but not limited to, the following:

(a) To adopt, amend, and repeal rules, bylaws, and regulations, policies, and procedures for the regulation of its affairs and the conduct of its business, to sue and be sued in its own name, to have an official seal and power to alter that seal at will, and to make and execute contracts and all other instruments necessary or convenient for the performance of its duties

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and the exercise of its powers and functions under the Interlocal Co-operation Act.

(b) To own, acquire, construct, operate, maintain, repair or cause to be constructed, operated, maintained, and repaired one or more regional sewage and wastewater treatment plants and facilities, all as shall be set forth in the agreement providing for its creation.

(c) To borrow money, incur indebtedness and issue revenue bonds, notes or other obligations payable solely from the revenues and receipts derived from all or a portion of the regional sewage and wastewater treatment plants and facilities which it owns, operates and maintains, such bonds, notes, or other obligations to be issued and sold in compliance with the provisions of the Utah Municipal Bond Act.

(d) To enter into agreements with public agencies and other parties and entities to provide sewage and wastewater treatment services on such terms and conditions as it deems to be in the best interests of its participants.

(e) To acquire by purchase or by exercise of the power of eminent domain, any real or personal property in connection with the acquisition and construction of any sewage and wastewater treatment plant and all related facilities and rights-of-way which it owns, operates, and maintains.

(4) The provisions of Sections 11-13-25, 11-13-26, 11-13-27, 11-13-28, 11-13-29, 11-13-30, 11-13-31, 11-13-32, 11-13-33, 11-13-34, 11-13-35, and 11-13-36 shall not apply to a legal or administrative entity created for regional sewage and wastewater treatment purposes under this Section 11-13-5.6.

(5) All proceedings previously had in connection with the creation of any legal or administrative entity pursuant to this chapter, and all proceedings previously had by any such entity for the authorization and issuance of bonds of the entity are validated, ratified, and confirmed; and these entities are declared to be validly-created interlocal co-operation entities under this chapter. These bonds, whether previously or subsequently issued pursuant to these proceedings, are validated, ratified, and confirmed and declared to constitute, if previously issued, or when issued, the valid and legally binding obligations of the entity in accordance with their terms. Nothing in this section shall be construed to affect or validate any bonds, or the organization of any entity, the legality of which is being contested at the time this act takes effect.

History: C. 1953, 11-13-5.6, enacted by L. 1982, ch. 8, § 1.

Compiler's Notes. - The effective date of L. 1982, ch. 8, referred to in Subsection (5), was April 1, 1982.

11-13-6. Agreements for joint or co-operative action - Required provisions.

Any such agreement shall specify the following:

- (1) its duration;
- (2) the precise organization, composition and nature of any separate legal or administrative entity created thereby, together with the powers delegated thereto, provided such entity may be legally created. If a separate entity or administrative body is created to perform the joint functions, a majority of the governing body of such entity shall be constituted by appointments made by the governing bodies of the public agencies creating the entity and such appointees shall serve at the pleasure of the governing bodies of the creating public agencies;
- (3) its purpose or purposes;
- (4) the manner of financing the joint or co-operative undertaking and of establishing and maintaining a budget therefor;

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(5) the permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(6) any other necessary and proper matters; and

(7) the price of any product of the service or benefit to the consumer allocated to any buyer except the participating agencies within the state shall include the amount necessary to provide for the payments of the in lieu fee provided for in Section 11-13-25.

History: L. 1965, ch. 14, § 6; 1977, ch. 47, § 4; 1993, ch. 4, § 45.

Amendment Notes. - The 1993 amendment, effective May 3, 1993, made the first letter in each subsection lower case, substituted a semicolon for a period at the end of each subsection, and inserted "Section" and made a punctuation change in Subsection (7).

11-13-7. Agreement not establishing separate legal entity - Additional provisions required.

In the event that the agreement does not establish a separate legal entity to conduct the joint or co-operative undertaking, the agreement shall in addition to the items specified in Section 11-13-6, contain the following:

(1) Provision for an administrator or a joint board responsible for administering the joint or co-operative undertaking. In the case of a joint board, public agencies party to the agreement shall be represented.

(2) The manner of acquiring, holding and disposing of real and personal property used in the joint or co-operative undertaking.

History: L. 1965, ch. 14, § 7.

11-13-8. Agreement does not relieve public agency of legal obligation or responsibility.

No agreement made pursuant to this act shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board of [or] other legal or administrative entity created by an agreement made hereunder, said performance may be offered in satisfaction of the obligation or responsibility.

History: L. 1965, ch. 14, § 8.

Meaning of "this act". - See note under § 11-13-1.

Compiler's Notes. - The bracketed word "or" following "joint board of" was inserted by the compiler.

11-13-9. Approval of agreements by authorized attorney.

Every agreement made under this chapter shall, prior to and as a condition precedent to its entry into force, be submitted to an attorney authorized by the public agency entering into the agreement who shall approve the agreement if it is in proper form and compatible with the laws of this state.

History: L. 1965, ch. 14, § 9; 1977, ch. 41, § 1; 1987, ch. 188, § 2.

11-13-10. Filing of agreements.

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Prior to its entry into force, an agreement made pursuant to this act shall be filed with the keeper of records of each of the public agencies party thereto.

History: L. 1965, ch. 14, § 10.

Meaning of "this act". - See note under § 11-13-1.

11-13-11. Agreements between public agencies of state and agencies of other states or United States - Status - Rights of state in actions involving agreements.

In the event that an agreement entered into pursuant to this act is between or among one or more public agencies of this state and one or more public agencies of another state or of the United States, said agreement shall have the status of an interstate compact, but in any case or controversy involving performance or interpretation thereof or liability thereunder, the public agencies party thereto shall be real parties in interest and the state may maintain an action to recoup or otherwise make itself whole for any damages or liabilities which it may incur by reason of being joined as a party therein. Such action shall be maintainable against any public agency or agencies whose default, failure or performance, or other conduct caused or contributed to the incurring of damage or liability by the state.

History: L. 1965, ch. 14, § 11.

Meaning of "this act". - See note under § 11-13-1.

11-13-12. Agreements for services or facilities under control of state officer or agency - Approval by authorized attorney.

If an agreement made under this chapter deals in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall be approved by an authorized attorney under Section 11-13-9 and shall include a determination that the provision of services or facilities is authorized under applicable laws of this state.

History: C. 1953, § 11-13-12, enacted by L. 1987, ch. 188, § 3.

Repeals and Reenactments. - Laws 1987, ch. 188, § 3 repeals former § 11-13-12, as enacted by Laws 1965, ch. 14, § 12, relating to agreements for services or facilities under the control of a state officer or agency, and enacts the present section.

11-13-13. Appropriation of funds and aid to administrative joint boards authorized.

Any public agency entering into an agreement pursuant to this act may appropriate funds and may sell, lease, give, or otherwise supply tangible and intangible property to the administrative joint board or other legal or administrative entity created to operate the joint or co-operative undertaking and may provide personnel or services therefor as may be within its legal power to furnish.

History: L. 1965, ch. 14, § 13; 1985, ch. 143, § 3.

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11-13-14. Contracts between public agencies or with legal or administrative entities to perform governmental services, activities or undertakings - Facilities and improvements.

(1) Any one or more public agencies may contract with each other or with a legal or administrative entity created pursuant to this chapter to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform, provided that the contract shall be authorized by the governing body of each party to the contract. The contract shall set forth fully the purposes, powers, rights, objectives, and responsibilities of the contracting parties. In order to perform such service, activity, or undertaking, a public agency may create, construct, or otherwise acquire facilities or improvements in excess of those required to meet the needs and requirements of the parties to the contract.

(2) A legal or administrative entity created by agreement under this chapter may create, construct, or otherwise acquire facilities or improvements to render service in excess of those required to meet the needs or requirements of the public agencies party to the agreement if:

(a) it is determined by the public agencies to be necessary to accomplish the purposes and realize the benefits set forth in Section 11-13-2; and

(b) any excess sold to other public agencies within or without the state is sold on terms that assure that the cost of providing the excess will be recovered by the legal or administrative entity.

History: L. 1965, ch. 14, § 14; 1977, ch. 47, § 5; 1989, ch. 41, § 3; 1989 (2nd S.S.), ch. 5, § 3.

Amendment Notes. - The 1989 amendment, effective April 24, 1989, inserted the subsection designations (1) and (2) and added Subsection (3).

The 1989 (2nd S.S.) amendment, effective October 10, 1989, substituted "chapter" for "act" in two places; subdivided Subsection (2); deleted former Subsection (3), authorizing Winter Games entities to contract for rights, products, or services; and made stylistic changes throughout.

NOTES TO DECISIONS

Power to condemn property.

Municipalities do not possess greater powers to condemn property as an agency formed pursuant to this act than they have individually under the eminent domain statutes. CP Nat'l Corp. v. Public Serv. Comm'n, 638 P.2d 519 (Utah 1981).

11-13-15. Agreements for joint ownership, operation or acquisition of facilities or improvements authorized.

Any two or more public agencies may make agreements between or among themselves:

(1) for the joint ownership of any one or more facilities or improvements which they have authority by law to own individually;

(2) for the joint operation of any one or more facilities or improvements which they have authority by law to operate individually;

(3) for the joint acquisition by gift, grant, purchase, construction, condemnation or otherwise of any one or more such improvements or facilities and for the extension, repair or improvement thereof;

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- (4) for the exercise by a legal or administrative entity created by agreement of public agencies of the state of Utah of its powers with respect to any one or more facilities or improvements and the extensions, repairs or improvements of them; or
(5) any combination of the foregoing.

History: L. 1965, ch. 14, § 15; 1977, ch. 47, § 6.

NOTES TO DECISIONS

Power to condemn property.

Municipalities do not possess greater powers to condemn property as an agency formed pursuant to this act than they have individually under the eminent domain statutes. CP Nat'l Corp. v. Public Serv. Comm'n, 638 P.2d 519 (Utah 1981).

11-13-16. Conveyance or acquisition of property by public agency authorized.

In carrying out the provisions of this chapter, any public agency may convey property to or acquire property from any other public agency for consideration as may be agreed upon.

History: L. 1965, ch. 14, § 16; 1989, ch. 41, § 4; 1989 (2nd S.S.), ch. 5, § 4.

Amendment Notes. - The 1989 amendment, effective April 24, 1989, inserted subsection designation (1) and added Subsection (2).

The 1989 (2nd S.S.) amendment, effective October 10, 1989, deleted former Subsection (2), authorizing the acquisition or conveyance of property by a public agency "hosting, managing, operating, bidding for, or organizing a Winter Games"; deleted the subsection designation (1) from the beginning of the section; substituted "chapter" for "act"; and made minor stylistic changes.

11-13-16.5. Sharing tax or other revenues.

Any county, city, town, or other local political subdivision may, at the discretion of the local governing body, share its tax and other revenues with other counties, cities, towns, or local political subdivisions. Any decision to share tax and other revenues shall be by local ordinance, resolution, or interlocal agreement.

History: C. 1953, 11-13-16.5, enacted by L. 1984 (2nd S.S.), ch. 3, § 1.

Cross-References. - Revenue sharing between political subdivisions, Utah Const., Art. XIII, Sec. 5.

11-13-17. Contracts - Term - Resolutions of governing bodies to authorize.

Any contract entered into hereunder shall extend for a term of not to exceed fifty years and shall be authorized by resolutions adopted by the respective governing bodies.

History: L. 1965, ch. 14, § 17.

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11-13-18. Control and operation of joint facility or improvement provided by contract.

Any facility or improvement jointly owned or jointly operated by any two or more public agencies or acquired or constructed pursuant to an agreement under this act may be operated by any one or more of the interested public agencies designated for the purpose or may be operated by a joint board or commission or a legal or administrative entity created for the purpose or through an agreement by a legal or administrative entity and a public agency receiving service of other benefits from such entity or may be controlled and operated in some other manner, all as may be provided by appropriate contract. Payment for the cost of such operation shall be made as provided in any such contract.

History: L. 1965, ch. 14, § 18; 1977, ch. 47, § 7.

11-13-19. Bond issues by public agencies or by legal and administrative entities authorized.

Bonds may be issued by any public agency for the acquisition of an interest in any jointly owned improvement or facility or combination of such facility or improvement, or may be issued to pay all or part of the cost of the improvement or extension thereof in the same manner as bonds can be issued by such public agency for its individual acquisition of such improvement or facility or combination of such facility or improvement or for the improvement or extension thereof. A legal or administrative entity created by agreement of two or more public agencies of the state of Utah under this act may issue bonds or notes under a resolution, trust indenture or other security instrument for the purpose of financing its facilities or improvements. The bonds or notes may be sold at public or private sale, mature at such times and bear interest at such rates and have such other terms and security as the entity determines. Such bonds shall not be a debt of any public agency party to the agreement. Bonds and notes issued under this act are declared to be negotiable instruments and their form and substance need not comply with the Uniform Commercial Code.

History: L. 1965, ch. 14, § 19; 1977, ch. 47, § 8.

11-13-20. Publication of resolutions or contracts - Contesting legality of resolution or contract.

