

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 corresponding 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 corresponding Federal regulations.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 7, 1995.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating 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 914—INDIANA

1. The authority citation for Part 914 continues to read as follows:

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

2. Section 914.15 is amended by adding paragraph (kkk) to read as follows:

§914.15 Approval of regulatory program amendments.

* * * * *

(kkk) The following rules, as submitted to OSM on May 3, 1995, are approved effective September 14, 1995: 310 IAC 12-5-64.1(c) and 310 IAC 12-5-128.1(c) concerning standards for success for nonprime farmland for surface and underground coal mining reclamation operations.

[FR Doc. 95-22866 Filed 9-13-95; 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: 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). Utah proposed revisions to its rules pertaining to normal husbandry practices and the Utah "Vegetation Information Guidelines." The amendment is intended to revise the Utah program to improve operational efficiency.

EFFECTIVE DATE: September 14, 1995.

FOR FURTHER INFORMATION CONTACT: Richard J. Seibel, Telephone: (303) 672-5501.

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. Submission of Proposed Amendment

By letter dated February 6, 1994, Utah submitted a proposed amendment to its program (administrative record No. UT-1025) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). Utah submitted the proposed amendment at its own initiative. Utah proposed to revise its Coal Mining Rules at Utah

Administrative Rule (Utah Admin. R.) 645-301-357.300 through 365 to specify normal husbandry practices that could be implemented without restarting the bond liability period. Utah also proposed to revise its "Vegetation Information Guidelines," by adding a bibliography of referenced publications for the proposed normal husbandry practices.

OSM announced receipt of the proposed amendment in the March 15, 1995, **Federal Register** (60 FR 13935), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. UT-1034). Because no one requested a public hearing or meeting, none was held. The public comment period ended on April 14, 1995.

During its review of the amendment, OSM identified concerns relating to the provisions of Utah Admin. R. 645-301-357.340, Utah Admin. R. 645-301-357.350, and Appendix C of Utah's "Vegetation Information Guidelines." OSM notified Utah of the concerns by letter dated May 23, 1995 (administrative record No. UT-1054). Utah responded in a letter dated June 5, 1995, by submitting a revised amendment that addressed OSM's concerns (administrative record No. UT-1059).

Based upon the revisions to the proposed program amendment submitted by Utah, OSM reopened the public comment period in the July 6, 1995, **Federal Register** (60 FR 35158; administrative record No. UT-1064). The public comment period closed on July 21, 1995.

III. Director's Findings

Utah submitted an amendment to its program revising Utah Admin. R. 645-301-357.300 through 645-301-357.356 to specify approved normal husbandry practices that could be implemented without restarting the period of extended responsibility for successful revegetation (bond liability period). Utah also proposed to revise its "Vegetation Information Guidelines," by adding Appendix C, a bibliography of referenced publications that support the proposed normal husbandry practices. OSM has previously approved Utah's "Vegetation Information Guidelines" (56 FR 41803, August 23, 1991).

The Federal regulations at 30 CFR 816.116(c)(1) and 817.116(c)(1) require that the period of extended responsibility for successful revegetation shall begin after the last year of augmented seeding, fertilizing, irrigation, or other work, excluding husbandry practices that are approved

by the regulatory authority in accordance with the Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4). The Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4) allow the regulatory authority to select normal husbandry practices if such practices are 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. Such practices must be normal husbandry practices within the region.

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 February 6, 1995, and as revised by it on June 5, 1995, is no less effective than the Federal regulations at 30 CFR 816.116(c)(1) and (4) and 817.116(c)(1) and (4). Thus, the Director approves the proposed amendment. OSM's approval of the normal husbandry practices proposed at Utah Admin. R. 645-301-357.310 through 645-301-357.356 (findings Nos. 2 through 7 below) is predicated upon implementation of the general requirements proposed at Utah Admin. R. 645-301-357.301 through 645-301-357.304 (finding No. 1 below) for all normal husbandry practices.

