DEPARTMENT OF THE INTERIOR
Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944
[UT–035–FOR]
Utah Regulatory Program and Utah Abandoned Mine Land Reclamation Plan

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

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving a proposed amendment to the Utah regulatory program and Utah abandoned mine land reclamation (AMLR) plan (hereinafter, the “Utah program and plan”) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Utah proposed revisions to and additions of statutes pertaining to the definition for “adjudicative proceeding”; schedule of applicant’s mining law violations and reming operation violations resulting from unanticipated events or conditions; location of informal conferences; performance standards for all coal mining and reclamation operations and approximate original contour variances for surface coal mining operations; requirements regarding surface effects of underground coal mining, repair or compensation for damage, replacement of water, suspension of underground mining upon finding of immediate danger to inhabitants at the surface, and applicability to other chapters; contest of violation or amount of civil penalty; and lands and waters eligible for expenditure of AMLR funds.

General background information on the Utah program and plan, 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, 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 May 27, 1997, Utah submitted a proposed amendment to its program and plan (administrative record No. UT–1090) pursuant to SMCRA (30 U.S.C. 1201 et seq.). Utah submitted the proposed amendment in response to required program amendments at 30 CFR 944.16 (e) through (i), in response to a June 5, 1996, letter (administrative record No. UT–1083) that OSM sent to Utah in accordance with 30 CFR 732.17(c), and at its own initiative. The provisions of the Utah coal mining and reclamation statute that Utah proposed to revise or add were: Utah Code Annotated (UCA) 40–10–3(1), definition for “adjudicative proceeding”; UCA 40–10–11(3) and (5), schedule of applicant’s mining law violations and reming operation violations resulting from unanticipated events or conditions; UCA 40–10–13(2), location of informal conferences; UCA 40–10–17(2), (3), and (4), performance standards for all coal mining and reclamation operations and approximate original contour variances for surface coal mining operations; UCA 40–10–18(1) through (15), 18.1, and 18.2, requirements regarding surface effects of underground coal mining, repair or compensation for damage, replacement of water, suspension of underground mining upon finding of immediate danger to inhabitants at the surface, and applicability of other chapter provisions; UCA 40–10–20(2) (2)(e), contest of violation or amount of civil penalty; and UCA 40–10–25(6), lands and waters eligible for expenditure of AMLR funds.

OSM announced receipt of the proposed amendment in the June 13, 1997, Federal Register (62 FR 32255), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. UT–1095). Because no one requested a public hearing or meeting, none was held. The public comment period ended on July 14, 1997.

III. Director’s Findings

As discussed below, the Director, in accordance with SMCRA, 30 CFR 732.15 and 732.17, and 30 CFR 884.14 and 884.15, finds that the proposed program and plan amendment submitted by Utah on May 27, 1997, is no less stringent than SMCRA and consistent with SMCRA. Accordingly, the Director approves the proposed amendment.

1. Nonsubstantive Revisions to Utah’s Statutes

Utah proposed revisions to the following previously-approved statutes concerning underground mining that are nonsubstantive in nature and consist of minor editorial, punctuational, grammatical, and recodification changes (corresponding SMCRA provisions are listed in parentheses):