(1) As used in this section:

(a) "Enactment" means:

(i) a resolution adopted or proceedings taken by a governing entity under the authority of this chapter, and includes a resolution, indenture, or other instrument providing for the issuance of bonds; and

(ii) a contract, agreement, or other instrument that is authorized, executed, or approved by a governing entity under the authority of this chapter.

(b) "Governing entity" means:

(i) the legislative body of a public agency; and

(ii) the governing body of a separate legal or administrative agency created under this chapter.

(c) "Notice of bonds" means the notice authorized by Subsection (3)(d).

(d) "Notice of contract" means the notice authorized by Subsection

(3)(c).

(e) "Official newspaper" means the newspaper selected by a governing

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entity under Subsection (4)(b) to publish its enactments.

(2) Any enactment taken or made under the authority of this chapter is not subject to referendum.

(3) (a) A governing entity need not publish any enactment taken or made under the authority of this chapter.

(b) A governing entity may provide for the publication of any enactment taken or made by it under the authority of this chapter according to the publication requirements established by this section.

(c) (i) If the enactment is a contract, document, or other instrument, or a resolution or other proceeding authorizing or approving a contract, document, or other instrument, the governing entity may, instead of publishing the full text of the contract, resolution, or other proceeding, publish a notice of contract containing:

(A) the names of the parties to the contract;

(B) the general subject matter of the contract;

(C) the term of the contract;

(D) a description of the payment obligations, if any, of the parties to the contract; and

(E) a statement that the resolution and contract will be available for review at the governing entity's principal place of business during regular business hours for 30 days after the publication of the notice of contract.

(ii) The governing entity shall make a copy of the resolution or other proceeding and a copy of the contract available at its principal place of business during regular business hours for 30 days after the publication of the notice of contract.

(d) If the enactment is a resolution or other proceeding authorizing the issuance of bonds, the governing entity may, instead of publishing the full text of the resolution or other proceeding and the documents pertaining to the issuance of bonds, publish a notice of bonds that contains the information described in Subsection 11-14-21(3).

(4) (a) If the governing entity chooses to publish an enactment, notice of bonds, or notice of contract, the governing entity shall comply with the requirements of this subsection.

(b) If there is more than one newspaper of general circulation, or more than one newspaper, published within the boundaries of the governing entity, the governing entity may designate one of those newspapers as the official newspaper for all publications made under this section.

(c) (i) The governing entity shall publish the enactment, notice of bonds, or notice of contract in:

(A) the official newspaper;

(B) the newspaper published in the municipality in which the principal office of the governmental entity is located; or

(C) if no newspaper is published in that municipality, in a newspaper having general circulation in the municipality.

(ii) The governing entity may publish the enactment, notice of bonds, or notice of contract in a newspaper of general circulation or in a newspaper that is published within the boundaries of any public agency that is a party to the enactment or contract.

(5) (a) Any person in interest may contest the legality of an enactment or any action performed or instrument issued under the authority of the enactment for 30 days after the publication of the enactment, notice of bonds, or notice of contract.

(b) After the 30 days have passed, no one may contest the regularity, formality, or legality of the enactment or any action performed or instrument issued under the authority of the enactment for any cause whatsoever.

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History: C. 1953, 11-13-20, enacted by L. 1994, ch. 30, § 1.

Repeals and Reenactments. - Laws 1994, ch. 30, § 1 repeals former § 11-13-20, as enacted by Laws 1965, ch. 14, § 20, concerning the publication of resolutions or contracts and providing for contesting the legality of a resolution or contract, and enacts the present section, effective March 2, 1994.

11-13-21. Repealed.

Repeals. - Section 11-13-21 (L. 1965, ch. 14, § 22), prohibiting the use of facilities or improvements by a public agency or legal entity to duplicate the facilities of a public utility electrical corporation, was repealed by Laws 1975, ch. 32, § 1. For present comparable provisions, see § 11-14-1(1)(k).

11-13-22. Qualifications of officers or employees performing services under agreements.

Other provisions of law which may require an officer or employee of a public agency to be an elector or resident of the public agency or to have other qualifications not generally applicable to all of the contracting agencies in order to qualify for said office or employment shall not be applicable to officers or employees who hold office or perform services for more than one public agency pursuant to agreements executed under the provisions of the Interlocal Co-operation Act.

History: C. 1953, 11-13-22, enacted by L. 1967, ch. 27, § 1.

11-13-23. Compliance with act sufficient to effectuate agreements.

When public agencies enter into agreements pursuant to the provisions of this act whereby they utilize a power or facility jointly, or whereby one political agency provides a service or facility to another, compliance with the requirements of this act shall be sufficient to effectuate said agreements.

History: C. 1953, 11-13-23, enacted by L. 1969, ch. 31, § 1.

11-13-24. Privileges and immunities of public agencies extended to officers and employees performing services under agreements.

Officers and employees performing services for two or more public agencies pursuant to contracts executed under the provisions of this act shall be deemed to be officers and employees of the public agency employing their services even though performing said functions outside of the territorial limits of any one of the contracting public agencies, and shall be deemed officers and employees of said public agencies under the provisions of the Governmental Immunity Act.

History: C. 1953, 11-13-24, enacted by L. 1969, ch. 31, § 2.

Cross-References. - Governmental Immunity Act, § 63-30-1 et seq.

11-13-25. Payment of fee in lieu of ad valorem property tax by certain energy suppliers - Method of calculating - Collection - Extent of tax lien.

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(1) A project entity created under this chapter which owns a project and which sells any capacity, service, or other benefit from it to an energy supplier or suppliers whose tangible property is not exempted by Article XIII, Sec. 2, Utah Constitution, from the payment of ad valorem property tax, shall pay an annual fee in lieu of ad valorem property tax as provided in this section to each taxing jurisdiction within which the project or any part of it is located. The requirement to pay these fees shall commence: (a) with respect to each taxing jurisdiction that is a candidate receiving the benefit of impact alleviation payments under contracts or determination orders provided for in Sections 11-13-28 and 11-13-29, with the fiscal year of the candidate following the fiscal year of the candidate in which the date of commercial operation of the last generating unit of the project occurs; and (b) with respect to any other taxing jurisdictions, with the fiscal year of the taxing jurisdiction in which construction of the project commences. The requirements to pay these fees shall continue for the period of the useful life of the project.

(2) Because the ad valorem property tax levied by a school district represents both:

(a) a levy mandated by the state for the state minimum school program under Section 53A-17a-135; and

(b) local levies for capital outlay, maintenance, transportation, and other purposes under Sections 11-2-7, 53A-16-104, 53A-16-105, 53A-16-107, 53A-16-110, 53A-17a-126, 53A-17a-127, 53A-17a-133, 53A-17a-134, 53A-17a-143, and 53A-17a-145, the annual fee in lieu of ad valorem property tax due a school district shall be as follows:

(i) the project entity shall pay to the school district a fee in lieu of ad valorem property tax for the state minimum school program at the rate required under Section 53A-17a-135 and for the local incentive program under Section 53A-16-105; and

(ii) the project entity shall pay to the school district either a fee in lieu of ad valorem property tax or impact alleviation payments under contracts or determination orders provided for in Sections 11-13-28 and 11-13-29, for all other local property tax levies authorized.

(3) The fee due a taxing jurisdiction for a particular year shall be calculated by multiplying the tax rate or rates of the jurisdiction for that year by the product obtained by multiplying the taxable value for that year of the portion of the project located within the jurisdiction by the percentage of the project which is used to produce the capacity, service, or other benefit sold to the energy supplier or suppliers. As used in this section, "tax rate," when applied in respect to a school district, includes any assessment to be made by the school district under Subsection (2) or Section 63-51-6. There is to be credited against the fee due a taxing jurisdiction for each year, an amount equal to the debt service, if any, payable in that year by the project entity on bonds, the proceeds of which were used to provide public facilities and services for impact alleviation in the jurisdiction in accordance with Sections 11-13-28 and 11-13-29. The tax rate for the jurisdiction for that year shall be computed so as to:

(a) take into account the taxable value of the percentage of the project located within the jurisdiction used to produce the capacity, service, or other benefit sold to the supplier or suppliers; and

(b) reflect any credit to be given in that year.

(4) Except as otherwise provided in this section, the fees shall be paid, collected, and distributed to the taxing jurisdiction as if the fees were ad valorem property taxes and the project were assessed at the same rate and upon the same measure of value as taxable property in the state. The assessment shall be made by the State Tax Commission in accordance with rules promulgated by it. Payments of the fees shall be made from the proceeds of bonds issued

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for the project and from revenues derived by the project entity from the project; and the contracts of the project entity with the purchasers of the capacity, service, or other benefits of the project whose tangible property is not exempted by Article XIII, Sec. 2, Utah Constitution, from the payment of ad valorem property tax shall require each purchaser, whether or not located in the state, to pay, to the extent not otherwise provided for, its share, determined in accordance with the terms of the contract, of these fees. It is the responsibility of the project entity to enforce the obligations of the purchasers.

(5) The responsibility of the project entity to make payment of the fees is limited to the extent that there is legally available to the project entity, from bond proceeds or revenues, monies to make these payments, and the obligation to make payments of the fees is not otherwise a general obligation or liability of the project entity. No tax lien may attach upon any property or money of the project entity by virtue of any failure to pay all or any part of the fee. The project entity or any purchaser may contest the validity of the fee to the same extent as if the payment was a payment of the ad valorem property tax itself. The payments of the fee shall be reduced to the extent that any contest is successful.

History: C. 1953, 11-13-25, enacted by L. 1980, ch. 10, § 2; 1983, ch. 231, § 1; 1987, ch. 146, § 1; 1988, ch. 2, § 1; 1988, ch. 3, § 23; 1989, ch. 22, § 2; 1991, ch. 72, § 1.

Administrative Rules. - This section is implemented by, interpreted by, or cited as authority for the following administrative rule(s): R884-24P.

Amendment Notes. - The 1988 amendment by ch. 2, effective February 2, 1988, substituted "Section 53A-17-106" for "Section 53-7-18" and "Sections 11-2-7, 53A-16-104, 53A-16-105, 53A-16-107, 53A-16-110, 53A-17-107, 53A-17-108, 53A-17-110, 53A-17-113, and 53A-17-114" for "Sections 11-2-7, 53-7-8.1, 53-7-8.4, 53-7-9.5, 53-7-12, 53-7-18.1, 53-7-19, 53-7-23, and 53-7-24" in the introductory paragraph in Subsection (2) and substituted "Section 53A-17-106" for "Section 53-7-18" and "Section 53A-16-105" for "Section 53-7-8.4" in Subsection (2)(a).

The 1988 amendment by ch. 3, effective February 9, 1988, substituted "taxable value" for "assessed value" in the first and last sentences in Subsection (3) and made minor stylistic changes.

The 1989 amendment, effective April 24, 1989, in Subsection (2), reversed the order of letters and numerals in the subsection designations and substituted "11-13-28" for "11-13-18" in Subsection (b)(ii) and made a punctuation change in Subsection (1).

The 1991 amendment, effective July 1, 1991, in Subsection (2)(a), substituted "Section 53A-17a-135" for "Section 53A-17-106"; in Subsection (2)(b), substituted "53A-17a-126, 53A-17a-127, 53A-17a-133, 53A-17a-134, 53A-17a-143, and 53A-17a-145" for "53A-17-107, 53A-17-108, 53A-17-110, 53A-17-113 and 53A-17-114"; in Subsection (2)(b)(i), substituted "Section 53A-17a-135" for "Section 53A-17-106"; and made stylistic changes in Subsection (5).

Compiler's Notes. - Section 4 of Laws 1983, ch. 231 provided: "Nothing in this act [11-13-25, 11-13-33, 11-13-34] shall in any manner affect the impact alleviation contracts entered under §§ 11-13-28 and 11-13-29 by any candidate prior to the effective date of this act [January 1, 1984]."

Section 53A-16-105, cited twice in Subsection (2)(b), was repealed in 1989. For continuation of tax levied under former Subsection 53A-16-105(2), see § 53A-16-104(3).

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Retrospective Operation. - Laws 1988, ch. 3, § 269 provides that the act has retrospective operation to January 1, 1988.

Cross-References. - Price to buyers to include amount necessary to cover fee, § 11-13-6(7).

11-13-26. Liability for sales and use taxes.

Notwithstanding the provisions of Section 59-12-104, a project entity created under this chapter is subject to state sales and use taxes. The sales and use taxes shall be paid, collected, and distributed in accordance with the provisions of law relative to the payment, collection, and distribution of sales and use taxes, including prepayment as provided in Title 63, Chapter 51. Project entities are authorized to make payments or prepayments of sales and use taxes, as provided in Title 63, Chapter 51, from the proceeds of revenue bonds issued pursuant to Section 11-13-19 or other revenues of the project entity.

History: C. 1953, 11-13-26, enacted by L. 1980, ch. 10, § 3; 1987, ch. 5, § 10.

11-13-27. Hearing - Certificate of public convenience and necessity - Effective date.

