



4310-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

[SATS No. UT-049-FOR; Docket ID OSM-2012-0015]

Utah Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

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

**SUMMARY:** We are announcing receipt of revisions 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 or the Act). Utah proposes to revise references to Federal

regulations specifying abandoned mine land reclamation contractor eligibility criteria. These changes relate to the Ownership and Control required amendments. Utah intends to revise its program to be consistent with the corresponding Federal regulations.

**DATES:** We will accept written comments on this amendment until 4:00 p.m., [m.s.t.] [Insert date [15] days after date of publication in the Federal Register].

**ADDRESSES:** You may submit comments, identified by "SATS #UT-049-FOR" or "Docket ID OSM-2012-0015," by any of the following methods:

- E-mail: cbelka@OSMRE.gov. Please include "Docket ID OSM-2012-0015" in the subject line of the message.

- Mail/Hand Delivery/Courier:

Kenneth Walker, Chief, Denver Field Division  
Office of Surface Mining Reclamation and Enforcement  
1999 Broadway, Suite 3320  
Denver, CO, 80202  
(303) 293-5012  
[kwalker@OSMRE.gov](mailto:kwalker@OSMRE.gov)

- Fax: (303)293-5017
- Federal eRulemaking Portal: <http://www.regulations.gov>.  
Follow the instructions for submitting comments.

*Instructions:* All submissions received must include the agency name and Docket ID OSM-2012-0015. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Comment Procedures" heading of the SUPPLEMENTARY INFORMATION section of this document.

*Docket:* Access to the docket, to review copies of the Utah program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, may be obtained at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting Office of Surface Mining Reclamation and Enforcement (OSM's) Denver Field Division. In addition, you may review a copy of the amendment during regular business hours at the following locations:

Kenneth Walker, Chief, Denver Field Division  
Office of Surface Mining Reclamation and Enforcement  
1999 Broadway, Suite 3320  
Denver, CO, 80202  
(303)293-5012  
[kwalker@OSMRE.gov](mailto:kwalker@OSMRE.gov)

John R. Baza, Director, Utah Division of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
Salt Lake City, UT 84116  
(801)538-5334  
[johnbaza@utah.gov](mailto:johnbaza@utah.gov)

**FOR FURTHER INFORMATION CONTACT:** Kenneth Walker, Chief,  
Denver Field Division, Telephone: (303)293-5012, Internet  
address: kwalker@OSMRE.gov.

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Utah Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

## **I. Background on the Utah Program**

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act...; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Utah program on January 21, 1981. You can find background information on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program in the January 21, 1981, Federal Register (46 FR 5899). You can also find later actions concerning Utah's program and program amendments at 30 CFR 944.15 and 944.30.

## **II. Description of the Proposed Amendment**

By letter dated June 25, 2012, Utah sent us a proposed

amendment to its program (SATS #UT-049-FOR, Administrative Record No. OSM-2012-0015-0002) under SMCRA (30 U.S.C. 1201 et seq.). Utah sent the proposed amendment in response to an October 2, 2009 letter (Administrative Record No. OSM-2012-0015-0003) that OSM sent to Utah in accordance with 30 CFR 732.17(c). The full text of the program amendment is available for you to read at the locations listed above under ADDRESSES.

We announced receipt of the proposed amendment in the September 5, 2012, Federal Register (77 FR 54491), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (Administrative Record No. OSM-2012-0015-0001). Because no one requested a public hearing or meeting, none was held. The public comment period ended on October 5, 2012. We received comments from three Federal agencies.

During our review of the amendment, we identified concerns relating to two provisions of the Utah Administrative Code (UAC) at R643-874-160 and R643-875-200. Both provisions specify contractor eligibility criteria for abandoned mine land reclamation projects (general requirements and noncoal reclamation requirements, respectively). The UAC references

Federal regulations for those contractor eligibility criteria. The references are currently incorrect due to changes in the Federal Program approved on December 3, 2007 (72 FR 68029) and November 14, 2008 (73 FR 67630). We notified Utah of the concerns by email dated October 4, 2012 (Administrative Record No. OSM-2012-0015-0009). Utah responded in a letter dated November 2, 2012, by submitting a supplemental amendment proposal (Administrative Record No. OSM-2012-0015-0008).

Utah now proposes revisions to update R643-874-160 and R643-875-200 to reference the current Federal contractor eligibility requirements. Specifically, Utah proposes to replace its reference to 30 CFR "773.15(b)(1)," which no longer exists, with reference to 30 CFR "773.12 through 773.14."

### **III. Public Comment Procedures**

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Utah program.

### Electronic or Written Comments

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see DATES) or sent to an address other than those listed above (see ADDRESSES) will be included in the docket for this rulemaking and considered.

### Public Availability of Comments:

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment - including



your personal identifying information - may be made publicly available in the electronic docket for this rulemaking at [www.regulations.gov](http://www.regulations.gov). While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

## **VI. Procedural Determinations**

### Executive Order 12866 - Regulatory Planning and Review

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

### Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSM for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the Federal Register indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be

approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

**List of Subjects in 30 CFR Part 944**

Intergovernmental relations, Surface mining, Underground mining.

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\_\_\_\_\_~~November~~ 7, 2012

Allen D. Klein

Date

Director, Western Region

[FR Doc. 2012-29970 Filed 12/11/2012 at 8:45 am; Publication  
Date: 12/12/2012]