1. Utah Admin. R. 645.301-357.300, General Requirements for Approval of Normal Husbandry Practices and Appendix C of Utah's "Vegetation Information Guidelines"

Utah proposed, at Utah Admin. R. 645-301-357.301 through 645-301-357.304, general requirements for mining and reclamation plan approval of normal husbandry practices. Utah identified in proposed Utah Admin. R. 645-301-357.310 through 645-301-357.365 (discussed in findings Nos. 2 through 7 below) normal husbandry practices that would not restart the bond liability period. Utah proposed to include as general requirements for all such practices (1) that the permittee demonstrate that husbandry practices proposed for a reclaimed area are not necessitated by inadequate grading practices, adverse soil conditions, or poor reclamation procedures, (2) that the permittee consider the total area within the bond increment when calculating the extent of area that may be treated by husbandry practices, and (3) if necessary to seed or plant in excess of the limits set forth in its proposed rules, a separate extended bond liability period for the reseeded or replanted areas. Utah's proposed Admin. R. 645-301-357.301 also

includes the requirements that (1) approved practices must be normal practices for unmined lands within the region which have similar land uses, (2) discontinuance of the practices after the end of the bond liability period must not jeopardize permanent revegetation success, and (3) if a permittee proposes practices that are not identified in Utah's program, the additional practices would need to be approved as part of the Utah program in accordance with the Federal regulations at 30 CFR 732.17.

In addition, Utah proposed to revise its "Vegetation Information Guidelines," by adding Appendix C, a bibliography of referenced publications that support the normal husbandry practices proposed in Utah Admin. R. 645-301-357.

The Director finds that Utah's proposed Admin. R. 645-301-357.301 through 645-301-357.304 and Appendix C of Utah's "Vegetation Information Guidelines" are consistent with and no less effective than the Federal regulations concerning approval of normal husbandry practices at 30 CFR 816.116(c) (1) and (4) and 817.116(c) (1) and (4). The Director approves proposed Admin. R. 645-301-357.301 through 645-301-357.304 and Appendix C in Utah's "Vegetation Information Guidelines."

2. Utah Admin. R. 645-301-357.310 Through 645-301-357.312, Reestablishing Trees and Shrubs as a Normal Husbandry Practice

Utah proposed, at Utah Admin. R. 645-301-357.310 through 645-301-357.312, to allow as husbandry practices that would not restart the bond liability period: (1) Transplanting or reseeding 20 percent of the stocking rate for trees and shrubs during the first 40 percent, or through year 4, of the bond liability period; and (2) scalping of small areas in which to reseed shrubs, with the number of reseeded shrubs that can be counted towards success of revegetation limited to one per scalped area.

Utah Admin. R. 645-301-356.232 and the Federal regulations at 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii) require that trees and shrubs used in determining the success of stocking shall (1) be adequate for the plant arrangement, (2) be healthy, and (3) have been in place for not less than two growing seasons. These regulations also require that, at the time of bond release, at least 80 percent of the trees and shrubs used to determine success shall have been in place for 60 percent of the applicable minimum period of responsibility ("the 80/60 requirement").

Because Utah's proposed rules state that only 20 percent of the stocking rate for trees and shrubs could be transplanted or reseeded through year 4 without restarting the liability period, Utah has ensured that trees and shrubs counted toward revegetation success have been in place for at least 6 years. This requirement exceeds the two growing season requirement and ensures that a determination of the 80/60 requirement can be made in accordance with Utah Admin. R. 645-301-356.232.

Therefore, the Director finds that Utah's proposed Admin. R. 645-301-357.310 through 645-301-357.312 are consistent with the Federal regulations at 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii) and are no less effective than the Federal regulations concerning approval of normal husbandry practices at 30 CFR 816.116(c) (1) and (4) and 817.116(c) (1) and (4). The Director approves proposed Utah Admin. R. 645-301-357.310 through 645-301-357.312.