Any political subdivision organized pursuant to this act before proceeding with the construction of any electrical generating plant or transmission line shall first obtain from the public service commission a certificate, after hearing, that public convenience and necessity requires such construction and in addition that such construction will in no way impair the public convenience and necessity of electrical consumers of the state of Utah at the present time or in the future. This section shall become effective for all projects initiated after the effective date hereof, and shall not apply to those for which feasibility studies were initiated prior to said effective date, including any additional generating capacity added to a generating project producing electricity prior to April 21, 1987, and transmission lines required and used solely for the delivery of electricity from such a generating project within the corridor of a transmission line, with reasonable deviation, of such a generating project producing as of April 21, 1987.

History: C. 1953, 11-13-27, enacted by L. 1977, ch. 47, § 11; 1987, ch. 188, § 4.

Meaning of "this act". - See note under § 11-13-1.

Compiler's Notes. - The term "effective date," in the last sentence, means the effective date of Laws 1977, ch. 47, i.e., May 10, 1977.

NOTES TO DECISIONS

Constitutionality.

The Interlocal Co-Operation Act does not unconstitutionally delegate to the commission the performance of a "municipal function" when it requires a political subdivision organized under the act to obtain a certificate of convenience and necessity from the commission before it proceeds with construction of a regional electric power transmission line, and therefore

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does not violate the special privileges prohibition in Utah Const., Art. VI, § 28. Utah Associated Mun. Power Sys. v. Public Serv. Comm'n, 789 P.2d 298 (Utah 1990).

11-13-28. Responsibility for alleviation of direct impact of project - Requirement to contract - Source of payment.

(1) A project entity is authorized to assume financial responsibility for or provide for the alleviation of the direct impacts of its project, and make loans to candidates to alleviate impacts created by the construction or operation of any facility owned by others which is utilized to furnish fuel, construction or operation materials for use in the project to the extent the impacts were attributable to the project. Provision for the alleviation may be made by contract as provided in Subsection (2) or by the terms of a determination order as provided in Section 11-13-29.

(2) Each candidate shall have the power, except as otherwise provided in Section 11-13-29, to require the project entity to enter into a contract with the candidate requiring the project entity to assume financial responsibility for or provide for the alleviation of any direct impacts experienced by the candidate. Each contract shall be for a term ending at or before the end of the fiscal year of the candidate who is party to the contract within which the date of commercial operation of the last generating unit of the project shall occur, unless terminated earlier as provided in Section 11-13-33, and shall specify the direct impacts or methods to determine the direct impacts to be covered, the amounts, or methods of computing the amounts, of the alleviation payments, or the means to provide for impact alleviation, provisions assuring the timely completion of the facilities and the furnishing of the services, and such other pertinent matters as shall be agreed to by the project entity and candidate.

(3) At the end of the fiscal year of the candidate who is a party to the contract within which the date of commercial operation of the last generating unit has begun, the project entity shall make in lieu ad valorem tax payments to that candidate to the extent required by, and in the manner provided in, Section 11-13-25.

(4) Payments under any impact alleviation contract or pursuant to a determination by the board shall be made from the proceeds of bonds issued for the project or from any other sources of funds available in respect of the project.

History: C. 1953, 11-13-28, enacted by L. 1980, ch. 10, § 4.

Compiler's Notes. - Section 4 of Laws 1983, ch. 231 provided: "Nothing in this act [11-13-25, 11-13-33, 11-13-34] shall in any manner affect the impact alleviation contracts entered under §§ 11-13-28 and 11-13-29 by any candidate prior to the effective date of this act [January 1, 1984]."

11-13-29. Procedure in case of inability to formulate contract for alleviation of impact.

(1) In the event the project entity and a candidate are unable to agree upon the terms of an impact alleviation contract or to agree that the candidate has or will experience any direct impacts, the project entity and the candidate shall each have the right to submit the question of whether or not these direct impacts have or will be experienced, and any other questions regarding the terms of the impact alleviation contract to the board for its determination.

(2) Within 40 days after receiving a notice of a request for

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determination, the board shall hold a public hearing on the questions at issue, at which hearing the parties shall have an opportunity to present evidence. Within 20 days after the conclusion of the hearing, the board shall enter an order embodying its determination and directing the parties to act in accordance with it. The order shall contain findings of facts and conclusions of law setting forth the reasons for the board's determination. To the extent that the order pertains to the terms of an impact alleviation contract, the terms of the order shall satisfy the criteria for contract terms set forth in Section 11-13-28.

(3) At any time 20 or more days before the hearing begins, either party may serve upon the adverse party an offer to agree to specific terms or payments. If within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance, together with proof of service thereof, and the board shall enter a corresponding order. An offer not accepted shall be deemed withdrawn and evidence concerning it is not admissible except in a proceeding to determine costs. If the order finally obtained by the offeree is not more favorable than the offer, the offeree shall pay the costs incurred after the making of the offer, including a reasonable attorney's fee. The fact that an offer is made but not accepted does not preclude a subsequent offer.

History: C. 1953, 11-13-29, enacted by L. 1980, ch. 10, § 5.

Administrative Rules. - This section is implemented by, interpreted by, or cited as authority for the following administrative rule(s): R199-10.

11-13-30. Method of amending impact alleviation contract.

An impact alleviation contract or a determination order may be amended with the consent of the parties, or otherwise in accordance with their provisions. In addition, any party may propose an amendment to a contract or order which, if not agreed to by the other parties, may be submitted by the proposing party to the board for a determination of whether or not the amendment shall be incorporated into the contract or order. The board shall determine whether or not a contract or determination order shall be amended under the procedures and standards set forth in Sections 11-13-28 and 11-13-29.

History: C. 1953, 11-13-30, enacted by L. 1980, ch. 10, § 6.

11-13-31. Effect of failure to comply.

The construction or operation of a project may commence and proceed, notwithstanding the fact that all impact alleviation contracts or determination orders with respect to the project have not been entered into or made or that any appeal or review concerning the contract or determination has not been finally resolved. The failure of the project entity to comply with the requirements of this act or with the terms of any alleviation contract or determination order or any amendment to them shall not be grounds for enjoining the construction or operation of the project.

History: C. 1953, 11-13-31, enacted by L. 1980, ch. 10, § 7.

11-13-32. Venue for civil action - No trial de novo.

(1) Any civil action seeking to challenge, enforce, or otherwise have reviewed, any order of the board, or any alleviation contract, shall be

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brought only in the District Court for the county within which is located the candidate to which the order or contract pertains. If the candidate is the state of Utah, the action shall be brought in the District Court for Salt Lake County. Any action brought in any judicial district shall be ordered transferred to the court where venue is proper under this section.

(2) In any civil action seeking to challenge, enforce, or otherwise review, any order of the board, a trial de novo shall not be held. The matter shall be considered on the record compiled before the board, and the findings of fact made by the board shall not be set aside by the district court unless the board clearly abused its discretion.

History: C. 1953, 11-13-32, enacted by L. 1980, ch. 10, § 8.

11-13-33. Termination of impact alleviation contract.

If the project or any part of it or the output from it shall become subject, in addition to the requirements of Section 11-13-25, to ad valorem property taxation or other payments in lieu of ad valorem property taxation, or other form of tax equivalent payments to any candidate which is a party to an impact alleviation contract with respect to the project or is receiving impact alleviation payments or means in respect of the project pursuant to a determination by the board, then the impact alleviation contract or the requirement to make impact alleviation payments or provide means therefor pursuant to the determination, as the case may be, shall, at the election of the candidate, terminate. In any event, each impact alleviation contract or determination order shall terminate upon the project becoming subject to the provisions of Section 11-13-25. Except that no impact alleviation contract or agreement entered by a school district shall terminate because of in lieu ad valorem property tax fees levied under Subsection 11-13-25(2)(a) or because of ad valorem property taxes levied under Section 53A-17a-135 for the state minimum school program. In addition, in the event that the construction of the project shall be permanently terminated for any reason, each impact alleviation contract and determination order, and the payments and means required thereunder, shall terminate except to the extent of any liability previously incurred pursuant to the contract or determination order by the candidate beneficiary under it. If the provisions of Section 11-13-25, or its successor, are held invalid by a court of competent jurisdiction, and no ad valorem taxes or other form of tax equivalent payments shall be payable, the remaining provisions of this act shall continue in operation without regard to the commencement of commercial operation of the last generating unit of that project.

History: C. 1953, 11-13-33, enacted by L. 1980, ch. 10, § 9; 1983, ch. 231, § 2; 1988, ch. 2, § 2; 1991, ch. 72, § 2.

Amendment Notes. - The 1988 amendment, effective February 2, 1988, in the third sentence substituted "Section 53A-17-106" for "Section 53-7-18."

The 1991 amendment, effective July 1, 1991, substituted "Section 53A-17a-135" for "Section 53A-17-106" in the third sentence.

Meaning of "this act". - The term "this act," in the last sentence, means Laws 1980, Chapter 10, which amended § 11-13-3 and enacted §§ 11-13-25, 11-13-26, and 11-13-28 through 11-13-36.

11-13-34. Impact alleviation payments credit against in lieu of ad valorem property taxes - Federal or state assistance.

(1) In consideration of the impact alleviation payments and means

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provided by the project entity pursuant to the contracts and determination orders, the project entity shall be entitled to a credit against the fees paid in lieu of ad valorem property taxes as provided by Section 11-13-25, ad valorem property or other taxation by, or other payments in lieu of ad valorem property taxation or other form of tax equivalent payments required by any candidate which is a party to an impact alleviation contract or board order.

(2) Each candidate may make application to any federal or state governmental authority for any assistance that may be available from that authority to alleviate the impacts to the candidate. To the extent that the impact was attributable to the project, any assistance received from that authority shall be credited to the project's alleviation obligation in proportion to the percentage of impact attributable to the project, but in no event shall the candidate realize less revenues than would have been realized without receipt of any assistance.

(3) With respect to school districts the fee in lieu of ad valorem property tax for the state minimum school program required to be paid by the project entity under Subsection 11-13-25(2)(a) shall be treated as a separate fee and shall not affect any credits for alleviation payments received by the school districts under Subsection 11-13-25(2)(a), or Sections 11-13-28 and 11-13-29.

History: C. 1953, 11-13-34, enacted by L. 1980, ch. 10, § 10; 1983, ch. 231, § 3.

11-13-35. Exemption from privilege tax.

Title 59, Chapter 4, does not apply to a project, or any part of it, or to the possession or other beneficial use of a project as long as there is a requirement to make impact alleviation payments, fees in lieu of ad valorem property taxes, or ad valorem property taxes, with respect to the project pursuant to this chapter.

History: C. 1953, 11-13-35, enacted by L. 1980, ch. 10, § 11; 1987, ch. 2, § 2.

11-13-36. Arbitration of disputes.

Any impact alleviation contract may provide that disputes between the parties will be submitted to arbitration pursuant to Title 78, Chapter 31.

History: C. 1953, 11-13-36, enacted by L. 1980, ch. 10, § 12.

Compiler's Notes. - Title 78, Chapter 31, referred to in this section, has been repealed and replaced by the Utah Arbitration Act, § 78-31a-1 et seq., enacted by Laws 1985, ch. 225, § 1.

11-13-37. Open and public meetings.

(1) To the extent that a separate legal or administrative agency is subject to or elects, by formal resolution of its governing body to comply with the provisions of Title 52, Chapter 4, Open and Public Meetings, it may for purposes of complying with those provisions:

(a) convene and conduct any public meeting by means of a telephonic or telecommunications conference; and

(b) give public notice of its meeting pursuant to Section 52-4-6 by:

(i) posting written notice at the principal office of the governing body of the separate legal or administrative agency, or if no such office

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exists, at the building where the meeting is to be held; and

(ii) providing notice to at least one newspaper of general circulation within the boundaries of the municipality in which that principal office is located, or to a local media correspondent.

(2) In order to convene and conduct a public meeting by means of a telephonic or telecommunications conference, a separate legal or administrative agency shall if it is subject to or elects by formal resolution of its governing body to comply with Title 52, Chapter 4, Open and Public Meetings:

(a) in addition to giving public notice required by Subsection (1) provide:

(i) notice of the telephonic or telecommunications conference to the members of the governing body at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present; and

(ii) a description of how the members will be connected to the telephonic or telecommunications conference;

(b) establish written procedures governing the conduct of any meeting at which one or more members of the governing body are participating by means of a telephonic or telecommunications conference;

(c) provide for an anchor location for the public meeting at the principal office of the governing body; and

(d) provide space and facilities for the physical attendance and participation of interested persons and the public at the anchor location, including providing for interested persons and the public to hear by speaker or other equipment all discussions and deliberations of those members of the governing body participating in the meeting by means of telephonic or telecommunications conference.

(3) Compliance with the provisions of this section by a governing entity constitutes full and complete compliance by the governing entity with the corresponding provisions of Sections 52-4-3 and 52-4-6, to the extent that those sections are applicable to the governing body.

History: C. 1953, 11-13-37, enacted by L. 1994, ch. 30, § 2.

Effective Dates. - Laws 1994, ch. 30, § 3 makes the act effective on March 2, 1994.