- UCA 40–10–17(2) (j)(ii)(B), (p) (ii) and (iii); (3) (a) and (c); and (4), (4) (a) and (d), performance standards for all coal mining and reclamation operations, and approximate original contour variances for surface coal mining operations (sections 515 (b) (10)(B)(ii), (16) (B) and (C); (c) (2) and (6); and (d), (1) (d) and (4) of SMCRA),
- UCA 40–10–18(1), adoption of rules for control of surface effects of underground coal mining operations (section 516(a) of SMCRA),
- UCA 40–10–18(2), requirements for underground coal mining permits (section 516(b) of SMCRA),
- UCA 40–10–18(3) (a), (a) (i) through (iii), and (b), prevention of subsidence effects (section 516(b)(1) of SMCRA),
- UCA 40–10–18(4), filling or sealing of portals, entryways, drifts, shafts, or other openings (section 516(b)(2) of SMCRA),
- UCA 40–10–18(5), sealing of exploratory holes and return of mine waste to mine workings or excavations (section 516(b)(3) of SMCRA),
- UCA 40–10–18(6) (a), (b), and (b) (i) through (iii), surface disposal of mine waste (section 516(b)(4) of SMCRA),
- UCA 40–10–18(7), dams or embankments constructed of coal mine waste (section 516(b)(5) of SMCRA),
- UCA 40–10–18(8), (a) and (b), revegetation (section 516(b)(6) of SMCRA),
- UCA 40–10–18(9), protection of offsite areas from damage (section 516(b)(7) of SMCRA),
- UCA 40–10–18(10), elimination of fire hazards and public health and safety hazards (section 516(b)(8) of SMCRA),
- UCA 40–10–18 (11), (11)(a), and (11)(b), (i) and (ii), minimization of disturbances of the surface of the land, hydrologic balance (section 516(b)(9)(A) of SMCRA),
corresponding provision of SMCRA, the statute is substantively identical to the SMCRA. Because the proposed Utah eligible for AMLR expenditures, that are to the Corresponding Provisions of 2. Substantive Revisions to Utah's SMCRA. The Director approves these are nonsubstantive in nature, the of SMCRA). In this amendment, Utah proposed to revise the definition of “adjudicative proceeding” at UCA 40–10–3(1) to recodifying existing UCA 40–10–3(1) as UCA 40–10–3(1)(a) and making minor, nonsubstantive, editorial revisions to it; and adding a new UCA 40–10–3(1)(b) so that “adjudicative proceeding”, in part, means “judicial review of a division or board ((Division or Board of Oil, Gas and Mining) action or proceeding specified in Subsection (a)). The Director finds that the proposed definition of “adjudicative proceeding” at UCA 40–10–3(1) is consistent with: the definition of the same term at UCA 63–46b–2(1)(a), as clarified at UCA 63–46b–1, of the Utah Administrative Procedures Act (UAPA); the definition of the same term in the rules at Utah Administrative Rule (Utah Admin. R) 641–100–200 implementing UAPA; and UCA 40–10–30(1), which provides for the judicial review of the Division’s and Board’s adjudicative proceedings. The Director approves the proposed revisions to the definition of “adjudicative proceeding” at UCA 40–10–3(1), (1) (a) and (b) and removes the required amendment at UCA 510(c) of SMCRA, the 3. UCA 40–10–3(1), Definition of “Adjudicative Proceeding” On July 19, 1995, OSM at 30 CFR 444.16(e) required Utah to revise its definition of “adjudicative proceeding” at UCA 40–10–3(1) to include judicial review of agency actions (finding No. 3, 60 FR 37002, 37005). Utah proposed to revise the definition of “adjudicative proceeding” at UCA 40–10–3(1) to recodifying existing UCA 40–10–3(1) as UCA 40–10–3(1)(a) and making minor, nonsubstantive, editorial revisions to it; and adding a new UCA 40–10–3(1)(b) so that “adjudicative proceeding”, in part, means “judicial review of a division or board ((Division or Board of Oil, Gas and Mining) action or proceeding specified in Subsection (a)). The Director finds that the proposed definition of “adjudicative proceeding” at UCA 40–10–3(1) is consistent with: the definition of the same term at UCA 63–46b–2(1)(a), as clarified at UCA 63–46b–1, of the Utah Administrative Procedures Act (UAPA); the definition of the same term in the rules at Utah Administrative Rule (Utah Admin. R) 641–100–200 implementing UAPA; and UCA 40–10–30(1), which provides for the judicial review of the Division’s and Board’s adjudicative proceedings. 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The Director finds that the proposed definition of “adjudicative proceeding” at UCA 40–10–3(1) is consistent with: the definition of the same term at UCA 63–46b–2(1)(a), as clarified at UCA 63–46b–1, of the Utah Administrative Procedures Act (UAPA); the definition of the same term in the rules at Utah Administrative Rule (Utah Admin. R) 641–100–200 implementing UAPA; and UCA 40–10–30(1), which provides for the judicial review of the Division’s and Board’s adjudicative proceedings. The Director approves the proposed revisions to the definition of “adjudicative proceeding” at UCA 40–10–3(1), (1) (a) and (b) and removes the required amendment at UCA 510(c) of SMCRA, the 3. UCA 40–10–3(1), Definition of “Adjudicative Proceeding” On July 19, 1995, OSM at 30 CFR 444.16(e) required Utah to revise its definition of “adjudicative proceeding” at UCA 40–10–3(1) to include judicial review of agency actions (finding No. 3, 60 FR 37002, 37005). 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The Director approves the proposed revisions to the definition of “adjudicative proceeding” at UCA 40–10–3(1), (1) (a) and (b) and removes the required amendment at UCA 510(c) of SMCRA, the
sentence of UCA 40–10–11(3) requires compliance with the same laws and regulations as the corresponding requirement of section 510(c) of SMCRA. Therefore, the Director finds that the revised third sentence of UCA 40–10–11(3) is no less stringent than the corresponding requirement of section 510(c) of SMCRA. The Director approves the proposed revisions to UCA 40–10–11(3).