3. Utah Admin. R. 645-301-357.320 through 645-301-357.324, Chemical, Mechanical, and Biological Weed Control and its Associated Revegetation as a Normal Husbandry Practice

Utah proposed, at Utah Admin. R. 645-301-357.320 through 645-301-357.324, to allow as husbandry practices that would not restart the bond liability period: (1) Chemical weed control following the Weed Control Handbook, published by the Utah State University Cooperative Extension Service; (2) mechanical weed control such as hand roguing, grubbing, and mowing; and (3) biological weed control such as selective grazing. Utah proposed to require that biological control of weeds through disease, insects, or other agents must be approved on a case-by-case basis by Utah and other appropriate agencies which have the authority to regulate the introduction or use of biological control agents. In addition, (1) proposed Utah Admin. R. 645-301-357.320 allows weed control for noxious weeds through the entire liability period and through the first 2 years of the liability period for other weeds and (2) proposed Utah Admin. R. 645-301-357.324 allows up to a total of 15 percent of a reclaimed area during the first 2 years of the liability period to be reseeded or replanted of areas if necessary due to weed control. After the first 2 years of the liability period, no more than 3 percent of the reclaimed area may be reseeded in any single year and no reseeding or replanting due to weed control is allowed after the first 6 years of the liability period, or after Phase II bond release, whichever comes

first, without restarting the bond liability period.

Because proposed Utah Admin. R. 645-301-357.320 allows control of only noxious weeds after the first 2 years of the bond liability period, Utah's proposed Admin. R. 645-301-357.324, allowing revegetation of areas damaged due to weed control after year 2 and through year 6 of the bond liability period, or through phase II bond release, applies only to the control of noxious weeds. After year 6 of the bond liability period, or after phase II bond release, whichever comes first, any revegetation due to treatment of noxious or other weeds would restart the bond liability period. Prohibiting revegetation due to treatment of weeds after year 6 or after phase II bond release ensures that the permittee can demonstrate that the established vegetation is permanent and otherwise meets the general requirements for success of revegetation in the Federal regulations at 30 CFR 816.111 and 817.111.

The Director finds that Utah's proposed Admin. R. 645-301-357.320 through 645-301-357.324 are no less effective than the Federal regulations concerning approval of normal husbandry practices at 30 CFR 816.116(c) (1) and (4) and 817.116(c) (1) and (4). The Director approves proposed Admin. R. 645-301-357.320 through 645-301-357.324.

4. Utah Admin. R. 645-301-357.330 Through 645-301-357.332, Control of Pests Such as Big Game, Small Mammals, and Insects as a Normal Husbandry Practice

Utah proposed at Utah Admin. R. 645-301-357.330 through 645-301-357.332 to allow, as husbandry practices that would not restart the bond liability period, (1) control of big game and small mammals, approved on a case-by-case basis by Utah, the Utah Division of Wildlife Resources, and the appropriate land management agency or agencies, during the first 6 years of the liability period of until Phase II bond release, whichever comes first, and (2) control of insects throughout the liability period if it is determined, through consultation with an approval from the Utah Department of Agriculture or Cooperative Extension Service and the appropriate land management agency or agencies, that a specific practice is being performed on adjacent unmined lands.

Approvals by the Utah Division of Wildlife Resources, the appropriate land management agency or agencies, and/or the Utah Department of Agriculture or Cooperative Extension Service ensure that appropriate control methods will be used. Limiting such control to the first

6 years of the liability period or until phase II bond release allows the affected vegetation to become established. Prohibiting implementation of these control methods after year 6 or after phase II bond release ensures that the permittee can demonstrate that the established vegetation is permanent and otherwise meets the general requirements for success of revegetation in the Federal regulations at 30 CFR 816.111 and 817.111.

The Director finds that the Utah's proposed Admin. R. 645-301-357.330 through 645-301-357.332 are no less effective than the Federal regulations concerning approval of normal husbandry practices at 30 CFR 816.116(c) (1) and (4) and 817.116(c) (1) and (4). The Director approves proposed Admin. R. 645-301-357.320 through 645-301-357.324.

5. Utah Admin. R. 645-301-357.340 Through 645-301-357.343, Repair of Vegetation Due to Natural Disasters and Illegal Activities Occurring After Phase II Bond Release as a Normal Husbandry Practice

Utah proposed, at Utah Admin. R. 645-301-357.340 through 645-301-357.343, to allow as a husbandry practice that would not restart the liability period the seeding and planting of areas significantly affected by a natural disaster, such as wildfires, earthquakes, and mass movement originating outside the disturbed area but excluding climatic variation; or illegal activities, such as vandalism, which are not caused by any lack of planning, design, or implementation of the mining and reclamation plan on the part of the permittee. In addition, Utah will only allow such repair if the damage occurs after phase II bond release and requires that all applicable revegetation success standards must be achieved on the repaired areas.