(c) 1953-1994 By The Michie Company, A Division of The Mead Corporation

UT - 998

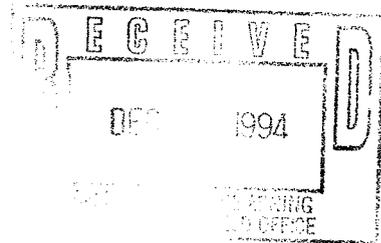


DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
WASHINGTON, D.C. 20314-1000

December 9, 1994

REPLY TO
ATTENTION OF:

Engineering Division



Mr. Thomas E. Ehmett, Acting Director
Albuquerque Field Office
Office of Surface Mining
Reclamation and Enforcement
505 Marquette Avenue, NW, Suite 1200
Albuquerque, New Mexico 87102

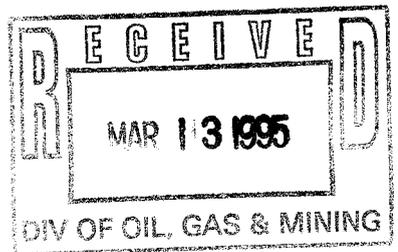
Dear Mr. Ehmett:

This is in response to your letter of December 1, 1994,
concerning Administrative Record No. UT-990.

Our review of the amendment to Utah's Coal Mining and
Reclamation Regulatory Program, found the changes to be
satisfactory to our agency.

Sincerely,

Douglas J. Kamien, P.E.
Acting Chief, Engineering Division
Directorate of Civil Works



SPAT UT-025-FOR



UT-1002

March 13, 1995, must be received by Monday, February 20, 1995.
ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (IA-57-94), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:T:R (IA-57-94), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. The public hearing will be held in the IRS Auditorium, 7th Floor, Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Susie K. Bird at (202) 622-4960 of the Office of Assistant Chief Counsel (Income Tax and Accounting); concerning submissions and the hearing, Carol Savage of the Regulations Unit, (202) 622-8452 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, PC:FP, Washington, DC 20224.

The collection of information in this regulation is in § 1.6050I-2T. This information is required by the IRS to implement section 20415 of the Violent Crime Control and Law Enforcement Act of 1994. The information will be used to identify taxpayers with large cash incomes. The respondents are governmental institutions.

The collection of information in § 1.6050I-2T is satisfied by including the required information on a Form 8300 filed with the IRS and on written statements furnished to the United States Attorney for the jurisdiction in which the individual charged with the specified criminal offense resides and the jurisdiction in which the specified criminal offense occurred, and to each person posting bail whose name is required to be reported to the IRS. The burden for these requirements is reflected in the burden estimates for Form 8300.

Background

Temporary regulations in the Rules and Regulations portion of this issue of the Federal Register amend 26 CFR parts 1 and 602 relating to section 6050I. The temporary regulations contain rules relating to the cash reporting requirements of court clerks with respect to the receipt of bail.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 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) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these proposed rules, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (a signed original and eight (8) copies) to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Monday, March 13, 1995 at 10 a.m. in the IRS Auditorium, 7th Floor, Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC. Because of access restrictions, visitors will not be admitted beyond the building lobby more than 15 minutes before the hearing starts.

The rules of § 601.601(a)(3) apply to the hearing.

Persons that have submitted written comments by February 13, 1995 and want to present oral comments at the hearing must submit, by Monday, February 20, 1995, an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies). A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of

the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of the temporary regulations is Susie K. Bird of the Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

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

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.6050I-2 also issued under 26 U.S.C. 6050I. * * *

Par. 2. Sections 1.6050I-0 and 1.6050I-2 are added to read as follows:

§ 1.6050I-0 Table of contents.

[The text of this proposed section is the same as the text of § 1.6050I-0T published elsewhere in this issue of the Federal Register.]

§ 1.6050I-2 Returns relating to cash in excess of \$10,000 received as bail by court clerks.

[The text of this proposed section is the same as the text of § 1.6050I-2T published elsewhere in this issue of the Federal Register.]

Margaret Milner Richardson, *SPAT*
 Commissioner of Internal Revenue, *UT-024*

[FR Doc. 94-30773 Filed 12-12-94; 8:45 am]

BILLING CODE 4830-01-U

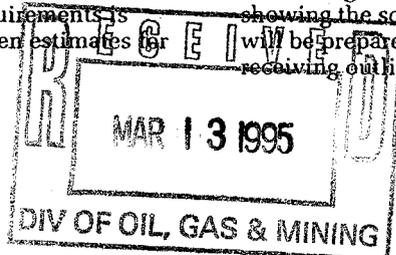
DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Utah Regulatory Program and Abandoned Mine Land Plan

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.



SUMMARY: OSM is announcing receipt of revisions and additional explanatory information pertaining to a previously proposed amendment to the Utah regulatory program and abandoned mine plan (hereinafter, the "Utah program" and "Utah plan") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions and additional explanatory information for Utah's proposed rules and statutes pertain to the applicability of Utah Mined Land Reclamation Act to Utah's coal program; administrative procedures; appeals to district court and further review; formal hearings; and cessation orders, abatement notices, and show cause orders. The amendment is intended to revise Utah's program and plan to be consistent with SMCRA and the Utah Administrative Procedures Act, and to improve operational efficiency.

DATES: Written comments must be received by 4:00 p.m., m.s.t., December 30, 1994.

ADDRESSES: Written comments should be mailed or hand delivered to Thomas E. Ehmett at the address listed below.

Copies of the Utah program and Utah plan, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Thomas E. Ehmett, Acting Director,
Albuquerque Field Office, Office of
Surface Mining Reclamation and
Enforcement, 505 Marquette Avenue,
NW., Suite 1200, Albuquerque, New
Mexico 87102;

Utah Coal Regulatory and Abandoned
Mine Reclamation Programs, Division
of Oil, Gas and Mining, 355 West
North Temple, 3 Triad Center, Suite
350, Salt Lake City, Utah 84180-1203,
Telephone: (801) 538-5340.

FOR FURTHER INFORMATION CONTACT:
Thomas E. Ehmett, Telephone: (505)
766-1486.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program

On January 21, 1981, and June 3, 1983, the Secretary of the Interior conditionally approved the Utah program and approved the Utah plan. General background information on the Utah program and Utah plan, including the Secretary's findings, the disposition of comments, the conditions of approval of the Utah program, and approval of the Utah plan, can be found in the

January 21, 1981, and June 3, 1983, publications of the *Federal Register* (46 FR 5899 and 48 FR 24876). Subsequent actions concerning Utah's program and program amendments can be found at 30 CFR 944.15, 944.16, and 944.30. Subsequent actions concerning Utah's plan amendments can be found at 30 CFR 944.25.

II. Proposed Amendment

By letter dated April 14, 1994, Utah submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. UT-917). Utah submitted the proposed amendment in part to make its program and plan consistent with SMCRA and in part at its own initiative to make its program and plan consistent with the Utah Administrative Procedures Act, thereby improving operational efficiency.

The program provisions of the Utah Coal Reclamation Act of 1979 that Utah proposed to revise were: Utah Code Annotated (UCA) 40-10-2, purpose of Chapter 10; (2) UCA 40-10-3, definitions of new terms "adjudicative proceeding," "lands eligible for re-mining," and "unanticipated event or condition;" (3) UCA 40-10-6.5, rulemaking authority and procedure; (4) UCA 40-10-6.7, administrative procedures; (5) UCA 40-10-7, prohibition of financial interest in any coal mining operation; (6) UCA 40-10-8, coal exploration rules issued by the Division of Oil, Gas and Mining (Division) and penalty for violation; (7) UCA 40-10-10, permit applications; (8) UCA 40-10-11, Division action on the permit application; (9) UCA 40-10-12, revision or modification of permit provisions; (10) UCA 40-10-13, informal conferences; (11) UCA 40-10-14, permit approval or disapproval, appeals, and further review; (12) UCA 40-10-15, performance bonds; (13) UCA 40-10-16, release of performance bond, surety, or deposit; (14) UCA 40-10-17, revegetation standards on lands eligible for re-mining; (15) UCA 40-10-18, operator requirements for underground coal mining; (16) UCA 40-10-19, information provided by the permittee to the Division and right of entry; (17) UCA 40-10-20, contest of violation or amount of penalty; (18) UCA 40-10-21, civil action to compel compliance with Utah's program and other rights not affected; (19) UCA 40-10-22, violations of Utah's program or permit conditions; (20) UCA 40-10-24, determination of unsuitability of lands for surface coal mining; and (21) UCA 40-10-30, judicial review of rules or orders. Utah also proposed to repeal UCA 40-10-4, "Mined land reclamation provisions

applied," and UCA 40-10-31, "Chapter's procedures supersede Title 63, Chapter 46B," and add the requirement that UCA 40-10-11(5), modification of permit issuance prohibition, and UCA 40-10-17(2)(t)(ii), revegetation standards on lands eligible for re-mining, are repealed effective September 30, 2004.

The plan provisions of the Utah Coal Mining and Reclamation Act that Utah proposed to revise were: (1) UCA 40-10-25, lands and water eligible for reclamation; (2) UCA 40-10-27, entry upon land adversely affected by past coal mining practices, State acquisition of land and public sale, and water pollution control and treatment plants; and (3) UCA 40-10-28, recovery of reclamation costs and liens against reclaimed land.

OSM announced receipt of the proposed amendment in the May 12, 1994, *Federal Register* (59 FR 24675), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. UT-926). Because no one requested a public hearing or meeting, none was held. The public comment period ended on June 13, 1994.

During its review of the amendment, OSM identified concerns relating to the provisions of the Utah Coal Reclamation Act of 1979 at UCA 40-10-3(1), definition of "adjudicative proceeding;" UCA 40-10-4, applicability of provisions of UCA 40-8; UCA 40-10-6.7 and Utah Administrative Rule (Utah Admin. R.) 641-100-100, administrative procedures; UCA 40-10-11(3) schedule of applicant's mining law violations; UCA 40-10-11(5), re-mining operation violations resulting from unanticipated events or conditions; UCA 40-10-1013(2)(b), location of informal conferences; UCA 40-1014(6)(c), appeal to district court and further review; UCA 40-10-16(e), informal conference or formal hearings concerning performance bond release decisions; UCA 40-10-18(4), damage resulting from underground coal mining subsidence; UCA 40-10-20(2)(e), contest of a violation or amount of a civil penalty; UCA 40-10-22(2)(b), cessation order, abatement notice or show cause order; UCA 40-10-22(3)(e), costs assessed against the permittee or any person having an interest that is or may be adversely affected by the notice or order of the Board of Oil, Gas and Mining (Board); and UCA 40-10-28(1)(b) and (2)(b), recovery of reclamation costs and liens against reclaimed land. OSM notified Utah of the concerns by letter dated October 24, 1994 (administrative record No. UT-

980). Utah responded in a letter dated December 7, 1994, by submitting a revised amendment and additional explanatory information (administrative record No. UT-997).

Utah proposes additional explanatory information for (1) UCA 40-10-4, for the purpose of explaining its intention in repealing UCA 40-10-4, which allowed the Utah Mined Land Reclamation Act and its implementing rules at Utah Admin. R. Part 647 to be applied to the Utah's coal mining program, (2) UCA 40-10-16(6), for the purpose of affirming that the provisions of Utah Admin. R. Part 641, Rules of Practice and Procedure of the Board, apply to hearings held for the purposes of bond release and to verify that when an informal hearing is converted to a formal hearing, the requirements of a formal proceeding apply, and (3) UCA 40-10-22(2)(b), for the purpose of explaining that this provision allows for the Utah Supreme Court to be the authority for modifying or setting aside a Board order or decision, and that, to the extent that any judicial body can reconsider its own order or decision, the district court can perform a review and act in a manner consistent with the Federal counterpart provisions for granting a stay of enforcement or other relief. Utah also proposes revisions to (1) Utah Admin. R. 641-100-100, to provide that "[t]he rules for informal adjudicative proceedings are in 'the Coal Program Rules,' the Oil and Gas Conservation Rules and the Mineral Rules and (2) UCA 40-10-14(6), to provide that any applicant or person with an interest which is or may be adversely affected who has participated in the proceedings as an objector, and who is aggrieved by the decision of the Board, 'may appeal the decision of the Board directly to the Utah Supreme Court;' to allow in those instances where the Board fails to act that 'the applicant or any person with an interest which is or may be adversely affected, who has requested a hearing in accordance with Subsection (3), to bring an action in' the district court, and to delete the provision allowing for review of the adjudication of the district court by the Utah Supreme Court; to provide that '[a]ny party to the action in district court may appeal from the final judgment, order, or decree of the district court;' and to require that the '[t]ime frame for appeals under Subsection (6) (a) through (c) shall be consistent with applicable provisions in Section 63-46b-14, Administrative Procedures Act.'

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Utah program and plan amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h) and 884.15(a), OSM is seeking comments on whether the proposed amendment satisfies the applicable program and plan approval criteria of 30 CFR 732.15 and 884.14. If the amendment is deemed adequate, it will become part of the Utah program and plan.

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs, abandoned mine land reclamation (AMLR) plans, program amendments, and plan revisions since such program or plan is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), on proposed state regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met. Decisions on proposed state AMLR plans and revisions thereof submitted by a State are based on a determination of whether the submittal meets the requirements of Title IF of SMCRA (30 U.S.C. 1231-1243) and the applicable

Federal regulations at 30 CFR Parts 884 and 888.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 1292 1291(D)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)) while state AMLR plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM6, appendix 8, paragraph 8.4B(29)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements established by SMCRA or previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analysis for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 9, 1994.