In this amendment, Utah did not, in response to the required amendment at 30 CFR 944.16(f)(2), propose to revise the second half of the third sentence of UCA 40–10–11(3) that still requires that no permit be issued if the applicant or operator controls or has controlled mining operations with a demonstrated pattern of willful violations of “this chapter” (UCA 40–10). As explained in the July 19, 1995, Federal Register (finding No. 7, 60 FR 37002, 37006), “this chapter” encompasses only violations of the State statute. It does not, as required by section 510(c) of SMCRA, encompass violations of SMCRA, the implementing Federal regulations, any State and Federal programs enacted under SMCRA, or other provisions of the approved Utah program. Because the second half of the third sentence of UCA 40–10–11(3) is still less stringent than section 510(c) of SMCRA, the Director lets stand the required amendment at 30 CFR 944.16(f)(2).

5. UCA 40–10–11(5)(a), Remining Operation Violations Resulting From Unanticipated Events or Conditions

In the July 19, 1995, Federal Register (finding No. 8, 60 FR 37002, 37006), OSM at 30 CFR 944.16(g) required Utah to revise UCA 40–10–11(5)(a) to reflect an effective date “after October 24, 1992.”

In response to the required amendment, Utah proposed in this amendment at UCA 40–10–11(5)(a) that after October 24, rather than 14, 1992, the prohibition of UCA 40–10–11(3) for issuing permits does not apply to a permit application, if the violation resulted from an unanticipated event or condition that occurred at a surface coal mining operation on lands eligible for remining under a permit held by the person making the application. The Director finds that the proposed date change makes UCA 40–10–11(5)(a) substantively identical to section 510(e) of SMCRA and satisfies the required amendment at 30 CFR 944.16(g).

Therefore, the Director approves this proposed revision to UCA 40–10–11(5)(a) and removes the required amendment at 30 CFR 944.16(g).

6. UCA 40–10–13(2)(b), Location of Informal Conferences

In the July 19, 1995, Federal Register (finding No. 9, 60 FR 37002, 37006–37007), OSM at 30 CFR 944.16(h) required Utah to revise UCA 40–10–13(2)(b) to require that informal conferences for permits and permit revisions “shall”, instead of “may”, be held in the locality of the coal mining and reclamation operation if requested within a reasonable time after written objections or the request for an informal conference are received by the Division.

In response to the required amendment at 30 CFR 944.16(h), Utah proposed to change “may” to “shall” in UCA 40–10–13(2)(b). Utah, at its own initiative, also proposed a nonsubstantive revision to previously approved language at UCA 40–10–13(2)(b). It proposed that the informal conference shall be conducted in accordance with the procedures described in “this Subsection (b)”, instead of “Subsection (b)”, irrespective of the requirements of section 63–46b–5, the Utah Administrative Procedures Act. In making this revision, Utah clarified that the reference is to UCA 40–10–13(2)(b) itself rather than another subsection of Utah’s statute.