Although Utah's proposed rules provide that repair of damaged revegetation caused by such natural disasters and illegal activities will not restart the liability period, the liability period may in fact be extended if the bond release area is not able to meet all applicable revegetation success standards. In addition, because Utah excluded climatic variation from consideration as a natural disaster, the permittee is not excused from demonstrating establishment of a diverse, effective, and permanent vegetative stand during normal periods of drought. Utah's allowance for such repair to occur without restarting the bond liability period after phase II bond release provides an incentive for

permittees to seek and obtain phase II bond release.

Because the repair of vegetated areas would be necessitated on similar unmined land in the region if the same damage occurred, the Director finds that Utah's proposed Admin. R. 645-301-357.340 through 645-301-357.343 are not less effective than the Federal regulations concerning approval of normal husbandry practices at 30 CFR 816.116(c) (1) and (4) and 817.116(c) (1) and (4). The Director approves proposed Admin. R. 645-301-357.340 through 645-301-357.343.

6. Utah Admin. R. 645-301-357.350, Irrigation of Transplanted Trees and Shrubs as a Normal Husbandry Practice

Utah proposed, at Utah Admin. R. 645-301-357.350, to allow irrigation of transplanted trees and shrubs as a husbandry practice that would not restart the bond liability period. Utah also submitted a letter from the U.S. Forest Service, Department of Agriculture, dated April 8, 1994, documenting that irrigation of seedlings during the first growing season is a common practice in establishing trees and shrubs.

Utah demonstrated that irrigation of trees and shrubs is a common practice within the region for unmined lands having land similar to the approved postmining land use of the disturbed area. Because Utah limited irrigation of transplanted trees and shrubs to the first 2 years of the liability period, Utah has ensured that discontinuance of the practice will not effect the demonstration of permanent revegetation success.

The Director finds that Utah's proposed Admin. R. 645-301-357.350 is not less effective than the Federal regulations concerning approval of normal husbandry practices to 30 CFR 816.116(c) (1) and (4) and 817.116(c) (1) and (4). The Director approves proposed Admin. R. 645-301-357.350.

7. Utah Admin. R. 645-301-357.360 Through 645-301-357.365, Highly Erodible Area and Rill and Gully Repair as a Normal Husbandry Practice

Utah proposed, at Utah Admin. R. 645-301-357.340 through 645-301-357.343, to allow as a husbandry practice that would not restart the liability period the repair of highly erodible areas and rills and gullies during the first 20 percent of the bond liability period, if the affected area comprises no more than 15 percent of the disturbed area and if no continuous area to be repaired is larger than one acre. Furthermore, Utah proposed that after the first 20 percent of the bond

liability period but prior to the end of the first 60 percent of the liability period or until Phase II bond release (whichever comes first), the repair of any areas greater than 3 percent of the total disturbed area or any continuous area larger than 1 acre will be considered augmentative and will restart the liability period. After the end of the first 60 percent of the liability period or after Phase II bond release, and rill and gully repair would restart the liability period. Utah also submitted as copy or the U.S. Nation Resource Conservation Service (NRCS) Critical Area Planting Guide for the State of Utah.

Because Utah has clearly and reasonably defined when an operator must consider the repair of rills and gullies an augmentative practice that would restart the liability period and submitted NRCS documentation which demonstrates that the repair of rills and gullies are supported by NRCS as an acceptable land management technique for similar situations in the State of Utah, the Director finds that Utah's proposal for the repair or fills and gullies as a normal husbandry practice is not less effective than the Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4). The Director approves Utah Admin. R. 645-301-357.340 through 645-301-357.343.

IV. Summary and Disposition of Comments

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

1. Public Comments

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

2. Federal Agency Comments

Pursuant to 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. Bureau of Mines responded on March 10, 1985, that it has no comments on the proposed amendment (administrative record No. UT-1030).

The U.S. Army Corps of Engineers responded on March 15 and July 12, 1995, that it found the proposed amendment to be satisfactory (administrative record Nos. UT-1033 and UT-1069).

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(b)(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 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (administrative record No. UT-1027). EPA did not respond to OSM's request.

4. State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP (administrative record No. UT-1027). Neither SHPO nor ACHP responded to OSM's request.