Peter A. Rutledge,

Acting Assistant Director, Western Support Center.

{FR Doc. 94-30831 Filed 12-14-94; 8:45 am}

BILLING CODE 4310-05-M



State of Utah
 DEPARTMENT OF NATURAL RESOURCES
 DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
 Governor
 Ted Stewart
 Executive Director
 James W. Carter
 Division Director

355 West North Temple
 3 Triad Center, Suite 350
 Salt Lake City, Utah 84180-1203
 801-538-5340
 801-359-3940 (Fax)
 801-538-5319 (TDD)

RECEIVED
 41-1026
 FEB 27 1995
 OFFICE OF SURFACE MINING
 ALBUQUERQUE FIELD OFFICE

February 24, 1995

Thomas E. Ehmett, Acting Director
 Office of Surface Mining
 Reclamation and Enforcement
 505 Marquette N.W., Suite 1200
 Albuquerque, New Mexico 87102

RECEIVED
 MAR 13 1995
 DIV OF OIL, GAS & MINING

Re: UT-979, UT-999, SPATS UT-030-FOR

Dear Mr. Ehmett:

I am writing in response to your letter of February 14, 1995, concerning the above-requested amendment to the Utah coal regulatory program.

At this time, the Division of Oil, Gas and Mining wishes to withdraw its request for approval of the amendment. It is evident that considerable additional work needs to be done before the amendment can be approved as part of the coal regulatory program. Thank you for your efforts to date.

Very truly yours,

James W. Carter
 James W. Carter
 Director

jbe
 H:UT-979WI.LTR

ROUTING →

NAME	DATE	MESSAGE
J. W. CARTER		
T. E. EHMETT		
L. MEADORS		
S. MARTINEZ		
D. MARTINEZ	2/28	
S. RATHBUN		
J. W. CARTER		

Donna *DBS*

Don Stewart 3/7/95

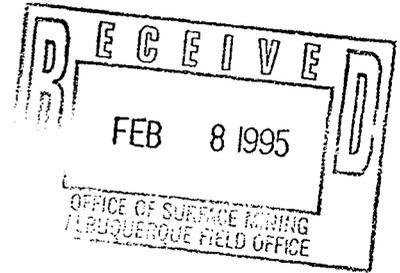
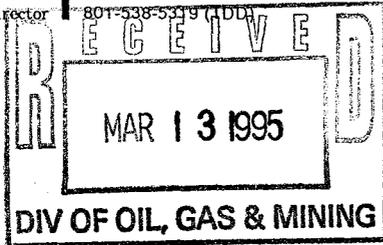




State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor
Ted Stewart
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James W. Carter
Division Director

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Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)



UT-1025

February 6, 1995

S. Martinez
MARTINEZ
THBun
1

2. Vern

Done Dja.

Thomas E. Ehmett, Acting Director
Office of Surface Mining
Reclamation and Enforcement
505 Marquette N.W., Suite 1200
Albuquerque, New Mexico 87102

Re: UT-028-FOR, Husbandry Practices for the Utah Regulatory Program

Dear Mr ^{Tam} Ehmett:

Enclosed you will find the materials necessary to convert the previously submitted informal amendment to the Utah Coal Regulatory Program to formal status. As you probably recall, on April 25, 1994, I sent you a preliminary version of draft rule changes and a draft "Appendix C" to the Utah Vegetation Information Guidelines. Your comments of July 7, 1994 were most helpful in our redrafting efforts, and we now include for your review and approval a new version of both of these documents labelled as Enclosures Nos. 2 and 3, respectively, along with a number of additional documents. The additional material is included in response to your request for more additional documentation and includes:

- A letter dated April 8, 1994 from the Manti LaSal National Forest to the Division.
- Weed Control Handbook.
- The U.S.F.S Burned Area Emergency Rehabilitation Handbook, FSH #11/78.
- The BLM Emergency Fire Rehabilitation Handbook and Utah State Office Supplement, #H-7142-1.
- The SCS Critical Area Planting Guideline.
- State of Utah, Department of Agriculture, memo to the Division dated January 30, 1995

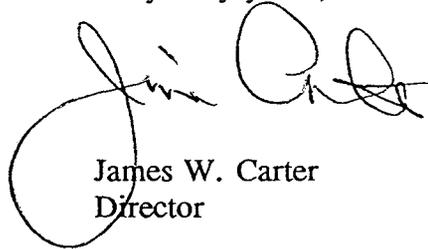
In direct response to the issues set forth in your July 7, 1994 letter, I have included a numbered list in Enclosure No. 1. It clarifies Utah's intent overall in the submittal and directs you to the appropriate parts of the submittal. I trust that we have addressed your concerns satisfactorily. We have conducted rulemaking on the enclosed rule changes and a public hearing was held on January 25, 1995 at the Division Offices.

Page 2
Thomas E. Ehmett
UT-028-FOR
February 6, 1995

I have requested the Assistant Attorney General to review the proposed rules which are the subject of this submittal along with the Draft Appendix "C" and can now state that to the best of my knowledge and belief there are no parts of these materials which conflict with existing statutes or administrative rules.

Please let me know if I can provide you with any additional information or answer any questions on this formal submittal.

Very truly yours,



James W. Carter
Director

jbe
cc/enc: L. Braxton
P. Baker
R. Daniels
S. White
P:HUSBANDR.LTR

**RESPONSE TO ISSUES IDENTIFIED IN OSM LETTER OF 7/7/94
UT-028-FOR (formerly UT-028-INF)**

1. Approval of Normal Husbandry Practices.

Utah Administrative Rule
(Admin. R.) 645-301-357.301

30 CFR 816.116 (c) (4)
30 CFR 817.116 (c) (4)

OSM found R645-301-357.301 to be less effective than the federal counterpart in that the proposed rule change did not clearly specify that only those practices which are approved by the Division and the Office would be considered approved normal husbandry practices.

Response

R645-301-357.301 has been revised to clarify the proposed regulation.

2. Supporting Documentation for Proposed Normal Husbandry Practices.

Utah Admin. R. 645-301-311, 645-301-312,
645-301-357.320, 645-301-357.330,
645-301-357.332, 645-301-357.340,
645-301-357.350, 645-301-357.365

30 CFR 816.116 (c) (4)
30 CFR 817.116 (c) (4)

OSM requested documentation which supports the proposed husbandry practices as normal for the region.

Response

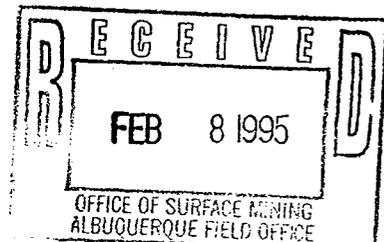
(1) Included in this package is a copy of a letter from the regional office of the Manti-La Sal National Forest supporting the practice of planting live seedlings and their subsequent irrigation.

(2) Included is a copy of the Weed Control Handbook.

(3) Included is a copy of a letter from the regional office of the Manti-La Sal National Forest supporting the exclusion of wildlife on recently revegetated areas.

(4) Included is a copy of the BLM's and Forest Service's Emergency Fire Rehabilitation Handbook pertaining to reseeding and replanting after wildfire.

(5) Included is a copy of the Critical Area Planting guideline and the Utah Supplement to National Practice to support repair of rills and gullies.



3. Trees and Shrubs Counted in Determining Revegetation Success.

Utah Admin. R. 645-301-357.311
Utah Admin. R. 645-301-357.312

30 CFR 816.116 (b) (3) (ii)
30 CFR 817.116 (b) (3) (ii)

Because of the difficulty of implementing the proposed rules the Office suggests that the rules be modified to allow transplanting or reseeding of shrubs only through 40 percent of the extended liability period and to limit the counted number of shrubs from a reseeded scalped area to one.

Response

The rule at R645-301-357.111 and R645-301-357.112 has been modified as suggested.

4. Vegetation Establishment and Competition.

Utah Admin. R. 645-301-357.324

30 CFR 816.116 (c) (1) and (4)
30 CFR 817.116 (c) (1) and (4)

The Office found that Utah's proposal to allow reseeding of bare areas to be augmentive and less effective than the Federal counterpart.

Response

Utah has reworded the rule to allow reseeding of bare areas which have been damaged by weed control efforts.

5. Wildfire and Other Disasters Occurring After Phase II Bond Release.

Utah Admin. R. 645-301-357.340

30 CFR 816.111
30 CFR 817.111
30 CFR 816.116 (c) (4)
30 CFR 817.116 (c) (4)

OSM found Utah's proposal to be less effective than the federal regulations in that natural disasters could be interpreted to include climatic variation. The office also found that the federal regulations make no exceptions from restarting the liability period for manmade occurrences.

Response

The Division has rewritten R645-301-357.340 to exclude climatic variation from natural disasters and include third-party vandalism.

6. Irrigation of Transplants.

Utah Admin. R. 645-301-357.350

30 CFR 816.116 (c) (4)

30 CFR 817.116 (c) (4)

OSM recommended that the rule be clarified to only allow irrigation of transplanted trees and shrubs and not the general irrigation of reseeded areas.

Response

The rule has been modified as suggested.

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R645. Natural Resources; Oil, Gas and Mining; Coal.

R645-301. Coal Mine Permitting: Permit Application Requirements.

R645-301-300. Biology.

310. Introduction. Each permit application will include descriptions of the:

311. Vegetative, fish, and wildlife resources of the permit area and adjacent areas as described under R645-301-320;

312. Potential impacts to vegetative, fish and wildlife resources and methods proposed to minimize these impacts during coal mining and reclamation operations as described under R645-301-330 and R645-301-340; and

313. Proposed reclamation designed to restore or enhance vegetative, fish, and wildlife resources to a condition suitable for the designated postmining land use as described under R645-301-340.

320. Environmental Description.

321. Vegetation Information. The permit application will contain descriptions as follows:

321.100. If required by the Division, plant communities within the proposed permit area and any reference area for SURFACE COAL MINING AND RECLAMATION ACTIVITIES and areas affected by surface operations incident to an underground mine for UNDERGROUND COAL MINING AND RECLAMATION ACTIVITIES. This description will include information adequate to predict the potential for reestablishing vegetation; and

321.200. The productivity of the land before mining within the proposed permit area for SURFACE COAL MINING AND RECLAMATION ACTIVITIES and areas affected by surface operations incident to an underground mine for UNDERGROUND COAL MINING AND RECLAMATION ACTIVITIES, expressed as average yield of food, fiber, forage, or wood products from such lands obtained under high levels of management. The productivity will be determined by yield data or estimates for similar sites based on current data from the U. S. Department of Agriculture, state agricultural universities, or appropriate state natural resource or agricultural agencies.

322. Fish and Wildlife Information. Each application will include fish and wildlife resource information for the permit area and adjacent areas.

322.100. The scope and level of detail for such information will be determined by the Division in consultation with state and federal agencies with responsibilities for fish and wildlife and will be sufficient to design the protection and enhancement plan required under R645-301-333.

322.200. Site-specific resource information necessary to address the respective species or habitats will be required when the permit area or adjacent area is likely to include:

322.210. Listed or proposed endangered or threatened species of plants or animals or their critical habitats listed by the Secretary under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), or those species or habitats protected by similar state statutes;

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322.220. Habitats of unusually high value for fish and wildlife such as important streams, wetlands, riparian areas, cliffs supporting raptors, areas offering special shelter or protection, migration routes, or reproduction and wintering areas; or

322.230. Other species or habitats identified through agency consultation as requiring special protection under state or federal law.

322.300. Fish and Wildlife Service review. Upon request, the Division will provide the resource information required under R645-301-322 and the protection and enhancement plan required under R645-301-333 to the U.S. Fish and Wildlife Service Regional or Field Office for their review. This information will be provided within 10 days of receipt of the request from the Service.

323. Maps and Aerial Photographs. Maps or aerial photographs of the permit area and adjacent areas will be provided which delineate:

323.100. The location and boundary of any proposed reference area for determining the success of revegetation;

323.200. Elevations and locations of monitoring stations used to gather data for fish and wildlife, and any special habitat features;

323.300. Each facility to be used to protect and enhance fish and wildlife and related environmental values; and

323.400. If required, each vegetative type and plant community, including sample locations. Sufficient adjacent areas will be included to allow evaluation of vegetation as important habitat for fish and wildlife for those species identified under R645-301-322.