The Director finds that Utah’s proposed revisions to UCA 40–10–13(2)(b) are no less stringent than section 513(b) of SMCRA. Therefore, the Director approves the proposed revision to UCA 40–10–13(2)(b) and removes the required amendment at 30 CFR 944.16(h).

7. UCA 40–10–18(15)(c), Water Replacement by Operators of Underground Coal Mines

Utah proposed new UCA 40–10–18(15)(c) as follows:

(c) Subject to the provisions of Section 40–10–29, the permittee shall promptly replace any state-appropriated water 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.

For the reasons discussed below, the Director finds that proposed UCA 40–10–18(15)(c) is no less stringent than sections 720(a)(2) and 717(a) of SMCRA. Therefore, the Director approves the proposed addition of UCA 40–10–18(15)(c).

a. The Phrase “Subject to the Provisions of Section 40–10–29”

In UCA 40–10–18(15)(c), Utah proposed water replacement provisions that are “Subject to the provisions of Section 40–10–29”. In a January 29, 1997, letter to OSM (administrative record No. UT–1094), Utah clarified that the phrase “Subject to the provisions of Section UCA 40–10–29” was intended as a reference to subsection (1) of UCA 40–10–29.

UCA 40–10–29(1) states that “[n]othing in this chapter shall be construed as affecting in any way the right of any person to enforce or protect, under applicable law, his interest in water resources affected by a surface coal mining operation.” This requirement is substantively identical to section 717(a) of SMCRA.

Utah explained that the phrase “Subject to the provisions of Section 40–10–29” was included in UCA 40–10–18(15)(c) expressly at the request of Utah water users because they wanted to make it clear that the water replacement provisions of UCA 40–10–18 supplement, rather than replace, any common law or other statutory remedies otherwise available to them (administrative record No. UT–1094).

Utah also stated that its own interpretation is that the underground mine water replacement requirements of proposed UCA 40–10–18(15)(c) are intended to supplement, not replace, any other remedies that may be available to water users. On the basis of this rationale, the Director finds that the phrase “Subject to the provisions of Section 40–10–29” in proposed UCA 40–10–18(15)(c) is consistent with the requirements of sections 720(a)(2) and 717(a) of SMCRA.

b. Replacement of State-Appropriated Water

In UCA 40–10–18(15)(c), Utah proposed that “the permittee shall promptly replace any state-appropriated water 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” (emphasis added). This proposed provision is the same as the counterpart provision at section 720(a)(2) of SMCRA, except that the SMCRA provision protects “any drinking, domestic, or residential water supply from a well or spring” instead of “any state-appropriated water.”

Utah explained that, under Utah water law, “a person or entity cannot be a ‘legitimate’ water user if he/she/it is using water that not has been appropriated by the State”. Utah then went on to explain that “[t]he deliberately broad phrase ‘any state-appropriated water’ * * * the universe of legal Utah water users.” * * *” (administrative record No. UT–1094).
OSM interprets sections 720(a)(2) and 717(a) of SMCRCA to mean that the water replacement requirements of section 720(a)(2) do not supersede the deference provided by section 717 to State water law on matters of allocation and use. (See March 31, 1995, 60 FR 16722, 16733.) Utah’s proposed phrase “any state-appropriated water” incorporates this concept of deferral to State water law provisions concerning allocation and use, as set forth in section 717(a) of SMCRCA, while protecting drinking, domestic, or residential water supplies from wells or springs, as required by section 720(a)(2) of SMCRCA.

Furthermore, the proposed term “any state-appropriated water” protects more types of water supplies than drinking, domestic, or residential water supplies from wells or springs. For instance, it protects agricultural, commercial, and industrial water supplies that are not used for direct human consumption, human sanitation, or domestic use. In this respect, proposed USA 40–10–18(15)(c) is more stringent than section 720(a)(2) of SMCRCA.

For these reasons, the Director finds that the proposed requirements in UCA 40–10–18(15)(c) that “the permittee shall promptly replace any state-appropriated water 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” are no less stringent than the requirements of sections 720(a)(2) and 717(a) of SMCRCA.