V. Director's Decision

Based on findings nos. 1 through 7, the Director approves the proposed amendment concerning normal husbandry practices as submitted by Utah on February 6, 1995, and as revised on June 5, 1995.

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 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 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. *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 assumption for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 6, 1995.

Richard J. Seibel,

*Regional Director, Western Regional
Coordinating 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 (gg) to read as follows:

§ 944.15 Approval of amendments to the Utah regulatory program.

* * * * *

(gg) The following revisions to or additions of the following sections of the Utah Administrative Rules (Utah Admin. R.) for Coal Mining, and the addition of Appendix C, to Utah's "Vegetation Information Guidelines," as submitted to OSM on February 6, 1995, and revised on June 5, 1995, are approved effective September 14, 1995.

[FR Doc. 95-22865 Filed 9-13-95; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 950

Wyoming 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 Wyoming regulatory program (hereinafter referred to as the "Wyoming program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Wyoming proposed revisions to its mining statute pertaining to procedures for notifying surface land owners, oil and gas well owners, and oil and gas lease holders, of proposed coal mining operations where the land, well, or lease is situated within or near the permit area in question. The amendment is intended to reduce the costs of the Wyoming program while retaining consistency with the corresponding Federal regulations and SMCRA.

EFFECTIVE DATE: September 14, 1995.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261-5824.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program

On November 26, 1980, the Secretary of the Interior conditionally approved the Wyoming program. General background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Wyoming program can be found in the November 26, 1980, **Federal Register** (45 FR 78637). Subsequent actions concerning Wyoming's program and program amendments can be found at 30 CFR 950.11, 950.12, 950.15, 950.16, and 950.20.

II. Proposed Amendment

By letter dated June 2, 1995, Wyoming submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. WY-30-01). Wyoming submitted the proposed amendment at its own initiative. The provision of the Environmental, Quality Act that Wyoming proposed to revise is: Wyoming Statute (WS) 35-11-406(j), public notice procedures for permit applications.

OSM announced receipt of the proposed amendment in the June 14, 1995, **Federal Register** (60 FR 31265), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. WY-30-10). Because no one requested a public hearing or meeting, none was held. The public comment period ended on July 14, 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 Wyoming on June 2, 1995, is no less stringent than SMCRA. Accordingly, the Director approves the proposed amendment.

At WS 35-11-406(j), Wyoming provides (in part) requirements for mailing copies of the notice of a permit application to surface owners, operators of oil and gas wells, and lessees of record of oil and gas leases. The State proposes to revise these requirements by: (1) Clarifying that such mailings need to be done only for "* * * initial applications or additions of new lands * * *"; (2) deleting the requirement that the notice be mailed to oil and gas operators or holders of oil and gas leases; (3) adding a requirement that the applicant shall mail a copy of the mining plan map to the Wyoming Oil

and Gas Commission; and (4) adding a requirement that a "sworn statement" of the mailing of the mining plan map become part of the application.

SMCRA, at Section 507(b)(6)—Application Requirements, requires that at the time of submission of an application, a copy of an advertisement that describes location and boundaries of the proposed cooperation, to be published in a local paper, be included in the application. Section 513—Public Notice and Public Hearings, additionally requires such an advertisement for a permit revision as well and further requires that the regulatory authority notify various local government bodies, planning agencies, etc. in the locality of the proposed surface mining.

SMCRA does not require an applicant to mail a copy of the newspaper notice to surface owners, gas or oil operators, or oil and gas lease holders. The proposed modifications to Wyoming's statute would provide for public notice requirements that go beyond the Federal program requirements. Further, these requirements are not in conflict with or inconsistent with SMCRA. The Director is therefore approving them.

IV. Summary and Disposition of Comments

Following are summaries of all substantive 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. 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 Wyoming program.

The Mine Safety and Health Administration (MSHA), (Denver, Colorado) responded that the amendment does not appear to conflict with any current MSHA regulations. (administrative record No. WY-30-09).

The Bureau of Land Management (BLM) expressed concern that the oil and gas operators or lessees would not be notified on new permits or where lands are added. The agency noted that occasionally conflicts between development of the two minerals (coal and oil/gas) have been encountered. BLM opposes the change to the present language unless there will be some mechanism in place for the Wyoming