330. Operation Plan. Each application will contain a plan for protection of
vegetation, fish, and wildlife resources throughout the life of the mine. The plan will provide:

331. A description of the measures taken to disturb the smallest practicable area at any one time and through prompt establishment and maintenance of vegetation for interim stabilization of disturbed areas to minimize surface erosion. This may include part or all of the plan for final revegetation as described in R645-301-341.100 and R645-301-341.200;

332. For the purposes of UNDERGROUND COAL MINING AND RECLAMATION ACTIVITIES a description of the anticipated impacts of subsidence on renewable resource lands identified in R645-301-320, and how such impact will be mitigated;

333. A description of how, to the extent possible, using the best technology currently available, the operator will minimize disturbances and adverse impacts to fish and wildlife and related environmental values during coal mining and reclamation operations, including compliance with the Endangered Species Act of 1973 during coal mining and reclamation operations, including the location and operation of haul and access roads and support facilities so as to avoid or minimize impacts on important fish and wildlife species or other species protected by state or federal law; and how enhancement of these resources will be achieved, where practicable. This Description will:

333.100. Be consistent with the requirements of R645-301-358;

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333.200. Apply, at a minimum, to species and habitats identified under R645-301-322; and

333.300. Include protective measures that will be used during the active mining phase of operation. Such measures may include the establishment of buffer zones, the selective location and special design of haul roads and powerlines, and the monitoring of surface water quality and quantity.

340. Reclamation Plan.

341. Revegetation. Each application will contain a reclamation plan for final revegetation of all lands disturbed by coal mining and reclamation operations, except water areas and the surface of roads approved as part of the postmining land use, as required in R645-301-353 through R645-301-357, showing how the applicant will comply with the biological protection performance standards of the State Program. The plan will include, at a minimum:

341.100. A detailed schedule and timetable for the completion of each major step in the revegetation plan;

341.200. Descriptions of the following:

341.210. Species and amounts per acre of seeds and/or seedlings to be used. If fish and wildlife habitat will be a postmining land use, the criteria of R645-301-342.300 apply.

341.220. Methods to be used in planting and seeding;

341.230. Mulching techniques, including type of mulch and rate of application;

341.240. Irrigation, if appropriate, and pest and disease control measures, if any;

and

341.250. Measures proposed to be used to determine the success of revegetation as required in R645-301-356.

341.300. The Division may require greenhouse studies, field trials, or equivalent methods of testing proposed or potential revegetation materials and methods to demonstrate that revegetation is feasible pursuant to R645-300-133.710.

342. Fish and Wildlife. Each application will contain a fish and wildlife plan for the reclamation and postmining phase of operation consistent with R645-301-330, the performance standards of R645-301-358 and include the following:

342.100. Enhancement measures that will be used during the reclamation and postmining phase of operation to develop aquatic and terrestrial habitat. Such measures may include restoration of streams and other wetlands, retention of ponds and impoundments, establishment of vegetation for wildlife food and cover, and the replacement of perches and nest boxes. Where the plan does not include enhancement measures, a statement will be given explaining why enhancement is not practicable.

342.200. Where fish and wildlife habitat is to be a postmining land use, the plant species to be used on reclaimed areas will be selected on the basis of the following criteria:

342.210. Their proven nutritional value for fish or wildlife;

342.220. Their use as cover for fish or wildlife; and

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342.230. Their ability to support and enhance fish or wildlife habitat after the release of performance bonds. The selected plants will be grouped and distributed in a manner which optimizes edge effect, cover, and other benefits to fish and wildlife.

342.300. Where cropland is to be the postmining land use, and where appropriate for wildlife- and crop-management practices, the operator will intersperse the fields with trees, hedges, or fence rows throughout the harvested area to break up large blocks of monoculture and to diversify habitat types for birds and other animals.

342.400. Where residential, public service, or industrial uses are to be the postmining land use, and where consistent with the approved postmining land use, the operator will intersperse reclaimed lands with greenbelts utilizing species of grass, shrubs, and trees useful as food and cover for wildlife.

350. Performance Standards.

351. General Requirements. All coal mining and reclamation operations will be carried out according to plans provided under R645-301-330 through R645-301-340.

352. Contemporaneous Reclamation. Revegetation on all land that is disturbed by coal mining and reclamation operations, will occur as contemporaneously as practicable with mining operations, except when such mining operations are conducted in accordance with a variance for combined SURFACE and UNDERGROUND COAL MINING AND RECLAMATION ACTIVITIES issued under R645-302-280. The Division may establish schedules that define contemporaneous reclamation.

353. Revegetation: General Requirements. The permittee will establish on regraded areas and on all other disturbed areas, except water areas and surface areas of roads that are approved as part of the postmining land use, a vegetative cover that is in accordance with the approved permit and reclamation plan.

353.100. The vegetative cover will be:

353.110. Diverse, effective, and permanent;

353.120. Comprised of species native to the area, or of introduced species where desirable and necessary to achieve the approved postmining land use and approved by the Division;

353.130. At least equal in extent of cover to the natural vegetation of the area; and

353.140. Capable of stabilizing the soil surface from erosion.

353.200. The reestablished plant species will:

353.210. Be compatible with the approved postmining land use;

353.220. Have the same seasonal characteristics of growth as the original vegetation;

353.230. Be capable of self-regeneration and plant succession;

353.240. Be compatible with the plant and animal species of the area; and

353.250. Meet the requirements of applicable Utah and federal seed, poisonous and noxious plant; and introduced species laws or regulations.

353.300. The Division may grant exception to the requirements of R645-301-353.220 and R645-301-353.230 when the species are necessary to achieve a quick-growing,

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temporary, stabilizing cover, and measures to establish permanent vegetation are included in the approved permit and reclamation plan.

353.400. When the approved postmining land use is cropland, the Division may grant exceptions to the requirements of R645-301-353.110, R645-301-353.130, R645-301-353.220 and R645-301-353.230. The requirements of R645-302-317 apply to areas identified as prime farmland.

354. Revegetation: Timing. Disturbed areas will be planted during the first normal period for favorable planting conditions after replacement of the plant-growth medium. The normal period for favorable planting is that planting time generally accepted locally for the type of plant materials selected.

355. Revegetation: Mulching and Other Soil Stabilizing Practices. Suitable mulch and other soil stabilizing practices will be used on all areas that have been regraded and covered by topsoil or topsoil substitutes. The Division may waive this requirement if seasonal, soil, or slope factors result in a condition where mulch and other soil stabilizing practices are not necessary to control erosion and to promptly establish an effective vegetative cover.

356. Revegetation: Standards for Success.

356.100. Success of revegetation will be judged on the effectiveness of the vegetation for the approved postmining land use, the extent of cover compared to the extent of cover of the reference area or other approved success standard, and the general requirements of R645-301-353.

356.110. Standards for success, statistically valid sampling techniques for measuring success, and approved methods are identified in the Division's "Vegetation Information Guidelines, Appendix A."

356.120. Standards for success will include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover, production, or stocking. Ground cover, production, or stocking will be considered equal to the approved success standard when they are not less than 90 percent of the success standard. The sampling techniques for measuring success will use a 90-percent statistical confidence interval (i.e., one-sided test with a 0.10 alpha error).

356.200. Standards for success will be applied in accordance with the approved postmining land use and, at a minimum, the following conditions:

356.210. For areas developed for use as grazing land or pasture land, the ground cover and production of living plants on the revegetated area will be at least equal to that of a reference area or such other success standards approved by the Division.

356.220. For areas developed for use as cropland, crop production on the revegetated area will be at least equal to that of a reference area or such other success standards approved by the Division. The requirements of R645-302-310 through R645-302-317 apply to areas identified as prime farmland.

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356.230. For areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products, success of vegetation will be determined on the basis of tree and shrub stocking and vegetative ground cover. Such parameters are described as follows:

356.231. Minimum stocking and planting arrangements will be specified by the Division on the basis of local and regional conditions and after consultation with and approval by Utah agencies responsible for the administration of forestry and wildlife programs. Consultation and approval will be on a permit specific basis and will be performed in accordance with the "Vegetation Information Guidelines" of the division.

356.232. Trees and shrubs that will be used in determining the success of stocking and the adequacy of plant arrangement will have utility for the approved postmining land use. At the time of bond release, such trees and shrubs will be healthy, and at least 80 percent will have been in place for at least 60 percent of the applicable minimum period of responsibility. No trees and shrubs in place for less than two growing seasons will be counted in determining stocking adequacy.

356.233. Vegetative ground cover will not be less than that required to achieve the approved postmining land use.

356.240. For areas to be developed for industrial, commercial, or residential use less than two years after regrading is completed, the vegetative ground cover will not be less than that required to control erosion.

356.250. For areas previously disturbed by mining that were not reclaimed to the requirements of R645-200 through R645-203 and R645-301 through R645-302 and that are remined or otherwise redisturbed by coal mining and reclamation operations, at a minimum, the vegetative ground cover will be not less than the ground cover existing before redisturbance and will be adequate to control erosion.

356.300. Siltation structures will be maintained until removal is authorized by the Division and the disturbed area has been stabilized and revegetated. In no case will the structure be removed sooner than two years after the last augmented seeding.

356.400. When a siltation structure is removed, the land on which the siltation structure was located will be revegetated in accordance with the reclamation plan and R645-301-353 through R645-301-357.

357. Revegetation: Extended Responsibility Period.

357.100. The period of extended responsibility for successful vegetation will begin after the last year of augmented seeding, fertilization, irrigation, or other work, excluding husbandry practices that are approved by the Division in accordance with paragraph R645-301-357.300.

357.200. Vegetation parameters identified in R645-301-356.200 will equal or exceed the approved success standard during the growing seasons for the last two years of the responsibility period. The period of extended responsibility will continue for five or ten years based on precipitation data reported pursuant to R645-301-724.411, as follows:

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357.210. In areas of more than 26.0 inches average annual precipitation, the period of responsibility will continue for a period of not less than five full years.

357.220. In areas of 26.0 inches or less average annual precipitation, the period of responsibility will continue for a period of not less than ten full years.

~~[357.300. The Division may approve selective husbandry practices, such as weed and brush control, fencing, and water developments or other practices once they have been incorporated into the Utah program, in accordance with 30 CFR 732.17 as being normal husbandry practices, excluding augmented seeding, fertilization, or irrigation, without extending the period of responsibility for revegetation success and bond liability, if such practices can be expected to continue as part of the postmining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices will be normal conservation practices within the region for unmined lands having land uses similar to the approved postmining land use of the disturbed area, including such practices as disease, pest, and vermin control; and any pruning, reseeding and/or transplanting specifically necessitated by such actions.]~~

357.300. Husbandry Practices - General Information

357.301. The Division may approve certain selective husbandry practices without lengthening the extended responsibility period. Any practices used will first be incorporated into the mining and reclamation plan and approved in writing by the Division. Approved practices are normal conservation practices for unmined lands within the region which have land uses similar to the approved postmining land use of the disturbed area. Approved practices may continue as part of the postmining land use, but discontinuance of the practices after the end of the bond liability period will not jeopardize permanent revegetation success. Augmented seeding, fertilization, or irrigation will not be approved without extending the period of responsibility for revegetation success and bond liability.

357.302. The Permittee will demonstrate that husbandry practices proposed for a reclaimed area are not necessitated by inadequate grading practices, adverse soil conditions, or poor reclamation procedures.

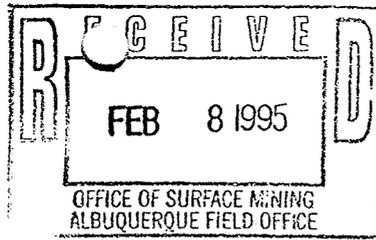
357.303. The Division will consider the entire area that is bonded within the same increment, as defined in R645-301-820.110, when calculating the extent of area that may be treated by husbandry practices.

357.304. If it is necessary to seed or plant in excess of the limits set forth under R645-301-357.300, the Division may allow a separate extended responsibility period for these reseeded or replanted areas in accordance with R645-301-820.330.

357.310. Reestablishing trees and shrubs

357.311. Transplanting. Trees or shrubs may be replanted at a rate of up to a cumulative total of 20% of the required stocking rate through 60% of the extended responsibility period.

See Enclosure # 2 for correct lang.



Enclosure No. 2

R645. Natural Resources; Oil, Gas and Mining; Coal.

R645-301. Coal Mine Permitting: Permit Application Requirements.

R645-301-300. Biology.

357. Revegetation: Extended Responsibility Period.

357.100. The period of extended responsibility for successful vegetation will begin after the last year of augmented seeding, fertilization, irrigation, or other work, excluding husbandry practices that are approved by the Division in accordance with paragraph R645-301-357.300.

357.200. Vegetation parameters identified in R645-301-356.200 will equal or exceed the approved success standard during the growing seasons for the last two years of the responsibility period. The period of extended responsibility will continue for five or ten years based on precipitation data reported pursuant to R645-301-724.411, as follows:

357.210. In areas of more than 26.0 inches average annual precipitation, the period of responsibility will continue for a period of not less than five full years.

357.220. In areas of 26.0 inches or less average annual precipitation, the period of responsibility will continue for a period of not less than ten full years.