8. UCA 40–10–20(2)(e)(ii), Contest of Violation or Amount of Civil Penalty

In the September 27, 1994, Federal Register, the Director deferred decision on a proposed revision to UCA 40–10–20(2) (finding No. 5, 59 FR 49185, 49187). Subsequently, in the July 19, 1995, Federal Register (finding No. 13, 60 FR 37002, 37008), OSM placed a required amendment on the revised version of the same section of the Utah program. At 30 CFR 944.16(i), OSM required Utah to revise UCA 40–10–20(2)(e)(ii) to provide for a waiver of the operator’s right to contest the amount of the civil penalty when the operator fails to forward the amount of the penalty to the regulatory authority within 30 days of the operator’s receipt of the results of the informal conference.

In response to the Director’s decision deferral and the required amendment at 30 CFR 944.16(i), Utah proposed to add the phrase “fact of the” and “amount of the civil penalty assessed for the” to UCA 40–10–20(2)(e)(ii). The proposed provision requires that if the operator fails to forward the amount of the civil penalty to the Division within 30 days of receipt of the results of the informal conference, the operator waives any opportunity for further review of the “fact of the” violation or to contest the “amount of the civil penalty assessment for the” violation.

The Director finds that the proposed addition of the phrases “fact of the” and “amount of the civil penalty assessed for the” make UCA 40–10–20(2)(e)(ii) no less stringent than the counterpart requirements of section 518(c) of SMCRCA.

Utah’s proposed revisions to the civil penalty procedures at UCA 40–10–20(2)(e)(ii) address the issues raised in the Director’s September 27, 1994, decision deferral and satisfy the required amendment at 30 CFR 944.16(i). Therefore, the Director approves the proposed revisions to UCA 40–10–20(2)(e)(ii) and removes the required amendment at 30 CFR 944.16(i).

IV. Summary and Disposition of Comments

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

1. Public Comments

In response to OSM’s invitation for public comments, the Utah Mining Association responded on June 25, 1997, that it supported the proposed amendment and encouraged OSM to approve it (administrative record No. UT–1096). It stated that it was heavily involved in the drafting the two pieces of legislation that comprise the amendment. The mining association indicated that it had worked closely with water users on the legislation language and had worked with the State Engineer to ensure that the legislation adequately protected water rights.

2. Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), 884.15(a), and 884.14(a)(2), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Utah program and plan. The U.S. Fish and Wildlife Service, Utah Field Office, responded on July 7, 1997, that it had received the proposed amendment but had no comments on it (administrative record No. UT–1097).

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(11)(i), OSM is required to solicit the written concurrence of EPA with respect to those provisions of the proposed amendments 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 Ct (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–1091). It did not respond to OSM’s request.

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

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP (administrative record No. UT–1091). Neither SHPO nor ACHP responded to OSM’s request.

V. Director’s Decision

Based on the above findings, the Director approved Utah’s proposed amendment as submitted on May 27, 1997.

The Director approves, as discussed in:

