

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.

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BILLING CODE 4310-05-M

**30 CFR Part 944**

**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 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).

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### 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