357.300. Husbandry Practices- General Information ~~The Division may approve selective husbandry practices, such as weed and brush control, fencing, and water developments or other practices once they have been incorporated into the Utah program, in accordance with 30 CFR 732.17 as being normal husbandry practices, excluding augmented seeding, fertilization, or irrigation, without extending the period of responsibility for revegetation success and bond liability, if such practices can be expected to continue as part of the postmining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices will be normal conservation practices within the region for unmined lands having land uses similar to the approved postmining land use of the disturbed area, including such practices as disease, pest, and vermin control; and any pruning, reseeding and/or transplanting specifically necessitated by such actions.~~

357.301. The Division may approve certain selective husbandry practices without lengthening the extended responsibility period. Practices that may be approved are identified in R645-301-357.310 through R645-301-357.365. The operator may propose to use additional practices, but they would need to be approved as part of the Utah Program in accordance with 30 CFR 732.17. Any practices used will first be incorporated into the mining and reclamation plan and approved in writing by the Division. Approved practices are normal conservation practices for unmined lands within the region which have land uses similar to the approved postmining land use of the disturbed area. Approved practices may continue as part of the postmining land use, but discontinuance of the practices after the end of the bond liability period will not jeopardize permanent revegetation success. Augmented seeding, fertilization, or irrigation will not be approved without extending the period of responsibility for revegetation success and bond liability for the areas affected by said activities and in accordance with R645-301-820.330.

357.302. The Permittee will demonstrate that husbandry practices proposed for a reclaimed area are not necessitated by inadequate grading practices, adverse soil conditions, or poor reclamation procedures.

357.303. The Division will consider the entire area that is bonded within the same increment, as defined in R645-301-820.110, when calculating the extent of area that may be treated by husbandry practices.

357.304. If it is necessary to seed or plant in excess of the limits set forth under R645-301-357.300, the Division may allow a separate extended responsibility period for these reseeded or replanted areas in accordance with R645-301-820.330.

357.310. Reestablishing trees and shrubs

357.311. Trees or shrubs may be replanted or reseeded at a rate of up to a cumulative total of 20% of the required stocking rate through 40% of the extended responsibility period.

357.312. If shrubs are to be established by seed in areas of established vegetation, small areas will be scalped. The number of shrubs to be counted toward the tree and shrub density standard for success from each scalped area is limited to one.

357.320. Weed Control and Associated Revegetation. Weed control through chemical, mechanical, and biological means discussed in R645-301-357.321 through R645-301-357.323 is allowed through the entire extended responsibility period for noxious weeds and through the first 20% of the responsibility period for other weeds. Any revegetation necessitated by the following weed control methods will be performed according to the seeding and transplanting parameters set forth in R645-301-357.324.

357.321. Chemical Weed Control. Weed control through chemical means, following the current Weed Control Handbook (published annually or biannually by the Utah State University Cooperative Extension Service) and herbicide labels, is allowed.

357.322. Mechanical Weed Control. Mechanical practices that may be approved include hand roguing, grubbing and mowing.

357.323. Biological Weed Control. Selective grazing by domestic livestock is allowed. Biological control of weeds through disease, insects, or other biological weed control agents is allowed but will be approved on a case-by-case basis by the Division, and other appropriate agency or agencies which have the authority to regulate the introduction and/or use of biological control agents.

357.324. Where weed control practices damage desirable vegetation, areas treated to control weeds may be reseeded or replanted according to the following limitations. Up to a cumulative total of 15% of a reclaimed area may be reseeded or replanted during the first 20% of the extended responsibility period without restarting the responsibility period. After the first 20% of the responsibility period, no more than 3% of the reclaimed area may be reseeded in any single year without restarting the responsibility period, and no continuous reseeded area may be larger than one acre. Furthermore, no seeding is allowed after the first 60% of the responsibility period or Phase II bond release, whichever comes first. Any seeding outside these parameters is considered to be "augmentative seeding," and will restart the extended responsibility period.

357.330. Control of Other Pests.

357.331. Control of big game (deer, elk, moose, antelope) may be used only during the first 60% of the extended responsibility period or until Phase II bond release, whichever comes first. Any methods used will first be approved by the Division and, as appropriate, the land management agency and the Utah Division of Wildlife Resources. Methods that may be used include fencing and other barriers, repellents, scaring, shooting, and trapping and relocation. Trapping and special hunts or shooting will be approved by the Division of Wildlife Resources. Other control techniques may be allowed but will be considered on a case-by-case basis by the Division and by the Utah Division of Wildlife Resources. Appendix C of the Division's "Vegetation Information Guidelines" includes a non-exhaustive list of publications containing big game control methods.

357.332. Control of small mammals and insects will be approved on a case-by-case basis by the Utah Division of Wildlife Resources and/or the Utah Department of Agriculture. The recommendations of these agencies will also be approved by the appropriate land management agency or agencies. Small mammal control will be allowed only during the first 60% of the extended responsibility period or until Phase II bond release, whichever comes first. Insect control will be allowed through the entire extended responsibility period if it is determined, through consultation with the Utah Department of Agriculture or Cooperative Extension Service, that a specific practice is being performed on adjacent unmined lands.

357.340. Natural Disasters and Third-Party Interference Occurring After Phase II Bond Release. Where necessitated by a natural disaster, excluding climatic variation, or third-party interference, such as vandalism, which is not caused by any lack of planning, design, or implementation of the mining and reclamation plan on the part of the Permittee, the seeding and planting of the entire area which is significantly affected by the disaster or interference will be allowed as an accepted husbandry practice and thus will not restart the extended responsibility period. Examples of natural disasters that may necessitate reseeding which will not restart the extended responsibility period include wildfires, earthquakes, and mass movement originating outside the disturbed area.

357.341. The extent of the area where seeding and planting will be allowed will be determined by the Division in cooperation with the Permittee.

357.342. All applicable revegetation success standards will be achieved on areas reseeded following a disaster, including R645-301-356.232 for areas with a designated postmining land use of forestry or wildlife.

357.343. Seeding and planting after natural disasters or third-party interference will only be allowed in areas where Phase II bond release has been granted.

357.350. Irrigation. The irrigation of transplants, but not of general areas, is allowed through the first 20% of the extended responsibility period. Irrigation may be by such methods as, but not limited to, drip irrigation, hand watering, or sprinkling.

357.360. Highly Erodible Area and Rill and Gully Repair. The repair of highly erodible areas and rills and gullies will not be considered an augmentative practice, and will thus not restart the extended responsibility period, if the affected area as defined in R645-301-357.363 comprises no more than 15% of the disturbed area for the first 20% of the extended responsibility period and if no continuous area to be repaired is larger than one acre.

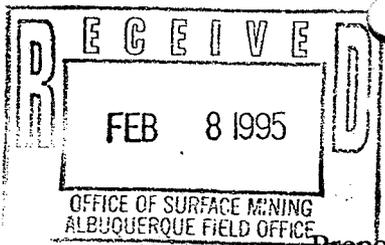
357.361. After the first 20% of the extended responsibility period but prior to the end of the first 60% of the responsibility period or until Phase II bond release, whichever comes first, highly erodible area and rill and gully repair will be considered augmentative, and will thus restart the responsibility period, if the area to be repaired is greater than 3% of the total disturbed area or if a continuous area is larger than one acre.

357.362. The extent of the affected area will be determined by the Division in cooperation with the Permittee.

357.363. The area affected by the repair of highly erodible areas and rills and gullies is defined as any area that is reseeded as a result of the repair. Also included in the affected areas are interspacial areas of thirty feet or less between repaired rills and gullies. Highly erodible areas are those areas which cannot usually be stabilized by ordinary conservation treatments and if left untreated can cause severe erosion or sediment damage.

357.364. The repair and/or treatment of rills and gullies which result from a deficient surface water control or grading plan, as defined by the recurrence of rills and gullies, will be considered an augmentative practice and will thus restart the extended responsibility period.

357.365. The Permittee shall demonstrate by specific plans and designs the methods to be used for the treatment of highly erodible areas and rills and gullies. These will be based on a combination of treatments recommended in the Soil Conservation Service Critical Area Planting recommendations, literature recommendations including those found in Appendix C of the Division's "Vegetation Information Guidelines", and other successful practices used at other reclamation sites in the State of Utah. Any treatment practices used will be approved by the Division.



Enclosure No. 3

Proposed for Inclusion as Appendix "C"
to the Existing
Vegetation Information Guidelines
February 6, 1995

Pest Control:

Plummer, A.P., D.R. Christensen, and S.B. Monsen. 1968. Restoring big-game range in Utah. Utah Division of Fish and Game Publication No. 68-3. p. 1-183.

USDA Forest Service. 1988. Fences. Missoula Technology and Development Center, Richard Karsky (Project Leader). U.S. Government Printing Office: 1988-594-194/80139. p. 1-210.

Vallentine, J.F. 1977. Range development and improvements. Brigham Young University Press, Provo, Utah. p. 1-516.

Wildlife Society, The. 1980. Wildlife management techniques manual, fourth edition: revised. S.D. Schemnitz (ed.). The Wildlife Society, Washington, D.C. p. 1-686.

Rill and Gully Repair:

Israelsen, C.E., J.E. Fletcher, F.W. Haws, and E.K. Israelsen. 1984. Erosion and sedimentation in Utah: a guide for control. Utah Water Research Laboratory, Logan, Utah. Hydraulics and Hydrology Series UWRL/H-84/03. p. 1-90.

Transportation Research Board. 1980. Erosion control during highway construction: manual on principles and practices. National Research Council, Washington, D.C. National Cooperative Highway Research Program Report 221. p. 1-23.

Utah State University Agricultural Experiment Station and Cooperative Extension Service. 1989. Interagency forage and conservation planting guide for Utah. Howard Horton (ed.). Extension Circular EC433. p. 1-67.

Vallentine, J.F. 1977. Range development and improvements. Brigham Young University Press, Provo, Utah. p. 1-516.

Seeding and Planting:

Bureau of Land Management. 1987. Renewable resource improvement and treatment guidelines and procedures. Bureau of Land Management Handbook H-1740-1. p. IV-1 to IV-10.

Ferguson, R.B., and N.C. Frischknecht. 1981. Shrub establishment on reconstructed soils in semiarid areas. Proc. Shrub establishment on disturbed arid and semi-arid lands. Wyoming Game and Fish Dept. p. 1-154.

Plummer, A.P., D.R. Christensen, and S.B. Monsen. 1968. Restoring big-game range in Utah. Utah Division of Fish and Game Publication No. 68-3. p. 1-183.

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Vallentine, J.F. 1977. Range development and improvements. Brigham Young University Press, Provo, Utah. p. 1-516.

Weed Control:

Bureau of Land Management. 1991. Final environmental impact statement, vegetation treatment on BLM lands in thirteen western states. U.S. Government Printing Office: 1991-573-071/44014.

Montana State University, Utah State University, and University of Wyoming Cooperative Extension Services. 1993. 1993-94 Montana - Utah - Wyoming weed control handbook. Tom D. Whitson, Steven A. Dewey, and Peter K. Fay (editors). p. 1-210.

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State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor

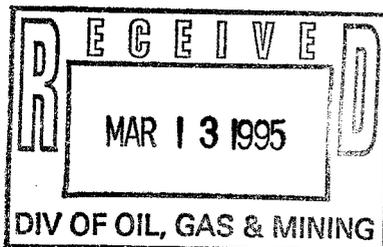
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James W. Carter
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Salt Lake City, Utah 84180-1203
801-538-3340
801-350-3340 (Fax)
801-538 5318 (TDD)

February 22, 1995

Bob Uram, Director
Office of Surface Mining
1951 Constitution Avenue, N.W.
Washington, D.C. 20240



Dear Mr. Uram:

I am writing in response to your letter of February 7, 1995, notifying me of the commencement of a Part 733 process concerning the permitting of public roads in Utah. All mine access and haul roads required to be permitted under the Utah coal regulatory program are currently under permit and regulation.

The Division's position with regard to OSM's wish to have the Division reconsider its roads permitting decisions is set forth in the complaint filed in Utah v. Lujan, 92-C-063-G. (D. Utah), and the Division incorporates the facts and legal argument of the complaint here as its response to your letter of February 7, 1995.

The state of Utah, through the Division of Oil, Gas and Mining requests an informal conference in accordance with 30 CFR 733.12(c) to discuss the facts supporting the assertions of the February 7 letter. March 14, 1995 is an acceptable date for that informal conference.

Very truly yours,

James W. Carter
Director

jbe
H:SECTION7.733

Post-It™ brand fax transmittal memo 7671		# of pages ▶	1
To	V. Maldonado	From	H. Strand
Co.	OSM	Co.	OSM/WSC
Dept.	ARB	Phone #	(303) 672-5546
Fax #	(505) 766-2609	Fax #	



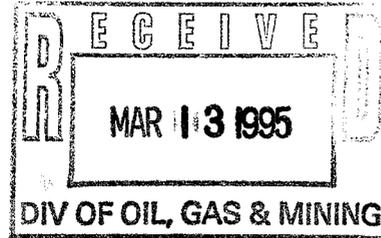
State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
James W. Carter
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340
801-359-3940 (Fax)
801-538-5319 (TDD)

January 20, 1995

Thomas E. Ehmett, Acting Director
Office of Surface Mining
Reclamation and Enforcement
505 Marquette N.W., Suite 1200
Albuquerque, New Mexico 87102



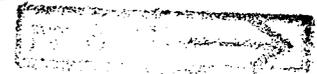
Dear Mr. ^{Tom}Ehmett:

This letter is in response to your letter inquiry dated December 14, 1994, on the status of Utah's Coal Regulatory Program changes mandated by the Energy Policy Act ("EPACT"), 30 U.S.C. 1309a.