Finding No. 1, revisions to UCA 40–10–18(2) (j)(ii)(B), (p) (ii) and (iii), (3) (a) and (c), and (4), (4)(a) and (d) performance standards for all coal mining and reclamation operations, and approximate original contour variances for surface coal mining operations; UCA 40–10–18(1), adoption of rules for control of surface effects of underground coal mining operations; UCA 40–10–18(2), requirements for underground coal mining permits; UCA 40–10–18(3) (a), (a) (i) through (iii), and (b), prevention of subsidence effects; UCA 40–10–18(4), sealing of portals, entryways, drifts, shafts, or other openings; UCA 40–10–18(5), filling or sealing of exploratory holes and return of mine waste to mine workings or excavations; UCA 40–10–18(6) (a), (b), and (b) (i) through (iii), surface disposal of mine waste; UCA 40–10–18(7), dams or embankments constructed of coal mine waste; UCA 40–10–18 (8), (8) (a) and (b), revegetation; UCA 40–10–18(9), protection of offsite areas from damage; UCA 40–10–18(10), elimination of fire hazards and public health and safety hazards; UCA 40–10–18 (11), (11)(a), and (11)(a) (i) through (iii), minimization of disturbances of the prevailing hydrologic balance; UCA 40–10–18(11) (b) and (c), prevention of additional contributions of suspended solids to streamflow and avoidance of channel deepening or enlargement; UCA
programs and plans into conformity and to encourage States to bring their immediately to expedite the State. This final rule is being made effective the Utah program and plan, are being Part 944, codifying decisions concerning the amount of civil penalty. operators of underground coal mines; 10±18(15)(c), water replacement by conferences; 10±13(2)(b), location of informal events or conditions; violations resulting from unanticipated 10±11(5)(a), remining operation prior to permit issuance; 10±11(3), review of applicant violations; 10±11(5)(a), remining operation violations resulting from unanticipated events or conditions; 10±13(2)(b), location of informal conferences; 10±18(15)(c), water replacement by operators of underground coal mines; and 10±20(2)(e)(ii), contest of violation or amount of civil penalty. The Federal regulations at 30 CFR Part 944, codifying decisions concerning the Utah program and plan, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program and plan amendment process and to encourage States to bring their programs and plans 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 12988 The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (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, State AMLR plans, and program and plan amendments since each such program, plan, and amendment 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 submittals are consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met. Under Title IV SMCRA (30 U.S.C. 1231±1243), decisions on proposed State AMLR plans and plan amendments must be based on a determination of whether the submittals meet the requirements of the implementing 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 U.S.C. 1292(d)) provides that agency decisions on proposed State AMLR 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)).
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 AMLR plans and plan amendments 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 DM 6, 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 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.
6. Unfunded Mandates This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.
List of Subjects in 30 CFR Part 944 Intergovernmental relations, Surface mining, Underground mining, Abandoned mine reclamation programs.
Peter A. Rutledge, Acting 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 in the table by adding a new entry in chronological order by “Date of Final Publication” to read as follows:
§ 944.15 Approval of Utah regulatory program amendments.
* * * * *
REMOVAL OF TWO INDIVIDUALS

Vessels: Additional Designations and Blocked Persons: Specially Designated Narcotics Traffickers, and Blocked Vessels: Additional Designations and Removal of Two Individuals

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Amendment of final rule.

SUMMARY: The Treasury Department is adding to appendices A and B to 31 CFR chapter V the names of 7 individuals and 7 entities that have been determined to be owned or controlled by, or to act for or on behalf of, other specially designated narcotics traffickers. Two individuals previously designated as specially designated narcotics traffickers are being removed from the appendices. In addition, identifying information is corrected for two specially designated nationals of Iraq.

EFFECTIVE DATE: July 30, 1997.

FOR FURTHER INFORMATION: Contact the Office of Foreign Assets Control, Department of the Treasury, Washington, DC 22201; tel.: 202/622-2420.

SUPPLEMENTARY INFORMATION:

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Background

Appendices A and B to 31 CFR chapter V contain the names of blocked persons, specially designated nationals, specially designated terrorists, and specially designated narcotics traffickers designated pursuant to the various economic sanctions programs administered by the Office of Foreign Assets Control ("OFAC") (62 FR 34934, June 27, 1997). Pursuant to Executive Order 12978 of October 21, 1995, "Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers" (the "Order") and the Narcotics Trafficking Sanctions Regulations, 31 CFR part 536, 7 additional Colombian individuals and 7 additional Colombian entities are added to the appendices as persons who have been determined to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to the Order (collectively "Specially Designated Narcotics Traffickers" or "SDNTs"). Any property subject to the jurisdiction of the United States in which an SDNT has an interest is blocked, and U.S. persons are prohibited from engaging in any transaction or dealing in any property in which an SDNT has an interest.

The names of two individuals previously designated as SDNTs are being removed because they no longer meet the applicable criteria for designation. All real and personal property of these individuals, including all accounts in which they have any interest, are unblocked; and all transactions involving U.S. persons and these individuals are permissible.

In addition, an address now listed for two "Specially Designated Nationals" ("SDNs") of Iraq is being removed from appendices A and B.

Designations of foreign persons blocked pursuant to the Order are...