As you know, the EPACT changes were included in Utah's formal program amendment UT-024-FOR which was submitted to your office on April 14, 1994. A copy of the law changes intended to address EPACT may be found in that submittal. Enforcement procedures under the new provisions of the law are contained in the Utah program and include on-site inspections, citizen complaint procedures, and informal and formal administrative hearings for persons objecting to Division approval actions.

The number of underground coal mines in operation after October 24, 1992 may be found in the past and current grant applications which are filed with your office yearly. Only one citizen complaint has been filed with the Division since the enactment of the EPACT program changes. That complaint was recently resolved by direct action of the Division and was judged not to be a complaint which was able to be remedied by the EPACT provisions.

The Utah statutory changes designed to address EPACT contain specific language to enact the state version of Section 720(a)(1). This part relates to material damage resulting from subsidence. Utah's equivalent language for Section 720(a)(2), Water Replacement, however, is different. This discrepancy was pointed out in Issue #9 of the OSM critique of UT-024-FOR, which was dated October 24, 1994. In essence, the OSM issue stated that Utah's opting for a regulatory, rather than a statutory response, necessitated a legal opinion on the authority to do so from the Utah Attorney General.

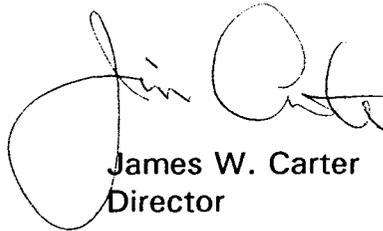


Page 2
Thomas E. Ehmett
EPACT
January 20, 1995

Utah answered Issue #9 by letter dated December 7, 1994 and committed to addressing the issue in its entirety by the close of the 1996 Legislature (March 1996). As stated in the response to Issue #9, Utah is still examining options on the best way to assure water replacement at underground mines, by statutory or regulatory means. The time frame for resolving this issue and regulating water replacement at underground mines remains as previously estimated, the task will be accomplished by March 1996.

If I can provide you with any additional information on the status of the Energy Policy Act changes to the Utah Coal Regulatory Program, please let me know.

Very truly yours,



James W. Carter
Director

jbe
P:EPACT.LTR

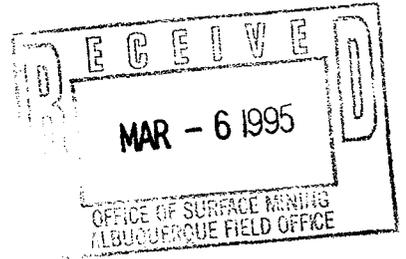
UT-1031



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2466



Ref: 8WM

March 3, 1995

Mr. Thomas E. Ehmett, Acting Director
Albuquerque Field Office
Office of Surface Mining
505 Marquette Avenue N.W., Suite 1200
Albuquerque, NM 87102

Dear Mr. Ehmett,

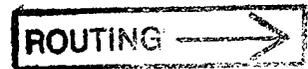
This is in response to your February 28, 1995 request for comments on the proposed amendment to Utah's program for regulating surface coal mining and reclamation operations, described as Administrative Record No. UT-1019 (SPATS No. UT-031-FOR), regarding amendments to Administrative Rules, R645-401 and 402, on civil penalties.

EPA has no comments on these proposed amendments. We do not believe there would be any impacts to water quality standards promulgated under the authority of the Clean Water Act, as amended (33 U.S.C. 1251 et seq.).

Thank you for providing us with the opportunity to review this material.

Sincerely,

Robert E. Walline
Mining Waste National Expert



at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under FOR FURTHER INFORMATION CONTACT.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may 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, notices of meetings will be posted at the locations listed under ADDRESSES. A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory

programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 16, 1995.

Richard Seibel,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 95-4681 Filed 2-24-95; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 944

Utah Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Utah regulatory program (hereinafter, the "Utah program") under the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*, SMCRA). The proposed amendment consists of revisions to rules pertaining to civil penalties. The amendment is intended to revise Utah's rules to be consistent with recently promulgated revisions to the Utah Coal Reclamation Act of 1979 (Utah Administrative Code (UCA) 40-10 *et seq.*).

DATES: Written comments must be received by 4:00 p.m., m.s.t., March 29, 1995. If requested, a public hearing on the proposed amendment will be held on March 24, 1995. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.s.t. on March 14, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Thomas E. Ehmett at the address listed below.

Copies of the Utah program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Thomas E. Ehmett, Acting Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue, NW., Suite 1200, Albuquerque, New Mexico 87102

Utah Coal Regulatory Program, Division of Oil, Gas and Mining, 355 West North Temple, 3 Triad Center, Suite 350, Salt Lake City, Utah 84180-1203, Telephone: (801) 538-5340

FOR FURTHER INFORMATION CONTACT: Thomas E. Ehmett, Telephone: (505) 766-1486.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program. General background information on the Utah program,

including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program can be found in the January 21, 1981, *Federal Register* (46 FR 5899). Subsequent actions concerning Utah's program and program amendments can be found at 30 CFR 944.15, 944.16, and 944.30.

II. Proposed Amendment

By letter dated February 10, 1995, Utah submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. UT-1019). Utah submitted the proposed amendment at its own initiative. The provisions of Utah Coal Maining Rules that Utah proposes to revise are: Utah Administrative Rules (Utah Adm. R.) 645-401-100, 400, 700, 800, and 900, concerning civil penalties, and Utah Admin. R. 645-402-100 and 400, concerning individual civil penalties.

Specifically, Utah proposes to revise Utah Admin. R. 645-401-120, 645-401-410, 645-401-721, 645-401-723.100, 645-401-742, 645-401-910, 645-402-120, 645-402-420, and 645-402-422 by replacing the term "Board" with the term "Division," so that the responsibilities for procedures involving the assessment of civil penalties, informal assessment conferences, and lien waivers are shifted from the Utah Board of Oil, Gas, and Mining to the Utah Division of Oil, Gas, and Mining; Utah Admin. R. 645-401-430 by adding the acronym "UCA" prior to references to UCA 40-10 *et seq.*; Utah Admin. R. 645-401-810 by adding the phrase "of receipt" in order to clarify that a permittee may contest a proposed civil penalty or fact of violation within 30 days of receipt of the proposed assessment or reassessment; Utah Admin. R. 645-401-830 by stating that the formal review of the violation fact or penalty will be conducted by the Board under the provisions of the procedural rules of the Board; and Utah Admin. R. 645-401-910 by clarifying that, if the permittee fails to request a formal hearing, the penalty assessed will become due and payable after, among other things, the Division fulfills its responsibilities under UCA 40-10-20(3)(e);

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Utah program.

1. Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under DATES or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under FOR FURTHER INFORMATION CONTACT by 4:00 p.m., m.s.t. on March 14, 1995. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under FOR FURTHER INFORMATION CONTACT. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may 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, notices of meetings will be posted at the locations listed under ADDRESSES. A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMRCA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the State must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that

existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 21, 1995.

Peter A. Rutledge,
Acting Assistant Director, Western Support Center.

[FR Doc. 95-4682 Filed 2-24-95; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN 110-1-6172b; FRL-5144-1]

Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to the Tennessee Chapter on Volatile Organic Compounds (VOC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the State of Tennessee for the purpose of establishing regulations for the control of Volatile Organic Compounds (VOC) which meet the requirements of section 182(b)(2) of the 1990 amendments to the Clean Air Act (CAA). In the final rules section of this Federal Register, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time. **DATES:** To be considered, comments must be received by March 29, 1995.

ADDRESSES: Written comments should be addressed to William Denman at the Region 4 address below. Copies of the material submitted by the State of Tennessee may be examined during normal business hours at the following locations:

Environmental Protection Agency,
Region 4 Air Programs Branch, 345
Courtland Street NE, Atlanta, Georgia
30365.

Division of Air Pollution Control,
Tennessee Department of
Environment and Conservation, L & C
Annex, 9th Floor, 401 Church Street,
Nashville, Tennessee 37243-1531.

FOR FURTHER INFORMATION CONTACT:
William Denman, Stationary Source
Planning Unit, Regulatory Planning and
Development Section, Air Programs
Branch, Air, Pesticides & Toxics
Management Division, Environmental
Protection Agency Region 4, 345
Courtland Street, NE, Atlanta, Georgia
30365. The telephone number is (404)
347-3555 extension 4208. Reference file
TN110-01-6172.

SUPPLEMENTARY INFORMATION: For
additional information see the direct
final rule which is published in the
rules section of this Federal Register.

Dated: January 9, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 95-4540 Filed 2-24-95; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3400, 3470, and 3480

[WO-300-4120-02-24 1A]

RIN: 1004-AC-5

Logical Mining Units (LMU's) in General; LMU Application Procedures; LMU Approval Criteria; LMU Diligence; and Administration of LMU Operations: Extension of Comment Period

AGENCY: Bureau of Land Management,
Interior.

ACTION: Proposed rule; extension of
comment period.

SUMMARY: A proposed rule amending the regulations relating to logical mining units (LMU's) for coal mining operations was published in the Federal Register on Wednesday, December 28, 1994 (59 FR 66874), with a 60-day comment period expiring February 27, 1995. The comment period is being extended for 30 days in response to public request.

DATES: The period for the submission of comments is hereby extended until March 29, 1995. Comments postmarked after this date will not be considered as part of the decisionmaking process on issuance of the final rule.

ADDRESSES: Comments should be sent to the Regulatory Management Team (120), Bureau of Land Management, Room 5555, Main Interior Building, 1849 C Street, N.W., Washington, D.C. 20240. Comments will be available for public review at the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday. **FOR FURTHER INFORMATION CONTACT:** William Radden-Lesage, (202) 452-0350.

Dated: February 21, 1995.

Sylvia V. Baca,

Acting Assistant Secretary of the Interior.

[FR Doc. 95-4679 Filed 2-24-95; 8:45 am]

BILLING CODE 4310-84-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95-25, RM-8588]

Radio Broadcasting Services; Waldport, Oregon

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Jarvis Communications, Inc., seeking the allotment of Channel 288A to Waldport, OR, as the community's first local FM service. Channel 288A can be allotted to Waldport in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.4 kilometers (7.7 miles) northwest, at coordinates 44-32-17 North Latitude and 124-03-37 West Longitude, to avoid a short-spacing to vacant but applied-for Channel 288A at Cottage Grove, OR.

DATES: Comments must be filed on or before April 14, 1995, and reply comments on or before May 1, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Matt Jarvis, Jarvis Communications, Inc., Radio Station KORC-AM, P.O. Box 1419, Waldport, OR 97394 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

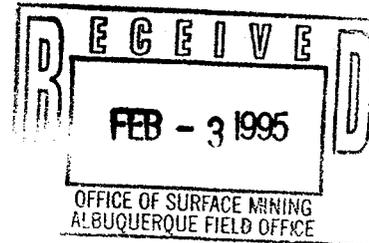


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2466

UT-1017



Ref: 8WM

February 1, 1995

Mr. Thomas E. Ehmett, Acting Director
Albuquerque Field Office
Office of Surface Mining
505 Marquette Avenue N.W., Suite 1200
Albuquerque, NM 87102

Dear Mr. Ehmett,

This is in response to your January 12, 1995 request for comments on the proposed amendment to Utah's program for regulating surface coal mining and reclamation operations, described as Administrative Record No. UT-1003 (SPATS No. UT-029-FOR), regarding amendments to Administrative Rules, R645-203-200, on confidentiality and making information available to the public.

EPA has no comments on this proposed amendment. We do not believe there would be any impacts to water quality standards promulgated under the authority of the Clean Water Act, as amended (33 U.S.C. 1251 et seq.).

Thank you for providing us the opportunity to review this material.

Sincerely,


Robert E. Walline,
Mining Waste National Expert

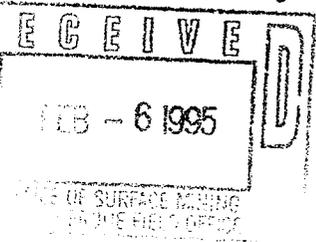


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DEPARTMENT OF THE ARMY
 U.S. Army Corps of Engineers
 WASHINGTON, D.C. 20314-1000

UT-1018



January 31, 1995

REPLY TO
 ATTENTION OF:

Engineering Division

Mr. Thomas E. Ehmett, Acting Director
 Albuquerque Field Office
 Office of Surface Mining
 Reclamation and Enforcement
 505 Marquette Avenue, NW, Suite 1200
 Albuquerque, New Mexico 87102

Dear Mr. Ehmett:

This is in response to your letter of January 12, 1995,
 concerning Administrative Record No. UT-1003.

Our review of the amendment to Utah's Coal Mining and
 Reclamation Regulatory Program, found the changes to be
 satisfactory to our agency.

Sincerely,

Charles L. Baldi

Charles L. Baldi
 Acting Chief, Engineering Division
 Directorate of Civil Works

TO	INITIAL DATE	REMARKS
R. BROWN		
J. HENNING		
L. HENNING		
S. HENNING		
D. HENNING	2/1	
S. HENNING		
B. FREEMAN		

Down OK
Vern Jan 2/9/95

SPAT UT-029-FOR